



### Agenda Item No. 3.

#### Staff Report

**Date:** February 8, 2022

**To:** Mayor Robbins and Council Members

**From:** Meredith Rupp, Contract Planner

**Subject:** Continued discussion and consideration of a resolution of the Ross Town Council (i) Determining that Approval of a Use Permit Allowing an Increase in Student Enrollment at The Branson School, 39 Fernhill Avenue, Ross, California, from 320 to 420 Students Is Exempt from Environmental Review Under the California Environmental Quality Act (CEQA) Pursuant to State CEQA Guidelines Section 15314, (ii) Approving a Use Permit Pursuant to Section 18.16.030 of the Ross Municipal Code to Authorize the Increase in the Total Maximum Allowed Full-Time and Part-Time Enrollment at The Branson School, 39 Fernhill Avenue, Ross, California, From 320 to 420 Students, and (iii) Imposing Amended and Restated Conditions of Approval

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#### Background

At its January 13, 2022, meeting, the Ross Town Council considered a use permit application from The Branson School ("**Project Applicant**" or "**the School**"), which proposes to increase student enrollment from its current permitted enrollment of 320 students in increments of 25 students per academic calendar year, over a period of four academic calendar years, to a total of 420 students, along with a Transportation Demand Management Plan ("**TDMP**") that will be implemented by the Project Applicant to maintain vehicular traffic at the project site from exceeding current levels based on an enrollment of 320 students ("**Project**"). The staff report from the January 13<sup>th</sup> meeting is included in this report as **Attachment 3**. After a presentation from staff and Branson representatives, followed by extensive public comment, the Council engaged in an extended discussion of the Project's merits and the draft conditions of approval, and thereafter a motion was approved (4-1-0) to continue the item to a future date.

In response to Town Council comments during the January meeting, the Project Applicant has provided additional materials, found in **Attachment 4**, dated January 25, 2022. The new materials, which include a memorandum from Parisi Transportation Consulting, provide context on issues related to the TDMP (i.e. impact of enrollment rollbacks; traffic monitors; selection of

independent transportation consultant); historic and current use of the athletic facilities by Branson and outside organizations; amplified sound; summer school and related activities; and the School's future need for a new theater. The new materials from Branson propose new language in the TDMP relative to the selection of the third-party traffic consultant and propose modifications to Condition Nos. 11, 12, and 13 for Council consideration. These are presented in the discussion that follows and at the end of this staff report under *Council Direction and Responses*. Staff is seeking direction at tonight's meeting on the information presented, and on any further revisions to the proposed conditions of approval the Council may seek to impose.

## **Discussion**

The following discussion focuses on use of athletic facilities, as addressed in Condition of Approval Nos. 11 and 12; TDMP monitoring and enforcement; the Parisi memo; amplified sound, as addressed in Condition of Approval No. 13; and an annual compliance review.

### *Athletic Facilities*

Since the adjournment of the January meeting of the Town Council, staff has reviewed and analyzed additional materials related to the Project, including the Final Environmental Impact Concerning the Master Plan for Katharine Branson School/Mount Tamalpais School in Ross, California, July 1977 ("**FEIR**") and staff report related to the Sports Field Renovation in 2015.

The Branson School was granted design review approval to replace a grass sports field with an artificial turf field in September 2015 (Resolution 1913). The corresponding staff report, found in **Attachment 5**, states that transitioning to a turf field would allow use of the field in the winter, especially for soccer. The staff report also states that Ross Recreation was interested in using the renovated facilities to sponsor summer sports camps for middle-school aged students. Ross Recreation (now a Town of Ross department) is one of the "outside" organizations which has used the Branson facilities.

The FEIR, which is included in **Attachment 3**, provides information on the number of practices and games held on The Branson School campus in the 1976-77 school year. When added to the information from the yearbooks discussed in the January 13, 2022 staff report, a clearer picture emerges surrounding the use of athletic facilities prior to 1978 and today's conditions. **Attachment 6** is a series of tables showing the use of Branson athletic facilities in the 1976-77 school year and more recent years.<sup>1</sup> The updated information indicates that there has been an approximately 52 percent increase in the use of The Branson School athletic facilities from 1976-77 to 2019-2020. Before consulting information in the FEIR, staff had previously reported the change in use to be an 87 percent increase, a figure which Branson disputes. Regardless of the actual percentage increase in use, it is evident that a substantial portion of the increase can be attributed to the growth of women's sports. In the 1976-77 school year, there were 41 inter-

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<sup>1</sup> These tables were prepared during the application review process. Information provided by the Project Applicant in Attachment 3 and dated January 25, 2022 indicates that Varsity Boys' soccer has recently moved to the College of Marin.

scholastic girls' games played on campus. Girls' games increased to 58 inter-scholastic games in the 2019-2020 school year, an increase of approximately 41 percent.

The FEIR also discusses potential impacts to the community from the use of the school's athletic facilities. Specifically, the FEIR states, "it is suggested as a mitigation of potential impacts that the school limit the number of uses of the field by outside organizations as a condition of permit approval, the specific number to be agreed upon by the school administration and the Town Council." Based on the language in the FEIR, it may have been the intent of Condition of Approval No. 11 in the original use permit to limit the use of athletic facilities by outside organizations to specific existing users of the facilities and at the same frequency that existed prior to 1978, unless otherwise permitted by the Town of Ross, as provided in Condition of Approval No. 12; however, not to limit use of the athletic facilities by The Branson School.

As part of the January 13, 2022, agenda packet, staff presented an amendment to Condition of Approval No. 11 to regulate use by time of day and days of the week during the academic year and summer as shown in **Table 1**. In Branson's memo of January 25, 2022 (**Attachment 4**), notwithstanding the language in the FEIR, they have proposed to also regulate their use by time of day and days of the week, but with further modifications and limitation on their own use. The distinction between the two proposals regarding Condition of Approval No. 11, as partially noted in Branson's memo, is that Branson has eliminated use of the field by Branson on Sundays during the academic year, and on Saturdays and Sundays during the summer, as well as use of the gym on Sundays during the academic year and in the summer. They have also increased the hours of use of the field during the summer from 6 p.m. to 7:30 pm. **Table 1** at the end of this staff report section illustrates the current use permit Condition No. 11, the options presented by staff and the applicant on January 13, 2022, and the options presented by staff and the applicant for the February 8, 2022 special hearing.

In addition to Condition No. 11, staff had also presented an amendment to Condition of Approval No. 12 to address facility use by outside organizations to also be limited by time and day of the week, primarily because there is a dearth of information available regarding use of the facilities by outside organizations prior to 1978. Even with the unveiling of the FEIR, the lack of information regarding use of the facilities by outside organizations prior to 1978 remains the same. Branson has likewise proposed further revisions to Condition of Approval No. 12 in their January 25, 2022 memo (**Attachment 4**). Upon review of Condition of Approval Nos. 11 and 12 as presented by Branson, it should be noted that any relief the community may experience from diminished use of the athletic facilities by Branson on the weekends during the academic year as provided in Condition of Approval No. 11, can potentially be back-filled by use by outside organizations as provided in Condition of Approval No. 12. That said, the language originally presented by staff, and now by Branson, prohibits use of the facilities by outside organizations during the summer.

The distinction between the two proposals regarding Condition of Approval No. 12, as highlighted in Branson's memo and shown in **Table 2**, is that use of the facilities by outside organizations be pursuant to permission of Town Staff on a case by case basis. It should be noted that Town Staff are not in favor of Branson's revision to Condition of Approval No. 12 since the intent of the

revision is to provide Branson clear and objective standards by which they manage the use of their athletic facilities without the day to day involvement of Town Staff.

In any event, at the January 13, 2022 meeting of the Town Council, a few members of the Council expressed concern that the proposed revisions to Conditions of Approval Nos. 11 and 12, tying use of the facilities to time of day and days of the week, would allow for an increase in the intensity of use of the athletic facilities at the school over that permitted by the current use permit condition. Therefore, staff has prepared an amended version of Condition of Approval No. 11 for the Town Council's discussion and consideration. The Council and readers of this report should note that attached to this staff report as part of **Attachment 2** are two versions of the proposed Amended and Restated Conditions of Approval; Option 1 and Option 2, which differ only in the draft language presented for Condition of Approval Nos. 1 and 18 to be discussed below under *TDMP Monitoring and Enforcement*. Also, **Attachment 1** to this staff report is the Draft Resolution and Draft Amended and Restated Conditions of Approval from the January 13, 2022, meeting as presented at that time.

Draft Condition of Approval No. 11, as reflected in both of Option 1 and Option 2 appended as part of **Attachment 2**, has been revised from that presented to the Council on January 13, 2022, to retain the format and intent of the original use permit language. In order to address the Town Council's concerns about the increased intensity of present-day sports at the school, the amended condition retains the limitation on use and number of events the facilities are used by outside organizations to pre-1978 levels, which limitation remains difficult to accurately quantify notwithstanding the information contained in the FEIR. Additionally, the amended condition makes clear that vehicle trips associated with use by outside organizations will be counted towards the trip cap rates set forth in the TDMP; accordingly, Branson would have an incentive to manage the use of their facilities by outside organizations, lest their use of the facilities impacts Branson's compliance with the TDMP trip cap rate. Finally, the condition proposes to prohibit post-season, playoff, and championship athletic events, the types of events likely to cause the greatest disturbance, from being held on the project site. Also for Town Council's discussion and consideration is draft Condition of Approval No. 12 that staff proposes to be amended to specify that the Town Manager has discretion to determine whether additional outside organizations may use The School's athletic facilities. The proposed amended versions of Condition of Approval Nos. 11 and 12, set forth in Options 1 and 2 appended to **Attachment 2**, can also be found in **Table 1** and **Table 2** below.

*TDMP Monitoring and Enforcement*

At the January meeting, several members of the Town Council expressed concern with the monitoring and enforcement program proposed in the TDMP. Option 2 appended to **Attachment 2** includes, for the Town Council's consideration and discussion, an alternative approach that is reflected in a revision to Condition of Approval No. 1 and a new Condition of Approval No. 18. As noted above, the language in Condition of Approval Nos. 1 and 18 is the only area in which Option 1 and Option 2 differ. Read together, Condition of Approval No. 18 requires traffic monitoring throughout the duration of the fall semester (late August through mid-December) and submission of a monitoring report by Branson to the Town by February 1<sup>st</sup> each year. If the monitoring shows that The Branson School is in compliance with the average daily Monday through Friday vehicle trip cap established in the TDMP, then the school may admit 105 students for the next academic year. If the average daily Monday through Friday vehicle trip cap is violated, then the allowed enrollment for the next academic calendar year will be reduced in accordance with the degree of the violation, up to a 25-student reduction. The level of reduction would be calculated based on the campus' trip generation rate of 2.69 trips/student.<sup>2</sup> The allowed enrollment maximum for the next academic year would be approved and issued by the Town by March 1 of each year. Failure of the School to submit the results of the fall semester monitoring would result in a maximum enrollment of 80 students for the next academic year instead of 105 students that would be allowed if monitoring were completed and compliant.<sup>3</sup>

On the issue of enrollment rollback, Branson notes in their January 25, 2022 memo (**Attachment 4**) that their TDMP already provides that Branson would not receive the additional tranche of 25 students if they do not maintain traffic at net neutral levels "during any of the first four years". While this is true, it only applies in the first four (4) years, whereas the language proposed by staff would be applicable each and every year. Finally, it should be noted that if the Council were to consider such an alternative approach, staff expect that Branson will want to revisit and revise the monitoring and enforcement provision of the TDMP contained in Section 4 thereof. **Table 3** presents the options before the Council related to Condition No. 1.

On the issue of traffic monitors, Branson notes that the TDMP already addresses this issue (TDMP pages 17-18). While also true, staff nevertheless believes proposed Condition of Approval No. 3.a. provides greater clarity and specificity.

On the issue of selection of the independent traffic consultant, Branson again points to provisions of the TDMP that addresses this issue. In their memo of January 25, 2022, Branson proposes further modifications to the TDMP on this topic. Alternatively, staff heard some members of the Council express a desire for the Town to engage the consultant, at Branson's expense, in order to retain control over when the monitoring was conducted so that the results could not be influenced by informing Branson students, staff and visitors of impending monitoring events.

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<sup>2</sup> Parisi Transportation Consulting, 2021. Transportation Demand Management Plan. Prepared for The Branson School. December.

<sup>3</sup> The School would be allowed to replace students who withdraw or are otherwise dismissed without that slot counting towards the enrollment maximum.

Accordingly, staff have drafted language that could be added as Condition of Approval No. 3.b, for the Council's consideration, which is relayed here as follows:

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b. At Branson's sole cost and expense, a third party transportation consultant shall be employed by the Town to conduct the monitoring of vehicle trips and analysis thereof in accordance with the conditions of approval and the TDMP. The Town shall select the consultant with input from Branson on the cost and reputation of such consultant, the monitoring protocol or methodology used by the consultant, and the overall scope of services to be provided by the consultant for the monitoring of vehicle trips and analysis thereof; however, the foregoing notwithstanding, the final decision as to the selected consultant, the scope of the consulting services, the monitoring protocol or methodology used by the consultant and the cost of said consultant services shall rest exclusively with the Town, and under no circumstance shall Branson be entitled to know or be informed of when monitoring events will be conducted. The consultant shall provide any and all monitoring reports and analysis required in accordance with the conditions of approval, the TDMP and the scope of services to the Town and Branson simultaneously. The monitoring data collected and any monitoring reports and analysis shall not be deemed confidential, privileged or a trade secret. On or before July 1 of each calendar year, the Town shall provide to Branson an estimated budget of the cost of the third party transportation consulting services for the upcoming fiscal year of the Town (i.e. July 1 through June 30), and Branson shall remit said estimated amount to the Town on or before August 1 of each calendar year in order that the Town may engage the services of the transportation consultant pursuant to a professional services contract before the start of the academic calendar year. Within thirty (30) calendar days following the end of the fiscal year, the Town shall provide to Branson an accounting of costs and expenses incurred and paid to the transportation consultant under the professional services contract during the previous fiscal year and either (i) the Town shall remit any unencumbered sum under the professional services contract to Branson or (ii) Branson shall pay to the Town any amount due in excess of the original estimated budget as reflected in the professional services contract.

Please note that if the Council chooses to adopt the alternative language staff has presented in relation to Condition of Approval No. 1 and new Condition of Approval No. 18, as set forth in Option 2 appended to **Attachment 2**, staff does not believe there is a need to adopt the language

set forth above as Condition of Approval No. 3.b. As noted in proposed Condition of Approval No. 18, the monitoring would be for the entirety of the fall semester and thus any concern that Branson students, faculty or visitors would be able to curb their trips to the school for this entire period and thereby unduly influence the true trip counts would be very unlikely. Thus, if the Council were to adopt this language above in Condition of Approval No. 3.b., regarding the selection of the transportation consultant, and similarly chooses to adopt the alternative language staff has presented in relation to Condition of Approval No. 1 and new Condition of Approval No. 18, as set forth in Option 2 appended to **Attachment 2**, there will be a need to make some conforming modifications to Condition of Approval No. 1 and Condition of Approval No. 18 because those conditions as drafted assumed that Branson would retain the transportation consultant, not the Town.

#### **Parisi Memorandum**

Attached to the Branson memo of January 25, 2022, is a memo of the same date from Parisi Transportation Consulting. The memo addresses the use of buffers, or one-half standard deviation, from measured trip counts to arrive at a trip cap rate or trip count thresholds; the use of periodic monitoring versus permanent count stations; and lastly, the issue of traffic impacts of remote drop off and pick up.

Note that staff provided the Parisi Memorandum to the Town's peer review consultant, W-Trans, and they have provided a memo addressing points raised in the Parisi Memorandum (see **Attachment 8**). As noted in the W-Trans peer review memo, the use of a half-standard deviation buffer is considered a reasonable approach to account for traffic variation. The peer review also agreed with the conclusion that traffic impacts in remote locations would be negligible. Finally, the peer review discussed tradeoffs associated with period versus permanent traffic monitoring.

#### **Amplified Sound**

In the January 13, 2022, staff report, the issue of noise related to amplified sound was addressed. As currently drafted, the conditions only address amplified sound associated with athletic events. Staff presented an amendment to Condition of Approval No. 13 to address other outdoor events as well. As shown in **Table 4**, staff has now added language to also impose an hour of day limitation.

In Branson's memo of January 25, 2022, Branson has proposed that Condition of Approval No. 13 be revised consistent with staff's proposal of January 13, 2022, but with the caveat that announcers at playoff football or soccer games would be permitted. It should be noted that allowance for an amplified announcer for football and soccer championship games, as proposed in Condition of Approval No. 13.b. as presented by Branson, is in conflict with proposed language in Condition of Approval No. 11 prohibiting such post regular season playoff or championship games being held at The Branson School. While otherwise very similar, staff prefers the language it has proposed in subsection a. of Condition of Approval No. 13 because of the added limitation on time of day of use of amplified sound.

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**Table 1. Condition No. 11, Athletic Field Use – Options for Consideration**

Existing Use Permit Condition No. 11	Staff Option presented January 13, 2022	Applicant Proposal presented January 13, 2022	Additional Staff Option presented February 8, 2022	Applicant Proposal dated January 25, 2022
<p>That the use of the KBS/MTS athletic facilities for practice or play at all times during any calendar year be limited to KBS/MTS students, faculty and staff; visiting teams engaged in regularly scheduled, inter-scholastic events with KBS/MTS and official athletic teams sponsored by the Ross Recreation Association, Ross Little League and Ross Soccer Program and other groups which have previously used these facilities, provided that the number of events or amount of use by such groups shall not exceed in any calendar year any such uses or events in any year prior to 1978.</p>	<p>Use of the outdoor athletic field facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:</p> <p>a. Hours of use shall be limited to 8 a.m. to 7:30 p.m. on Monday through Friday, and 9 am to 6 p.m. on Saturday and Sunday during the academic calendar year.</p> <p>b. Hours of use shall be limited to 9 am to 6 p.m. Monday through Sunday during the summer.</p> <p>Use of the indoor gym facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:</p> <p>a. Hours of use shall be limited to 7 a.m. to 9 p.m. Monday through Friday, 8 a.m. to 9 p.m. on Saturday, and 9 a.m. to 5 p.m. on Sunday during the academic calendar year.</p> <p>b. Hours of use shall be limited to 8 a.m. to 9 p.m. Monday through Friday during the summer.</p> <p>c. No use of the indoor gym facilities shall occur on Saturday or Sunday during the summer.</p>	<p>Use of the outdoor athletic field facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:</p> <p>a. Hours of use shall be limited to 8 a.m. to 7:30 p.m. on Monday through Friday, and 9 am to 6 p.m. on Saturday and Sunday during the academic calendar year.</p> <p>b. Hours of use shall be limited to 9 am to <del>6</del><b>7:30</b> p.m. Monday through Sunday during the summer.</p> <p>Use of the indoor gym facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:</p> <p>a. Hours of use shall be limited to 7 a.m. to 9 p.m. Monday through Friday, 8 a.m. to 9 p.m. on Saturday, and 9 a.m. to 5 p.m. on Sunday during the academic calendar year.</p> <p>b. Hours of use shall be limited to 8 a.m. to 9 p.m. Monday through <del>Friday</del><b>Sunday</b> during the summer.</p> <p><del>c. No use of the indoor gym facilities shall occur on Saturday or Sunday during the summer.</del></p>	<p>The Branson School students, faculty and staff shall have use of The Branson School indoor and outdoor athletic facilities at all times during any calendar year for educational purposes, including physical education instruction, and games and practices of The Branson School inter-scholastic athletic teams. To mitigate potential impacts resulting from increased use of The Branson School athletic facilities by individuals who are not current students, teachers or staff at The Branson School or by other groups or organizations, such as visiting teams engaged in regularly scheduled, inter-scholastic events with the Branson School and official athletic teams sponsored by Ross Recreation, Ross Valley Little League and Ross Valley Soccer Program, other groups which have previously used these facilities, and those groups or individuals permitted pursuant to condition of approval No. 12 below (collectively, the “outside organizations”) (i)the number of events or amount of use by such outside organizations shall not exceed in any calendar year the amount of use or number of events that existed in any year prior to 1978, (ii) vehicle trips associated with the use of The Branson School athletic facilities by such outside organizations shall not be excluded from any monitoring required pursuant to the Transportation Demand Management Plan and the determination of average Monday through Friday daily trips and average weekend trips associated with The Branson School’s use of the Project Site, and (iii) no post-regular season, inter-scholastic, playoff or championship athletic games shall be held at The Branson School athletic facilities.</p>	<p>Use of the outdoor athletic field facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:</p> <p>a. Hours of use shall be limited to 8 a.m. to 7:30 p.m. on Monday through Friday, and 9 am to 6 p.m. on <b>Saturday</b><sup>1</sup> during the academic calendar year.</p> <p>b. Hours of use shall be limited to 9 am to <b>7:30 p.m.</b><sup>2</sup> Monday through <b>Friday</b><sup>3</sup> during the summer.</p> <p>Use of the indoor gym facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:</p> <p>a. Hours of use shall be limited to 7 a.m. to 9 p.m. Monday through Friday and 8 a.m. to 9 p.m. on <b>Saturday</b><sup>4</sup> during the academic calendar year.</p> <p>b. Hours of use shall be limited to 8 a.m. to 9 p.m. Monday through <b>Saturday</b><sup>4</sup> during the summer.</p>

Notes: **Bolding** and ~~strikethrough~~ used to draw attention to differences among proposals.

1. The Applicant’s proposal has removed its own use of the athletic field on Sundays during the academic year compared to the condition presented by staff on January 13, 2022.

2. The Applicant's proposal has increased the hours of use for the field during the summer from 6 p.m. to 7:30 pm compared to the Staff Option presented on January 13, 2022.
3. The Applicant has removed Saturday and Sunday field usage during the summer compared to options presented on January 13, 2022.
4. The Applicant's proposal has removed use of the gym on Sundays during the academic year and in the summer compared to the applicant's condition presented on January 13, 2022.

**Table 2. Condition No. 12, Outside Organizations – Options for Consideration**

Existing Use Permit Condition No. 12	Staff Option presented January 13, 2022	Applicant Proposal presented January 13, 2022	Additional Staff Option presented February 8, 2022	Applicant Proposal dated January 25, 2022
<p>That any other use of the School’s athletic facilities by any other group or individuals be by the Town permission.</p>	<p>Use of athletic facilities by outside organizations shall be subject to the following conditions:</p> <ul style="list-style-type: none"> <li>a. The use of the field and gyms by outside organizations shall be limited to youth-oriented (school-aged, i.e. 18 years of age and under) athletics organizations. If in question, the determination as to whether an organization is considered youth-oriented will be made by the Ross Town Planner in consultation with the Branson Athletic Director.</li> <li>b. Users of the field or gyms will be directed to use Branson parking spaces and to not park on public streets.</li> <li>c. Use of the outdoor athletic field facilities by outside organizations will be limited to 3:30 p.m. to 7:30 p.m. on Monday through Friday and from 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.</li> <li>d. Use of the indoor gym facilities by outside organizations will be limited to 3:30 p.m. to 8 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.</li> <li>e. No use of the athletic facilities by outside organizations shall occur during the summer.</li> </ul>	<p>Use of athletic facilities by outside organizations shall be subject to the following conditions:</p> <ul style="list-style-type: none"> <li>a. The use of the field and gyms by outside organizations shall be limited to youth-oriented (school-aged, i.e. 18 years of age and under) athletics organizations. If in question, the determination as to whether an organization is considered youth-oriented will be made by the Ross Town Planner in consultation with the Branson Athletic Director.</li> <li>b. Users of the field or gyms will be directed to use Branson parking spaces and to not park on public streets.</li> <li>c. Use of the outdoor athletic field facilities by outside organizations will be limited to 3:30 p.m. to 7:30 p.m. on Monday through Friday and from 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.</li> <li>d. Use of the indoor gym facilities by outside organizations will be limited to 3:30 p.m. to 8 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.</li> <li>e. <del>No use of the athletic facilities by outside organizations shall occur during the summer.</del></li> </ul>	<p>Use of The Branson School’s indoor and outdoor athletic facilities by any group or individuals shall require the permission of the Town Manager or his/her designee, which permission may be reasonably conditioned or denied.</p>	<p>Use of athletic facilities by outside organizations shall be subject to the following conditions:</p> <ul style="list-style-type: none"> <li>a. The use of the field and gyms by outside organizations shall be limited to youth-oriented (school-aged, i.e. 18 years of age and under) athletics organizations <b>by permission of Town Staff on a case by case basis</b>. If in question, the determination as to whether an organization is considered youth-oriented will be made by the Ross Town Planner in consultation with the Branson Athletic Director.</li> <li>b. Users of the field or gyms will be directed to use Branson parking spaces and to not park on public streets.</li> <li>c. Use of the outdoor athletic field facilities by outside organizations will be limited to 3:30 p.m. to 7:30 p.m. on Monday through Friday and from 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.</li> <li>d. Use of the indoor gym facilities by outside organizations will be limited to 3:30 p.m. to 8 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.</li> <li>e. No use of the athletic facilities by outside organizations shall occur during the summer.</li> </ul>

Notes: **Bolding** and ~~strikethrough~~ used to draw attention to differences among proposals.

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**Table 3. Condition No. 1, Enrollment Maximum – Options for Consideration**

Existing Use Permit Condition No. 1	Staff Option presented January 13, 2022	Applicant Proposal	Additional Staff Option presented February 8, 2022 (Condition Nos. 1 and 18)
<p>That the total full and part-time student enrollment of the School shall at no time exceed 320 students.</p>	<p>That the total full and part-time student enrollment allowed at The Branson School, 39 Fernhill Avenue, Ross, California (“<b>Project Site</b>”) shall at no time exceed 345 students during the 2022/2023 academic calendar year, 370 students during the 2023/2024 academic calendar year, 395 students during the 2024/2025 academic calendar year, and 420 students during the 2024/2025 and all subsequent academic calendar years.</p>	<p>That the total full and part-time student enrollment of the School shall at no time exceed <del>320</del> <b>420</b> students.</p> <p>Enrollment pacing is also addressed in the TDMP (pg 17): Should an uncured violation occur during the first monitoring period following any of the proposed four additions of 25 new students, then Branson would not be entitled to add the next tranche of 25 students until Branson is without uncured violations for a one-year period.</p>	<p>1. That the total full and part-time student enrollment allowed at The Branson School, 39 Fernhill Avenue, Ross, California (“<b>Project Site</b>”), shall at no time exceed 345 students during the 2022/2023 academic calendar year, 370 students during the 2023/2024 academic calendar year, 395 students during the 2024/2025 academic calendar year, and 420 students during the 2024/2025 academic calendar year and all subsequent academic calendar years (each a “<b>Maximum Enrollment Cap</b>”). Subject to the applicable Maximum Enrollment Cap, commencing with the 2022/2023 academic calendar year and each academic year thereafter, The Branson School may enroll no more than 105 new students for each academic calendar year (the “<b>Annual Enrollment Maximum</b>”). The foregoing notwithstanding, in the event an enrolled student, other than a student in their last year of secondary school (i.e. grade 12), withdraws or otherwise is dismissed from The Branson School, that enrollment slot may be filled by The Branson School in the next academic calendar year at any grade level and shall not be counted towards the Annual Enrollment Maximum. Commencing with the 2023/2024 academic calendar year and each subsequent academic calendar year thereafter, for each 2.69 vehicle trips determined to be in excess of the average Monday through Friday daily trip cap rate set forth in the TDMP, pursuant to the Annual Fall Monitoring Report required pursuant to condition 18 below, the Annual Enrollment Maximum for the next academic calendar year shall be reduced by 1 student, up to a maximum of 25 students.</p> <p>Concurrent with the submission of the Annual Fall Monitoring Report to the Town Manager pursuant to condition 18 below, The Branson School shall submit to the Town Manager its recommendation of the Annual Enrollment Maximum for the upcoming academic calendar year, calculated in accordance with this condition 1. In the event The Branson School fails to prepare or timely submit the Annual Fall Monitoring Report, or fails to prepare or timely submit its recommendation of the Annual Enrollment Maximum for the Town’s review and approval, the Annual Enrollment Maximum for the upcoming academic calendar year shall be 80 students. The Town Manager, or her or his designee, shall review The Branson School’s recommendation of the Annual Enrollment Maximum and shall, within thirty (30) calendar days of receipt, either approve or modify the Annual Enrollment Maximum recommended by The Branson School and thereafter issue in writing, by March 1 of each year, the Town’s determination of the Annual Enrollment Maximum for the upcoming academic calendar year. Student enrollment at The Branson School in excess of the then allowable enrollment shall constitute a separate and distinct violation of this</p>

			<p>condition for each and every student enrolled in excess of said allowable enrollment and for each and every instructional day of the then applicable academic calendar year that said student or students are enrolled.</p> <p>18. Separate and apart from any requirements set forth in the TDMP, The Branson School shall, at its sole cost and expense, cause an independent third party transportation consultant, approved by the Town, to annually conduct the monitoring of campus-wide vehicle trips, Monday through Friday, during the fall term of each academic year commencing on the first day of classes, which is generally in late August, until the last day of classes before the commencement of winter break, which is generally in mid-December (“<b>Fall Monitoring Period</b>”), for as long as the Project Site is being used in reliance upon the terms and conditions of this use permit. The Town shall approve the vehicle trip monitoring protocol and methodology to be used by the transportation consultant. By February 15 of each academic year, The Branson School shall submit and file with the Town a report, prepared by the independent third-party transportation consultant, which (i) describes the vehicle trip monitoring protocol and methodology used by the consultant and approved by the Town, (ii) contains all of the vehicle trip monitoring data collected during the Fall Monitoring Period, (iii) provides an analysis and determination of the average daily Monday through Friday vehicle trips generated during the Fall Monitoring Period, and (iv) provides a determination of the number of average daily Monday through Friday vehicle trips generated during the Fall Monitoring Period that are in excess of the average Monday through Friday daily trip cap rate set forth in the TDMP, if any (the “<b>Annual Fall Monitoring Report</b>”).</p>
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Table 4. Condition No. 13, Amplified Sound – Options for Consideration

Existing Use Permit Condition No. 12	Staff Option presented January 13, 2022	Applicant Proposal presented January 13, 2022	Additional Staff Option presented February 8, 2022	Applicant Proposal dated January 25, 2022
<p>That no temporary or permanent grandstands or bleachers, amplifying equipment or outside lighting be constructed, maintained or used in connection with any athletic events held on campus.</p>	<p>That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below.</p> <p>a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for the following limited events: All School Welcome BBQ, Convocation, Annual Fundraiser, Alumni Reunion Weekend, Graduation, Junior Talent Show, Fall Dance, Fall Musical, Gospel Night, Body Talk Dance Performance, Winter Concert, Spring Play, and Festival of Arts at Branson.</p> <p>b. The foregoing notwithstanding, The Branson School’s existing emergency sound systems, including amplified speakers inside buildings and a megaphone on the field, may be used in time of emergencies and emergency drills.</p>	<p>That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below.</p> <p>a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for <b>no more than ten outdoor special</b> events: <del>All School Welcome BBQ, Convocation, Annual Fundraiser, Alumni Reunion Weekend, Graduation, Junior Talent Show, Fall Dance, Fall Musical, Gospel Night, Body Talk Dance Performance, Winter Concert, Spring Play, and Festival of Arts at Branson.</del></p> <p>b. The foregoing notwithstanding, The Branson School’s existing emergency sound systems, including amplified speakers inside buildings and a megaphone on the field, may be used in time of emergencies and emergency drills.</p>	<p>That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below.</p> <p>a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for no more than ten outdoor special events each year <b>and under no circumstances past 10 pm on Sunday through Thursday or 11 pm on Friday or Saturday.</b></p> <p>b. The foregoing notwithstanding, The Branson School’s existing emergency sound systems, including amplified speakers inside buildings and a megaphone on the field, may be used in time of emergencies and emergency drills.</p>	<p>That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below.</p> <p>a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for 10 outdoor special events each year.</p> <p><b>b. An amplified sports announcer may only be used for a championship varsity football game or championship varsity soccer game pursuant to league rules and any such game shall count towards the annual limit of 10 outdoor special events.</b></p> <p>c. The foregoing notwithstanding, The Branson School’s existing emergency sound systems, including amplified speakers inside buildings and a megaphone on the field, may be used in time of emergencies and emergency drills.</p>

Notes: **Bolding** and ~~strikethrough~~ used to draw attention to differences among proposals.

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Annual Compliance

Some members of the Town Council have expressed interest in regularly evaluating The Branson School’s operations to ensure the school is in compliance with its use permit and associated conditions of approval. The Town currently does this for the Lagunitas Country Club (“LCC”) and an example of the LCC biannual review is included in **Attachment 7**. The annual and then biannual review for the LCC use permit was the result of a settlement agreement between the LCC and an adjacent neighbor.

It should be noted that regardless of whether a condition is included to conduct an annual/biannual review, the Town always has the ability to review whether any project is operating in compliance with discretionary permits approved by the Town. The question that can arise as part of such a review is whether there exists substantial evidence of a deviation by a project applicant from a project condition of approval, which deviation is so severe and pervasive as to warrant the initiation of hearings to revisit the permits approved by the Town for purposes of modification or revocation pursuant to the Ross Municipal Code.

**Council Direction and Response**

**Table 5** below summarizes Council direction from the January 13, 2022 hearing, as well as options presented by staff and the Project Applicant.

*Table 5. Council Direction and Response*

<b>Council Direction</b>	<b>Considerations from Staff</b>	<b>Considerations from Project Applicant</b>
<p><b>Re-examine conditions around use of athletic facilities and propose an approach focused on the number/type of events instead of the hours of operation</b></p>	<p>Updated Draft Conditions of Approval found in Attachment 2 present modified Conditions Nos. 11 and 12.</p> <p>Updated Draft Condition No. 11 provides an approach that 1) limits outside use of athletic facilities to the pre-1978 levels, 2) limits use of athletic fields by way of the TDMP trip cap, and 3) prohibits post-season games such as playoffs and championships.</p> <p>Updated Draft Condition No. 12 would require Town Manager approval of outside groups to use the athletic facilities.</p>	<p>The Project Applicant has conveyed they have limited control over the location of championship games. To address neighborhood concerns, the School suggests coordination with Town staff, good faith effort(s) to secure the College of Marin for playoff games, and adherence to the Special Event Parking and Transportation Plan.</p> <p>The Project Applicant suggests that facilities be regulated by hours of operation, as initially suggested by staff, but has proposed reduced weekend hours of operation in Condition No. 11 compared to the conditions discussed on January 13, 2022.</p>

<b>Council Direction</b>	<b>Considerations from Staff</b>	<b>Considerations from Project Applicant</b>
		The Project Applicant understands and supports that outside organizations' use of facilities be determined by Town Staff on a case-by-case basis.
<b>Provide more information on the proposed TDMP and traffic impacts beyond Ross</b>	A peer review conducted by W-Trans confirmed the conclusions in the TDMP and the Parisi Memorandum dated January 25, 2022.	Analysis by Parisi Transportation Consulting in Attachment 3 found that traffic increases at remote locations would be "negligible." Background information was also provided on the traffic counts, the fluctuation within each count period, and how dropping the lowest and highest count would change the average count.
<b>Consider changes in the monitoring program and TDM strategies</b>	Updated Draft Conditions of Approval found in Attachment 2 provide an alternative approach: Condition Nos. 1 and 18 in Option 2 would require an evaluation of the School's allowed maximum enrollment level each year depending on the school's compliance with the TDMP. Allowable enrollment would decrease by one student for every 2.69 trips the School is above the TDMP trip cap, up to a maximum of 25 per academic year.	The Project Applicant does not agree to enrollment rollbacks until financial penalties have first been used and provided context on their stance. The Project Applicant provided context on why they prefer discrete monitoring periods conducted by a third party and a half-standard deviation buffer for establishing trip caps.

<b>Council Direction</b>	<b>Considerations from Staff</b>	<b>Considerations from Project Applicant</b>
<b>Consider the use of a standard deviation in setting trip cap rate</b>	<p>Based on monitoring data from 2016, 2018 and 2019, the average daily Monday through Friday trips was 860 trips, and the average Saturday trips was 346 trips.</p> <p>According to the Town’s peer review consultant, W-Trans, it is standard practice to account for traffic variation that naturally occurs on a day-to-day basis and the use of a half-standard deviation buffer is a reasonable method to achieve this.</p>	<p>The Project Applicant proposes that for purposes of monitoring compliance with trip cap rates, a one-half standard deviation of 6% be applied to the average daily Monday through Friday trips of 860, for an average daily Monday through Friday limit of 912 trips, and a one-half standard deviation of 15% be applied to average Saturday trips of 346, for an average Saturday limit of 398 trips.</p>
<b>Draft a condition of approval requiring neighborhood traffic monitors</b>	<p>Updated Draft Conditions of Approval found in Attachment 2 include Condition No. 3.a, which would require the School to hire five traffic monitors to patrol the campus and neighborhood. Condition No. 3a provides more detail than included in the TDMP.</p>	<p>The monitors are already included in the TDMP as Additional Monitoring Methods (pg. 18).</p>
<b>Draft a condition of approval requiring traffic consultant to be retained by Town and paid for by Branson</b>	<p>Updated Draft Conditions of Approval found in Attachment 2 include Condition No. 3.b, which would require the School to fund the annual traffic monitoring by a consultant hired by the Town.</p>	<p>The applicant proposed to change the language in the TDMP to clarify the selection process for the third-party traffic consultant, as explained on page 4 of the Applicant’s Memorandum (Attachment 4).</p>
<b>Reconsider amplified noise for outdoor events</b>	<p>Updated Draft Conditions of Approval found in Attachment 2 include provisions in Condition No. 13a that would limit amplified noise to 10 outdoor events. Amplified noise would be prohibited after 10 pm on Sunday through</p>	<p>In addition to the 10 allowed events, the Project Applicant requests a modification in Condition No. 13.b to allow an amplified sports announcer in the event of a championship varsity football or varsity soccer game being scheduled at Branson.</p>

Council Direction	Considerations from Staff	Considerations from Project Applicant
	Thursday and 11 pm on Friday or Saturday.	Note that the use of facilities for playoff and championship games conflict with proposed language modifying Condition of Approval No. 11.

**Environmental Review**

The proposed Project is categorically exempt from further environmental review under the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15314.

**Public Comment**

Written public comments received since the January meeting of the Town Council and prior to the publication of this report are included in Attachment 9.

**Next Steps**

The next steps in the Project are for the Council to consider the information presented and direct staff on any further revisions to the proposed conditions of approval, or direct staff on obtaining further information the Council may need in order to reach a decision on the School’s application.

**Attachments**

1. Draft Resolution with Draft Conditions of Approval as presented January 13, 2022
2. Updated Draft Conditions of Approval for Council Consideration
  - Option 1: Draft Exhibit A to Resolution – Amended and Restated Conditions of Approval
  - Option 2: Draft Exhibit A to Resolution – Amended and Restated Conditions of Approval
3. [Staff Report, January 13, 2022](#)  
 Additional materials shared subsequent to the staff report are available at <https://www.townofross.org/towncouncil/page/town-council-meeting-230>
4. Memorandum from the Project Applicant, January 25, 2022
5. Sports Field Renovation Project Staff Report, September 10, 2015
6. Branson Events: Prior to 1978 Comparison to Today
7. Lagunitas Country Club Use Permit Biannual Review Staff Report, April 8, 2021
8. W-Trans Peer Review Memorandum, February 1, 2022
9. Public comments received since January 13, 2022

# ATTACHMENT 1

**TOWN OF ROSS  
RESOLUTION NO. 2233**

**A RESOLUTION OF THE TOWN OF ROSS TOWN COUNCIL DETERMINING THAT APPROVAL OF A USE PERMIT ALLOWING AN INCREASE IN STUDENT ENROLLMENT AT THE BRANSON SCHOOL, 39 FERNHILL AVENUE, ROSS, CALIFORNIA, FROM 320 TO 420 STUDENTS IS EXEMPT FROM ENVIRONMENTAL REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO STATE CEQA GUIDELINES SECTION 15314, APPROVING A USE PERMIT PURSUANT TO SECTION 18.16.030 OF THE ROSS MUNICIPAL CODE TO AUTHORIZE THE INCREASE IN THE TOTAL MAXIMUM ALLOWED FULL-TIME AND PART-TIME ENROLLMENT AT THE BRANSON SCHOOL, 39 FERNHILL AVENUE, ROSS, CALIFORNIA, FROM 320 TO 420 STUDENTS, AND IMPOSING AMENDED AND RESTATED CONDITIONS OF APPROVAL**

**WHEREAS**, The Branson School, is the owner of certain real property located at 39 Fernhill Avenue, Ross, California ("Project Site");

**WHEREAS**, on May 11, 1978, the Ross Town Council adopted Resolution No. 1042 approving a use permit which allowed the expansion of a private school at the Project Site (the "1978 Use Permit"), subject to certain conditions of approval, including Condition of Approval No. 1 which limited enrollment in a manner consistent with the terms of the Ross Municipal Code Section 18.16.030 (b) to 320 students; and

**WHEREAS**, on March 3, 2020, a majority of the electorate of the Town of Ross approved Measure F, a voter initiative measure which effectuated an amendment to Ross Municipal Code Section 18.16.030 (b) to increase the allowable enrollment of any public or private school in the R-1 zoning district from 320 to 420 students; and

**WHEREAS**, subsequent to the approval of Measure F and the resulting amendment to Ross Municipal Code Section 18.16.030 (b), The Branson School submitted an application for a use permit amending Condition of Approval Nos. 1 to increase student enrollment from its current permitted enrollment of 320 students in increments of 25 students per academic calendar year, over a period of 4 academic calendar years, to a total of 420 students, along with the approval of a Transportation Demand Management Plan ("TDMP") (Parisi Transportation Consulting; December 2021) to be implemented by The Branson School (collectively, the "Project"); and

**WHEREAS**, in accordance with the provisions of the California Environmental Quality Act ("CEQA"), the Project was evaluated to determine if it is exempt from further environmental review pursuant to State CEQA Guidelines Section 15314, which exempts minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25 percent; and

**WHEREAS**, case law has established that the exemption set forth in Section 15314 applies to enrollment increases as well as projects that propose physical changes at a school, and that “original student capacity” means the school’s preexisting physical ability to house students, or stated slightly differently, the phrase “original student capacity” means the school’s enrollment capacity, “physical space for housing students” or “number of students that can be accommodated physically at the receptor school”; and

**WHEREAS**, as discussed in the staff report accompanying this Resolution, the proposed Project does not propose any physical changes to the Project Site and The Branson School already has the physical capacity to accommodate more than the proposed 100 additional students; therefore, no changes in the physical capacity at The Branson School are needed or proposed at the Project Site, the “original student capacity” would not be increased by more than 25 percent nor would classrooms be increased by more than 10 classrooms, and therefore, the Project is eligible for a Class 14 CEQA exemption set forth in State CEQA Guidelines Section 15314; and

**WHEREAS**, notwithstanding the preliminary determination that the Project falls within an exemption to CEQA, a project must not fall into any of the six exceptions to the exemptions set forth in Section 15300.2 of the State CEQA Guidelines; and

**WHEREAS**, the only objective exception that could conceivably be applicable is related to “unusual circumstances” as a result of the location of the Project Site within a single-family neighborhood with small, constrained local streets and the school’s status attracting students from all over the region that result in significant impacts to vehicle miles traveled (“VMT”), traffic safety hazards, or inadequate emergency access; and

**WHEREAS**, as set forth in greater detail in the TDMP, which is a component of the Project, there is no indication that there would be a net increase in vehicle trips as a result of the enrollment increase; the Project would generate fewer than 110 trips per day and would have a per capita VMT that is at least 15 percent below the Ross per capita VMT, and therefore VMT impacts would be less-than-significant; and there is no indication of any effect on traffic safety or emergency response times; and

**WHEREAS**, for the reasons outlined above, the proposed Project is eligible for a Class 14 CEQA exemption pursuant to State CEQA Guidelines Section 15314 and no additional environmental review is required; and

**WHEREAS**, on January 13, 2022, in accordance with the requirement of Section 18.44.020, the Town Council held a duly noticed public hearing to consider the proposed Project; now, therefore, be it

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Ross, having carefully reviewed and considered the staff report and this Resolution and all attachments thereto, any and all timely submitted correspondence, all information submitted at or prior to the public

hearing, and all public comment and testimony presented at the public hearing (collectively, the "Record"), does hereby find and determine based upon the aforementioned Record as follows:

1. That the Project is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15314, and that said exemption is not subject to any exception set forth in State CEQA Guidelines Section 15300.2. The Planning and Building Director is hereby directed to file a Notice of Exemption with the County of Marin County Clerk in accordance with State CEQA Guidelines Section 15062;
2. Consistent with the requirements of Section 18.44.030 of the Ross Municipal Code, the Project, as conditioned to substantially secure the objective of protecting the public welfare and property or improvements in the neighborhood surrounding the Project Site, as more particularly set forth in the Amended And Restated Conditions of Approval, attached hereto as Exhibit A, will not be detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the vicinity of the Project Site and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood surrounding the Project Site;
3. As permitted by Section 18.16.030 (b) of the Ross Municipal Code, the Project, subject to the Amended And Restated Conditions of Approval, attached hereto as Exhibit A and incorporated herein by this reference, is hereby approved;
4. The Amended And Restated Conditions of Approval, attached hereto as Exhibit A, shall hereby repeal and replace the conditions of approval adopted and imposed by the Town Council on the 1978 Use Permit pursuant to Resolution No. 1042, approved on May 11, 1978. However, in addition to the Amended And Restated Conditions of Approval, attached hereto as Exhibit A, The Branson School and the Project Site shall remain subject to all other conditions of approval associated with all other land use approvals approved by the Town for the Project Site to date, which remain unaffected by the approval of the Project pursuant to this Resolution, excepting those conditions imposed pursuant to Resolution No. 1042;
5. The Branson School and/or owners of the Project Site shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the Project or alleging any other liability or damages based upon, caused by, or related to the approval of the Project. The Town shall promptly notify The Branson School and the owners of the Project Site of any action. The Town, in its sole discretion, may tender the defense of the action to The Branson School and/or owners of the Project Site or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by The Branson School and/or owners of the Project Site; and, be it

**FURTHER RESOLVED, THAT THIS RESOLUTION IS HEREBY APPROVED AND ADOPTED**, by the Ross Town Council following a duly noticed public hearing held at its regular meeting on Thursday, the 13<sup>th</sup> day of January 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Elizabeth Robbins, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk

## EXHIBIT A

### Amended And Restated Conditions of Approval

1. That the total full and part-time student enrollment allowed at The Branson School, 39 Fernhill Avenue, Ross, California (“**Project Site**”) shall at no time exceed 345 students during the 2022/2023 academic calendar year, 370 students during the 2023/2024 academic calendar year, 395 students during the 2024/2025 academic calendar year, and 420 students during the 2024/2025 and all subsequent academic calendar years.
2. That no building permit, except as may be required for the ordinary maintenance or repair of existing facilities, shall be issued for any construction at the Project Site which is not described and identified in the master plan for The Branson School, as amended on April 3, 1978.
3. That The Branson School shall, at its sole cost and expense, take all steps required to fully implement all provisions of the Transportation Demand Management Plan, dated December 2021, prepared by Parisi Transportation Consulting, as long as the Project Site is being used in reliance upon the terms and conditions of this use permit.
4. That The Branson School shall use its best efforts to operate the school in such manner as to prevent disruption or disturbance of the peace, quiet, comfort and safety of the immediate neighborhood.
5. That by October 15<sup>th</sup> of each year, a qualified representative of The Branson School shall provide and file with the Town a statement indicating the number of students enrolled in The Branson School and the number of said students who are residents of the Town; a schedule of the approximate dates of all special events planned for the academic calendar year, and for the summer, insofar as they are known; a schedule of the games for each Branson School athletic team for the academic calendar year insofar as known; and a copy of a memorandum, letter, or directive to students, employees, and parents, advising them of the terms and conditions of the use permit, insofar as applicable, and requesting their compliance with each of the terms of said use permit.
6. That The Branson School construct not more than ten (10) additional parking spaces, in accordance with a plan to be submitted to and approved by the Town.
7. That The Branson School mark and clearly designate at least five (5) parking spaces on the Project Site for visitor’s parking only.
8. That The Branson School continue to use its best efforts to discourage parking on public streets adjacent to The Branson School by students, parents, employees and faculty.

9. That The Branson School use its best efforts to discourage access to the Project Site via Hillgirt Drive through memorandum and communications to students, parents, guests, employees and faculty advising them of such policy.
10. That weather permitting, The Branson School provide temporary on-campus parking on the athletic playing field for all special events expected to draw a large number of visitors to the Project Site through the use of special officers or traffic monitors to direct traffic to those areas through The Branson School's main entrance.
11. Use of the outdoor athletic field facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:
  - a. Hours of use shall be limited to 8 a.m. to 7:30 p.m. on Monday through Friday, and 9 am to 6 p.m. on Saturday and Sunday during the academic calendar year.
  - b. Hours of use shall be limited to 9 am to 6 p.m. Monday through Sunday during the summer.

Use of the indoor gym facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:

- a. Hours of use shall be limited to 7 a.m. to 9 p.m. Monday through Friday, 8 a.m. to 9 p.m. on Saturday, and 9 a.m. to 5 p.m. on Sunday during the academic calendar year.
  - b. Hours of use shall be limited to 8 a.m. to 9 p.m. Monday through Friday during the summer.
  - c. No use of the indoor gym facilities shall occur on Saturday or Sunday during the summer.
12. Use of athletic facilities by outside organizations shall be subject to the following conditions:
    - a. The use of the field and gyms by outside organizations shall be limited to youth-oriented (school-aged, i.e. 18 years of age and under) athletics organizations. If in question, the determination as to whether an organization is considered youth-oriented will be made by the Ross Town Planner in consultation with the Branson Athletic Director.
    - b. Users of the field or gyms will be directed to use Branson parking spaces and to not park on public streets.
    - c. Use of the outdoor athletic field facilities by outside organizations will be limited to 3:30 p.m. to 7:30 p.m. on Monday through Friday and from 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.
    - d. Use of the indoor gym facilities by outside organizations will be limited to 3:30 p.m. to 8 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.

- e. No use of the athletic facilities by outside organizations shall occur during the summer.
13. That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below.
- a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for the following limited events: All School Welcome BBQ, Convocation, Annual Fundraiser, Alumni Reunion Weekend, Graduation, Junior Talent Show, Fall Dance, Fall Musical, Gospel Night, Body Talk Dance Performance, Winter Concert, Spring Play, and Festival of Arts at Branson.
  - b. The foregoing notwithstanding, The Branson School's existing emergency sound systems, including amplified speakers inside buildings and a megaphone on the field, may be used in time of emergencies and emergency drills.
14. That the tennis courts constructed adjacent to the parking lot shall be restricted to use by students and faculty of The Branson School, officially sponsored groups or teams of Ross Recreation, Ross Valley Little League or Ross Valley Soccer League, that use of the tennis courts be restricted to the hours of 8:15 A.M. to 8:00 P.M., Monday through Sunday, and that appropriate signs be constructed and maintained on said tennis courts regarding these restrictions.
15. That the auditorium be restricted to use for The Branson School assemblies, special alumni, faculty, parents and friends of The Branson School, but in no event, for the scheduling of special events to which members of the general public or outside guests unassociated with The Branson School are invited.
16. The Branson School and/or owners of the Project Site shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the Project or alleging any other liability or damages based upon, caused by, or related to the approval of the Project. The Town shall promptly notify The Branson School and the owners of the Project Site, if different, of any action. The Town, in its sole discretion, may tender the defense of the action to The Branson School and/or owners of the Project Site or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by The Branson School and/or owners of the Project Site.

## ATTACHMENT 2

## **Amended And Restated Conditions of Approval – Option 1**

1. That the total full and part-time student enrollment allowed at The Branson School, 39 Fernhill Avenue, Ross, California (“**Project Site**”) shall at no time exceed 345 students during the 2022/2023 academic calendar year, 370 students during the 2023/2024 academic calendar year, 395 students during the 2024/2025 academic calendar year, and 420 students during the 2024/2025 and all subsequent academic calendar years. Student enrollment at The Branson School in excess of the then allowable maximum enrollment shall constitute a separate and distinct violation of this condition for each and every student enrolled in excess of said maximum enrollment and for each and every instructional day of the then applicable academic calendar year that said student or students are enrolled.
2. That no building permit, except as may be required for the ordinary maintenance or repair of existing facilities, shall be issued for any construction at the Project Site which is not described and identified in the master plan for The Branson School, as amended on April 3, 1978.
3. That The Branson School shall, at its sole cost and expense, take all steps required to fully implement all provisions of the Transportation Demand Management Plan (“**TDMP**”), dated December 2021, prepared by Parisi Transportation Consulting, as long as the Project Site is being used in reliance upon the terms and conditions of this use permit.
  - a. Independent of the TDMP, The Branson School shall hire five qualified traffic monitors to patrol neighborhood streets impacted by School traffic and campus vehicle access points, including but not limited to the School’s front gate and back parking lot entrance, the intersection of Fernhill and Shady Lane, and the intersection of Bolinas and Shady Lane to enforce parking limitations and transportation demand management measures during the morning and afternoon peak period Monday through Friday and during all weekend special events. Monitors shall park on property owned or otherwise controlled by The Branson School.
4. That The Branson School shall use its best efforts to operate the school in such manner as to prevent disruption or disturbance of the peace, quiet, comfort and safety of the immediate neighborhood.
5. That by October 15<sup>th</sup> of each year, The Branson School shall provide and file with the Town a signed affidavit under penalty of perjury that is true and correct indicating the number of students enrolled in The Branson School does not exceed the students as provided in Condition 1, and the number of said students who are residents of the Town; a schedule of the approximate dates of all special events planned for the academic calendar year, and for the summer, insofar as they are known; a schedule of the games for each Branson

School athletic team for the academic calendar year insofar as known; and a copy of a memorandum, letter, or directive to students, employees, and parents, advising them of the terms and conditions of the use permit, insofar as applicable, and requesting their compliance with each of the terms of said use permit.

6. [Placeholder]
7. That The Branson School mark and clearly designate at least five (5) parking spaces on the Project Site for visitor's parking only.
8. That The Branson School continue to use its best efforts to discourage parking on public streets adjacent to The Branson School by students, parents, employees and faculty.
9. That The Branson School use its best efforts to discourage access to the Project Site via Hillgirt Drive through memorandum and communications to students, parents, guests, employees and faculty advising them of such policy.
10. That weather permitting, The Branson School provide temporary on-campus parking on the athletic playing field for all special events expected to draw a large number of visitors to the Project Site through the use of special officers or traffic monitors to direct traffic to those areas through The Branson School's main entrance.
11. The Branson School students, faculty and staff shall have use of The Branson School indoor and outdoor athletic facilities at all times during any calendar year for educational purposes, including physical education instruction, and games and practices of The Branson School inter-scholastic athletic teams. To mitigate potential impacts resulting from increased use of The Branson School athletic facilities by individuals who are not current students, teachers or staff at The Branson School or by other groups or organizations, such as visiting teams engaged in regularly scheduled, inter-scholastic events with the Branson School and official athletic teams sponsored by Ross Recreation, Ross Valley Little League and Ross Valley Soccer Program, other groups which have previously used these facilities, and those groups or individuals permitted pursuant to condition of approval No. 12 below (collectively, the "outside organizations") (i) the number of events or amount of use by such outside organizations shall not exceed in any calendar year the amount of use or number of events that existed in any year prior to 1978, (ii) vehicle trips associated with the use of The Branson School athletic facilities by such outside organizations shall not be excluded from any monitoring required pursuant to the Transportation Demand Management Plan and the determination of average Monday through Friday daily trips and average weekend trips associated with The Branson School's use of the Project Site, and (iii) no post-regular season, inter-scholastic, playoff or championship athletic games shall be held at The Branson School athletic facilities.

12. Use of The Branson School's indoor and outdoor athletic facilities by any group or individuals shall require the permission of the Town Manager or his/her designee, which permission may be reasonably conditioned or denied.
  
13. That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below.
  - a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for no more than ten outdoor special events each year and under no circumstances past 10 pm on Sunday through Thursday or 11 pm on Friday or Saturday.
  - b. The foregoing notwithstanding, The Branson School's existing emergency sound systems, including amplified speakers inside buildings and a megaphone on the field, may be used in time of emergencies and emergency drills.
  
14. That the tennis courts constructed adjacent to the parking lot shall be restricted to use by students and faculty of The Branson School, officially sponsored groups or teams of Ross Recreation, Ross Valley Little League or Ross Valley Soccer League, that use of the tennis courts be restricted to the hours of 8:15 A.M. to 8:00 P.M., Monday through Sunday, and that appropriate signs be constructed and maintained on said tennis courts regarding these restrictions.
  
15. That the auditorium be restricted to use for The Branson School assemblies, special alumni, faculty, and parents or friends thereof of The Branson School, but in no event, for the scheduling of special events to which members of the general public or outside guests unassociated with The Branson School are invited.
  
16. The Branson School and/or owners of the Project Site shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the Project or alleging any other liability or damages based upon, caused by, or related to the approval of the Project. The Town shall promptly notify The Branson School and the owners of the Project Site, if different, of any action. The Town, in its sole discretion, may tender the defense of the action to The Branson School and/or owners of the Project Site or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by The Branson School and/or owners of the Project Site.
  
17. As provided pursuant to Section 18.44.040 of the Ross Municipal Code, the use of the Project Site, as permitted and authorized pursuant to the terms of this use permit, shall be

established and conducted in conformity with the terms of this use permit and these Amended and Restated Conditions of Approval. Pursuant to Section 18.64.040 of the Ross Municipal Code, any violation of one or more of these Amended and Restated Conditions of Approval is a public nuisance, as defined in Section 9.04.100 (6) of the Ross Municipal Code, for each such violation, which may be abated as provided by law, including but not limited to the provisions of Chapter 9.04 of the Ross Municipal Code, which provides for the abatement of public nuisances, imposition of administrative penalties, and recovery of costs of abatement and attorneys' fees.

## Amended And Restated Conditions of Approval – Option 2

1. That the total full and part-time student enrollment allowed at The Branson School, 39 Fernhill Avenue, Ross, California (“**Project Site**”), shall at no time exceed 345 students during the 2022/2023 academic calendar year, 370 students during the 2023/2024 academic calendar year, 395 students during the 2024/2025 academic calendar year, and 420 students during the 2024/2025 academic calendar year and all subsequent academic calendar years (each a “**Maximum Enrollment Cap**”). Subject to the applicable Maximum Enrollment Cap, commencing with the 2022/2023 academic calendar year and each academic year thereafter, The Branson School may enroll no more than 105 new students for each academic calendar year (the “**Annual Enrollment Maximum**”). The foregoing notwithstanding, in the event an enrolled student, other than a student in their last year of secondary school (i.e. grade 12), withdraws or otherwise is dismissed from The Branson School, that enrollment slot may be filled by The Branson School in the next academic calendar year at any grade level and shall not be counted towards the Annual Enrollment Maximum. Commencing with the 2023/2024 academic calendar year and each subsequent academic calendar year thereafter, for each 2.69 vehicle trips determined to be in excess of the average Monday through Friday daily trip cap rate set forth in the TDMP, pursuant to the Annual Fall Monitoring Report required pursuant to condition 18 below, the Annual Enrollment Maximum for the next academic calendar year shall be reduced by 1 student, up to a maximum of 25 students.

Concurrent with the submission of the Annual Fall Monitoring Report to the Town Manager pursuant to condition 18 below, The Branson School shall submit to the Town Manager its recommendation of the Annual Enrollment Maximum for the upcoming academic calendar year, calculated in accordance with this condition 1. In the event The Branson School fails to prepare or timely submit the Annual Fall Monitoring Report, or fails to prepare or timely submit its recommendation of the Annual Enrollment Maximum for the Town’s review and approval, the Annual Enrollment Maximum for the upcoming academic calendar year shall be 80 students. The Town Manager, or her or his designee, shall review The Branson School’s recommendation of the Annual Enrollment Maximum and shall, within thirty (30) calendar days of receipt, either approve or modify the Annual Enrollment Maximum recommended by The Branson School and thereafter issue in writing, by March 1 of each year, the Town’s determination of the Annual Enrollment Maximum for the upcoming academic calendar year. Student enrollment at The Branson School in excess of the then allowable enrollment shall constitute a separate and distinct violation of this condition for each and every student enrolled in excess of said allowable enrollment and for each and every instructional day of the then applicable academic calendar year that said student or students are enrolled.

2. That no building permit, except as may be required for the ordinary maintenance or repair of existing facilities, shall be issued for any construction at the Project Site which is not

described and identified in the master plan for The Branson School, as amended on April 3, 1978.

3. That The Branson School shall, at its sole cost and expense, take all steps required to fully implement all provisions of the Transportation Demand Management Plan, dated December 2021, prepared by Parisi Transportation Consulting (“**TDMP**”), as long as the Project Site is being used in reliance upon the terms and conditions of this use permit.
  - a. Independent of the TDMP, The Branson School shall hire five qualified traffic monitors to patrol neighborhood streets impacted by School traffic and campus vehicle access points, including but not limited to the School’s front gate and back parking lot entrance, the intersection of Fernhill and Shady Lane, and the intersection of Bolinas and Shady Lane to enforce parking limitations and transportation demand management measures during the morning and afternoon peak period Monday through Friday and during all weekend special events. Monitors shall park on property owned or otherwise controlled by The Branson School.
4. That The Branson School shall use its best efforts to operate the school in such manner as to prevent disruption or disturbance of the peace, quiet, comfort and safety of the immediate neighborhood.
5. That by October 15<sup>th</sup> of each year, The Branson School shall provide and file with the Town a signed affidavit under penalty of perjury that is true and correct indicating the number of students enrolled in The Branson School does not exceed the students as provided in Condition 1, and the number of said students who are residents of the Town; a schedule of the approximate dates of all special events planned for the academic calendar year, and for the summer, insofar as they are known; a schedule of the games for each Branson School athletic team for the academic calendar year insofar as known; and a copy of a memorandum, letter, or directive to students, employees, and parents, advising them of the terms and conditions of the use permit, insofar as applicable, and requesting their compliance with each of the terms of said use permit.
6. [Placeholder]
7. That The Branson School mark and clearly designate at least five (5) parking spaces on the Project Site for visitor’s parking only.
8. That The Branson School continue to use its best efforts to discourage parking on public streets adjacent to The Branson School by students, parents, employees and faculty.

9. That The Branson School use its best efforts to discourage access to the Project Site via Hillgirt Drive through memorandum and communications to students, parents, guests, employees and faculty advising them of such policy.
10. That weather permitting, The Branson School provide temporary on-campus parking on the athletic playing field for all special events expected to draw a large number of visitors to the Project Site through the use of special officers or traffic monitors to direct traffic to those areas through The Branson School's main entrance.
11. The Branson School students, faculty and staff shall have use of The Branson School indoor and outdoor athletic facilities at all times during any calendar year for educational purposes, including physical education instruction, and games and practices of The Branson School inter-scholastic athletic teams. To mitigate potential impacts resulting from increased use of The Branson School athletic facilities by individuals who are not current students, teachers or staff at The Branson School or by other groups or organizations, such as visiting teams engaged in regularly scheduled, inter-scholastic events with the Branson School and official athletic teams sponsored by Ross Recreation, Ross Valley Little League and Ross Valley Soccer Program, other groups which have previously used these facilities, and those groups or individuals permitted pursuant to condition of approval No. 12 below (collectively, the "outside organizations") (i) the number of events or amount of use by such outside organizations shall not exceed in any calendar year the amount of use or number of events that existed in any year prior to 1978, (ii) vehicle trips associated with the use of The Branson School athletic facilities by such outside organizations shall not be excluded from any monitoring required pursuant to the Transportation Demand Management Plan and the determination of average Monday through Friday daily trips and average weekend trips associated with The Branson School's use of the Project Site, and (iii) no post-regular season, inter-scholastic, playoff or championship athletic games shall be held at The Branson School athletic facilities.
12. Use of The Branson School's indoor and outdoor athletic facilities by any group or individuals shall require the permission of the Town Manager or his/her designee, which permission may be reasonably conditioned or denied.
13. That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below.
  - a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for no more than ten outdoor special events each year and under no circumstances past 10 pm on Sunday through Thursday or 11 pm on Friday or Saturday.

- b. The foregoing notwithstanding, The Branson School's existing emergency sound systems, including amplified speakers inside buildings and a megaphone on the field, may be used in time of emergencies and emergency drills.
14. That the tennis courts constructed adjacent to the parking lot shall be restricted to use by students and faculty of The Branson School, officially sponsored groups or teams of Ross Recreation, Ross Valley Little League or Ross Valley Soccer League, that use of the tennis courts be restricted to the hours of 8:15 A.M. to 8:00 P.M., Monday through Sunday, and that appropriate signs be constructed and maintained on said tennis courts regarding these restrictions.
15. That the auditorium be restricted to use for The Branson School assemblies, special alumni, faculty, and parents or friends thereof of The Branson School, but in no event, for the scheduling of special events to which members of the general public or outside guests unassociated with The Branson School are invited.
16. The Branson School and/or owners of the Project Site shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the Project or alleging any other liability or damages based upon, caused by, or related to the approval of the Project. The Town shall promptly notify The Branson School and the owners of the Project Site, if different, of any action. The Town, in its sole discretion, may tender the defense of the action to The Branson School and/or owners of the Project Site or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by The Branson School and/or owners of the Project Site.
17. As provided pursuant to Section 18.44.040 of the Ross Municipal Code, the use of the Project Site, as permitted and authorized pursuant to the terms of this use permit, shall be established and conducted in conformity with the terms of this use permit and these Amended and Restated Conditions of Approval. Pursuant to Section 18.64.040 of the Ross Municipal Code, any violation of one or more of these Amended and Restated Conditions of Approval is a public nuisance, as defined in Section 9.04.100 (6) of the Ross Municipal Code, for each such violation, which may be abated as provided by law, including but not limited to the provisions of Chapter 9.04 of the Ross Municipal Code, which provides for the abatement of public nuisances, imposition of administrative penalties, and recovery of costs of abatement and attorneys' fees.
18. Separate and apart from any requirements set forth in the TDMP, The Branson School shall, at its sole cost and expense, cause an independent third party transportation

consultant, approved by the Town, to annually conduct the monitoring of campus-wide vehicle trips, Monday through Friday, during the fall term of each academic year commencing on the first day of classes, which is generally in late August, until the last day of classes before the commencement of winter break, which is generally in mid-December (**“Fall Monitoring Period”**), for as long as the Project Site is being used in reliance upon the terms and conditions of this use permit. The Town shall approve the vehicle trip monitoring protocol and methodology to be used by the transportation consultant. By February 15 of each academic year, The Branson School shall submit and file with the Town a report, prepared by the independent third-party transportation consultant, which (i) describes the vehicle trip monitoring protocol and methodology used by the consultant and approved by the Town, (ii) contains all of the vehicle trip monitoring data collected during the Fall Monitoring Period, (iii) provides an analysis and determination of the average daily Monday through Friday vehicle trips generated during the Fall Monitoring Period, and (iv) provides a determination of the number of average daily Monday through Friday vehicle trips generated during the Fall Monitoring Period that are in excess of the average Monday through Friday daily trip cap rate set forth in the TDMP, if any (the **“Annual Fall Monitoring Report”**).

# ATTACHMENT 3

Staff Report, January 13, 2022 

Additional materials shared subsequent to the staff report are available at

<https://www.townofross.org/towncouncil/page/town-council-meeting-230>

# ATTACHMENT 4



January 25, 2022

Dear Mayor Robbins and Council Members,

Thank you for your careful consideration of our application to amend our Conditional Use Permit to increase Branson's enrollment by 100 students. We were grateful for the opportunity to present our plan and to respond to questions at the public hearing on January 13, 2022.

As we look to our upcoming special meeting, we have carefully reviewed the various comments of the Town Council from the hearing. While we understand that a list of proposed edits to various conditions of approval will not be coming from the Town Staff in advance of the hearing, we want to provide as much information as possible to help inform your decision making process. Accordingly, we are submitting this letter to address what we feel are the outstanding issues and to provide additional information and clarification to assist you in bringing this matter to a close. We hope that with this submission and further discussion at the upcoming hearing on February 8, you will decide to approve our application and finalize the proposed resolution and conditions that night.

If you have any other issues that you would like us to address in a written submission prior to the February 8 hearing, please have Town Staff let us know. We would like to be as responsive as possible so that the hearing can be efficient and productive. To that end, we strongly believe that an open dialogue with Council Members at the next hearing would be the most efficient manner in which to conclude this process. We welcome all questions of the Council prior to the close of the public comment period so that no issues remain outstanding.

### **Transportation Demand Management Plan Issues**

Branson's Transportation Demand Management Plan (TDMP) was discussed at length on January 13 and both Branson's traffic consultant, David Parisi of Parisi Transportation Consulting, and the Town's independent traffic consultants, Brian Canepa and Dalene Whitlock of WTrans, answered detailed questions. Both agreed that the plan was robust and had the strategies necessary to achieve the goal of keeping traffic net neutral with the enrollment increase of 100 students, phased in over a 4-year period.

The TDMP is intended to prevent any negative traffic impacts on the surrounding neighborhood from the proposed growth in the student body. By setting vehicle trip counts for weekday and weekend traffic associated with Branson's operations for the first time in the school's history, it



will limit the intensity of use of the Branson campus. Branson has pledged to keep traffic net neutral or better, and will be working closely with a Neighborhood Partnership group to keep that promise. In addition, adherence to the plan will be ensured by two-week monitoring periods conducted by an independent third-party consultant twice a year for a period of ten years. At the conclusion of the ten years, the Town Council will determine if continued monitoring is necessary and the frequency of that monitoring.

A few issues regarding the TDMP arose at the last hearing that we feel are important to address:

### 1. Rollbacks

There was some question of whether the monitoring plan and associated penalties were sufficiently stringent and whether enrollment rollbacks should be imposed earlier after financial penalties are imposed.

One important measure seems to have been overlooked at the hearing that is designed to ensure that Branson achieves net neutrality with each year of phased increase. On page 17 of the TDMP, Branson agreed not to implement the additional tranche of 25 students if it does not keep traffic net neutral during any of the first four years:

**“Should an uncured violation occur during the first monitoring period following any of the proposed four additions of 25 new students, then Branson would not be entitled to add the next tranche of 25 students until Branson is without uncured violations for a one-year period.”**

Thus, with each year of the phased increase, Branson *must* demonstrate it has achieved net neutrality before any more students can be added. This means that if Branson cannot cure a violation from its fall monitoring period, it cannot add 25 students in the next admissions cycle. For this reason, rollbacks are not suitable until after the full 100 students have been added and there have been repeated uncured violations of the trip count limit.

Further, while Branson agrees that there should be penalties if we are unable to meet our traffic counts and we have agreed to Town Staff’s significant recommended level of fines, we cannot agree to enrollment rollbacks until the other financial penalties have been used to correct any violations. Sporadic, immediate rollbacks can be devastating for a school for several reasons. First, schools operate on a cyclical budget and plan for budgets on a 3-year cycle and an impact midstream can be challenging to a school’s financial planning. Second, a school's operating costs



are largely fixed and employee heavy, and a rollback after hiring teachers for a growing enrollment number could trigger the need for layoffs and negatively impact the learning environment. Third, the prospect of having enrollment rollbacks would have a material impact on Branson's market position versus its peers.

## **2. Traffic Monitors at Key Intersections**

There was keen interest from several Council Members for Branson to make its 5 traffic monitor employees a part of the TDMP. Please be advised that traffic monitoring at key locations is already a key part of the plan (TDMP pages 17-18):

**“In addition to quantitative trip count monitoring and at the suggestion of the neighborhood working group, Branson will implement a system that places school personnel at the following key points for monitoring purposes:**

- **Front gate monitor**
- **Back parking lot entrance**
- **Fernhill/Norwood intersection**
- **Bolinas/Shady Lane intersection**
- **Bolinas/Waverly monitor in the mornings to enforce Branson penalties during first week of semester and monthly spot checks**

**Furthermore, Branson will meet with the Neighborhood Partnership Group once each semester to receive neighborhood concerns and develop measures to address their issues (Strategy 1).”**

At the hearing there seemed to be some confusion about whether this monitoring was in the TDMP. The answer is yes, and Branson will implement this provision of the plan and will keep the monitoring personnel in place. The current 5 monitors have already been hired as employees, not contractors. If for any reason the Neighborhood Partnership Group requests changes to the timing or location of the monitoring, Branson will communicate these changes to Town Staff for approval.

## **3. Selection of Independent Transportation Consultant to Conduct Monitoring**

The TDMP currently specifies that:



**“A third-party transportation consultant will be employed to conduct the monitoring counts. The Town shall have input into the consultant used for the monitoring and trip analysis, with consideration for the cost to Branson and the reputation of such consultant. The Town shall review and approve the vehicle trip monitoring protocol or methodology used by the consultant. The consultant shall provide a Monitoring Report on the vehicle trip counts to Branson and the Town simultaneously following each monitoring period. The data collected will not be deemed confidential, privileged or a trade secret.”**

A Council Member expressed concern that Branson would select the independent traffic consultant. To allay this concern, we propose changing page 16 of the TDMP to allow the Town to select the consultant to be employed by Branson as follows:

A third-party transportation consultant will be employed to conduct the monitoring counts. The Town shall **select** the consultant **in consultation with Branson** for the monitoring and trip analysis, with **input from Branson on the** cost and the reputation of such consultant. The Town **and Branson** shall review and approve the vehicle trip monitoring protocol or methodology used by the consultant. The consultant shall provide a Monitoring Report on the vehicle trip counts to Branson and the Town simultaneously following each monitoring period. The data collected will not be deemed confidential, privileged or a trade secret.

#### **4. Additional Issues Addressed by Parisi Transportation Consulting**

In the technical memo attached hereto as Exhibit A, David Parisi addresses three issues raised at the hearing. He explains that:

(1) the use of travel buffers to set thresholds for trip count variation is commonly employed to account for the natural daily fluctuations of traffic and that the buffer levels and trip limits the TDMP proposes are conservative;

(2) traffic monitoring by an independent third party consultant for 2 weeks twice per year is a standard practice, and is a more cost effective and reliable method for compliance assessment than permanent daily counting stations; and

(3) the traffic impacts of remote drop-off and pick-up on Sir Francis Drake Boulevard would be minute and imperceptible.

Our understanding from the hearing is that the Town’s consultant agrees with these points as well.



## **Athletic Facilities Use Issues**

While Branson only sought an amendment to Condition 1 of the Use Permit, Town staff suggested that Conditions 11 and 12 be revised to specify the hours and days of the week for use of the school's athletic fields because it would allow for enforcement of these conditions as opposed to the difficult enforcement terms of the current use permit.

Condition 11 of the 1978 CUP states: *That the use of the KBS/MTS athletic facilities for practice or play at all times during any calendar year be limited to KBS/MTS students, faculty and staff; visiting teams engaged in regularly scheduled, inter-scholastic events with KBS/MTS and official athletic teams sponsored by the Ross Recreation Association, Ross Little League and Ross Soccer Program and other groups which have previously used these facilities, provided that the number of events or amount of use by such groups shall not exceed in any calendar year any such uses or events in any year prior to 1978.*

While Condition 11 of the current use permit appears to limit athletic facilities use to 1978 levels, due to the semi-colon it is ambiguous whether this limitation applies to Branson's own use or only to use by the outside groups that had been using Branson athletic facilities at that time. The 1977 Final Environmental Impact Report discussion of the use of the fields and gyms demonstrates that there was no intent to limit Branson's own use of its facilities, and that the limitation to 1978 levels was intended to restrict outside group use only:

The major potential environmental impact of the playing field enlargement is the possibility of renting or otherwise letting "outside" teams use the field. As noted elsewhere, with soccer increasing in popularity, demands for available playing space continue to increase. It is suggested as a mitigation of potential impacts that the school limit the number of uses of the field by outside organizations as a condition of permit approval, the specific number to be agreed upon by the school administration and the Town Council.

FEIR, pages 48-49).

### **1. Branson Use**

There is no reliable data on the number of athletic events at Branson in 1978 to make this a usable baseline. Last summer, Town Staff asked Branson for records about athletic facility use in



1978. While we provided what information we could, using yearbooks and other anecdotal information, accurate information simply does not exist. It is impossible to know what took place in 1978, as there are no available athletic game schedules to give an accurate count anywhere in our records. Branson disputes the assertion that events have grown 87% since 1978.

It is likely true that the number of athletic events increased when we joined the MCAL in 2000, as there are more schools in this league. It is also true that the number of events has also increased for schools in the Bay Counties League (which Branson belonged to prior to 2000) since 1978, since there are more schools in that league now than there were then. It is important to understand that Branson contracted with College of Marin at the same time it joined MCAL to move many sports practices and games to their facilities in Kentfield. Teams that played at the Branson campus for decades now play at COM. Accordingly, simply comparing the number of sports teams in existence is not an appropriate metric, as many of these new teams, and some of the old teams, now play off campus. The following teams hold practices and games at COM:

- Girls' and Boys' tennis (was previously played on Branson's campus and at the Lagunitas Club)
- Girls' and Boys' swimming and diving (swimming was previously on campus)
- Girls' and Boys' track
- Girls' and Boys' varsity basketball: games at COM, practices at Branson
- Boys' Varsity baseball (there is no JV)
- Varsity Boys' soccer (played at Branson until recently)
- Girls' and Boys' lacrosse (the teams alternate at COM week over week)

The following sports are played on Branson's campus:

- Boys and Girls' JV soccer
- Girls' varsity soccer
- Boys and Girls' JV basketball
- 9th grade boys' basketball
- Cross Country (runs off campus from Branson for practice, no meets on campus or near campus)
- Girls' and Boys' lacrosse (alternate at COM week over week)
- Varsity and JV Girls' Volleyball
- 8-Person football

Finally, the school has added several girls' teams and programs through the years in response to Title IX and a desire to provide gender equity in sports, but we do not feel that there are



materially more teams than existed in 1978, as other programs were eliminated with the addition of certain sports. Schools in every Bay Area league added women's teams when it became clear that the gender equity goals of Title IX applied to high school athletics.

Due to the fact that the 1978 data was not reliable, Town staff suggested that Branson propose a new Condition 11 based on its current hours of operation and use of the gym and fields. We agree with Town Staff that "hours of use" is a more appropriate approach than number of events and allows all parties to clearly understand and enforce the rules.

Branson proposes the following conditions on its own use:

Condition 11:

Use of the outdoor athletic field facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:

- a. Hours of use shall be limited to 8 a.m. to 7:30 p.m. on Monday through Friday, and 9 am to 6 p.m. on Saturday during the academic calendar year.
- b. Hours of use shall be limited to 9 am to 7:30 p.m. Monday through Friday during the summer.

Use of the indoor gym facilities by Branson teams for regularly scheduled practice and by Branson teams and their competitors for regularly scheduled games shall be subject to the following conditions:

- a. Hours of use shall be limited to 7 a.m. to 9 p.m. Monday through Friday and 8 a.m. to 9 p.m. on Saturday during the academic calendar year.
- b. Hours of use shall be limited to 8 a.m. to 9 p.m. Monday through Saturday during the summer.

Note that we have **reduced our proposed hours of operation** for Branson practice and games since the January 13 hearing, eliminating Sunday field use during both the academic year and summer and Saturday use during the summer. We also eliminated Branson's gym use on Sundays during both the academic year and summer.

The summer is a much quieter time on campus for events and sports. The football and volleyball teams hold one week "team camps" and the basketball team has a two week camp, and one of those weeks is open to local middle school students. Our basketball teams play in a summer



league and practice at Branson, but no games are held on campus. The Branson Summer School has a limited number of sports camps (volleyball, lacrosse, soccer) during the regular hours of our summer school.

At the public hearing on January 13, several Council Members noted that Branson’s typical practices and games did not pose problems with respect to traffic and parking but there was concern about “big” athletic events like playoff games that tend to draw larger numbers of spectators. It appears that the hours of operation approach of the staff will generally work for “regular” practice and games, but Council Members asked that there be further discussion around playoff games.

Branson has no way to predict when or how many playoff games it will have on our field or in our gym in a given year, and it can vary greatly from year to year. In the past five years of normal sports seasons (2015-2020), the total number of playoff games for all sports played on the Branson campus in any given year ranged from 4 to 10. We do not anticipate that Branson will have a greater number of playoff games with the addition of 100 students because we do not anticipate adding any new Varsity sports as a result of the increase. However, to address any neighbor concerns with any parking and noise issues associated with large athletic events, we propose the following:

- Branson will meet with Town Staff at the beginning of each season to discuss the potential timing and number of any playoff games that might be held in our gym or on our field so that Branson and the Town can properly plan and notify our neighbors.
- Branson will make best efforts to secure field or gym space at College of Marin for playoff games. (Note that securing COM facilities on short notice is not always possible due to COM priority users or other teams that have previously secured the space, and COM’s football field is not suitable for eight-person football).
- Branson’s Director of Safety and Transportation will work with our traffic monitor employees and other staff to direct and manage traffic so that neighboring streets are not unduly impacted and parking is managed pursuant to Branson’s Special Event Parking and Transportation Plan submitted as Appendix 2 to the TDMP.

## **2. Outside Group Use**



Town Staff suggested that Conditions 11 and 12 be revised to specify the hours and days of the week for use of the school’s athletic fields by outside groups because it would be easier to enforce these conditions in the future. Branson proposes the following revision to Condition 12:

12. Use of athletic facilities by outside organizations shall be subject to the following conditions:

a. The use of the field and gyms by outside organizations shall be limited to youth-oriented (school-aged, i.e., 18 years of age and under) athletics organizations **by permission of Town Staff on a case by case basis** . If in question, the determination as to whether an organization is considered youth-oriented will be made by Town Staff in consultation with the Branson Athletic Director.

b. Users of the field or gyms will be directed to use Branson parking spaces and to not park on public streets.

c. Use of the outdoor athletic field facilities by outside organizations will be limited to 3:30 p.m. to 7:30 p.m. on Monday through Friday and from 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.

d. Use of the indoor gym facilities by outside organizations will be limited to 3:30 p.m. to 8 p.m. on Monday through Friday and 9 a.m. to 5 p.m. on Saturday and Sunday during the academic calendar year.

e. No use of the athletic facilities by outside organizations shall occur during the summer.

Note that the language in bold above “by permission of Town Staff on a case by case basis” is an addition to the hours of operation limitations in our prior proposed Condition 12 and it was an oversight not to include it in our original proposed revision. Branson has no issue with current Condition 12 which requires Town permission before an outside group can use Branson’s athletic facilities. We suggest, however, that this be done through consultation with Town Staff instead of an amendment to the use permit in order to streamline the process and to make it less expensive for the nonprofit youth groups seeking field and gym space. Spelling out the process clearly will make it easier to enforce.

Under the combined current use permit conditions 11 and 12, Branson is not allowed to have other entities use its athletics facilities without permission of the Town with the exception of Ross Recreation, Ross Soccer, and Ross Little League. While we have always been happy to host these Ross organizations, the reality is that they have used the fields and gym very rarely in



recent years because the timing of their needs conflict with Branson's use of the facilities for its own sports teams, which occurs mainly after school and in the evenings during the week. The exception to that is that Ross Rec Field Hockey held practices on 14 Sundays in 2019 on our field. In general, our athletic facilities are very lightly used in the summer and while Town Staff proposed that there be no outside use in the summer, it would be a good time for Ross Recreation to access our field and gym if they had programs that would benefit.

CYO basketball has been operating at the school on the weekends in the winter since at least the 1980s based on our research and anecdotal conversations with alumni and alumni parents. Based on these conversations, we believe that the school sought permission to host CYO at that time, perhaps through Ross Rec, although there is no documentation of that. We do not believe the Town has received any complaints about CYO using our gym for their games on the weekends. CYO has always used the gym free of charge, and it has been an easy and amicable partnership that has served the community well.

We suggest that we continue to offer limited use to outside organizations consistent with past practice because, in our meetings with neighbors and the wider community, it has come to our attention that the need for playing fields and gym space has only intensified in Ross Valley and greater Marin in recent years. Many of our neighbors would like Branson to be more of a community asset. Providing our athletic facilities on a limited basis to other youth sports teams is one way that we can do that. In the end, however, we believe the decision to allow Branson to allow or not allow outside groups to use our facilities lies with the Town Council. Branson is open to the use of its athletic and other facilities by outside groups, but at the same time, we are sensitive to the traffic issues involved, and do not want to create more traffic for our neighbors. Branson recommends that any future use of our campus by organizations other than Branson (and there are only one or two requests per year at most) be granted by permission of the Town Staff on a case by case basis. Branson will also understand if the Town chooses to forbid altogether the use of its facilities by outside groups.

Further, it was mentioned by several council members that Branson may have plans to rent out their facilities if outside use is ultimately approved by the Town. We absolutely have no plans to pursue permission to charge users for any use of our campus, fields, or gym. While most schools do rent out their facilities to other entities to provide an alternative revenue stream, Branson has never asked the Town to allow us to do this, as we know the additional traffic is a burden on the town.

### **Amplification for Outside Special Events**



Condition 13 of Branson's current use permit only restricts amplification at athletic events:

*That no temporary or permanent grandstands or bleachers, amplifying equipment or outside lighting be constructed, maintained or used in connections with any athletic events held on campus.*

The staff proposed broadening this restriction to cover other Branson special events, naming individual special events including many that are held indoors (like theater and dance productions). Branson proposed instead that amplification be limited to 10 special outdoor events each year.

We do not see a need to limit indoor amplified sound as Branson has never received a complaint about it and it is not audible to anyone on neighboring streets or even on the campus itself. It does not seem reasonable to limit indoor amplified sound if it cannot be heard beyond the campus.

Currently our largest outdoor events with amplification include an All School Welcome BBQ, Convocation, Annual Fundraiser, Alumni Reunion Weekend and Graduation. From time to time, we have other smaller outdoor events with amplification that may not be recurring. We do not anticipate adding any particular additional outdoor events that will have amplified sound due to the enrollment increase of 100 students. However, in consideration of our immediate neighbors, Branson will agree to a limit on its use of outdoor amplified sound to 10 special events per year, as follows:

Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for 10 outdoor special events each year.

Of course Branson will still be subject to the Town's noise ordinance restrictions with respect to time of day and volume.

Branson respectfully requests that we be permitted to use a sports announcer for a football championship game or soccer championship game (required by the North Coast Section to host a home championship game) under this revised condition 13. No other regular or playoff football or soccer games would be permitted to have a sports announcer.



Here is our proposed revision to Condition 13 in full:

13. That no temporary or permanent grandstands or bleachers, amplifying equipment or sound systems, including megaphones and portable stereo systems, or temporary or permanent outside lighting be constructed, maintained or used in connection with any athletic events held on the Project Site or any other use of facilities on the Project Site unless otherwise stated below:

- a. Amplified equipment or sound systems, including megaphones and portable stereo systems, shall be allowed during use of facilities on the Project Site for 10 outdoor special events each year.
- b. An amplified sports announcer may only be used for a championship varsity football game or championship varsity soccer game pursuant to league rules and any such game shall count towards the annual limit of 10 outdoor special events.
- c. The foregoing notwithstanding, The Branson School's existing emergency sound systems, including amplified speakers inside buildings and megaphone on the field, may be used in time of emergencies and emergency drills.

### **Summer School Use**

Branson's summer school program has been in existence for more than 40 years and provides a variety of enrichment courses. This past summer, Branson ran 18 different courses with an average weekly attendance of 164 students. The weekly enrollment ranged from 133 to 200 students during the 6 week period from June 14 through July 23, which included students from Next Generation Scholars (NGS), a non-profit organization focused on preparing underserved local students for high school and college. Branson provides free access to our campus facilities for the NGS program.

Branson provided detailed information to Town Staff in August 2018 about the history of its summer program, its 2018 offerings and enrollment, and the importance of these programs to the school and in particular to the faculty who desire to earn additional salary during the summer months. By letter dated August 29, 2019 (included as Exhibit B), the Town Staff confirmed that Branson's summer school is operating consistent with the approved Use Permit with the exception of one sports program that served elementary school students. The Town Staff confirmed that "as long as the secondary summer school programs do not result in an enrollment above 320 students during each week of the summer school offerings, then the Branson School would be operating in a consistent manner with the approved Use Permit." Branson eliminated any course offerings for elementary school age students beginning in summer 2020.



The expansion of the student body to 420 students during the academic year will have no discernible impact on the intensity of summer school use. Our summer school has been substantially similar in size for years. In 2019 (the last summer not impacted by Covid) the summer program was 10 weeks and the average weekly attendance was 152.

Note that there have not been any issues with traffic relating to summer school use. Branson students created a video to share with summer school parents to show how drop off and pick up at the back parking lot work and all NGS summer school students are dropped off at the St. Anselm's parking lot and are shuttled to campus in vans that hold 8-10 students at a time.

### **CEQA Exemption/Building Issue**

Through our own analysis, confirmed by the Town's independent architecture consultant, Branson has determined that *we do not need to build any additional buildings* to accommodate 100 new students. The school has the current capacity to accommodate the enrollment growth and for that reason it qualifies for an exemption under CEQA. There is no building project in this application.

At the Town Council meeting, Mayor Robbins and Council members Brekhus and Macmillan all mentioned the fact that Claudia and I had previously spoken with them about the School's need for a new theater. At that time we said, and repeated at community meetings, that we would need a new theater at some point in the future regardless of whether we increased our enrollment or not. Our theater is no longer state of the art and it does not fully hold our current community safely. We have ceased using it for anything other than acting classes, music, theater and dance performances and some parent and admissions events. We have moved all of our school assemblies and all-school gatherings to our gym and have outfitted that space with the necessary AV. While not ideal, the gym will absolutely suffice for the foreseeable future and will definitely hold our increased student body and faculty. We want to make it very clear that we are not asking to build anything to accommodate additional students. We are not asking for a new theater - or any new buildings - at this time as a result of adding 100 more students. One day years down the road, following a major fundraising campaign, Branson *will* need to build a new theater. Building plans for a new theater would be subject to design review by this Town Council at that time including evaluation of cumulative impacts and whether it would require environmental review under CEQA. Therefore, there is no reason to address any building in the proposed Resolution and Conditions at this time.



## Conclusion

Branson worked in good faith over the past many months in order to bring a proposal to the Town Council that was fully supported by staff and the Town's outside experts. This involved very significant negotiation and compromise on major issues every step of the way. We conceded many of these points under the reasonable belief that doing so would secure the Council's support. Hopefully, the further concessions, edits, and clarifications made since the last hearing adequately address the Council's concerns and the CUP can be approved at the next hearing.

We would reiterate our request that at the second hearing there be as much dialogue between the school and the Council as is allowed. Since this will be a special meeting where Branson is likely the only item on the agenda, we think this approach will yield a decision that evening, as opposed to a further continuance.

Thank you for your continued consideration of our application.

Sincerely,

A handwritten signature in black ink that reads "Chris Mazzola".

Chris Mazzola  
Head of School



January 25, 2022

David Hanson  
Chief Financial and Operating Officer  
The Branson School  
39 Fernhill Avenue  
Ross, CA 94957

**Subject: Responses to Feedback on The Branson School Transportation Demand Management Plan at January 13 Town Council Meeting**

Dear Mr. Hanson:

Pursuant to your request, Parisi Transportation Consulting (Parisi) is providing our professional input on three items raised by the Ross Town Council during its January 13, 2022 hearing regarding the Branson School Use Permit Amendment and the associated Transportation Demand Management Program (TDMP). Parisi prepared the TDMP based on our deep experience developing transportation management plans for independent schools, our extensive involvement with the Branson School, our intimate knowledge of the Town of Ross' travel patterns, and a peer review of and input to the draft TDMP conducted by Town staff and W-Trans.

This letter addresses three items raised by one or more Town Councilmembers: 1) use of buffers to set thresholds for trip count violations, 2) periodic versus permanent traffic monitoring, and 3) traffic impacts of remote drop-off and pick-up.

**Use of Buffers to Set Thresholds for Trip Count Violations**

The Branson School TDMP's approach for developing vehicle trip count thresholds is consistent with TDMP best practices related to school traffic and accounts for the fact that traffic levels naturally fluctuate on a day-to-day basis. The TDMP proposes the use of traffic volume buffers applied to average weekday and Saturday traffic counts; the buffers are one-half of a standard deviation of actual recent pre-Covid counts (i.e., 6% on weekdays and 15% on Saturdays).

As recognized by the Branson School TDMP's peer review consultant (W-Trans), weekday traffic counts typically vary by about 8% to 10%. Weekend traffic levels can fluctuate even more. The TDMP's proposed buffers do not even capture this range of variation. It is a very common practice to apply a count buffer to the average traffic count for TDMP purposes in light of the natural fluctuation and imperfections of traffic counting.

It may be helpful to review some background information:

- A total of 15 weekdays of traffic counts were taken during a week each in 2016, 2018 and 2019 when school was in session. The 15 days of counts to and from the Branson campus varied from 648 to 1,068 vehicles, with an average count of 860 vehicles. During one of the three weeks, the average 5-day count was 928 vehicles (or 7.9% higher than the average of 860 vehicles).
- As an aside, if each week's lowest and highest trip counts were discounted, then the 3-day average would be 865 vehicles, with non-discounted trips varying from 793 to 1,042 vehicles. During one of the three weeks, after discounting low and high trip days, the 3-day average count would be 929 vehicles (or 7.4% higher than average of 865 vehicles).

The recent count results show that the application of the TDMP's count thresholds is actually quite conservative and that under the current proposal, Branson will actually be required to produce significantly less traffic than some of its previous higher years. As concurred by W-Trans, typical weekday traffic varies by up to 10%, so the use of a 6% weekday buffer is considered to be stringent, i.e., low. Similarly, the 15% Saturday buffer is conservative, but reasonable.

#### **Periodic Versus Permanent Traffic Monitoring**

The Branson School TDMP proposes traffic monitoring over two-week periods twice a year. Traffic counts would be conducted by a third party using typical counting techniques, such as pneumatic roadway tubes, video cameras, and/or human observation.

As is normal for school TDMP monitoring, all counts would be done using the third party's traffic counting equipment and monitored and reviewed by the third party. This approach assures consistency and confidence in the collection and reporting of the traffic data.

Use of permanent count stations is not recommended. First, it is standard practice to conduct school traffic monitoring over a discrete timeframe, and not on a continual basis. Secondly, schools are not well-equipped to maintain permanent counters, which would be needed at multiple locations. Assuring calibrated and fully-operating counters, and on a 24-hour and 7-day a week basis, is not typically a school's function. In addition, traffic counting technology changes over time and third-party counting firms generally maintain and use the most up-to-date equipment. Finally, permanent counters could be subject to vandalism and some motorists may be inclined to manipulate traffic counts by frequently driving past such counters.

For the above reasons, providing periodic monitoring is the best approach. This also allows the third party to observe traffic conditions concurrently to ensure confidence that the counts are reliable.

### **Traffic Impacts of Remote Drop-off and Pick-up**

One of the main objectives of the Branson School TDMP is to minimize traffic impacts in the neighborhood adjacent to Branson. Many different strategies are available to achieve this goal, while also managing traffic effects throughout and beyond the Town of Ross. One of the measures is through the use of remote drop-off and pick-up at various locations in the Town and within Marin County.

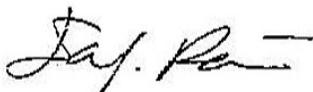
Due to the prevalence of carpooling, school vehicle trips already using nearby roadways, the number and location of potential remote locations, and the proposed enrollment increase limit, the traffic increases at the remote locations would be negligible, a finding that was confirmed by W-Trans. Pursuant to supplemental analysis requested when the TDMP was being developed, none of the Town of Ross' key intersections would be impacted by Branson's TDMP (or even if enrollment was increased without a TDMP); in fact, any additional delay that would result at any of the Town of Ross' three signalized intersections with Sir Francis Drake Boulevard would be minute and imperceptible. Finally, the project is estimated to result in a 2% decrease in overall vehicle-miles travelled (VMT), and a 23% decrease in VMT on a per capita basis.

### **In Closing**

We have enjoyed working with you, Branson School, and the Town of Ross in the development of the TDMP, and appreciate the peer review conducted by W-Trans, which confirmed that the TDMP is a solid program that can result in a true net-neutral vehicle trip threshold.

Please feel free to contact me if you have any questions regarding the above conclusions. You can reach me at (415) 649-6000 or at david@parisi-associates.com.

Sincerely,

A handwritten signature in black ink, appearing to read "David Parisi". The signature is fluid and cursive, with a horizontal line extending from the end.

David Parisi, PE, TE  
Principal

## Exhibit B



During the past few months, questions have surfaced in the community regarding the Branson summer school program relative to the school's approved Use Permit and enrollment cap of 320 students. The following is the Town's response to this inquiry.

On May 11, 1978, the Town Council adopted Resolution 1042 approving Use Permit No. 50 to allow "a private, coeducational secondary school having an enrollment not exceeding 320 students." The Resolution also acknowledges that the use of the property as a private school predated the adoption of the Town's zoning regulations, thus rendering the school legal nonconforming, and that the issuance of the Use Permit would allow the continuation of the existing private school use. Lastly, the Use Permit was also approved with condition of approval no. 1, which states, "That the total full and part-time student enrollment of the school shall at no time exceed 320 students."

At the time the Use Permit was approved, the Branson School provided college preparatory classes, sport teams, school performances, special events, and summer school programming. Furthermore, based on information provided by Chris Mazzola, Head of School for Branson, the Branson School has been providing summer school courses and activities continually since 1968. A question that remains is what is what is a Secondary School? The Town's Municipal Code does not provide a definition for "Secondary School", however, the Merriam-Webster Dictionary defines a Secondary School as, "a school intermediate between elementary school and college and usually offering general, technical, vocational, or college-preparatory courses."

In reconciling the Use Permit approval and the historic use of a summer school program at Branson, it is staff's opinion that the Branson Summer school is able to provide educational course offerings to middle school and high school ages. It is further staff's opinion that the Branson School's summer sports program for elementary age students is in violation of the Use Permit because the school only was approved as a secondary school. In order to remedy the violation, the Branson School would have the options to request a Use Permit amendment to allow for elementary aged summer camps, or cease providing summer camps for elementary aged students. The Branson School could also coordinate with Ross Recreation, Ross Little League, Ross Soccer Program, and/or other groups which have previously used the Branson athletic facilities, to run the program on their campus, per condition of approval no. 11 of Resolution 1042.

In reconciling the enrollment question, the Use Permit is unclear as to how the 320 student maximum enrollment cap should be applied. However, in researching how schools operate, and that the intent of the approval is to ensure that no more than 320 students are on campus at any one given time, it is staff's opinion that the school enrollment should be based on semesters or summer school course offerings. Again, the Town's regulations are to ensure that there is not an over proliferation of students

## **Exhibit B**

on the campus at any time beyond 320 students. Therefore, as long as the secondary summer school programs do not result in an enrollment above 320 students during each week of the summer school offerings, then the Branson School would be operating in a consistent manner with the approved Use Permit.

In summary, the Town of Ross staff has concluded that the Branson School is operating within the requirements of the approved Use Permit relative to use and the enrollment cap for the secondary school summer program. However, staff has concluded that the Branson School is not operating within the requirements of the approved Use Permit relative to the Elementary School sports program.

# ATTACHMENT 5



**Staff Report**

**Date:** September 10, 2015  
**To:** Mayor Kathleen Hoertkorn and Council Members  
**From:** Leann Taagepera, Contract Planner  
**Subject:** The Branson School, 39 Fernhill Avenue, Sports Field Renovation Project

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**Recommendation**

Town Council approval of Resolution No. 1913 conditionally approving a Design Review request to allow the renovation of a sports field facility through the replacement of a grass sports field with an artificial turf field, and associated drainage and ADA improvements at 39 Fernhill Avenue.

**Project Summary**

**Owner:** The Branson School  
**Design Professional:** Peter Arnold, PLA, Abey Arnold Associates, Landscape Architects,  
**Location:** 39 Fernhill Avenue  
**A.P. Number:** 73-072-04, 73-082-01, 73-082-12, 73-141-03 and 73-151-05  
**Zoning:** R-1:B-A (Single Family Residence, 10,000 Square Feet Minimum Lot Size)/R-1:B-7.5 (Single Family Residence, One Acre Minimum Lot Size)  
**General Plan:** Limited Quasi-Public/Private Service  
**Flood Zone:** Zone X (outside 1-percent annual chance floodplain)

Application for Design Review. The project would allow the replacement of a grass sports field with an artificial turf field, and associated drainage improvements. Design Review is required pursuant to Ross Municipal Code Chapter 18.41.020(c) to allow grading of over 50 cubic yards; per 18.41.020(h) to allow new impervious surface; and pursuant to 18.41.020(d) for site work within 25 feet of a waterway.

**Background and Discussion**

The Branson School began operating as a primary school in Ross in 1922. Over the years, the school use has changed to the current, day-only, co-ed, high school use. The site is located in a

single-family residential zoning district. The single-family zoning district regulations permit public and private schools with up to 320 students with a use permit. The general plan designation for the area recognizes school uses. The school operates under a use permit first approved in 1978, attached. The use permit allows Branson School and visiting teams engaged in regularly scheduled, inter-scholastic events with The Branson School and official athletic teams sponsored by the Ross Recreation Department, Ross Little League and Ross Soccer Program and other groups to use their athletic facilities.

The proposed sports field turf replacement project does not propose a change in the use of the sports field or any other facet of The Branson School and an amendment of the use permit is not required. However, the change in material of the field would allow the school and Ross Recreation league teams to utilize the field during the winter, as the local soccer season is transitioning to winter league season. Parking would continue to be provided on the field. There would be a reduction in the number of vehicles leaving campus at the end of the day to use the fields at the College of Marin, reducing local traffic trips.

According to Mike Armstrong, Town of Ross, Recreation Manager, the benefit of access to an “all weather” field would allow the Town to transfer games in youth soccer and youth lacrosse to the Branson Field in the event of rain and during times when the turf is getting stressed at Ross Commons. The Recreation Department would also be interested in an opportunity to sponsor some summer sports themed camps at Branson geared towards middle school age students.

### **Project Description**

The goals of the Branson School turf replacement project are to provide for winter seasonal use by both the school and the Ross Recreation league, substantially reduce water use, and reduce local traffic trips by school sport program participants. It would achieve this by replacing the existing 66,000 square-foot natural turf athletic field with a 66,000 square-foot artificial turf field, which would be utilized during the rainy season. The current field’s location, orientation and layout would be unchanged. Parking would still be provided on the field, as it is now.

Installation of the new field would require the removal of the existing two to three inch deep turf and root structure, resulting in a cut of this material of 450 cubic yards and fill on site of the supporting material such as sand and gravel, under the new artificial turf, which would be considered a fill of 1200 cubic yards. Most of this removed grass and root material would be used on site as a landscaped mound to be located adjacent to the field, which would reduce the need to truck removed material off-site. The exposed substrate would then be compacted and covered with base rock up to a depth of six inches. The turf and permeable lining/padding would be installed over this baserock. The artificial turf would consist of a 23 mm thick pad covered by the turf and infilled with an all-sand product. The project would not utilize any rubber infill material. The new field would be approximately five inches higher than the current natural grass field.

The artificial turf field requires a completely 'planar' surface and, therefore, necessitates that a low seating wall be constructed, adjacent to the Gym building. This low wall would taper from a 26 inch maximum height at the south end of the Gym to ground level at the parking area, and span for ninety-five linear feet. The project also proposes to install a 3" x 12" header around the remaining perimeter of the new artificial turf field, minimizing excavation. North of the field a new drain and bioswale would be installed to capture runoff that would result from the existing grassy area between the new field and the parking area. An ADA ramp is proposed to the field from the Gym, which is accessible from existing parking lot.

The field would drain toward a new 320 foot long 'Recharge Trench' that would be installed to take in the entire field's runoff. The turf system's "carpet" or padding system would be permeable and would result in some water traveling through the material and the rest moving across the surface into the trench. Overall, there would be no change in percolation rates, but since the turf material would not be completely permeable, such as is natural grass, staff and the applicants consider this a change in the way rainwater would travel into the ground. The project can be interpreted as not increasing the impervious surface overall, but increasing it within the field surface itself, as compared to grass. The deep trench would allow water to percolate into the ground and is designed to accept a 10 year storm event without allowing outflow into the stormwater system. A perforated drain pipe would be installed high in the trench to allow the overflow during a greater than 10 year storm event to enter the existing storm drain system.

### ***Biological Resources Report and Regulatory Agencies***

While the project is adjacent to Ross Creek, the project's construction or operation would not affect the creek. A Biological Resource report was prepared by Micki Kelly, Kelly Biological Consulting, dated September 1, 2015. The report concluded that the project would not result in any impacts to the creek or its habitat. The Branson School consulted with the California Department of Fish and Wildlife (DFW), the Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers (Corps). None of the agencies expressed concerns with the project. The DFW advised that the applicant determine if a Lake and Streambed Alteration Agreement would be likely needed and, if so, submit such an application after Town approval. The RWQCB indicated that only a standard Stormwater Pollution and Prevention Plan would need to be submitted and the Corps indicated that the project was outside of its jurisdiction. The applicant would be required to provide a Stormwater Pollution Prevention Plan and an Erosion Control Plan prior to the issuance of the grading permit, as a condition of the Town's approval.

### ***Water Savings***

The Facilities Director at the Branson School estimates that the water savings for the project would be approximately 2,007,279 gallons per year, which is a substantial reduction in water use. The applicant estimates that in a non-drought year, 80% of the water used is well water,

with remainder from Marin Municipal Water District sources. The Director provided the following assumptions for this amount of water savings:

“Water usage at the field is as follows:

(10) PJT heads, at 3.5GPM, for 20min. per watering, watered 3 times per week. Per week this would equate to  $10 \times 3.5 \times 20 \times 3 = 2,100$  gal. Per month would be  $2,100 \times 4.33$ (weeks per month)= 9,093 gal.

(38) Rainbird heads at 12.5GPM, for 45min. Per watering, watered 3 times per week. Per week this would equate to  $38 \times 12.5 \times 45 \times 3 = 64,125$  gal. Per month would be  $64,125 \times 4.33 = 277,661$  gal.

Total water usage per month=  $277,661 + 9,093 = 286,754$  gal./month

We water roughly 7 months per year so yearly water usage is  $7 \times 286,754 = 2,007,279$  gal./year

Depending on rainfall we may water 8 months per year and during heat waves we bump up the watering duration or increase watering to 4 times per week.”

### ***Reduction in Local Traffic Trips***

Some of the athletic programs at The Branson School currently utilize fields at The College of Marin (COM) and must drive or be driven from the School to that location and back. In addition, the School’s girls’ soccer season has been moved from spring to winter, which is the same time period as the School’s boys’ season. The applicant indicates that this is essentially ‘doubling up’ on the practice and game fields, and is occurring during the rainy season, putting extreme pressure on local field use.

The applicant has states that, currently, The Branson School has Daily Practices and/or games Monday through Saturday and the traffic related to them is estimated as follows:

#### **Winter Season, (November-February)**

- Boy’s soccer = 20 people, 10 vehicles each way per day.
- Girl’s soccer= 20 people, 10 vehicles each way per day.

#### **Spring Season, (March – June)**

- Lacrosse = 18 people - 8 vehicles each way per day
- Baseball, rainy day practices- they currently carpool, so an estimated of four vehicles each way per day.

Based on observations by School staff, the applicant concludes that the new field would remove 50% of the above traffic. Some games and practices would still be played at COM. Further, the applicant indicates that, if you extrapolate that into total traffic reduction for both seasons, there would be an estimated reduction of 1,200 total trips, with 720 trips from the winter sports and 480 from the spring sports. This would indicate that the project could save 1,200 local traffic trips between January and June.

## **Public Comment**

Staff has received no public comment on the project.

## **Fiscal, resource and timeline impacts**

If approved, the project would be subject to one-time fees for a grading permit. The Town currently serves the site and there would be no operating or funding impacts associated with the project.

## **Recommendation**

Staff supports the proposed renovation of the sports field through the replacement of the turf field and the continued use of the site, which will be consistent with the Branson use permit, benefits the Ross Recreation Department and is consistent with school use of the property. In addition, the project would reduce water usage and local traffic trips. Findings for approval of Design Review are provided in the attached resolution.

## **Alternative actions**

1. Continue the project for modifications; or
2. Make findings to deny the application.

## **Environmental review (if applicable)**

The project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15304 - categorical exemption for minor alterations to land. A Class 4 Exemption consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes. No exception set forth in Section 15301.2 of the CEQA Guidelines applies to the project including, but not limited to, Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources.

## **Attachments**

1. Resolution No. 1913
2. Findings and Conditions of Approval
3. Application
4. Geotechnical Letter Report, Miller Pacific Engineering Group, August 19, 2015
5. Soccer Field Turfgrass Removal and Tree Protection Procedures, MacNair & Associates, August 27, 2015
6. Biological Resource Report, Kelly Biological Consulting, September 1, 2015
7. The Branson School Use Permit, Resolution No. 1042, and Planning History
8. Project plans

# TOWN OF ROSS

## RESOLUTION NO. 1913

### A RESOLUTION OF THE TOWN OF ROSS APPROVING DESIGN REVIEW TO ALLOW THE RENOVATION OF A SPORTS FIELD FACILITY THROUGH THE REPLACEMENT OF A GRASS SPORTS FIELD WITH AN ARTIFICIAL TURF FIELD, AND ASSOCIATED DRAINAGE AND ADA IMPROVEMENTS AT 39 FERNHILL AVENUE, 73-072-04, 73-082-01, 73-082-12, 73-141-03 and 73-151-05.

**WHEREAS**, The Branson School submitted an application for a Design Review pursuant to Ross Municipal Code Chapter 18.41.020(c) to allow grading of over 50 cubic yards; per 18.41.020 to allow new impervious surface; and pursuant to 18.41.020(d) for site work within 25 feet of a waterway at 38 Fernhill Avenue, Assessor's Parcel Numbers 73-072-04, 73-082-01, 73-082-12, 73-141-03 and 73-151-05 (the "project"); and

**WHEREAS**, the project was determined to be categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guideline Section 15304 - categorical exemption for minor alterations to land; and

**WHEREAS**, no exception set forth in Section 15301.2 of the CEQA Guidelines (including but not limited to subsection (a) which relates to impacts on environmental resources; subsection (b) which relates to cumulative impacts, subsection (c) which relates to unusual circumstances; or subsection (f) which relates to historical resources) was found to apply to the project; and

**WHEREAS**, on September 10, 2015, the Town Council held a duly noticed public hearing to consider the proposed project; and

**WHEREAS**, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

**NOW, THEREFORE, BE IT RESOLVED** the Town Council of the Town of Ross hereby incorporates the recitals above; makes the findings set forth in Exhibit "A"; and approves Design Review for the project described herein located at 39 Fernhill Avenue, subject to the Conditions of Approval attached as Exhibit "B".

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 10<sup>th</sup> day of September 2015, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Linda Lopez, Town Clerk

**EXHIBIT "A"**  
**Findings In Support Of Project Approval**  
**39 Fernhill Avenue**

**73-072-04, 73-082-01, 73-082-12, 73-141-03 and 73-151-05**

**A. Findings**

**I. Design Review is required pursuant to Ross Municipal Code Chapter 18.41.020(c) to allow grading of over 50 cubic yards; per 18.41.020 to allow new impervious surface; and pursuant to 18.41.020(d) for site work within 25 feet of a waterway.**

**1. Design Review (RMC § 18.41.020(c), 18.41.020(h), 18.41.020(d) - Approval of Design Review for the replacement of a grass sports field with an artificial turf field, and associated drainage and ADA improvements is based on the findings outlined in the Ross Municipal Code Section 18.41.070(b) as described below:**

**a) The project is consistent with the purposes of the Design Review chapter as outlined in Ross Municipal Code Section 18.41.010:**

(a) To preserve and enhance the "small town" feel and the serene, quiet character of its neighborhoods are special qualities to the town. The existing scale and quality of architecture, the low density of development, the open and tree-covered hills, winding creeks and graciously landscaped streets and yards contribute to this ambience and to the beauty of a community in which the man-made and natural environment co-exist in harmony and to sustain the beauty of the town's environment.

(1) Provide excellence of design for all new development which harmonizes style, intensity and type of construction with the natural environment and respects the unique needs and features of each site and area. Promote high-quality design that enhances the community, is consistent with the scale and quality of existing development and is harmoniously integrated with the natural environment;

(2) Preserve and enhance the historical "small town," low-density character and identity that is unique to the Town of Ross, and maintain the serene, quiet character of the town's neighborhoods through maintaining historic design character and scale, preserving natural features, minimizing overbuilding of existing lots and retaining densities consistent with existing development in Ross and in the surrounding area;

(3) Preserve lands which are unique environmental resources including scenic resources (ridgelines, hillsides and trees), vegetation and wildlife habitat, creeks, threatened and endangered species habitat, open space and areas necessary to protect community health and safety. Ensure that site design and intensity recognize site constraints and resources, preserve natural landforms and existing vegetation, and prevent excessive and unsightly hillside grading;

(4) Enhance important community entryways, local travel corridors and the area in which the project is located;

(5) Promote and implement the design goals, policies and criteria of the Ross general plan;

(6) Discourage the development of individual buildings which dominate the townscape or attract attention through color, mass or inappropriate architectural expression;

(7) Preserve buildings and areas with historic or aesthetic value and maintain the historic character and scale. Ensure that new construction respects and is compatible with historic character and architecture both within the site and neighborhood;

(8) Upgrade the appearance, quality and condition of existing improvements in conjunction with new development or remodeling of a site.

(9) Preserve natural hydrology and drainage patterns and reduce stormwater runoff associated with development to reduce flooding, streambank erosion, sediment in stormwater drainage systems and creeks, and minimize damage to public and private facilities. Ensure that existing site features that naturally aid in stormwater management are protected and enhanced. Recognize that every site is in a watershed and stormwater management is important on both small and large sites to improve stormwater quality and reduce overall runoff.

*The project will not change the scale and character of the existing development. The project would maintain the existing drainage pattern. The proposed project would not result in tree removal.*

**b) The project is in substantial compliance with the design criteria of Ross Municipal Code Section 18.41.100.**

(a) Preservation of Natural Areas and Existing Site Conditions.

(1) The existing landscape should be preserved in its natural state by keeping the removal of trees, vegetation, rocks and soil to a minimum. Development should minimize the amount of native vegetation clearing, grading, cutting and filling and maximize the retention and preservation of natural elevations, ridgelines and natural features, including lands too steep for development, geologically unstable areas, wooded canyons, areas containing significant native flora and fauna, rock outcroppings, view sites, watersheds and watercourses, considering zones of defensible space appropriate to prevent the spread of fire.

*The project proposes to keep existing trees and shrubs. The project would not affect biological resources or watercourses.*

(2) Sites should be kept in harmony with the general appearance of neighboring landscape. All disturbed areas should be finished to a natural-appearing configuration and planted or seeded to prevent erosion.

*The appearance of the existing landscaping will be maintained.*

(3) Lot coverage and building footprints should be minimized where feasible, and development clustered, to minimize site disturbance area and preserve large areas of undisturbed space. Environmentally sensitive areas, such as areas along streams, forested areas, and steep slopes shall be a priority for preservation and open space.

*Lot coverage and building footprints will not change.*

(e) Drives, Parking and Circulation.

(1) Good access, circulation and off-street parking should be provided consistent with the natural features of the site. Walkways, driveways, curb cuts and off-street parking should allow smooth traffic flow and provide for safe ingress and egress to a site.

*Parking would remain the same.*

(2) Access ways and parking areas should be in scale with the design of buildings and structures on the site. They should be sited to minimize physical impacts on adjacent properties related to noise, light and emissions and be visually compatible with development on the site and on neighboring properties. Off-street parking should be screened from view. The area devoted to driveways, parking pads and parking facilities should be minimized through careful site planning.

*The project would not change access to the site or propose changes to parking existing driveway materials.*

(3) Incorporate natural drainage ways and vegetated channels, rather than the standard concrete curb and gutter configuration to decrease flow velocity and allow for stormwater infiltration, percolation and absorption.

*The drainage proposed by the project has been designed to not result in any stormwater impacts.*

(f) Exterior Lighting. Exterior lighting should not create glare, hazard or annoyance to adjacent property owners or passersby. Lighting should be shielded and directed downward, with the location of lights coordinated with the approved landscape plan. Lamps should be low wattage and should be incandescent.

*No lighting is proposed by the project.*

(i) Natural Environment.

(1) The high-quality and fragile natural environment should be preserved and maintained through protecting scenic resources (ridgelines, hillsides, trees and tree groves), vegetation and wildlife habitat, creeks, drainageways threatened and endangered species habitat, open space and areas necessary to protect community health and safety.

*The project would not result in adverse effects to the natural environment.*

(2) Development in upland areas shall maintain a setback from creeks or drainageways. The setback shall be maximized to protect the natural resource value of riparian areas and to protect residents from geologic and other hazards.

*The project would not result in adverse effects to the creeks or riparian areas.*

(3) Development in low-lying areas shall maintain a setback from creeks or drainageways consistent with the existing development pattern and intensity in the area and on the site, the riparian value along the site, geologic stability, and the development alternatives available on the site. The setback should be maximized to protect the natural resource value of the riparian area and to protect residents from geologic and flood hazards.

*The project would not result in adverse effects to the creeks or riparian areas.*

(4) The filling and development of land areas within the one-hundred-year flood plain is discouraged. Modification of natural channels of creeks is discouraged. Any modification shall retain and protect creekside vegetation in its natural state as much as possible. Reseeding or replanting with native plants of the habitat and removal of broom and other aggressive exotic plants should occur as soon as possible if vegetation removal or soil disturbance occurs.

*The creek and channel would not be modified and the project would not affect the creek vegetation.*

(5) Safe and adequate drainage capacity should be provided for all watercourses.

*The project would not affect the nearby creek and is not in a flood zone.*

(s) Setbacks. All development shall maintain a setback from creeks, waterways and drainageways. The setback shall be maximized to protect the natural resource value of riparian areas and to protect residents from geologic and other hazards. A minimum fifty-foot setback from the top of bank is recommended for all new buildings. At least twenty-five feet from the top of bank should be provided for all improvements, when feasible. The area along the top of bank of a creek or waterway should be maintained in a natural state or restored to a natural condition, when feasible.

*The project would not result in any adverse effects to the creek and the top of the bank of the creek would remain in a natural state.*

(t) Low Impact Development for Stormwater Management. Development plans should strive to replicate natural, predevelopment hydrology. To the maximum extent possible, the post-development stormwater runoff rates from the site should be no greater than pre-project rates. Development should include plans to manage stormwater runoff to maintain the natural drainage patterns and infiltrate runoff to the maximum extent practical given the site's soil characteristics, slope, and other relevant factors. An applicant may be required to provide a full justification and demonstrate why the use of Low Impact Development (LID) design approaches is not possible before proposing to use conventional structural stormwater management measures which channel stormwater away from the development site.

*The drainage proposed by the project has been designed to not result in any stormwater impacts.*

(1) Maximize Permeability and Reduce Impervious Surfaces. Use permeable materials for driveways, parking areas, patios and paths. Reduce building footprints by using more than one floor level. Pre-existing impervious surfaces should be reduced. The width and length of streets, turnaround areas, and driveways should be limited as much as possible, while conforming with traffic and safety concerns and requirements. Common driveways are encouraged. Projects should include appropriate subsurface conditions and plan for future maintenance to maintain the infiltration performance.

(2) Disperse Runoff On Site. Use drainage as a design element and design the landscaping to function as part of the stormwater management system. Discharge runoff from downspouts to landscaped areas. Include vegetative and landscaping controls, such as

vegetated depressions, bioretention areas, or rain gardens, to decrease the velocity of runoff and allow for stormwater infiltration on-site. Avoid connecting impervious areas directly to the storm drain system.

(3) Include Small-Scale Stormwater Controls and Storage Facilities. As appropriate based on the scale of the development, projects should incorporate small-scale controls to store stormwater runoff for reuse or slow release, including vegetated swales, rooftop gardens or “green roofs”, catch-basins retro-fitted with below-grade storage culverts, rain barrels, cisterns and dry wells. Such facilities may be necessary to meet minimum stormwater peak flow management standards, such as the no net increase standard. Facilities should be designed to minimize mosquito production.

*The drainage proposed by the project has been designed to not result in any stormwater impacts. A bioswale is included in the project design.*

**c) The project is consistent with the Ross general plan and zoning ordinance.**

(1) Ross General Plan Policy (RGP) 1.1 Protection of Environmental Resources. Protect environmental resources, such as hillsides, ridgelines, creeks, drainage ways, trees and tree groves, threatened and endangered species habitat, riparian vegetation, cultural places, and other resources. These resources are unique in the planning area because of their scarcity, scientific value, aesthetic quality and cultural significance.

*The project would not adversely affect environmental resources.*

(2) RGP 1.2 Tree Canopy Preservation. Protect and expand the tree canopy of Ross to enhance the beauty of the natural landscape. Recognize that the tree canopy is critical to provide shade, reduce ambient temperatures, improve the uptake of carbon dioxide, prevent erosion and excess stormwater runoff, provide habitat for wildlife and birds, and protect the ecosystem of the under-story vegetation.

*The existing vegetation will be maintained.*

(3) RGP 1.3 Tree Maintenance and Replacement. Assure proper tree maintenance and replacement.

*See (2) above.*

(4) RGP 1.4 Natural Areas Retention. Maximize the amount of land retained in its natural state. Wherever possible, residential development should be designed to preserve, protect and restore native site vegetation and habitat. In addition, where possible and appropriate, invasive vegetation should be removed.

*See (2) above.*

(5) RGP 2.1 Sustainable Practices. Support measures to reduce resource consumption and improve energy efficiency through all elements of the Ross General Plan and Town regulations and practices, including:

(a) Conserve water, especially in landscaping.

*The project would result in a substantial amount of water savings, over current usage.*

(6) RGP 2.2 Incorporation of Resource Conservation Measures. To the extent consistent with other design considerations, public and private projects should be designed to be efficient and innovative in their use of materials, site construction, and water irrigation standards for new landscaping to minimize resource consumption, including energy and water.

*The project would result in a substantial amount of water savings, over current usage.*

(7) RGP 2.3 Reduction in the Use of Chemicals and Non-Natural Substances. Support efforts to use chemical-free and toxic-free building materials, reduce waste and recycle building waste and residential garbage. Encourage landscape designs that minimize pesticide and herbicide use.

*The artificial turf would not require the use of pesticides or herbicides.*

(8) RGP 3.8 Driveways and Parking Areas. Driveways and parking areas should be designed to minimize visibility from the street and to provide safe access, minimal grading and/or retaining walls, and to protect water quality. Permeable materials should be used to increase water infiltration. Driveways and parking areas should be graded to minimize stormwater runoff.

*Parking would remain the same.*

(9) RGP 4.5 Archaeological Resources. Implement measures to preserve and protect archaeological resources. Whenever possible, identify archaeological resources and potential impacts on such resources. Provide information and direction to property owners in order to make them aware of these resources. Require archaeological surveys, conducted by an archaeologist who appears on the Northwest Information Center's list of archaeologists qualified to do historic preservation fieldwork in Marin County, in areas of documented archaeological sensitivity. Develop design review standards for projects that may potentially impact cultural resources.

*The discovery of cultural resources is unlikely due to the location of the site and known archaeological areas.*

(10) RGP 6.4 Runoff and Drainage. Stormwater runoff should be maintained in its natural path. Water should not be concentrated and flow onto adjacent property. Instead, runoff should be directed toward storm drains or, preferably to other areas where it can be retained, detained, and/or absorbed into the ground.

*The drainage proposed by the project has been designed to not result in any stormwater impacts.*

(11) RGP 6.5 Permeable Surfaces. To the greatest extent possible, development should use permeable surfaces and other techniques to minimize runoff into underground drain systems and to allow water to percolate into the ground. Landscaped areas should be designed to provide potential runoff absorption and infiltration.

*The drainage proposed by the project has been designed to not result in any stormwater impacts.*

(14) RGP 6.6 Creek and Drainageway Setbacks, Maintenance and Restoration. Keep development away from creeks and drainageways. Setbacks from creeks shall be maximized to protect riparian areas and to protect residents from flooding and other hazards. Encourage restoration of runoff areas, to include but not be limited to such actions as sloping banks, providing native Creek access vegetation, protecting habitat, etc., and work with property owners to identify means of keeping debris from blocking drainageways.

*The project would not adversely affect the creek areas.*

**EXHIBIT "B"**  
**The Branson School - 39 Fernhill Avenue**  
**Conditions of Approval**

1. The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit.

2. Except as otherwise provided in these conditions, the project shall conform with the plans approved by the Town Council on September 10, 2015. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.

3. The applicant and future property owners shall notify all future property owners of their obligation to comply with conditions of project approval.

4. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.

5. The applicant and contractor should note the Town of Ross working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

6. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.

7. A Grading Permit is required from Department of Public Works for site grading. The applicant shall comply with the requirements of Chapter 15.24 of the Ross Municipal Code by providing the Department of Public Works with the following:

- a. A completed Grading Permit Application.
- b. A site map, including plans and grading plan.
- c. Submit 3 copies of the soil engineers report, 2 copies of the site plan showing the outline of the proposed project, and a deposit to cover actual cost of peer review by City-retained soils engineer.

- d. A construction schedule.

8. The applicant shall provide the Town with a deposit in the amount, to be determined, prior to grading permit issuance to cover the anticipated cost for any Town consultants, such as the town hydrologist, review of the project. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.

9. A grading security in an amount determined by the Town Engineer's office shall be submitted in the form of a Certificate of Deposit (CD) or cash to cover grading, drainage, and erosion control. Contact the Department of Public Works for details.

10. No grading shall be permitted during the rainy season between October 15 and April 15 unless permitted in writing by the Director of Public Works. Grading is considered to be any movement of earthen materials necessary for the completion of the project. This includes, but is not limited to cutting, filling, excavation for foundations, and the drilling of pier holes. It does not include the boring or test excavations necessary for a soils engineering investigation. All temporary and permanent erosion control measures shall be in place prior to October 1.

11. The drainage design shall comply with the Town's storm water ordinance (Ross Municipal Code Chapter 15.54). A drainage plan and hydrologic/hydraulic analysis shall be submitted with the grading permit application for review and approval by the public works director, who may consult with the town hydrologist at the applicants' expense (a deposit may be required). The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape changes (natural predevelopment rate standard). Construction of the drainage system shall be supervised, inspected and accepted by a professional engineer and certified as-built drawings of the constructed facilities and a letter of certification shall be provided to the Town building department prior to project final.

- a. Stormwater Control Plan (SCP) is required per the Statewide Phase II Municipal Stormwater NPDES permit as re-issued by the California State Water Resources Control Board (CSWRCB) in 2013, including:

- b. Exhibit

- c. Must demonstrate adequately-sized bioretention facilities
- d. Construction Checklist (items to be followed up during final design)
- e. Statement accepting responsibility for maintaining treatment facilities
- f. SCP must be followed during design and construction
- g. Draft Operations & Maintenance Plan (O&M Plan) which directs and records maintenance of bioretention/treatment facilities and identifies responsible individuals

12. Development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) is required per the Construction General Permit by the CSWRCB for projects disturbing over one acre of soil, refer to following link: [Construction General Permit – Proposed NEL Amendments Incorporated – June 25, 2012](#)

13. An encroachment permit is required from the Department of Public Works prior to any work within a public right-of-way.

14. The plans submitted for permit shall include a detailed construction and traffic management plan for review and approval. The plan shall include as a minimum: tree protection, management of worker vehicle parking, location of portable toilets, areas for material storage, traffic control, method of hauling and haul routes, size of vehicles, and washout areas.

15. The applicant shall submit a schedule that outlines the scheduling of the site development to the Director of Public Works. The schedule should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).

16. A preconstruction meeting with the property owner, project contractor, project architect, project arborist, representatives of the Town Planning, Building and Public Works and Ross Valley Fire Department and the Town building inspector is required prior to issuance of the permit to review conditions of approval for the project and the construction management plan.

17. Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.

18. Inspections shall not be provided unless the Town-approved permit plans are available on site.

19. Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the

Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

20. Failure to comply in any respect with the conditions or approved plans constitutes grounds for Town staff to immediately stop work related to the noncompliance until the matter is resolved. (Ross Municipal Code Section 18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law. If a stop work order is issued, the Town may retain an independent site monitor at the expense of the property owner prior to allowing any further grading and/or construction activities at the site.

21. If deemed necessary by the Public Works Director, a geotechnical engineering report, containing all recommended geotechnical design criteria for the project, shall be submitted with the permit plans for review. All geotechnical aspects of the proposed project and preliminary development of plans shall continue to be evaluated by the project geotechnical consultant. A letter from the project geotechnical consultant shall be prepared that approves all geotechnical aspects of the proposed site development layout, verifies project geotechnical feasibility, and verifies conformance with the geotechnical consultant's design recommendations.

22. Materials shall not be stored in the public right-of-way. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately. All loads carried to and from the site shall be securely covered, and the public right-of-way must be kept free of dirt and debris at all times. Dust control using reclaimed water shall be required as necessary on the site or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

23. The applicant shall work with the Public Works Department to repair any road damage caused by the construction. Applicant is advised that, absent clear video evidence to the contrary, road damage must be repaired to the satisfaction of the Town prior to project final. Damage assessment will be at the sole discretion of the Town, and neighborhood input will be considered in making that assessment.

24. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance (copies available at [www.townofross.org](http://www.townofross.org)). If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in the Town of Ross Municipal Code Section 15.50.040, construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all

conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.

25. A qualified engineer shall prepare a report on the condition of Fernhill Avenue for construction vehicles that shall be submitted prior to issuance of the building permit for review. The Town Engineer may limit the size and/or weight of construction vehicles and may require the applicant to make any repairs necessary to ensure road stability for construction vehicles or to post a bond, in an amount to be fixed by the Town Engineer, guaranteeing that the applicant will repair damage to the roadway. The Town may require bonding to protect the public infrastructure in case of contractor damage, depending on the method of hauling and likely impact on the street. The Town may also require as a condition to the granting of a permit that the applicant submit a certificate of a responsible insurance company showing that the applicant is insured in an amount to be fixed by the Town against any loss or damage to persons or property arising directly or indirectly from the construction project.

a. After issuance of the grading permit by the Town, the applicant is responsible for obtaining permits, if such permits are required to be issued by any state or federal regulatory agencies, such as the U.S. Army Corps of Engineers (Section 404 permit), the California Regional Water Quality Control Board (Section 401 certification), and the California Department of Fish & Game (Streambed Alteration Agreements.) The applicant shall comply with any additional requirements of those agencies, if required.

26. The following conditions relate to protection of the creek during all phases of construction:

b. The creek shall be protected during construction to ensure no soil, concrete, cement, slurry, or other construction debris is permitted to enter the creek. If any soil, concrete, cement, slurry, or other debris inadvertently enters the creek, the material shall be cleaned up and removed from the channel immediately.

c. Staging/storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the creek channel and associated riparian area.

d. Spoil sites shall not be located within the stream channel, where spoil may be washed back into the creek. Building materials and construction equipment shall not be stored where materials could fall or be washed into the creek.

e. The applicant is responsible for obtaining any Federal, State and local permits necessary for the project. The applicant shall comply with any additional requirements of the agencies.

f. The applicant shall submit an erosion control plan with the building permit application for review by the building official/director of public works. The plan shall include a signed statement by the soils engineer that erosion control is in accordance with Marin County

Storm water Pollution Prevention Program (MCSTOPPP) standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediments controls as a “back-up” system. (Temporary seeding and mulching or straw matting are effective controls.)

27. The Soils Engineer shall provide a letter to the Department of Public Works certifying that all grading and drainage has been constructed according to plans filed with the grading permit and his/her recommendations. Any changes in the approved grading and drainage plans shall be certified by the Soils Engineer and approved by the Department of Public Works. No modifications to the approved plans shall be made without approval of the Soils Engineer and the Department of Public Works.

28. The Town requests the applicant to voluntarily measure on an approximately monthly basis the depth to groundwater in the well(s) and periodically report the well head elevation and monthly depth to groundwater data to the Friends of Corte Madera Creek or the Marin County Department of Public Works.

29. The existing vegetation shall not be disturbed until landscaping is installed or erosion control measures, such as straw matting, hydroseeding, etc., are implemented.

30. The construction management plan shall be submitted in time to be incorporated into the job set of plans. The construction management plan shall become a binding document, and failure to adhere to the plan may result in stoppage of the project.

31. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way.

32. All tree protection conditions recommended by the project arborist shall be included on those plans to ensure compliance with the conditions.

33. Tree protection fencing should be installed prior to permit issuance to minimize damage to root systems of preserved trees. Tree Protection fencing shall designate the Non Intrusion Zones and will be constructed of at least 4-foot high plastic and attached to metal stakes no less than 12 inches into ground and at 6-foot centers. Signs shall be posted to identify the tree protection fencing.

34. Failure to comply in any respect with the conditions or approved plans constitutes grounds for Town staff to immediately stop work related to the noncompliance until the matter is resolved. (Ross Municipal Code Section 18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law. If a stop work order is issued, the Town may retain an independent site monitor at the expense of the property owner prior to allowing any further grading and/or construction activities at the site.

35. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding (“action”) against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or

damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.



**Town of Ross**  
**Planning Department**  
 Post Office Box 320, Ross, CA 94957  
 Phone (415) 453-1453, Ext. 121 Fax (415) 453-1950  
 Web www.townofross.org Email esemonian@townofross.org

<b>Staff Use Only</b>	
Received By:	_____
Date:	_____
Fees Paid:	4,132.17
Date:	8/27/15

**VARIANCE/DESIGN REVIEW/DEMOLITION APPLICATION**

Parcel Address and Assessor's Parcel No.: 73-141-03

Owner(s) of Parcel : *The Branson School*

Mailing Address (PO Box in Ross) : *39 Fernhill Road (PO Box 887)*

City: *Ross* State: *CA* ZIP: *94957*

Day Phone *415-455-7163* Evening Phone *646-256-6674*

Email *Ned\_pinger@branson.org*

Architect (Or applicant if not owner) *Abey Arnold Associates, Landscape Arch.*

Mailing Address: *1005 A Street, Suite 305*

City: *San Rafael* State: *CA* ZIP: *94901*

Phone: *415-258-9580, cell 415-509-2260*

Email: *parnold@abeyarnold.com*

**Existing and Proposed Conditions** (For definitions please refer to attached fact sheet.)

Gross Lot Size: *268,7655 sq. ft.* Lot Area: *73,000 sq. ft. sq. ft.*

Existing Lot Coverage: *N/A* Existing Floor Area: *N/A sq. ft.*

Existing Lot Coverage \_\_\_\_\_% Existing Floor Area Ratio \_\_\_\_\_%

Coverage Removed \_\_\_\_\_sq. ft. Floor Area Removed \_\_\_\_\_sq. ft.

Coverage Added \_\_\_\_\_sq. ft. Floor Area Added \_\_\_\_\_sq. ft.

Net Change- Coverage \_\_\_\_\_sq. ft. Net Change- Floor Area \_\_\_\_\_sq. ft.

Proposed Lot Coverage \_\_\_\_\_sq. ft. Proposed Floor Area \_\_\_\_\_sq. ft.

Proposed Lot Coverage \_\_\_\_\_% Proposed Floor Area Ratio \_\_\_\_\_%

Existing Impervious Areas *0 sq. ft.* Proposed Impervious Areas : *65,000 sq. ft.*

Existing Impervious Areas: *0 %* Proposed Impervious Areas: *89.0%*

Proposed New Retaining Wall Construction ~~95~~ *95* ft. (length) ~~26~~ *14*" (max height)

Proposed Cut *450* cubic yards Proposed Fill *1,200* cubic yards

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**Written Project Description – *may be attached.***

A complete description of the proposed project, including all requested variances, is required. The description may be reviewed by those who have not had the benefit of meeting with the applicant, therefore, be thorough in the description. For design review applications, please provide a summary of how the project relates to the design review criteria in the Town zoning ordinance (RMC §18.41.100).

**GENERAL DESCRIPTION:**

Replace the existing 66,000 s.f. natural turf athletic field with a 66,000 s.f. artificial turf field. The Artificial Turf will consist of a 23mm thick pad covered by the turf and infilled with an all sand product. No rubber infill material will be used. The current field's location, orientation and layout will be unchanged. The School has attained warranties from the manufacturers to allow parking on the field for school related special events, (Open House, Graduation).

**GRADING:**

After consulting with the Campus Arborist James MacNair we developed a grading approach that would not affect the health of existing trees that are adjacent to the field. We will remove the existing turf by removing the top 2" to 3" of the field, (total material removed will be approximately 450 cy). A majority of this material will be used on site as a landscaped mound adjacent to the field to reduce off haul. The resulting subgrade will be compacted and then base rock will be imported and installed onto the field to a depth of 6", (total material import approx 1200cy). The Turf system will be installed over this baserock. The field elevation will be approximately 5" higher than it currently is.

**DRAINAGE:**

The field will drain toward a new 320' long 'Recharge Trench' that will be installed within the field to accept the entire field's runoff. This gravel filled deep trench will have perforated pipe installed high in the trench.

This feature will allow the storm water to percolate into the aquifer. The trench has been sized to meet or exceed the natural turf field's ability to absorb rain water, and has been designed to accept a 10 year storm event without allowing outflow into the stormwater system.

**RELATED IMPROVEMENTS:**

The installation of a artificial turf field requires a completely 'planar' surface which required us to install a low seat wall adjacent to the existing Gym. It will start at the parking area at 0" tall and taper up to a maximum height of 26" at the south end of the Gym. We will also install a header around the remaining perimeter of the new turf. The header will be a 3"x12" that minimizes excavation. North of the field a new swale and drain will be installed to capture runoff that will result from the landscaped area between the new field and the parking area.



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### **Public Welfare**

That the granting of a variance will not be detrimental to the public welfare or injurious to other property in the neighborhood in which said property is situated. **Describe why the variance will not be harmful to or incompatible with other nearby properties.**

The project does not change the field size, layout or the function of the site.

The improvements will provide an all weather field for use by the Town's Recreation Department.

The project will reduce traffic on the Town's streets during the school year due to a reduction in travel required by the athletic teams to off campus facilities.

Currently the School irrigates the field using well water. We anticipate a major reduction in well water being pulled from the aquifer, due to the use of artificial turf. This, combined with the proposed water recharge trench, will likely create an improvement in stream waterflow.

### **Special Privilege**

That the granting of this variance shall not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

**Describe why the variance would not be a grant of special privilege.**

The project does not change the field size, layout or the function of the site, so it therefore does not constitute a special privilege.

---

**Consultant Information**

The following information is required for all project consultants.

**Landscape Architect**

*Firm:* Abey Arnold Associates, Inc.

*Project Landscape Architect:* Peter Arnold

*Mailing Address:* 1005 A Street, Suite 305

*City:* San Rafael *State:* CA *ZIP:* 94901

*Phone:* 415-258-9580 *Fax:* 415-258-9780

*Email:* [parnold@abeyarnold.com](mailto:parnold@abeyarnold.com)

*Town of Ross Business License No.* \_\_\_\_\_ *Expiration Date* \_\_\_\_\_

**Civil/ Geotechnical Engineer**

*Firm:* Miller Pacific Engineering Group

*Project Engineer:* Ben Pappas

*Mailing Address:* 504 Redwood Blvd. Suite 220

*City:* Novato *State:* CA *ZIP:* 94947

*Phone:* 415-382-3444 *Fax:* 415-382-3450

*Email:* [BPappas@millerpac.com](mailto:BPappas@millerpac.com)

*Town of Ross Business License No.* \_\_\_\_\_ *Expiration Date* \_\_\_\_\_

**Arborist**

*Firm:* MacNair & Associates

*Project Arborist:* James MacNair

*Mailing Address:* PO Box 1150

*City:* Glen Ellen *State:* CA *ZIP:* 95442

*Phone:* 707-938-1822 *Fax:* 707-938-1837

*Email:* [james.macnair@gmail.com](mailto:james.macnair@gmail.com)

*Town of Ross Business License No.* \_\_\_\_\_ *Expiration Date* \_\_\_\_\_

**Other**

*Consultant:* Mickie Kelly, Kelly Biological Consulting

*Mailing Address:* 543 Sequoia Drive

*City:* San Anselmo *State:* CA *ZIP:* 94960

*Phone:* 415-482-9703 *Fax:* \_\_\_\_\_

*Email:* [kellybio@att.net](mailto:kellybio@att.net)

*Town of Ross Business License No.* \_\_\_\_\_ *Expiration Date* \_\_\_\_\_

**Other**

*Consultant* \_\_\_\_\_

*Mailing Address* \_\_\_\_\_

*City* \_\_\_\_\_ *State* \_\_\_\_\_ *ZIP* \_\_\_\_\_

*Phone* \_\_\_\_\_ *Fax* \_\_\_\_\_

*Email* \_\_\_\_\_

*Town of Ross Business License No.* \_\_\_\_\_ *Expiration Date* \_\_\_\_\_

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**Project Architect's Signature**

I HEREBY CERTIFY under penalty of perjury that I have made every reasonable effort to ascertain the accuracy of the data contained in the statements, maps, drawings, plans, and specifications submitted with this application and that said information is true and correct to the best of my knowledge and belief. I understand that any permit issued in reliance thereon may be declared by the Town Council to be null and void in the event that anything contained therein is found to be erroneous because of an intentional or negligent misstatement of fact.

I further certify that I have read the attached Variance/ Design Review/ Demolition Fact Sheet and understand the processing procedures, fees, and application submittal requirements.



Signature of Architect

8/27/15

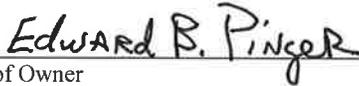
Date

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**Owner's Signature**

I HEREBY CERTIFY under penalty of perjury that I have made every reasonable effort to ascertain the accuracy of the data contained in the statements, maps, drawings, plans, and specifications submitted with this application and that said information is true and correct to the best of my knowledge and belief. I further consent to any permit issued in reliance thereon being declared by the Town Council to be null and void in the event that anything contained therein is found to be erroneous because of an intentional or negligent misstatement of fact.

I further certify that I have read the attached Variance/ Design Review/ Demolition Fact Sheet and understand the processing procedures, fees, and application submittal requirements.



Signature of Owner

08/27/15

Date

Signature of Co-Owner (if applicable)

Date

---

**Notice of Ordinance/Plan Modifications**

- Pursuant to Government Code Section 65945(a), please indicate, by checking this box, if you would like to receive a notice from the Town of any proposal to adopt or amend the General Plan, a specific plan, zoning ordinance, or an ordinance affecting building permits or grading permits, if the Town determines that the proposal is reasonably related to your request for a development permit:

---

**Variance/ Design Review/ Demolition approvals expire 365 days after the granting thereof.**

## VARIANCE/DESIGN REVIEW/DEMOLITION FACT SHEET

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### Applicability

#### Variance

A variance is required in order to allow relief from physical standards established by the Town of Ross Zoning Ordinance.

#### Design Review

Design review *is not required* for repainting existing structures involving no exterior remodeling resulting in additions, extensions, or alteration. Whether or not a building permit is required, design review *is required* for:

- All new buildings and for all exterior remodeling resulting in additions, extensions, or enlargements to existing buildings exceeding two hundred (200) square feet, including enclosing existing open areas.
- All building relocations.
- All fences, gates, or walls, or a combination of these, greater than forty-eight inches (48") in height in any yard adjacent to a street or right-of-way. Fences, gates, or walls greater than seventy-two inches (72") in height within any required setback also require a variance.
- The construction of any retaining wall greater than forty-eight inches (48") in height as measured from bottom of footing to top of wall or any terraced retaining walls totaling more than forty-eight inches (48") in height.
- The construction of any retaining wall or retaining walls totaling more than 100 linear feet.
- Any project resulting in the removal or alteration of more than twenty five percent (25%) of the exterior walls or wall coverings of a residence, as determined by the Planning Department.
- Any activity or project resulting in more than fifty (50) cubic yards of grading or filling.
- Any construction, improvements, grading/filling, or other site work within twenty five feet (25') from the top of bank of a creek, waterway, or drainage way.
- Any project resulting in over 1,000 square feet of new impervious landscape surface, whether or not a building permit is required.

### **Demolition Permit**

A demolition permit is required to demolish greater than 25% or 1,000 square feet (whichever is smaller) of any residence, commercial, or institutional building, or to alter more than 25% of the exterior walls of a structure.

### **Time Frame for Processing**

The Variance/Design Review/Demolition Application will first be reviewed for completeness. This review will not exceed 30 days. Once an application has been determined to be complete, the application will be placed on the next available agenda space for a hearing before the Ross Town Council. The Town Council ordinarily meets the second Thursday of each month at 6:00 p.m.

Requests for variances and hillside lot applications require a public hearing and cannot be placed on the consent agenda. Staff may place other planning items on the consent agenda. Matters listed under the Town Council meeting consent agenda may be acted upon by the Town Council without discussion. Any member of the Council or any citizen may request that an item be taken from the consent agenda, discussed and acted upon separately during the meeting. Staff will place an item on the consent agenda if the following criteria are met:

- Staff supports the application
- All neighbor acknowledgments have been received and no neighbor objection is anticipated
- Staff is unaware of any controversy related to the item
- Staff does not expect an objection by the applicant to any proposed conditions

### **Submittal Requirements**

The following items are required for all applications. Failure to provide all required materials in a timely manner will delay review and may result in administrative denial.

1. **A complete Variance/Design Review/Demolition Application, signed by the property owner.**
2. **Filing fee (may be determined by staff after review of the plans).**
3. **Three full-size copies and six half-sized copies, drawn to scale, of the following items:**
  - a. A site plan (survey may be required) that shows:
    - name, address, and phone number of the owner of record, applicant, engineer, architect, and other project consultants;
    - north arrow (north should be at the top of the sheet) and scale;

date (*revised copies must be clearly indicated with a new date and marked "revised"*);

all dimensions of the property and the footprint of the proposed structure in relation to the property;

all required setback lines;

distance of proposed structures/additions to the property line(s);

overview map or photo showing structures on adjacent parcels (such as Google Earth photo);

structures on the neighboring parcels that are closer than 25' to project property line(s);

existing and proposed topography in two foot contours (If excavation, grading or filling are to be performed, include a section which shows the percentage of slope of the property and the extent of the proposed excavation, grading or fill);

inundated areas, streams, culverts, and drainage swales as well as their top of bank;

the location, length, and height from existing grade, of existing and proposed fences, gates, walls, and retaining walls;

all existing and proposed easements;

the location, names and existing widths of all adjoining and contiguous streets and ways;

ingress, egress, and off-street parking sites;

all existing trees with a diameter greater than or equal to six inches (6"), indicating those that are proposed for removal.

- b. If tree removal, relocation, or alteration is proposed, a completed tree removal application and the payment of applicable fees.
- c. Floor plans showing existing and proposed floor areas for each level with complete dimensions. The plan must clearly identify existing walls to remain, as well as new construction.
- d. A full set of existing and proposed building elevations including complete dimensions, exterior materials, and colors. Existing and proposed elevations

should be arranged such that existing and proposed elevations for each side are shown on the same sheet.

- e. Building sections including a section sufficient to clearly show the building's maximum height *from existing grade*.
  - f. Floor plans detailing existing and proposed floor area, lot coverage, and verification of floor area. Identify any areas excluded from the calculation of floor area.
  - g. Calculations of the amount of proposed cut and/or fill in cubic yards.
  - h. An 8½ by 11 inch material and color board suitable for filing with official town records; a larger presentation-sized board may also be submitted if deemed necessary by the applicant.
  - i. Details on the windows and doors clearly indicating materials and design of all proposed new or replacement windows and/or doors (including garage doors), and those to be retained.
  - j. Elevations, clearly indicating materials, for all proposed new or replacement retaining walls, fences, gates, and gateposts.
  - k. A preliminary drainage plan designed to produce a no net increase in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a preliminary drainage plan designed to reduce runoff to the site, or to produce peak runoff that is the same or less than estimated natural, predevelopment, conditions at the site. Applicants are encouraged to consult the Start at the Source design guidance manual and other materials prepared by the Marin County Stormwater Pollution Prevention Program (MCSTOPPP): <http://mcstoppp.org/acrobat/StartattheSourceManual.pdf>
- 4. Story poles connected by ribbon are required to indicate changes to ridgelines, building corners, and exterior walls along with any proposed fencing adjacent to a right-of-way. Story poles must be in place at least 10 days prior to the hearing date. A plan detailing the story pole locations and elevations is required. The planning department may request surveyor certification of story pole location and height. If required story poles are not installed on time, the Town may continue the item to a later meeting. *Story poles shall be removed within two weeks of a final Council decision on a project.***
- 5. Written acknowledgement of the proposed development is required from the owners, lessees, and occupants of all abutting property, including property across any street, lane or roadway on the Neighbor Acknowledgment form. Names and addresses may be obtained from the Planner or Administrative Manager. If written acknowledgements are not obtained, a statement stating the reason or reasons therefore must be submitted. The Planning Department will mail notice**

**of the proposed variance to property owners within 300 feet of the subject property. *If required neighbor acknowledgements are not submitted, the application may be deemed incomplete and removed from the Council agenda.***

6. The house address must be clearly marked and visible from the street in order to facilitate onsite review by Town staff and Council members.
7. Every person who engages in any business, trade or occupation within the Town is required to obtain a business license from the Town. A license is required even if the primary place of business is not located within the Town of Ross. All professionals associated with planning applications must obtain required business licenses in conjunction with the planning review of their application.

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*Alternate Format Information*

*The Town of Ross provides written materials in an alternate format as an accommodation to individuals with disabilities that adversely affect their ability to utilize standard print materials. To request written materials in an alternate format please contact us at (415) 453-1453, extension 105.*



August 19, 2015  
File: 737.10bltr.doc

Abey Arnold Associates  
1005 A St #305  
San Rafael, California 94901  
Attn: Peter Arnold

Re: The Branson School  
Synthetic Turf Drainage  
Ross, California

Per the request your request, this letter presents the design approach of the proposed synthetic turf field at The Branson School in Ross, California. Our work is performed in general accordance with our agreement dated June 15, 2015.

Synthetic turf systems are designed to transmit rainwater through the infill/turf into the underlying drainage system, consisting of a section of drainrock and/or a shock-pad (i.e. Brock Powerbase). The rainwater is then transmitted laterally through the drainage system into a collector drain system, typically located on the sidelines of a playfield, depending on the subgrade slope direction. This entire process takes time for a water droplet to hit the field, travel through the synthetic turf field into the drainage course and into the perimeter subdrain system. Water collected in the subdrain system can infiltrate into the subsurface soil layers given adequate time to percolate. This process effectively reduces and delays rainwater entering a storm drain system when compared to a natural turf system.

During very heavy rainfall and once the synthetic turf system becomes saturated (i.e. during a 10-year storm event) water will travel over the field surface to the low areas of the field. The water will then flow vertically through the synthetic turf and into the highly permeable drainrock filled collector subdrain. If the water flow exceeds the infiltration rate of the soil, an overflow pipe in the perimeter subdrain will convey water to the storm drain system. During this condition, the synthetic field will perform similar to a natural turf field.

We hope this provides you with the information you require at this time. Please do not hesitate to contact us with any questions or concerns.

Very truly yours,  
MILLER PACIFIC ENGINEERING GROUP



Benjamin S. Pappas  
Geotechnical Engineer No 2786  
(Expires 9/30/16)

MACNAIR  
&  
ASSOCIATES  
CONSULTING ARBORISTS AND HORTICULTURISTS



August 27, 2015

Ned Pinger  
Assistance Head for Strategic Initiatives  
Branson School  
P.O. Box 887  
Ross, CA 94957

RE: Soccer Field Turfgrass Removal and Tree Protection Procedures

Dear Mr. Pinger,

Pursuant to a request from the Town of Ross, this letter summarizes my recommendations for tree protection procedures for the mature valley oak (*Quercus lobata*) and California bay (*Umbellularia californica*) trees bordering the existing soccer field. The existing turfgrass will be removed and replaced with an artificial turf.

The primary tree protection procedure is the installation of drip irrigation in a grid pattern below the artificial turf to provide periodic irrigation to the root system currently receiving water from irrigation of the natural turfgrass. This drip system is located in areas within and beyond the tree crowns, while avoiding irrigation close to the trunks. It is anticipated that the trees will be irrigated every 7 to 14 days March through mid-November with the frequency of irrigation dependent upon rainfall and prevailing temperatures. The location of the drip systems is shown on Sheet I-1 of the Branson School Soccer Field Renovation plans prepared by Abey•Arnold Associates Landscape Architects.

The total excavation depth requirement for the field is limited to the removal of the natural turf to a depth of two to three inches. The drip irrigation lines will be laid in a shallow trench within this subgrade and the artificial turf, pad, and base material placed on top of the subgrade (refer to detail 3, sheet L-2). No significant impact to the existing tree root systems is expected.

Additional tree protection requirements include hand digging of any irrigation trenches or other excavations within 30 feet of all existing trees. There is a containment curb located on the north and east sides of the field and within the tree protection zones. This curb will be held in place with 36-inch long #5 bar. The bar will be installed at four feet on center with the location adjustable in the event that woody roots are encountered.

Bartlett Tree Experts are currently under contract for management of the trees. All cultural and management requirements relating to health and structural issues are under Bartlett's direction.

This irrigation concept was discussed with Becky Duckles, Town Arborist, who agrees with the approach.

Soccer Field Turfgrass Removal and Tree Protection Procedures

Page 2 of 2

8/27/15

Please contact me with any questions, or if additional information is required.

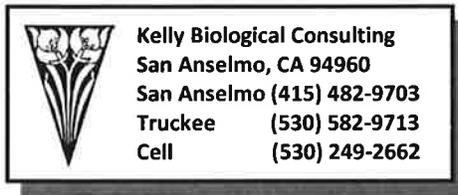
Sincerely,

---

James MacNair

International Society of Arboriculture Certified Arborist WC-0603A

International Society of Arboriculture Qualified Tree Risk Assessor



**TO:** Peter Arnold, PLA, Abey Arnold Associates  
**FROM:** Micki Kelly, PWS, Principal, Kelly Biological Consulting  
**DATE:** September 1, 2015  
**RE:** Biological Issues for Branson Turf Replacement Project, Ross, CA

**Summary (Including Conclusion)**

Branson School in Ross, California is proposing to replace the soccer field lawn with artificial turf. Due to the proximity to Ross Creek, the Town of Ross has requested that a biologist evaluate the potential for impacts to biological resources, per the CEQA checklist. The Town also asked that the appropriate state and federal agencies (US Army Corps of Engineers, the California Department of Fish and Wildlife, and the Regional Water Quality Control Board) be contacted to determine if the project activities would require a permit from those agencies.

The purpose of the effort was to determine if there are biological issues or if permits from the above agencies are needed. As discussed below, the results of the biological review and the agency communications, show that there no sensitive biological resources that will be impacted and that agency permits are not required. In summary, there are no biological impacts that would need to be addressed as part of a CEQA review.

**Project Description**

Branson is proposing to replace the natural turf field with an artificial turf one. The site is located at 39 Ferndale Avenue, Town of Ross, within Marin County (USGS San Rafael 7.5-minute quadrangle). The west and north sides of the field are bounded by Branson school buildings, parking, and landscaping. Private residents are east of the site and a fence and Ross Creek south of site.

The field size, location and shape will not be changing. The artificial turf will reduce the need for the well water, which is currently used for irrigation. To protect water quality, the plans include a French drain designed to allow storm water to percolate into the aquifer. The artificial turf does not require rubber granules. No construction work will be done within the creek bed or on the creek bank.

The work will consist of:

1. Mobilization (Construction fencing, SWPPP safeguards installed, NOI- permitting)
2. Removal of the natural turf (2-3" depth)
3. Drainage installation (all water from the field will flow into a recharge trench that can handle a 10-year storm before daylighting into existing storm drain system)
4. Subgrade preparation (soil compaction and import of 6" of Class 2 baserock)
5. Installation of 'pad and carpet' over baserock

6. Installation of infill sand, which is used as ballast for the carpet. It also protects the turf. Note - no crumb rubber will be used on this project.

## Results

Micki Kelly, PWS, Plant Ecologist (Kelly Biological Consulting) traversed portions of the site on foot in spring of 2015. She also recently conducted a California Natural Diversity Database (CNDDDB) search to determine if there were known occurrences of Special Status Species on or near the site. A map of the CNDDDB results is included below (Figure 1).

Ross Creek has been channelized over time. It receives managed flows from Phoenix Lake as well as surface water runoff from nearby areas. The flows are typically not perennial. However, they do persist over much of the year, varying with precipitation patterns and management regimes of a given year.

The habitat found on the site consists of managed lawn with several bays (*Umbellularia californica*) and valley oaks (*Quercus lobata*) scattered in the lawn to the east of the play field. These trees will be protected during construction. Adjacent to the site is Ross Creek, which has a limited riparian corridor in the reach near the site because there is a steep coast live oak (*Quercus agrifolia*), bay and similar common species dominated wooded hill to south of the creek and the playfield to the north.

## Biologically Related Regulations

Here is a summary of the regulations that could apply to the project. After each is a bullet that discusses the related biological issues for the project.

### Clean Water Act (CWA)

The CWA provides guidance for the restoration and maintenance of the chemical, physical, and biological integrity of the nation's waters. Section 404 identifies the United States Army Corps of Engineers (USACE) Jurisdiction over fill materials in essentially all water bodies, including wetlands. All federal agencies are required to avoid impacts to wetlands whenever there is a practicable alternative. Section 404 established a permit program administered by USACE regulating the discharge of dredged or fill material into waters of the US (including wetlands).

Section 401 of the CWA requires that an applicant for a federal license or permit that allows activities resulting in a discharge to waters of the U.S., obtain a state certification that the discharge complies with other provisions of CWA. The Regional Water Quality Boards (RWQCB) administers the certification program in California. The guidelines allow the discharge of dredged or fill material into the aquatic system only if there is no practicable alternative that would have less adverse impacts.

- Ross Creek would be considered CWA "other waters". Currently there is chain-link fence along the top of the bank (between the soccer field and the creek), which will remain in place, protecting the creek. There will be no direct impacts to Ross Creek. Indirect impacts will be avoided through the use of temporary BMPs (such as silt fencing) as well as permanent BMPs (e.g. subdrains).
- The project has been designed to protect water quality. It includes a bio-swale to treat the runoff from the paved parking area on the north side of the field. Surface runoff will be avoided within the artificial turf area because the design allows water to percolate, entering subdrains, then eventually, discharging to a stormdrain.

## California Porter-Cologne Water Quality Control Act

This State law is becoming more prominent on projects involving impacts to isolated Waters of the State (non-404/401 waters). The RWQCB is increasingly requiring Waste Discharge Requirement (WDR) permits for impacts to Waters of the State.

- The only Water of the State is Ross Creek, which is also a CWA 404 “other waters” and addressed above.

## Streams, Lakes, and Riparian Habitat in California

Streams and lakes, as habitat for fish and wildlife species, are subject to the jurisdiction of California Department of Fish and Wildlife (CDFW) under Sections 1600-1616 of California Fish and Game Code. The term “stream”, which includes creeks and rivers, is defined in the California Code of Regulations (CCR) as “a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life [including] watercourses having a surface or subsurface flow that supports or has supported riparian vegetation” (14 CCR 1.72). In addition, the term “stream” can include ephemeral streams, dry washes, watercourses with subsurface flows, canals, aqueducts, irrigation ditches, and other means of water conveyance if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife. “Riparian” is defined as “on, or pertaining to, the banks of a stream.” Riparian vegetation is defined as “vegetation which occurs in and/or adjacent to a stream and is dependent on, and occurs because of, the stream itself” (CDFW website).

- Ross Creek (bed and bank) and the riparian zone would potentially be within CDFW jurisdiction. There will be no impacts to the creek bed, banks, or riparian zone.

## Special-Status Species (Multiple Regulations)

Special-status species include those plants and wildlife species that have been formally listed, are proposed as endangered or threatened, or are candidates for such listing under the federal Endangered Species Act or California Endangered Species Act. These acts afford protection to both listed and proposed species. In addition, California Department of Fish and Wildlife Species of Special Concern, which are species that face extirpation in California if current population and habitat trends continue, U.S. Fish and Wildlife Service (USFWS) Birds of Conservation Concern, and CDFW special-status invertebrates are all considered special-status species. Although CDFW Species of Special Concern generally have no special legal status, they are given special consideration under the California Environmental Quality Act (CEQA). Plant species on the California Native Plant Society (CNPS) Rare and Endangered Plant Inventory with California Rare Plant Rank of 1 or 2 are also considered special-status plant species and must be considered under CEQA. Rank 3 and Rank 4 species are afforded little or no protection under CEQA. The following paragraphs discuss some of the key regulations.

**Federal Endangered Species Act.** The Endangered Species Act (ESA) of 1973, as amended (16 USC 1531 et seq.), was enacted to provide a means to identify and protect endangered and threatened species. Under the Section 9 of the ESA, it is unlawful to take any listed species. “Take” is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting a listed species. “Harass” is defined as an intentional or negligent act or omission, which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering. “Harm” is defined as an act which actually kills or injures fish or wildlife and may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering. Actions that may result in “take” of a federal-listed species are subject to USFWS or National Marine Fisheries Service (NMFS) permit issuance and monitoring. Section 7 of ESA

requires federal agencies to ensure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat for such species.

**Essential Fish Habitat.** The Magnuson-Stevens Fishery Conservation and Management Act of 1976 was established to conserve and manage fishery resources found off the coast, as well as anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species, Continental Shelf fishery resources, and fishery resources in special areas.

**California Endangered Species Act.** CDFW is responsible for administering California Endangered Species Act (CESA, CDFG Code §§2050, et seq.), which prohibits take of species that have been listed, or are considered for listing (candidate species) as threatened or endangered species within the State of California. CESA allows for incidental take of state listed species through issuance of an Incidental Take Permit, or through a Consistency Determination in coordination with a Biological Opinion issued by the USFWS (CDFW Code Section 2081). In contrast with federal law, the definition of “take” under CESA involves actual harm to one or more members of a listed species and does not extend to modification of habitat not involving direct take.

- Special Status species that are known known to occur in the vicinity of the project are a shown on Figure 1. None of these species are likely to occur on or in the turf that it being replaced. No special status plant species would be expected to occur in the project construction area. Several special status wildlife species such as western pond turtle (*Emys marmorata*) occur in or adjacent to Phoenix Lake. Some of these species may be found in the creek during certain high flows, however given the active management of the lawn (mowing etc.) and the chain-link fence between the fence and creek, these species would not be expected in the work area.

#### Migratory Bird Treaty Act

This treaty with Canada, Mexico and Japan makes it unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, or kill migratory birds. The law applies to the removal of nests (such as swallow nests on bridges) occupied by migratory birds during the breeding season. California Fish and Game Code (Sec 3500) also prohibits the destruction of any nest, egg, or nestling.

- The project will be constructed after September 1, 2015, outside of the nesting season which begins in February and ends on August 31. No trees will be affected the project. No impacts to nesting birds are expected.

#### **Summary of Regulatory Agency Communications**

The Town asked that the appropriate state and federal agencies (US Army Corps of Engineers, the California Department of Fish and Wildlife, and the Regional Water Quality Control Board) be contacted to determine if the project activities would require a permit from those agencies. Here is a summary of the communications.

California Department of Fish and Wildlife - Timothy Dodson (707-944-5513) spoke to Peter Arnold, PLA, Abey Arnold Associates via phone August 26, 2015 stating that the project proponent should determine if a Lake and Stream Alternation Agreement would be likely be needed. He noted that CDFW has the option of responding with an enforcement action if problems arose.

Regional Water Quality Control Board - Xavier Fernandez (510-622-5685) spoke to Peter Arnold on August 27, 2015, noting that the project only requires a standard SWPPP and filing online in the SMARTS system

U.S. Army Corps of Engineers - Roberta Morganstern (415-503-6782) responded via email on August 27, 2015. Here is an excerpt from that email *"As described the project is outside Corps jurisdiction. My understanding is that the field is beyond the top of bank. Corps jurisdiction is defined by the ordinary high water mark which usually presents as a change in vegetation, sediment or debris from fluctuation of the water level along the creek bank. Corps-jurisdiction regulates fill discharges below jurisdiction. From your description you are outside the creek bank and do not need a 404 permit."*



**Representative Photos**



**Taken from the northeast side of the site, facing east southeast**



**Taken from the northeast side of the site, facing south towards the fence and creek**



**Taken from the northeast side of the site, facing east southwest (the fence and creek are on the left side of the photo.)**

## References

Baldwin, B.G., D.H. Goldman, D.J. Keil, R. Patterson, T.J. Rosatti, and D.H. Wilken (eds.). 2012. *The Jepson Manual: Vascular Plants of California*, second edition. University of California Press, Berkeley, CA.

CDFW. 1994. *A Field Guide to Lake and Streambed Alteration Agreements, Sections 1600-1607*, California Fish and Game Code. Environmental Services Division, Sacramento, CA.

CDFW. 2009. *List of California Vegetation Alliances*. Biogeographic Data Branch. Vegetation Classification and Mapping Program, Sacramento, CA.

CDFW. 2015. *California Natural Diversity Database (CNDDB)*. Wildlife and Habitat Data Analysis Branch, Sacramento, CA.

California Native Plant Society (CNPS). 2015. *Inventory of Rare and Endangered Plants of California*. CNPS, Sacramento, California. Online at: <http://www.rareplants.cnps.org> ; most recently accessed: April 2015.

Environmental Laboratory. 1987. *Corps of Engineers Wetlands Delineation Manual*. Department of the Army, Waterways Experiment Station, Vicksburg, Mississippi 39180-0631.

Federal Register. November 13, 1986. Department of Defense, Corps of Engineers, Department of the Army, 33 CFR Parts 320 through 330, Regulatory Programs of the Corps of Engineers; Final Rule. Vol. 51, No. 219; page 41217.

McNair and Associates. August 27, 2015 letter regarding Branson Soccer field turfgrass removal and tree protection procedures.

Miller Pacific. August 19, 2015 letter regarding flows through artificial turf at Branson.

NMFS. 2007. *Essential Fish Habitat*. Online at: <http://www.habitat.noaa.gov/protection/efh/index.html> ; most recently accessed: April 2015.

Sawyer, J., T. Keeler-Wolf and J. Evens. 2009. *A Manual of California Vegetation, Second Edition*. California Native Plant Society, Berkeley, CA.

Shuford, W.D., and T. Gardali (Eds). 2008. *California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California*. *Studies of Western Birds 1*. Western Field Ornithologists, Camarillo, California, and CDFG, Sacramento.

Stebbins, R.C. 2003. *A Field Guide to Western Reptiles and Amphibians*, third edition. The Peterson Field Guide Series, Houghton Mifflin Company, NY.

U.S. Army Corps of Engineers (USACE). 2008. *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)*.

Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White. 1990. *California's Wildlife, Volume I-III: Amphibians and Reptiles, Birds, Mammals*. California Statewide Wildlife Habitat Relationships System, California Department of Fish and Game, Sacramento, CA.

Variance No. 414 Mr. and Mrs. David C. Bradford  
12 Fernhill Ave. (73-051-19) 20,000 sq. ft. zone.  
Request to allow addition of bathroom, closet,  
bedroom extension and laundry to existing non-  
conforming house 5' from side property line.

Lot Area 19,864 sq. ft.  
Present lot coverage 9.3%  
Proposed " " 10 %

Stating that the additions would cure inherent  
obsolescence, Mr. Jones moved approval of the  
variance request, seconded by Mr. Maginis and  
unanimously passed.

Variance No. 415 Mr. and Mrs. Theodoric Bland  
Rogers, 15 Fernhill Ave. (73-091-36) 20,000 sq.  
ft. zone. Request to allow construction of  
23' x 23' garage. Existing house and cabana are  
non-conforming.

Lot Area 17,557 sq. ft.  
Present lot coverage 17%  
Proposed " " 22%

Mr. Rogers explained that the present garage,  
which will be used as a cabana, is not accessable.  
The proposed two-car garage will be built with  
the same roof pitch as the house and will blend  
in perfectly. Following discussion on the excessive  
amount of lot coverage, Mr. Maginis moved granting  
the variance with the condition that the present  
garage (shown as cabana on the plans) will be razed,  
thereby not increasing the present 17% lot coverage.  
Mr. Rogers assured the Council that the size of the  
proposed garage and the cabana are exactly the same.  
Mr. Jones seconded the motion, which was unanimously  
passed.

Tennis  
COURTS \*

17.

Use Permit No. 40 The Katharine Branson School,  
Fernhill Avenue (73-082-12) Acre Zone.

Request to allow demolition of carports, storage area,  
house, incinerator and replace by garage, storage area  
and two tennis courts and pave parking area.

Mr. Leonard Richardson explained that paving the parkin  
area would alleviate dust problem and allow 50 cars  
inside grounds, thereby freeing Fernhill Avenue from  
school cars. The new tennis courts are much needed.  
Mayor Allen read a letter from Sanford Paganucci,  
signed by Dr. and Mrs. Dawson, Mr. and Mrs. David  
Faskin and Mr. and Mrs. Russell G. Smith Jr., asking  
the Council to defer action on the use permit until  
school reveals KBS master plan and Council can make  
study of environmental impact on community.

6-13-74

Mr. Wm. Stapp stated that paving the parking area should solve the parking problem, but felt the school should police the area and prohibit speeding, parking on Fernhill and limit the number of cars. Mr. Richardson assured the Council and audience that it is easy to control the number of students allowed to drive cars, and indicated that the school wishes to maintain the rural feeling of the Town and to maintain the integrity of the neighborhood. He agreed that a stop sign at the exit or bumps inside the parking area would be considered.

Dr. Dawson expressed concern regarding the many cars and the speeding. Miss Joy Paganucci stated that the noise is offensive and asked that the Council consider people density. She said the school was built for a maximum of 150 students and is now overcrowded. Mr. Richardson said 272 students attend at present -- the maximum would be 300.

Mr. Chase stated that as a trustee of the school he will not vote, but wished to explain that the plan tries to resolve a serious parking problem.

Dr. Dawson suggested using the area between Bill Richardson's house and the field for the tennis courts. Mr. Richardson explained that this is a graduation field which has been used for 54 years. Mr. Stapp further stated he thought the tennis courts would upgrade the area since the old house, open carport and incinerator would be torn down.

Attorney Vincent Mullins, representing the Faskins, urged the Council to defer action on the request to allow themselves time to study long range growth plans of the school, environmental impact and other new problems which may be injected into the Ross Valley.

The Clerk reported that Town staff had made an environmental impact assessment and filed a negative declaration with the County Clerk on June 3d.

Mr. Jones suggested the Council consider the possibility the project might have a significant effect on the environment. Mayor Allen, Mrs. Osterloh and Mr. Maginis discussed the matter and determined that it would not.

Mayor Allen moved granting the Use Permit, contingent on installation of a stop sign or bumps in the parking area. Mrs. Osterloh seconded the motion, which passed by a three to one vote, Mr. Jones dissenting, Mr. Chase abstaining.

The Clerk was directed to file a Notice of Determination indicating that the project will not have a significant effect on the environment.

T O W N   O F   R O S S

ORDINANCE NO. 394

AN ORDINANCE CONTROLLING THE ISSUANCE OF USE PERMITS,  
VARIANCES, BUILDING PERMITS AND GRADING PERMITS FOR PUBLIC  
AND PRIVATE SCHOOLS IN THE TOWN OF ROSS, AMENDING SECTION  
18.16.030(b) OF THE ROSS MUNICIPAL CODE

THE PEOPLE OF THE TOWN OF ROSS DO ORDAIN AS FOLLOWS:

SECTION 1. The people of the Town of Ross hereby find  
and declare that:

(a) The maintenance within the Town of public and private schools which provide qualify education, enriches our lives and the lives of our children.

(b) Notwithstanding the predominantly residential character of our Town, it is desirable to continue to accommodate within our residential neighborhoods those schools of limited enrollment which have for many years contributed to our unique cultural heritage.

SECTION 2. The people of the Town of Ross do therefore hereby amend the Ross Municipal Code Section 18.16.030(b) (which states the authority for granting use permits for schools in the residential zone in the Town of Ross) to read as follows (additions to existing Code Section are underlined):

18.16.030(b). Uses permitted but requiring use permits are: public and private schools, parks, churches and religious institutions, nonprofit social and recreational clubs, guesthouses and servants' quarters, home occupations, public buildings, private stables (on sites of less than one acre), and nighttime use and lighting of tennis courts provided that no use permit nor variance shall be issued for any public or private school whose total full and part-time public enrollment - together with the total enrollment of any affiliate school or coordinate program regularly using the same premises - exceeds 320 students.

SECTION 3. This ordinance can only be amended or repealed by the voters at a regular municipal election.

SECTION 4. If any portion of this ordinance is declared invalid, the remaining portions are to be considered valid. The penalty and severability provisions contained in Title 1 of the Ross Municipal Code shall be applicable to this ordinance.

Note: The above ordinance was an initiative ordinance passed by voters at an election held 3/7/78, adopted as of the date the Ross Town Council declared the vote, viz. 3/14/78, and the ordinance was thus in effect as of 3/24/78 pursuant to California Elections Code Section 4013.

T O W N O F R O S S

RESOLUTION NO. 1042

A RESOLUTION OF THE TOWN OF ROSS  
GRANTING USE PERMIT NO. 50 TO  
THE KATHERINE BRANSON SCHOOL/MOUNT  
TAMALPAIS SCHOOL

*Use  
Permit*

WHEREAS, The Katherine Branson School/Mount Tamalpais School (hereinafter "the School") has made an application for a use permit to allow in a R-1 district, a private, coeducational secondary school having an enrollment not exceeding 320 students; and

WHEREAS, due notice of a public hearing on such application was given as required by law by publication of notice in the INDEPENDENT JOURNAL and by mailing notice to property owners in accordance with Section 18.44.020 of the Ross Municipal Code (hereinafter "the Code"); and

WHEREAS, a final Environmental Impact Report (hereinafter "EIR") concerning the Master Plan for the School was prepared pursuant to the provisions of the California Environmental Quality Act of 1970, as amended, and the State EIR Guidelines, and has been certified in Resolution No. 1023;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The application of the School is for the use specified in the preamble above. The location of the site, the present and proposed buildings, and the other improvements thereon, are more particularly described and delineated in the documents entitled Draft EIR (March 1977) and Final EIR (July 1977).
2. It is hereby found and determined that the establishment, maintenance and conducting of the use for which the above use permit is sought will not, under the circumstances of this particular case and the conditions imposed herein, be detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing or

working in the neighborhood of the use and will not, under the circumstances of this particular case and the conditions imposed herein, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

3. Specifically, the present zoning of the property is R-1: B-A (single family residence with minimum permitted area of one acre). One of the permitted uses in a R-1 district is that of a private school. The adopted General Plan of the Town classifies the property of the School as PS-L (Public Service, Limited). Listed uses in such classification include that of a private school. Accordingly, the use for which the use permit is sought is in conformity and compatible with both the zoning law and the General Plan of the Town.

4. The use of the property as a private school predated the adoption of the Code and the School is therefore a legal nonconforming use. Such nonconforming use is required to be removed or altered or converted to a conforming use in accordance with the time periods specified in Section 18.52.010(c) of the Code. Since the use for which the use permit is sought is identical to the existing use of the property, consideration of the nonconforming status of the School is appropriate at this time.

5. The present enrollment at the School is approximately 320 students and the application is for a private school with an enrollment not to exceed 320 students. Section 18.16.030(b) of the Code, as adopted by the voters at the March 7, 1978 General Municipal Election, permits the issuance of a use permit for a public or private school whose total full and part-time enrollment does not exceed 320 students. As a result thereof, there will be no increase or intensification of the existing use to which the property is made.

No increase in police and fire protection will be required nor will there be any increase in any other municipal services.

6. The granting of the use permit will remedy the nonconforming status of the property, maintain its existing usage and, with the conditions imposed herein, will result in no change to the health, safety, comfort, convenience or general welfare of the persons residing or working in the neighborhood of the School and no injury will occur to property or improvements in the neighborhood.

7. Over the years the School and its Board of Trustees have been generally responsive to the concerns of the Town and those residing in the neighborhood and have instituted and maintained numerous programs and policies to harmonize its activities with the general welfare of persons residing or working in the Town. Such cooperation of the School and its past and present Board of Trustees constitutes an important consideration for the issuance of this use permit.

8. A use permit is hereby granted to the School to allow a private, coeducation secondary school upon each and all of the conditions set forth in Exhibit A which is attached hereto and incorporated herein.

PASSED AND ADOPTED at a meeting of the Town Council of the Town of Ross at a meeting thereof duly held on the 11th day of May, 1978 by the following vote:

AYES: Councilmen Allen, Osterloh, Maginis, Brekhus

NOES: Councilmen None

ABSENT OR NOT VOTING:

Councilmen Chase

F. S. Allen  
MAYOR

ATTEST:

Virginia Stott  
TOWN CLERK

EXHIBIT A

1. That the total full and part-time student enrollment of the School shall at no time exceed 320 students.
2. That no building permit (except as a permit may be required for the ordinary maintenance or repair of existing facilities) shall be issued for any construction at the property which is not described and identified in the master plan for the School, as amended on April 3, 1978.
3. That such permit shall terminate upon the sale, lease or disposition by KBS/MTS of the present campus site or a change in the corporate structure of KBS/MTS from a non-profit institution, provided that the relocation of MTS will not cause a termination.
4. That the School use its best efforts to operate the School in such a manner as to prevent disruption or disturbance of the peace, quiet, comfort and safety of the immediate neighborhood.
-  5. That by October 15th of each year, the School shall provide and file with the Town a statement indicating the number of students enrolled in the School and the number of said students who are residents of the Town, a schedule of the approximate dates of all special events planned for the School year, and for the summer, insofar as they are known, and a scholastic games schedule insofar as known, and a copy of a memorandum, letter or directive to students, employees and parents, advising them of the terms of this Use Permit, insofar as applicable, and requesting their compliance with each of the terms of said permit.
6. That the School construct not more than ten (10) additional parking spaces, in accordance with a plan to be submitted to and approved by the Town.
7. That the School mark and clearly designate at least five (5) spaces for visitor's parking only, on campus.
8. That the School continue to use its best efforts to discourage parking on streets adjacent to the School by students, employees and faculty.
9. That the School use its best efforts to discourage access to the School by Hillgirt Drive through memorandum and communications to students, parents and guests advising them of such policy.
10. That weather permitting, the School provide temporary on-campus parking on the playing field for all special events expected to draw a large number of visitors to the campus through the use of special officers or traffic monitors to direct traffic to those areas through the School's main entrance.
11. That the use of the KBS/MTS athletic facilities for practice or play at all times during any calendar year be limited to KBS/MTS students, faculty and staff; visiting teams engaged in regularly scheduled, inter-scholastic events with KBS/MTS and official athletic teams sponsored by the Ross Recreation Association, Ross Little League and Ross Soccer Program

and other groups which have previously used these facilities, provided that the number of events or amount of use by such groups shall not exceed in any calendar year any such uses or events in any year prior to 1978.

12. That any other use of the School's athletic facilities by any other group or individuals be by Town permission.
13. That no temporary or permanent grandstands or bleachers, amplifying equipment or outside lighting be constructed, maintained or used in connection with any athletic events held on campus.
14. That the new tennis courts constructed adjacent to the parking lot be restricted to use by students and faculty of KBS/MTS, officially sponsored groups or teams of the Ross Recreation Association, Ross Little League or Ross Soccer League, between the hours of 8:15 A.M. and 8:00 P.M. and that the appropriate signs be constructed and maintained on said tennis courts regarding this.
15. That the auditorium be restricted to use for School assemblies, special alumni, faculty, parents and friends of the School, but in no event, for the scheduling of special events to which the public or outside guests unassociated with KBS/MTS are invited.

claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense, however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

St. Anselm  
lot conditions

Mayor Barr announced at 9:29 p.m. that the Council would take a short recess and then reconvene with the next item.

\*

20. Use Permit No. 321

The Roman Catholic Archbishop of San Francisco, Sir Francis Drake Boulevard and Bolinas Avenue, A.P. No. 73-052-25, R-1 (Single Family Residence, 5,000 Square Foot Minimum.) Use permit to allow the use of 41 parking spaces in the existing paved parking lot for parking by the students of the Katharine Branson School. The proposed Branson School parking is to occur Monday through Friday during regular school hours, with a bus shuttling students between their cars and the Branson School campus.

Gary Broad, Planning Director, summarized the staff report and recommended that the Council approve the use permit with the findings and conditions in the staff report.

Pat Langley, parish coordinator, noted that they are responding by a request from their neighbors to provide additional parking. They use that portion of the parking lot that is not adjacent to the neighbors in order to minimize the impact on the neighboring homes. She further urged approval.

Mayor Barr pointed out that this would take vehicles off the road and place them in the parking lot.

Mayor Pro Tempore Byrnes asked staff how they could ensure that the parking would be used as intended. Mr. Broad responded that they cannot restrict an individual from parking on the street. He noted that a condition could be required that the spaces be made available to vehicles that would otherwise be parked on the street or require that the applicant submit a parking methodology to the Town.

Mayor Barr desired to know the number of parking permits issued. Council Member Poland noted that they could approve subject to restricting the parking to replacing on-street parking.

Mr. Broad pointed out to the Council that if there is a problem the use permit could be revoked.

Mayor Barr opened the public hearing on this item.

Kevin Westin, Ross resident, had no objection to the additional parking, but expressed concern for it being an area where children congregate. Mayor Barr responded that loitering is specifically prohibited. Also, adult supervision during the morning hours is required. She further recommended to Mr. Westin that he contact the Town if there is any problem.

Mayor Pro Tempore Byrnes expressed concern for screening the parking lot. Council Member Poland recommended reviewing the screening after approval in order to understand how it appears. Council Member Hunter stated that it could be revisited if the screening is a problem.

Council Member Strauss recommending installing landscaping on the edge in terms of Branson and San Anselmo. Ms. Langley indicated that there is no water at that site. Mayor Pro Tempore Byrnes believed a water permit could be obtained.

Council Member Strauss recommended approval with the condition of planting some screening in order to have a more attractive appearance.

Mayor Pro Tempore Byrnes and Council Member Strauss agreed that screening is needed in order to minimize the visual impact of vehicles parked in the lot.

Mr. Jarjoura indicated that public safety is a concern and the area should be more exposed in order to have less crime. Council Member Strauss recommended adding staff's standard condition in regard to the Council having up to three years to add additional landscaping if so desired.

Council Member Strauss recommended including some landscaping in order to mitigate concerns.

Mayor Barr indicated that that she did not believe that it was necessary for the church to provide parking lot landscaping.

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

Mayor Barr asked for a motion.

**Council Member Poland moved and Council Member Strauss seconded, to accept staff's recommendation with the added condition that the Council has up to three years to add additional landscape screening if so desired. The motion carried by a 4:1 vote by the Council, with Mayor Pro Tempore Byrnes opposed, with the following conditions:**

St. Anselm's Church Conditions

1. This use permit shall allow the use of the existing St. Anselm's Church parking lot for the parking of Branson School student vehicles during the school week subject to conditions no. 2-18 below. The original use permit limiting church

- parking on the lot to Sundays and Roman Catholic holidays is not hereby amended and all of its associated conditions shall remain in full force and effect. No other use of the lot for non-church activities is allowed.
2. *The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.*
  3. The Branson School shall use the parking lot for student cars Monday through Friday only and only during the school year. No evening use of the site is allowed.
  4. Branson School parking on the lot shall be limited to a total of thirty-nine (39) vehicles.
  5. Parking shall be restricted to the easternmost rows of parking spaces, with no parking in the row of spaces adjacent to any neighboring residence.
  6. No shuttle buses or Branson cars shall arrive at the lot prior to 7:40 a.m.
  7. Responsible adult supervision at the parking lot shall begin at 7:40 a.m. and remain constant during the period of student and shuttle bus arrival and departure.
  8. Once they have parked, students shall move immediately to the waiting school van. No excessive noise is allowed and speech which exceeds normal conversational volumes is prohibited.
  9. The loitering of Branson School students is strictly disallowed at any time during the school's use of the lot.
  10. The use of this lot shall be overseen on a regular basis by the Branson School and reviewed by St. Anselm's Church on an annual basis.
  11. No on-site idling of parked student cars or of shuttle vans is permitted. Vans shall remain on the site only long enough to pick up students who have already arrived and shall not wait for additional arrivals. Vans that remain on site to provide the required adult monitoring shall not keep their engines idling.
  12. The staging point for the vans shall be on the eastern half of the lot, as near as possible to the easternmost property line.
  13. All shuttle buses shall be kept properly tuned-up and mechanically maintained.
  14. Students shall enter and exit the lot in the quietest manner possible. Any action which results in a noise level above what is normally generated in the reasonable operation of a vehicle is strictly disallowed. Such actions include, but are not limited to, the use of car radios or sound systems, the revving of engines, sudden or abrupt braking resulting in tire squeal, or the operation of any vehicle which is unmuffled or tuned to generate levels of engine noise beyond what is reasonably to be expected of an unmodified late-model sedan.
  15. Student parking at the lot shall be regulated through the issuance of parking permits by the Katherine Branson School. A maximum of thirty-nine (39) parking permits shall be issued. Students shall receive written notification of these use permit conditions and the requirement that they comply with all of their terms at the time of permit issuance.
  16. The parking lot shall be maintained at all times free of weeds, litter, and debris. The fence surrounding the site shall be repaired or replaced as necessary, with any new or replacement fencing subject to the Town's regulations. Landscaping shall be installed and maintained along the lot's perimeter as deemed necessary and the Town Council reserves the right to require additional vegetative screening at any time.

17. The annual statement which the Branson School must file with the Town by October 15 of each year shall include reference to the manner in which the parking facility is being operated to ensure compliance with these conditions of approval.
18. Saint Anselm's Church shall be responsible for monitoring the use of the parking lot by the Branson School to ensure that the operation of the lot complies fully with all of the hereby enacted conditions of approval. Failure to comply with any condition shall be cause for Town Council revocation of this use permit.
19. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

Council Member Strauss reiterated his desire to have screening.

21. **Variance, Design Review, Hillside Lot/Hazard Zone and Tree Removal DENIAL**  
Karson and William Aubuchon (owners), Ross Parmenter (applicant), 54 Baywood Avenue, A.P. Nos. 72-072-29 and 72-072-30, R-1:B-20 (Single Family Residence, 20,000 square foot minimum.) Variance, design review, and hillside lot/ hazard zone 3 use permit to allow the construction of a 1,588 square foot two story residence with a 52 square foot mechanical/laundry room and a patio within the front yard setback (25 feet required, 9 feet proposed.) A 485 square foot attached garage is proposed within the front yard setback (25 feet required, 10 feet proposed) and within the rear yard setback (40 feet required, 36 feet proposed.) 328 square feet of decks are proposed at the rear of the residence. Total development of 2,081 square feet of floor area is proposed\*, with 39 linear feet of retaining walls and 63 cubic yards of cut. A variance is requested to allow only two on-site covered parking spaces (2 covered and 2 uncovered required) as 2 uncovered spaces would be located partially on-site and partially within the Baywood Avenue right-of-way. An encroachment permit is requested to allow improvements within the Baywood Avenue right-of-way, including driveway and walkway construction. Tree removal is requested to allow the removal of a 14" bay, a 14" oak, and a 6" bay.

Lot area	20,971 square feet
Present Floor Area Ratio	0%
Proposed Floor Area Ratio	10.1% (15% permitted*)
Present Lot Coverage	0%
Proposed Lot Coverage	8.0% (15% permitted)

## ATTACHMENT 6

**Branson Events: Prior to 1978 Comparison to Today**

Table 1. Prior to 1978 Events	1976-77 School Year																								1977																	
	Inter-Scholastic Boys (e.g., JV, Varsity)												Inter-Scholastic Girls (e.g., JV, Varsity)												Ross Recreation Association			Ross Little League			Ross Soccer Program			Other groups using facilities								
	Lacrosse	Swimming	Varsity Basketball	JV Basketball	Tennis	Crew/Rowing	Varsity Soccer	JV Soccer	3rd team Soccer	Football	Cross country	Subtotal: Total Games	Subtotal: On Campus Games	Gymnastics	Swimming	Varsity Basketball	JV Basketball	Field Hockey	Tennis	JV Soccer	Varsity Soccer	Crew/Rowing	Cross Country	Volleyball	Badminton	Subtotal: Total Games	Subtotal: On Campus Games	Team A	Team B	Team C	Team A	Team B	Team C	Team A	Team B	Team C	Team A	Team B	Team C			
Number of home games				16		12	12	12			52	36	3		10	4	16						6	2	41	41	unkonwn				unkonwn				unkonwn				unkonwn			
Frequency of use (months of the year; times per week, days of week)		practice only	off campus	off campus	practice only	off campus	on campus	on campus	on campus	off campus			on campus	Practice only	on campus	on campus	on campus	practice only	on campus	on campus	off campus	off campus	on campus	on campus																		
<b>Total Inter-Scholastic Games</b>	<b>93 games</b>																																									
<b>Total Inter-Scholastic Games at Branson</b>	<b>77 home games</b>																																									
<b>Total Games at Branson (Inter-Scholastic + Other)</b>	<b>77 games</b>																																									

Table 2. 2018-2019 Events	2018-2019 School Year																								2019															
	Inter-Scholastic Boys (e.g., JV, Varsity)												Inter-Scholastic Girls (e.g., JV, Varsity)												Ross Recreation Association			Ross Little League			Ross Soccer Program			Other groups using facilities						
	Varsity Soccer	JV Soccer	Varsity Lacrosse	Varsity Football	Varsity Basketball	JV Basketball	Freshman Basketball	Cross Country	Swimming	Track and Field	Tennis	Baseball	Subtotal: Total Games	Subtotal: On Campus Games	Varsity Basketball	JV Basketball	Varsity Soccer	JV Soccer	Varsity Lacrosse	Varsity Volleyball	JV Volleyball	Cross Country	Track and Field	Swimming	Tennis	Subtotal: Total Games	Subtotal: On Campus Games	Field Hockey	Subtotal: Total Games	Subtotal: On Campus Games	Team C	Team A	Team B	Team C	Team A	Team B	St Anselm's CYO Basketball	The Ross School, Cedars, and Kent Middle School		
Number of home games	11	10	8	5	1	11	11					57	57	5	11	14	8	7	9	0					54	54	14	14	14										13	4
Frequency of use (months of the year; times per week, days of week)	on campus	on campus	on campus	on campus	one game on campus	on campus	on campus	off	off	off	off	off	off	half	on campus	on campus	on campus	on campus	on campus	on campus	off	off	off	off			on campus - Sunday mornings Jan thru May			Did not use Branson	Did not use Branson							on campus - Sunday mornings Jan through March	Max number in previous yrs. Included in 2019 to be conservative.	
<b>Total Inter-Scholastic Games at Branson</b>	<b>111 home games</b>																																							
<b>Total Games at Branson (Inter-Scholastic + Other)</b>	<b>142 home games</b>																																							

Table 3. 2019-2020 Events	2019-2020 School Year																									
	Inter-Scholastic Boys (e.g., JV, Varsity)												Inter-Scholastic Girls (e.g., JV, Varsity)													
	Varsity Soccer	JV Soccer	Varsity Lacrosse	Varsity Football	Varsity Basketball	JV Basketball	Freshman Basketball	Cross Country	Swimming	Track and Field	Tennis	Baseball	Subtotal: Total Games	Subtotal: On Campus Games	Varsity Basketball	JV Basketball	Varsity Soccer	JV Soccer	Varsity Lacrosse	Varsity Volleyball	JV Volleyball	Cross Country	Track and Field	Swimming	Tennis	Subtotal: Total Games
Number of home games	11	12	6	6	1	10	13					59	59	6	13	13	9	5	7	5					58	58
Frequency of use (months of the year; times per week, days of week)	on campus	on campus	on campus	on campus	practice on campus	on campus	on campus	off	off	off	off	off	off	half	on campus	on campus	on campus	on campus	on campus	on campus	off	off	off	off		
<b>Total Inter-Scholastic Games at Branson</b>	<b>117 home games</b>																									
<b>Total Games at Branson (Inter-Scholastic + Other)</b>	<b>117 home games</b>																									

Key
Only practices on campus
Practices and plays on campus
Off campus or information not available

	Difference						
	1976-77	2018-19	Increase	%Diff	2019-20	Increase	%Diff
Total Inter-Scholastic Games	93	111	18	19%	117	24	26%
Total Inter-Scholastic Home Games	77	111	34	44%	117	40	52%
Total Games at Branson (Inter-Scholastic + Other)	77	142	65	84%	117	40	52%

# ATTACHMENT 7



**Staff Report**

**Date:** April 8, 2021  
**To:** Mayor McMillan and Council Members  
**From:** Patrick Streeter, Planning and Building Director  
**Subject:** Lagunitas Country Club Use Permit Biannual Review

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**Recommendation**

Town Council approval of Resolution No. 2199 resolving that the Lagunitas Country Club (LCC) is operating in accordance with the conditions of approval associated with the approved Use Permit.

**Background**

On February 9, 2017, the Council adopted Resolution No. 1984 (see Attachment 2) for the following actions:

1. Adopted a Negative Declaration.
2. Amended the existing Use Permit to allow 9 live indoor amplified music events per year (doors and windows must remain closed during the events) and to continue to allow three live outdoor non-amplified music events. All music for these events is required to end not later than 10:45 PM.
3. Amended the existing Use Permit to require that all indoor and outdoor events be sponsored by a member of the LCC.
4. Amended the Use Permit to require neighborhood notification to all residents within 500 feet of the LCC ten days prior to the event. The Use Permit amendment also required that an on-site manager be available to address complaints during the event.
5. Amended the Use Permit to require an annual review of the amended Use Permit to commence in February 2018 and February 2019. The Council would then determine the appropriate length of review after the second annual review.
6. Approval of the triennial review as required by the current Use Permit.

On January 11, 2018, the Town Council adopted Resolution No. 2035 (see Attachment 3) approving a Use Permit Amendment that would reduce the LCC live indoor amplified music events from nine events to six events per year. The Use Permit amendment also required an annual review in February 2018 and February 2019, and a biannual review starting February 2021 after the annual review in February 2019. The January 2018 Use Permit Amendment was a result of a settlement agreement between the LCC and an adjacent neighbor.

On February 8, 2018, the Town Council conducted the first annual review per condition of approval 1.m. of Resolution No. 2035 and adopted Resolution No. 2040 accordingly (see Attachment 4).

On February 13, 2020, the Town Council conducted the second annual review (although supposed to take place in 2019, the review date was missed) and adopted Resolution No. 2146 accordingly (see Attachment 5).

### **Discussion**

As required by condition of approval 1.m. of Resolution No. 2035, the purpose of the biannual review is to assess whether the LCC is operating in accordance with the approved conditions of approval for the operation of the LCC. The approved conditions of approval for the LCC are contained in Resolution No. 2035.

In review of the operation of the LCC's Use Permit, the LCC has been found to be in compliance with all conditions of approval related to Resolution Nos. 1984 and 2035.

Since the adoption of the Use Permit Amendment in February 2017, the Town has not received any complaints regarding the live indoor amplified music events. There were no live indoor amplified music events or live outdoor non-amplified music events in 2020 or thus far in 2021. From the February 2020 review until present, Town staff received a single noise complaint regarding power washing of the pool area with a gas-powered washer. A review of the Town's policies and the Club's conditions of approval indicated that no violation had occurred, but in line with the LCC's good neighbor policy, the gas-powered washer was swapped out for an electric device.

In summary, staff finds that the LCC is operating in conformance with the approved conditions of approval as required by Resolution No. 2035 related to the approved Use Permit.

### **Neighbor comments**

Public Notices were mailed to property owners within 500 feet of the project site. No comments have been received as of the time of this writing.

### **Fiscal, resource and timeline impacts**

No changes are proposed to the facility so there would be no additional permits fees. The Town currently serves the site and there would be no operating or funding impacts associated with the project.

### **Alternative actions**

1. Continue the biannual review for modifications; or

2. Make findings to deny the biannual review.

**Attachments**

1. Resolution No. 2199 – 2021 Biannual Review
2. Resolution No. 1984 – February 2017 Use Permit Amendment
3. Resolution No. 2035 – January 2018 Use Permit Amendment
4. Resolution No. 2040 – First Annual Review
5. Resolution No. 2146 – Second Annual Review
6. Town Council Minute Excerpts from January 2017, February 2017, January 2018, February 2018, and February 2020

**ATTACHMENT 1**

## TOWN OF ROSS

### RESOLUTION NO. 2199

#### A RESOLUTION OF THE TOWN OF ROSS APPROVING THE BIENNIAL REVIEW FOR THE LAGUNITAS COUNTRY CLUB AT 205 LAGUNITAS ROAD, APNS 073-211-40 AND 073-221-01

**WHEREAS**, Resolution No. 2035, approved by the Town Council on January 11, 2018 requires the Town Council to conduct a review of the Use Permit approved for the Lagunitas Country Club at 205 Lagunitas Road, APNS 073-211-40 and 073-211-01; and

**WHEREAS**, the Town Council adopted a Negative Declaration on February 9, 2017 for the Lagunitas Country Club; and

**WHEREAS**, the Town Council has previously conducted a review on February 8, 2018, and February 13, 2020, in association with Resolution No. 2035 and found the Lagunitas County Club to be in compliance with the Use Permit as supported by the adoption of Resolution Nos. 2040 and 2146; and

**WHEREAS**, on April 8, 2021, the Town Council held a duly noticed public hearing to consider the proposed project; and

**WHEREAS**, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

**NOW, THEREFORE, BE IT RESOLVED** the Town Council of the Town of Ross hereby finds that the Lagunitas Country Club is operating in accordance with the conditions of approval associated with the approved Use Permit and that the next review is to occur in February 2023.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 8<sup>th</sup> day of April 2021, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Julie McMillan, Mayor

**ATTEST:**

---

Linda Lopez, Town Clerk

## ATTACHMENT 2

**TOWN OF ROSS**

**RESOLUTION NO. 1984**

**A RESOLUTION OF THE TOWN OF ROSS APPROVING AN AMENDMENT TO THE  
USE PERMIT FOR THE LAGUNITAS COUNTRY CLUB  
AT 205 LAGUNITAS ROAD, APNS 073-211-40 AND 073-221-01**

**WHEREAS**, the Lagunitas Country Club has submitted an application to amend the existing Use Permit and to conduct the triennial review as required by the Use Permit (herein referred to as "The Project") at 205 Lagunitas Road, APNS 073-211-40 and 073-211-01; and

**WHEREAS**, an Initial Study and Negative Declaration was prepared for the project and the project is found not have a significant effect of the environment; and

**WHEREAS**, a 20-day public review period was provided for the Negative Declaration to allow local agencies, interested persons, and other members of the public to review and comment on the adoption of the Negative Declaration; and

**WHEREAS**, on December 10, 2015, January 12, 2017, and February 9, 2017, the Town Council held a duly noticed public hearing to consider the proposed project; and

**WHEREAS**, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

**NOW, THEREFORE, BE IT RESOLVED** the Town Council of the Town of Ross hereby approved with the following actions:

1. Adopt a Negative Declaration;
2. Upon consideration of the record as a whole, there is no evidence before it that the Project has a potential for any new adverse effect on wildlife resources, or the habitat upon which the wildlife depends. No threatened, endangered, or protected animals, and no habitat necessary to sustain such animals have been found on the project site. Further, no endangered, threatened or special status plant species on the Project site were identified by the Initial Study. Therefore, the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code;
3. Approve the Use Permit Amendment, subject to the project finding in Exhibit "A" and subject to the conditions of approval set forth in Exhibit "B"; and
4. Approve the triennial review as required by the current Use Permit.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 9<sup>th</sup> day of February 2017, by the following vote:

**AYES:** Council Member Hoertkorn, Brekhus, Russell

**NOES:** Council Member Robbins

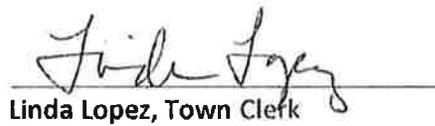
**ABSENT:** Council Member Kuhl

**ABSTAIN:**



Kathleen Hoertkorn, Mayor

**ATTEST:**



Linda Lopez, Town Clerk

**EXHIBIT "A"**  
**FINDINGS**  
**205 LAGUNITAS ROAD**  
**APN 073-211-40 AND 073-221-01**

**A. Finding**

- I. In accordance with Ross Municipal Code Section 18.44.030, a Use Permit is approved based on the following finding:**

**The establishment, maintenance, or conducting of the use for which the use permit is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the neighborhood of the use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.**

As supported by the staff report dated January 12, 2017, the Initial Study/Negative Declaration prepared in compliance with the California Environmental Quality Act, the noise assessment prepared by Illingworth & Rodkin, Inc. on October 25, 2016, and the conditions of approval, and the public testimony heard at the duly noticed public hearing held on January 12, 2017, the Town Council finds that the Use Permit Amendment is consistent with the above finding.

The Use Permit Amendment revises the conditions of approval on the Lagunitas Country Club, allowing the Club to host up to 14 live indoor amplified music events per year, with windows and doors closed, subject to additional limitations, including limitations on the hours in which amplified music may be played and notice to the neighbors. The Initial Study/Negative Declaration and the noise assessment found that the project would result in a less-than-significant impact on the environment because the project was found not to result in a substantial temporary, periodic, or permanent noise level increase at existing noise-sensitive land uses in the project vicinity. With doors and windows closed, the predicted noise levels fall at or below the range of ambient noise levels. Additionally, conditions of approval are imposed on the project to require a 10-day courtesy notice to property owners within 500 feet of the Club, an on-site manager to address complaints from neighbors during an event, and an annual review for the first two years to determine whether the events are operating in conformance with the project. The limited number of events, the predicted noise levels, the restrictions on the hours for events, and the notice provided to neighbors will prevent any detrimental impacts to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the neighborhood. The project will have any detrimental impacts on public welfare and will not be injurious to any property or improvements in the neighborhood.

Furthermore, the Town Council will review the Use Permit every three years to ensure compliance with the conditions of approval and review any impacts to the surrounding neighborhood. If the Council determines that the conditions of approval have been violated or the Club is being operated in a manner that creates a public nuisance, the Council would have the ability to modify or revoke the Use Permit at any time. Therefore, the project is found to be in conformance with the required finding in Section 18.44.030 of the Ross Municipal Code.

**EXHIBIT "B"**  
**CONDITIONS OF APPROVAL**  
**205 LAGUNITAS ROAD**  
**APN 073-211-40 AND 073-221-01**

1. This approval authorizes an amendment to the Use Permit for the Lagunitas Country Club at subject to the following:
  - a. This Use Permit shall permit the operation of an existing recreational club. Existing facilities include a clubhouse, six tennis courts, three platform tennis courts, a swimming pool and snack bar, two storage buildings and two locker rooms. Permitted club activities include indoor and outdoor barbecues and social and athletic events and activities.
  - b. Club membership shall not exceed 160 senior family memberships and 75 sustaining memberships (members over age 65).
  - c. Member events shall be permitted to have live indoor amplified music. The maximum number of live indoor amplified music events shall be 9 per year. During all live amplified music events, doors and windows shall be kept closed. Outdoor live non-amplified music shall be allowed three (3) times per year. All music for these events shall end no later than 10:45PM.
  - d. Non-member indoor and outdoor amplified or non-amplified events are prohibited unless sponsored by a member.
  - e. An on-site manager shall be available to address any on-going neighborhood complaints during all scheduled events. The on-site manager's phone number shall be shown on the homepage of the Club's website. This condition will allow neighbors to contact the Club during the event to address and remedy the complaint.
  - f. The Club shall send out a courtesy notice to property owners within 500 feet of the project site 10-days prior to a scheduled event. The courtesy notice would describe the date and time of the amplified music event as well the phone number of the on-site manager's name and phone number.
  - g. All member related outdoor parties shall end no later than 10:30PM. Parties with outdoor dining, followed by indoor dancing, may continue indoors and end no later than 10:45PM.
  - h. Other indoor parties with closed windows for noise control shall end no later than 10:45PM.

- i. The Club shall require facility users to refrain from “unsportsmanlike” behavior, such as swearing, unnecessary shouting, etc., while using outdoor areas proximate to surrounding public areas. Signs shall be posted at the tennis courts, pool and clubhouse to advise club users of the rules of conduct.
  - j. No blower use shall be permitted on Sundays. Blowers may be used for tournaments held on 10 Saturdays each year. Blowers may be used up to 3 days per week. No blower use shall be permitted prior to 9 a.m. Only electric leaf blowers shall be allowed and shall be the quietest model available.
  - k. All exterior lighting shall meet code requirements. Exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. All lighting, including paddle court lighting, shall be shielded and directed downward. Parking lot lights shall be low and deflected downward.
  - l. Outdoor activities shall not commence prior to 7:30AM.
  - m. The Town Council shall review the amended Use Permit annually for the first two years. The first review shall occur in February 2018. The Town Council would then determine the appropriate length of review after the second annual review. Furthermore, at any time, the Town Council may revoke and modify the Use Permit for non-compliance with the conditions of approval.
2. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding (“action”) against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

**ATTACHMENT 3**

**TOWN OF ROSS**

**RESOLUTION NO. 2035**

**A RESOLUTION OF THE TOWN OF ROSS APPROVING AN AMENDMENT TO THE  
USE PERMIT FOR THE LAGUNITAS COUNTRY CLUB  
AT 205 LAGUNITAS ROAD, APNS 073-211-40 AND 073-221-01**

**WHEREAS**, the Lagunitas Country Club has submitted an application to amend the existing Use Permit conditions of approval to reduce the number of indoor amplified music events from 9 to 6 per year and modify the periodic review requirements (herein referred to as "Use Permit Amendment") at 205 Lagunitas Road, APNS 073-211-40 and 073-211-01; and

**WHEREAS**, on January 11, 2018, the Town Council held a duly noticed public hearing to consider the Use Permit Amendment; and

**WHEREAS**, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

**WHEREAS**, the approval of the Use Permit Amendment will not result in any potentially significant effects on the environment based on the Initial Study/Negative Declaration adopted by Town Council Resolution No. 1984 on February 9, 2017 as the number of amplified music events will be reduced and the periodic review process will be expanded; and

**NOW, THEREFORE, BE IT RESOLVED**, the Town Council of the Town of Ross hereby incorporates the recitals above; makes the findings set forth in Exhibit "A" approving the Use Permit Amendment described herein, subject to the Conditions of Approval attached as Exhibit "B".

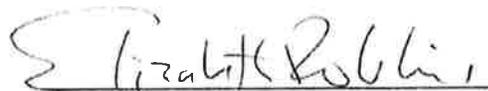
The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 11<sup>th</sup> day of January 2018, by the following vote:

**AYES:** Council Members Robbins, Brekhus, McMillan, Russell

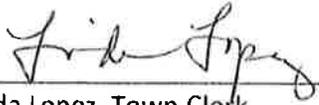
**NOES:**

**ABSENT:**

**ABSTAIN:** Council Member Kuhl (*recused*)

  
Elizabeth Robbins, Mayor

**ATTEST:**

A handwritten signature in cursive script, appearing to read "Linda Lopez", written over a horizontal line.

Linda Lopez, Town Clerk

**EXHIBIT "A"**  
**FINDINGS**  
**205 LAGUNITAS ROAD**  
**APN 073-211-40 AND 073-221-01**

**A. Finding**

- I. In accordance with Ross Municipal Code Section 18.44.030, a Use Permit is approved based on the following finding:**

**The establishment, maintenance, or conducting of the use for which the use permit is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the neighborhood of the use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.**

As supported by the staff report dated December 14, 2017 and the previous staff report dated January 12, 2017, an Initial Study/Negative Declaration was prepared in compliance with the California Environmental Quality Act, the noise assessment prepared by Illingworth & Rodkin, Inc. on October 25, 2016, and the conditions of approval, and the public testimony heard at the duly noticed public hearing held on January 12, 2017 and December 14, 2017, the Town Council finds that the Use Permit Amendment is consistent with the above finding.

The Use Permit Amendment revises the conditions of approval on the Lagunitas Country Club, allowing the Club to host up to 6 live indoor amplified music events per year, from the approved nine live indoor amplified music events per year, with provisions that would require all windows and doors closed, in addition to limitations on the hours in which amplified music may be played and notice to the neighbors. The Initial Study/Negative Declaration and the noise assessment found that the project would result in a less-than-significant impact on the environment because the project was found not to result in a substantial temporary, periodic, or permanent noise level increase at existing noise-sensitive land uses in the project vicinity. With doors and windows closed, the predicted noise levels fall at or below the range of ambient noise levels. Additionally, conditions of approval are imposed on the project to require a 10-day courtesy notice to property owners within 500 feet of the Club and an on-site manager to address complaints from neighbors during an event. The limited number of events, the predicted noise levels, the restrictions on the hours for events, and the notice provided to neighbors will prevent any detrimental impacts to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the neighborhood. The project will have any detrimental impacts on public welfare and will not be injurious to any property or improvements in the neighborhood.

Furthermore, the Town Council will review the Use Permit annual in February 2018 and

February 2019 and biannual review commencing in February 2021 after the February 2019 review in order to ensure compliance with the conditions of approval and review any impacts to the surrounding neighborhood. If the Council determines that the conditions of approval have been violated or the Club is being operated in a manner that creates a public nuisance, the Council would have the ability to modify or revoke the Use Permit at any time. Therefore, the project is found to be in conformance with the required finding in Section 18.44.030 of the Ross Municipal Code.

**EXHIBIT "B"**  
**CONDITIONS OF APPROVAL**  
**205 LAGUNITAS ROAD**  
**APN 073-211-40 AND 073-221-01**

1. This approval authorizes an amendment to the Use Permit for the Lagunitas Country Club at subject to the following:
  - a. This Use Permit shall permit the operation of an existing recreational club. Existing facilities include a clubhouse, six tennis courts, three platform tennis courts, a swimming pool and snack bar, two storage buildings and two locker rooms. Permitted club activities include indoor and outdoor barbecues and social and athletic events and activities.
  - b. Club membership shall not exceed 160 senior family memberships and 75 sustaining memberships (members over age 65).
  - c. Member events shall be permitted to have live indoor amplified music. The maximum number of live indoor amplified music events shall be six (6) per year. During all live amplified music events, doors and windows shall be kept closed. Outdoor live non-amplified music shall be allowed three (3) times per year. All music for these events shall end no later than 10:45PM.
  - d. Non-member indoor and outdoor amplified or non-amplified events are prohibited unless sponsored by a member.
  - e. An on-site manager shall be available to address any on-going neighborhood complaints during all scheduled events. The on-site manager's phone number shall be shown on the homepage of the Club's website. This condition will allow neighbors to contact the Club during the event to address and remedy the complaint.
  - f. The Club shall send out a courtesy notice to property owners within 500 feet of the project site 10-days prior to a scheduled event. The courtesy notice would describe the date and time of the amplified music event as well the phone number of the on-site manager's name and phone number.
  - g. All member related outdoor parties shall end no later than 10:30PM. Parties with outdoor dining, followed by indoor dancing, may continue indoors and end no later than 10:45PM.
  - h. Other indoor parties with closed windows for noise control shall end no later than 10:45PM.

- i. The Club shall require facility users to refrain from “unsportsmanlike” behavior, such as swearing, unnecessary shouting, etc., while using outdoor areas proximate to surrounding public areas. Signs shall be posted at the tennis courts, pool and clubhouse to advise club users of the rules of conduct.
  - j. No blower use shall be permitted on Sundays. Blowers may be used for tournaments held on 10 Saturdays each year. Blowers may be used up to 3 days per week. No blower use shall be permitted prior to 9 a.m. Only electric leaf blowers shall be allowed and shall be the quietest model available.
  - k. All exterior lighting shall meet code requirements. Exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. All lighting, including paddle court lighting, shall be shielded and directed downward. Parking lot lights shall be low and deflected downward.
  - l. Outdoor activities shall not commence prior to 7:30AM.
  - m. The Town Council shall review the amended Use Permit annually for the first two years. The first review shall occur in February 2018 and the second annual review shall occur in February 2019. A biannual review shall occur thereafter commencing in February 2021.
2. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding (“action”) against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

**ATTACHMENT 4**

**TOWN OF ROSS**

**RESOLUTION NO. 2040**

**A RESOLUTION OF THE TOWN OF ROSS APPROVING THE ANNUAL REVIEW FOR  
THE LAGUNITAS COUNTRY CLUB  
AT 205 LAGUNITAS ROAD, APNS 073-211-40 AND 073-221-01**

**WHEREAS**, the Lagunitas Country Club's Use Permit requires an annual compliance review in February 2018 associated with the Use Permit that have been approved for the Lagunitas Country Club at 205 Lagunitas Road, APNS 073-211-40 and 073-211-01; and

**WHEREAS**, a Negative Declaration was prepared for the project and the project is found not have a significant effect of the environment; and

**WHEREAS**, on February 8, 2018, the Town Council held a duly noticed public hearing to consider the proposed project; and

**WHEREAS**, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

**NOW, THEREFORE, BE IT RESOLVED** the Town Council of the Town of Ross hereby finds that the Lagunitas Country Club is operating in accordance with the conditions of approval associated with the approved Use Permit.

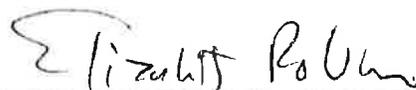
The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 8<sup>th</sup> day of February 2018, by the following vote:

**AYES:** Council Members Robbins, Brekhus, McMillan, Russell

**NOES:**

**ABSENT:**

**ABSTAIN:** Council Member Kuhl (*recused*)



Elizabeth Robbins, Mayor

**ATTEST:**

  
Linda Lopez, Town Clerk

**ATTACHMENT 5**

## TOWN OF ROSS

### RESOLUTION NO. 2146

#### A RESOLUTION OF THE TOWN OF ROSS APPROVING THE ANNUAL REVIEW FOR THE LAGUNITAS COUNTRY CLUB AT 205 LAGUNITAS ROAD, APNS 073-211-40 AND 073-221-01

**WHEREAS**, Resolution No. 2035, approved by the Town Council on January 11, 2018 requires the Town Council to conduct a review of the Use Permit approved for the Lagunitas Country Club at 205 Lagunitas Road, APNS 073-211-40 and 073-211-01; and

**WHEREAS**, the Town Council adopted a Negative Declaration on February 9, 2017 for the Lagunitas Country Club; and

**WHEREAS**, the Town Council has previously conducted a review on February 8, 2018 in association with Resolution No. 2035 and found the Lagunitas County Club to be in compliance with the Use Permit as supported by the adoption of Resolution No. 2040; and

**WHEREAS**, on February 13, 2020, the Town Council held a duly noticed public hearing to consider the proposed project; and

**WHEREAS**, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

**NOW, THEREFORE, BE IT RESOLVED** the Town Council of the Town of Ross hereby finds that the Lagunitas Country Club is operating in accordance with the conditions of approval associated with the approved Use Permit and that the next review is to occur in February 2021.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 13<sup>th</sup> day of February 2020, by the following vote:

**AYES:** Council Members Brekhus, McMillan, Robbins, Russell

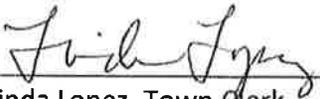
**NOES:**

**ABSENT:**

**ABSTAIN:** Council Member Kuhl (*recused*)

  
Elizabeth Brekhus, Mayor

**ATTEST:**

  
\_\_\_\_\_

Linda Lopez, Town Clerk

**ATTACHMENT 6**

**February 13, 2020 Minutes**

a small group of older residents to review data and develop a written multi-year plan that will support a robust Age Friendly Town of Ross.

Council Member Kuhl recognized the recommendations under next steps and the need to meet with older adults for development of a multi-year plan.

Council Member McMillan encouraged Ms. Dowling to involve Gil Fleitas of Ross Ready. She asked how the 10% Ross residents were selected.

Ms. Dowling stated after an announcement in the Morning After newsletter asking people to take the survey, they identified participants through the internet.

Mayor Brekhus thanked Ms. Dowling for her presentation.

**10. Consent Agenda.**

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

- a. **Town Council consideration of adoption of Ordinance No. 704, an Ordinance of the Town of Ross amending Ross Municipal Code Chapter 18.52 "Nonconforming Structures and Uses" regarding Accessory Dwelling Units; Chapter 18.41 "Design Review" to allow administrative approval of outdoor advertising in the C-L District and exempting basement improvements from Design Review; and Chapter 18.39 "Hillside Lot Regulations" to exempt basement improvements from Design Review.**
- b. **Town Council acceptance of FY20 Q2 Investment Report.**
- c. **Town Council acceptance of FY20 Q2 Financial Summary Report.**

Mayor Brekhus asked for a motion.

**Council Member McMillan moved and Council Member Kuhl seconded, to adopt the Consent Agenda as submitted. Motion carried unanimously (5-0).**

**End of Consent Agenda.**

*Council Member Kuhl recused himself from agenda item 11a due to a conflict of interest.*

**11. Public Hearings on Planning Projects**

- a. **205 Lagunitas Road, Use Permit Annual Review, and Town Council consideration of adoption of Resolution No. 2146.**  
Lagunitas Country Club, 205 Lagunitas Road, A.P. Nos. 73-211-40 and 73-221-01, R-1:B-A (Single Family Residence, 1-Acre Minimum Lot Size), RC: Limited Specialized Recreational/Cultural.

**February 13, 2020 Minutes**

**Project Description:** Town Council to conduct an annual review associated with the Use Permit and subsequent Use Permit Amendments that have been approved for the Lagunitas Country Club.

Matthew Weintraub, Planner referred to the staff report and said he was available to answer any questions.

Council Member Robbins said she wondered if the annual review could be changed to be every other year.

Mr. Weintraub stated the next step is to shift it to a bi-annual review according to the use permit conditions. However, because the annual review from last year did not occur until this year, the first bi-annual review will occur next year.

Mayor Brekhus asked for Council questions.

Council Member McMillan asked and confirmed with Mr. Weintraub that given last year's review was missed, staff will be reviewing a tracking system and will ensure no other reviews for use permits are missed in the future.

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

Mr. Weintraub said staff is asking for the Council to receive the report and provide comments.

Attorney Ben Stock commented that the Council does not need to take action.

**End of Public Hearings on Planning Projects.**

*Council Member Kuhl resumed his seat at the dais.*

**Administrative Agenda.**

**12. Town Council acceptance of Annual Housing Element Progress Report.**

Matthew Weintraub, Planner, gave a PowerPoint presentation and staff report and said the item is the annual progress report for 2019 as required by State planning law. HCD approved the Town's Housing Element in 2015 which is valid until 2023.

Mr. Weintraub explained that RHNA (Regional Housing Needs Allocation) is the number of new units the Town is anticipating developing during these years, and Ross's RHNA of 18 units are broken down into various income categories. He then presented a snapshot of housing units that were built between 2017 and 2019 and staff expects all remaining units will be constructed in 2020.

Council Member Russell questioned what would happen if the Town were not in compliance.

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Mr. Weintraub replied this would be reported to the State as well as information about factors that led to non-compliance. There are no penalties but a future adjustment in RHNA may occur as a result.

Council Member McMillan asked and Mr. Weintraub confirmed there was no risk to the Town if it met the required number of units early or before 2023.

Council Member Robbins asked if the Town added more than 18 units and whether or not they could count in the next cycle.

Mr. Weintraub replied that any additional units over the 18 specified would most likely not count in the next cycle; however, any projections moving forward in terms of setting the total in the new RHNA cycle will take into account what has been previously built.

Council Member Russell asked for the location of the low income properties in Ross, and Mr. Weintraub stated he did not have a full breakdown of the income categories for the 18 units, but could provide their locations.

Mayor Brekhus opened the public comment period.

Peter Nelson, Circle Drive resident, stated a spreadsheet was prepared by staff to track the addresses and by income type. He referred to page 7, Item H-3-I (a) which talks about the program being successful in encouraging development of ADUs and the suggestion to delete this item. He said ADUs in Ross have been used for exercise rooms, extra bedrooms or storage but none are used for rentals and that the Town take measures to encourage design details and owner actions so the ADUs are actually rented.

Council Member Kuhl asked and confirmed with Attorney Ben Stock that there was not a way for the Town to force owners to rent the ADUs.

Mayor Brekhus said her perception is that some modifications in State law make it easier to have the second unit read as a portion of the residence rather than a true separate unit. She likened this to people expanding their properties and avoiding FAR restrictions, as well as not renting out the ADU.

**Council Member Kuhl moved and Council Member Robbins seconded, to accept the Annual Housing Element Progress Report and to submit the annual progress report to HCD. Motion carried unanimously (5-0).**

Attorney Ben Stock announced that the Council should revisit Item 11a in order to vote to adopt the Resolution.

**11. Public Hearings on Planning Projects (continued)...**

- a. 205 Lagunitas Road, Use Permit Annual Review, and Town Council consideration of adoption of Resolution No. 2146.**

**REGULAR MEETING of the ROSS TOWN COUNCIL  
THURSDAY, FEBRUARY 8, 2018**

**1. 6:00 p.m. Commencement.**

Mayor Elizabeth Robbins; Mayor Pro Tempore Beach Kuhl; Council Member Elizabeth Brekhus; Council Member Julie McMillan, Council Member Rupert Russell; and Town Attorney Greg Stepanicich.

**15. 205 Lagunitas Road, Annual Review for Use Permit No. 2018-001, and Town Council consideration of adoption of Resolution No. 2040.**

Lagunitas Country Club, 205 Lagunitas Road, A.P. Nos. 73-211-40, 73-221-01, R-1:B-A (Single Family Residence, 1-Acre Minimum Lot Size), RC: Limited Specialized Recreational/Cultural. Town Council to conduct an annual review associated with the Use Permit and subsequent Use Permit Amendments that have been approved for the Lagunitas Country Club.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 2040 resolving that the Lagunitas Country Club (*LCC*) is operating in accordance with the conditions of approval associated with the approved Use Permit.

Mayor Robbins 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 Robbins asked for a motion.

**Council Member Brekhus moved and Council Member McMillian seconded, to approve 205 Lagunitas Road, Annual Review for Use Permit No. 2018-001, and adopt Resolution No. 2040. Motion carried unanimously. (Kuhl recused)**

*Mayor Pro Tempore Kuhl resumed his seat at dais.*

**REGULAR MEETING of the ROSS TOWN COUNCIL  
THURSDAY, JANUARY 11, 2018**

**1. 6:00 p.m. Commencement.**

Mayor Elizabeth Robbins; Mayor Pro Tempore Beach Kuhl; Council Member Elizabeth Brekhus; Council Member Julie McMillan; Council Member Rupert Russell; and Attorney Trisha Ortiz for Town Attorney Greg Stepanicich.

**Public Hearings on Planning Projects.**

**13. 205 Lagunitas Road, Use Permit Amendment No. 2017-041, and Town Council consideration of adoption of Resolution No. 2035.**

Lagunitas Country Club, 205 Lagunitas Road, A.P. Nos. 73-211-40, 73-221-01, R-1:B-A (Single Family Residence, 1-Acre Minimum Lot Size), RC: Limited Specialized Recreational/Cultural. Public hearing for the Town Council to consider an amendment to the January 2017 Use Permit for the Lagunitas Country Club to allow a reduction of amplified music events from nine (9) events to six (6) events and to require a biannual review of the Use Permit in perpetuity, in addition to conducting an annual review per the February 2017 Use Permit amendment.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 2035 approving a use permit amendment to reduce the Lagunitas Country Club's (LLC) indoor amplified music events from nine events to six events and to require a biannual review starting February 2021 after the annual review in February 2019.

Deborah Quick, Attorney for Thomas Weisel, discussed staff's proposed amended condition in regard to Condition 1m by striking the last sentence as follows: *"The Town Council would then determine the appropriate length of review after the second annual review. Furthermore, at any time, the Town Council may revoke and modify the Use Permit for non compliance with the conditions of approval"* and their understanding is that it is a power that exists in the code because this is a conditional use permit and wanted the record clear and have staff confirm that is their understanding as well. Planning Manager Scoble responded that the language is redundant and it is very clear in the use permit and zoning regulations.

Ken Petrilla, Lagunitas Country Club, noted agreement with the issue Attorney Quick just addressed and urged the Council to pass this amendment to their use permit. He felt they reached a reasonable compromise that is in everyone's best interest.

Mayor Robbins 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 Robbins asked for a motion.

**Council Member Russell moved and Council Member Brekhus seconded, to approve 205 Lagunitas Road, Use Permit Amendment No. 2017-041, and adopt Resolution No. 2035. Motion carried unanimously. (Kuhl abstained)**

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*Mayor Pro Tempore Kuhl resumed his seat on the dais.*

REGULAR MEETING of the ROSS TOWN COUNCIL  
THURSDAY, FEBRUARY 9, 2017

**1. 5:30 p.m. Commencement.**

Mayor Katie Hoertkorn; Mayor Pro Tempore Elizabeth Robbins; Council Member Elizabeth Brekhus; and Council Member Rupert Russell. *(Council Member Kuhl & Town Attorney Stepanicich absent)*

**12. Consent Agenda.**

**Item a. Town Council consideration of adoption of Resolution No. 1984 approving 205 Lagunitas Road, A.P. Nos. 73-21140, 73-221-01, Amendment to Use Permit No. 1997.**

Mayor Pro Tempore Robbins felt permitting live music for nine events per year turns the Club into an event venue and she did not believe it is appropriate for a residential area.

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 Council Member Russell seconded, to approve Resolution No. 1984 approving 205 Lagunitas Road, A.P. Nos. 73-21140, 73-221-01, Amendment to Use Permit No. 1997. Motion carried 3-1. (Robbins opposed) (Kuhl absent)**

**REGULAR MEETING of the ROSS TOWN COUNCIL  
THURSDAY, JANUARY 12, 2017**

**1. 5:00 p.m. Commencement.**

Mayor Katie Hoertkorn; Mayor Pro Tempore Elizabeth Robbins; Council Member Elizabeth Brekhuis; Council Member Beach Kuhl; Council Member Rupert Russell; and Town Attorney Greg Stepanicich.

**Public Hearings on Planning Projects**

**15. 205 Lagunitas Road, Amendment to Use Permit No. 1997, and Town Council consideration of adoption of Resolution No. 1984.**

Lagunitas Country Club, 205 Lagunitas Road, A.P. Nos. 73-211-40; 73-221-01, R-1:B-A (Single Family Residence, 1-Acre Minimum Lot Size), RC: Limited Specialized Recreational/Cultural. Public hearing for the Town Council to consider an Amendment to a Use Permit for the Lagunitas Country Club to allow 14 live amplified music events, minor amendments to other conditions approval that related to the Town Council's 1997 approval of the use, and a review of the Use Permit as required by the current conditions of approval. The Town Council will also consider the adoption of a Negative Declaration that has been prepared pursuant to the California Environmental Quality Act.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 1984 approving a use permit amendment to allow modifications to the Lagunitas Country Club's subject to the conditions of approval contained in the Exhibit B of the resolution and to conduct a triennial review as required by the current use permit at 205 Lagunitas Road.

Mayor Pro Tempore Robbins stated at night there is no ambient noise level, and desired clarification in regard to what ambient noise would be at nighttime when it is quiet. Planning Manager Scoble stated the ambient noise could be bugs, cars, trucks or planes flying over. There is always some type of noise, it might be minimal, but ambient noise is any noise occurring outside.

Council Member Brekhuis asked staff about feasibility in regard to air conditioning. Planning Manager Scoble noted that the applicant made the determination that air conditioning is not needed.

Mayor Hoertkorn opened the public hearing on this item.

Ken Petrilla, President of Lagunitas Country Club, addressed the EIR and conducted such report on their expense. Everything is personal complaints and theory. They submitted a noise study and there is no nuisance. There have been several remarks about doing this for money and trying to have more events to support the club, which is not true. They have a healthy financial condition. They are a club that would like to celebrate various events such as weddings, birthday parties an anniversary parties. They have no nonmember events. If someone outside of the club would like to use their facility they must be sponsored by a member and approved by the Board. They just want to be able to celebrate significant events at the club. They also want to be treated fairly. They respectfully asked the Council to approve the proposal as submitted by staff. In regard

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to the air conditioning, they elected not to move forward with an air conditioning unit. It is an old building and the expense and aesthetics would not work. Neighbors prefer having the joyful noise of activity rather than the noise from an air conditioning unit.

Council Member Brekhus felt it is not reasonable to assume that air conditioning is not needed during events when people are dancing. Mr. Petrilla added that the evidence shows that air conditioning is not needed.

Mayor Pro Tempore Robbins asked if this proposal increases the membership. Mr. Petrilla noted that their requirement is 160 senior family members. Sustaining members are over 65 and have been members for over 20 years. There is nothing new in their membership or activities. They are just asking for amplified music at some of these events.

Baird Conner, Bolinas Avenue resident/club member, appreciated the Council's time and consideration on this matter. The noise impact study was negative so it is at an acceptable noise level. Their change to the use permit is a reasonable request and will have no adverse effects on the community.

Tori Gabrielson Owen, neighbor, objected to the proposal before the Council after 20 plus years of frustration with the club. She urged the Council that the terms of the Use Permit in 1997 were well thought out and an elaborate process and should not be modified. She urged the Council to make a member party a member, not a sponsorship. There is no procedure in place for complaints to be documented and reported to the Council. She asked the Council not to award 20 years of noncompliance. Residents should enjoy the quiet use of their properties.

Liz Amini, neighbor, found the club to be respectful through the years in terms of parties and traffic. All events end at 10 p.m. and she enjoys the club having such events and celebrations. She had no objection to the proposal before the Council and urged the Council to approve.

Bruce Hart, former Council member/club member, thanked the Council for their service. The proposal before the Council is a modest request by the club to allow members to use facilities to celebrate personal events. With regard to air conditioning, to require air conditioning in a single room building would be expensive and use a lot of energy. He urged the Council to approve the proposal as submitted.

John Bo, Poplar Avenue resident/club member, stated that being a good neighbor within the Town of Ross has always been a top priority within the club's doings. They try to modify and keep noise levels down in order to continue to be a friendly neighbor to the Town. The club goes out of their way to comply and urged the Council to approve the proposal before them.

Debra Quick, attorney representing Thom Weisel, pointed out that CEQA imposes a duty on the Town to analyze the reasonable and foreseeable normal impacts from the proposed project. The record contains zero data when doors and windows are open. There is no attempt by staff to respond to comments submitted on the draft CEQA documents. The Town is entitled by state law to rely on the opinions of experts. The Town is not entitled to its own facts. The Town is obligated to do an EIR. The fact that the club proposes to keep doors and windows closed during amplified events does not mean it is not a mitigation measure. This is legally inadequate. The Council makes

**January 12, 2017 Minutes**

decisions from an informed basis. The Council must make a statement of overriding consideration and adopt specific factual findings identifying social, economic or legal benefits that outweigh the significant impacts in the neighborhood.

Council Member Russell asked if Ms. Quick is authorized to sue the Town if this matter is approved. Ms. Quick responded that she has not discussed that aspect with her client.

Edward Lanphier, Southwood Avenue resident/ club member, added that noise levels would be at or below ambient levels. It is pretty quiet in that neighborhood. There is not a lot of sunshine in that area, so air conditioning is likely not needed. They established that it is below ambient levels and air conditioning is not needed given the cool location of the club.

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

Town Attorney Greg Stepanicich reviewed the negative declaration and the Council has the ability to approve the amendment based on the negative declaration requiring the EIR. Noise is a type of impact that is subjective and subject to professional study. A qualified consultant was hired and concluded that there would be no significant impacts. The fact is there is a condition of approval that doors and windows must remain closed during such events.

Mr. Petrilla noted that the proposal is for 14 events total and they do not have any nonmember events, so it is an unnecessary clause and asked that it be eliminated. With member-sponsored events, the member is held financially responsible and it must be approved by the board, so that's why they suggest eliminating the term "*nonmember event*." Also, they were trying to clean up the use permit that had different times for different events and after discussing with staff they all agreed upon 10:45 p.m. They don't anticipate any issues. They have plenty of members with children that want to get married and have a reception at the club, so it is standard to have amplified music at a wedding. They would be delighted if the leaf blowing hours could be the same as the rest of the Town, so they could blow off the tennis courts on a Saturday at 8:30 a.m.

Mayor Pro Tempore Robbins stated that it is a big change after so many years of use. There are significant impacts in regard to allowing amplified music. She did not believe an event venue is appropriate for a neighborhood zoned single-family residential. She further did not support the proposal before the Council.

Council Member Russell expressed concern for the nature of amplified music. He preferred to see a more limited number and if there are no complaints to potentially increase the number of events in the future. He suggested 6 to 7 events, rather than 14 events.

Council Member Brekhus felt that the direction given at the last meeting they found the additional events acceptable. Fourteen events would be a little more than once per month. She believed it is fair to have weddings and birthdays at the club. This change that occurred historically came from community concern and she supports a yearly review with the change, if it's a problem then it can be reversed. She further noted support for the proposal.

Mayor Hoertkorn supported increasing the events and adding amplified music.

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Town Attorney Stepanicich believed it would be a good idea to add findings and address objections that were raised. He suggested directing staff to add to the findings and provide more specification in regard to the number of events. The Council agreed. Mayor Hoertkorn also requested that the existing leaf blowing condition be amended to match the Town's leaf blowing regulations.

Mayor Hoertkorn asked for a motion.

**Council Member Brekhus moved and Mayor Hoertkorn seconded, to continue 205 Lagunitas Road, Amendment to Use Permit No. 1997, and adoption of Resolution No. 1984 in order for staff to provide the necessary findings for the project as amended and that the Resolution be brought back on the consent agenda at the next meeting. Motion carried 3-1-1. Robbins opposed/Kuhl recused.**

*Council Member Kuhl resumed his seat at the dais.*

## ATTACHMENT 8



February 1, 2022

Ms. Christa Johnson  
Town Manager  
Town of Ross  
31 Sir Francis Drake Boulevard  
Ross, CA 94957

## **Review of the Parisi Responses to Feedback Memo**

Dear Ms. Johnson;

W-Trans has completed a review of the January 25, 2022 *Responses to Feedback* memorandum prepared by Parisi Transportation Consulting. Following are our comments regarding this memorandum.

### **Use of Buffers to Set Thresholds for Trip Count Violations**

We agree with the memorandum's statement that traffic levels can vary substantially day-to-day and that accounting for the variation is an important element to consider in establishing a quantitative threshold. Our original written recommendation was to maintain a trip threshold at the observed average, but we had clarified in conversations with Town staff prior to the hearing that these averages should have a provision to account for atypical conditions. We had noted during those conversations that many schools with averages often make accommodations to account for variations in daily traffic such as dropping unusually low and high counts or including a buffer; we were not asked to update our written recommendation with these clarifications. In our experience, buffers are generally used less frequently, but the proposed one-half standard deviation essentially achieves the same effect as eliminating atypical high or low counts. Given the similar effect, we find it reasonable for the school to be allowed to use the proposed buffer approach.

### **Periodic Versus Permanent Traffic Monitoring**

We concur that conducting traffic monitoring over a discrete timeframe is far more common than counting on a continual basis, though the presence of permanent counters does not necessarily mean that the school needs to access all the data, though it could if desired in order to monitor traffic levels on a more continual basis. As noted during the hearing, the use of a permanent counter was suggested as a potential way of reducing the effort and cost for the school – the cost of a permanent count station would be less than bi-annual counts over a long period of time. However, if the school prefers to have a third party conduct the counts, this would provide the information needed. As further noted by Mr. Parisi, technology is ever-changing and the school may determine that it would be more cost-effective to install permanent counters at some point in the future, and the Town may wish to leave the decision about whether to use permanent or temporary data collection devices to the school.

### **Traffic Impacts of Remote Drop-off and Pick-up**

We fully agree with Mr. Parisi's assessment, and our previous assertion in the hearing, that due to the trip reducing impacts of the TDMP and the number of potential vehicles using remote lots, traffic impacts in remote locations would be negligible.

Please call if you have any questions about this information. Thank you for giving us the opportunity to provide these services.

Sincerely,



Brian Canepa, TDM-CP  
Principal



Dalene J. Whitlock, PE, PTOE  
Senior Principal



# ATTACHMENT 9

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**From:** Mark Kruttschnitt <[mark.kru@gmail.com](mailto:mark.kru@gmail.com)>  
**Sent:** Monday, January 31, 2022 4:14 PM  
**To:** CouncilAll <[towncouncil@townofross.org](mailto:towncouncil@townofross.org)>  
**Subject:** Branson Expansion

I am resending the email below since I originally sent it to Linda Lopez and there is a different correspondence email listed on the Notice of Public Hearing.

Thanks

Mark Kruttschnitt

Dear Town Council Members,

I would like to start off by thanking all of you for spending your valuable time trying to make Ross an even better place to live. I realize that you dedicate a significant amount of time and energy to the town each month, and I greatly appreciate your efforts, even when I happen to disagree on specific issues.

After listening to last month's Town Council meeting, I would like to express some concerns I have about the Branson Expansion discussion. While I was heartened to hear that all of the Town Council Members support Branson expanding by 100 students over the next four academic years, I was disturbed by some of the Council suggestions that would amount to micromanaging what is one of the most successful institutions in Ross. Some of these suggestions would also decrease the diversity of what is arguably the most diverse institution in Ross, both in terms of staff and student body. I heard this in regards to comments on the Admission Process, the Traffic Management Plan, and the Events which are held at the school.

Admissions:

I disagree with the idea that Branson should give preferential treatment to those who live in a relatively small radius around the school. Ross, San Anselmo and Kentfield are some of the wealthiest and least diverse towns in the State of California. The children of these communities neither need nor deserve preferential treatment. I have had several members of neighboring communities speak to me who are very disappointed that the Town of Ross would suggest anything that would result in lowering the diversity of Branson.

Traffic:

As someone who spent time and effort in the Neighborhood Working Group and the meetings regarding the Branson TDMP, I know that the focus of the ballot initiative and Branson's promise of being traffic neutral is in relation to traffic to/from campus and in the local neighborhood. It was disheartening to hear some Council members focused on regional traffic issues completely outside the scope of the Use Permit, the recent ballot measure, or the authority of Town Council. Both Branson and the Town of Ross hired excellent traffic consultants, and I think that the Town Council should adopt their recommendations that were in the January Staff Report.

At one point the Town Council discussion turned to regional traffic issues and the effects of potential expansion on traffic at The Hub in San Anselmo and on SFD down by the freeway where potential bus stops are planned. According to the most recent traffic study by the town of San Anselmo, 65,000 cars per day pass through The Hub. Even if the additional 100 Branson students brought an extra 65 cars per day through The Hub, it would amount to less than a 1/10th of 1% increase in traffic. There are many more cars per day on Sir Francis Drake in Greenbrae and thus any potential impact there would be even less than 1/10th of 1%. There is no scenario in which this minuscule amount of traffic could negatively affect the major arteries in neighboring towns.

The traffic focus should be brought back to the very local traffic going to/from the campus on Bolinas, Glenwood, Fernhill and Shady Lane. The Town should make sure that the TDMP is enforced, as the majority of the neighbors want, but the town should not concern itself with the details of the bus routes and areas outside of Ross.

Events:

Another issue that was discussed at length was Branson Events and how the Town should attempt to manage them. I am sure that the Town Council in the 1970's did their best in drafting the Branson Use Permit and that they were well-intentioned. However, the Use Permit they designed was deeply flawed when it came to limiting school and community events on the Branson campus. To pick out a Base Year (1977) of events and then not list the events which took place during that year or the attendance at those events shows that either Town Council never intended to enforce the restrictions or that they had a lack of foresight. This is shown by the fact that Town Staff were recently engaging in the ridiculous task of looking at 40 year-old high school yearbooks in order to try and figure out how many games different Branson teams had and how many spectators attended.

Instead of trying to emulate this flawed 1970's strategy of limiting the number of Events, the Use Permit should be rewritten according to certain hours of use, as is the case with similar private schools in San Rafael, Woodside, San Anselmo, Hillsborough, Palo Alto and other residential areas throughout the Bay Area. There are good reasons that those communities don't micromanage the events at their private schools and there is no need to reinvent the wheel here.

One of the main reasons that I have spent 10 years volunteering for the Ross ADR is to minimize the NIMBYism that was prevalent in Ross. A vocal minority of Town residents would often complain about proposed changes and have an undue influence on policy. There seems to be a belief among some of the Council Members that the current level of events (lack of enforcement of the the 1970's Use Permit) at Branson are unacceptable to the local neighbors. That is simply not the case. While there are undoubtedly some local neighbors who don't like the number of events at Branson, over 60 local neighbors wrote to or spoke to the Council in support of the expansion as long as traffic doesn't increase and they did not ask for Branson events to be reduced. This is overwhelming support from the neighborhood. The current neighborhood is neither too noisy nor too congested. The homes around Branson are quiet and some of the most desired/valuable in the Town. In the past decade at least 3 families have moved from elsewhere in Lower Ross to live on the streets adjacent to Branson and all three of those families (Schaeffers, DiMarco/Harleen, Collets) spoke in support of the expansion at the last meeting. None of them asked for the current number of events to be restricted and none would have supported Branson Expansion if they thought the current level of events is excessive. We have lived within a block of Branson on both Fernhill and Norwood for 14 years and have never been disturbed by noise from Branson events. We have noticed a number of cars leaving in the 5-20 minutes after events end, but this seems natural and almost always happens outside of peak traffic hours.

At the last Town Council Meeting, the majority of the Council Members mentioned that their own children had benefited from the current level of events at Branson either as Branson students or CYO players who used the Branson gym. This was during the many decades when there has been no real enforcement of the 1970's Use Permit in regards to the number of events. I think the next generation should also be given a chance to use the facilities in the same manner.

Conclusion:

High school is a time of growth and transformation, and we are lucky to have such a high caliber school in Ross that supports students as they hopefully grow into confident, thoughtful and ethical adults. Instead of thinking how the Council can influence who gets admitted to Branson, or how the Council can limit the day-to-day activities at Branson, I believe the Town Council should simply ensure that the TDMP is enforced and approve the expansion.

Respectfully,

Mark Kruttschnitt

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## **Linda Lopez**

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**From:** Christa Johnson - Town Manager  
**Sent:** Thursday, January 27, 2022 5:32 PM  
**To:** Linda Lopez  
**Subject:** FW: Enrollment increase at The Branson School

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** Larry Slayen <lslayen@gmail.com>  
**Sent:** Thursday, January 27, 2022 4:18 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Enrollment increase at The Branson School

### **For the members of the Ross Town Council**

**As a Ross resident and grandparent of Branson students, I would like to see The Branson School increase its enrollment to help keep up with their financial obligations in the future. I am hoping that you will help them with the transition, rather than stand in their way.**

**The Branson School has been in its location since 1922. I would venture to guess that the neighbors, who are complaining about the noise, knew or should have known that a high school was in close proximity to their property when they bought their homes. High Schools come with students, cars, football games and dances. Why are you listening to the very few complaining neighbors above the voices of many supporting neighbors who live very close to the school? Branson has been an academic gem in our neighborhood for one hundred years?**

**The Branson School is not a business; it is a non-profit academic institution. The reason it wants to add one hundred students is that it needs the generated tuition to cover teachers salaries, new classes and scholarships in the decades to come. By saying they need to pay for expensive electric buses or rent sports facilities, you are only adding to their expenses. The traffic plan prepared by their expert is thorough and the penalties are steep if they do not live up to their promise to keep traffic net neutral. Having attended a number of events at Branson, I can say from my own experience that the Branson faculty and students are making every effort to be mindful of the community.**

**There is a shortage of gyms and available athletic fields in Marin County. Many of Branson's sporting events take place off campus and at the College of Marin. There are more games now than forty years ago because sports are now considered to be mentally and physically healthy and women are competing in sports. Everyone at the school is encouraged to play at least one sport; the community should be encouraged to come out and root for them, thus fostering community pride.**

**At the hearing a few weeks ago, there was repeated mention of a theater expansion. A theater is not part of this project and if and when The Branson School decides to increase the size of their theater, I am sure all of the impact studies will be done and brought before the Ross Town Council. Now the issue to be considered is the addition of one hundred students over a four year period... nothing else.**

**After six hours of deliberations, a positive recommendation from your own staff, the passing of Measure F, a traffic plan implemented and devised by the best traffic planners in the Bay Area, and positive voices from students and neighbors, you can feel confident that you are making the right decision for the town of Ross to allow the The Branson School to expand its enrollment.**

**Jackie Slayen  
50 Willow Ave  
Ross, California 94957**

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Monday, January 24, 2022 9:32 AM  
**To:** Linda Lopez  
**Subject:** FW: Ross Town Council -- In support of Branson

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** Mary Miller <marybridgetmiller@gmail.com>  
**Sent:** Saturday, January 22, 2022 10:19 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Ross Town Council -- In support of Branson

Dear Ross Town Council,

I hope this finds you well and thank you for your consideration of the enrollment expansion initiative @ Branson.

My name is Mary Miller and I am a current Branson parent. We live in San Francisco and our son travels by bus daily to/from school. I would like to confirm that Branson communicates regularly to the entire parent body about traffic management, transportation, and dropoff guidelines to ensure that we are obeying the laws in Ross.

Branson is fortunate to call Ross home. We hope you will vote to expand the enrollment to secure Branson's future in Ross and preserve the quality education that Branson delivers.

Kindly,  
Mary

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Wednesday, January 19, 2022 11:03 AM  
**To:** Patrick Streeter; Linda Lopez  
**Subject:** FW: Branson Phased Enrollment Plan

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** Brian McCarthy <Brian.McCarthy@transwestern.com>  
**Sent:** Wednesday, January 19, 2022 9:15 AM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Cc:** Lexie McCarthy <lexiemccarthy@gmail.com>  
**Subject:** Branson Phased Enrollment Plan

Hello,

I am writing today in support of the Branson Phased Enrollment plan. As residents of Ross and parents of small children, we are excited about Branson's future within our community. We believe the incremental growth is both good for the school and our community.

Brian & Lexie McCarthy  
63 Sir Francis Drake

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## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Tuesday, January 18, 2022 4:32 PM  
**To:** Linda Lopez  
**Subject:** FW: Branson

Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org

-----Original Message-----

From: Marianne Jacobson <marianne\_jacobson@sbcglobal.net>  
Sent: Saturday, January 15, 2022 10:50 AM  
To: CouncilAll <towncouncil@townofross.org>  
Subject: Branson

I support Branson expansion.  
TX  
Sent from my iPhone

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Friday, January 14, 2022 9:36 AM  
**To:** Linda Lopez; Patrick Streeter  
**Subject:** FW: Support of Branson

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** Jenna Greer <jennalagreer@gmail.com>  
**Sent:** Thursday, January 13, 2022 4:37 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Support of Branson

January 13, 2022

Mayor Elizabeth Robbins  
Mayor Pro Tempore P. Beach Kuhl  
Council Member Elizabeth Brekhus  
Council Member C. William Kircher, Jr.  
Council Member Julie McMillan

Re: January 13, 2022 Meeting of The Ross Town Council  
Agenda Item No. 14: The Branson School Application for Increase in Enrollment  
Via email

Dear Mayor Robbins and Council Members:

I am submitting this letter as a brief summary of my support for the Branson School request to increase student body size. I endorse the School request and urge the Town Council to remove the existing limit on the School enrollment and approve the expansion of the School enrollment cap.

I reside on a lot that abuts both Hillgirt Drive and Circle Drive, and is adjacent to a parcel owned by the Branson School. I maintain parking spaces on both Hillgirt and Circle Drive. Recently the Town Council was sent a letter with reference to Hillgirt Drive, related to the Branson School matter before the Council. Seemingly this letter contained prevarications related to Hillgirt Drive, Branson School conduct over past years, and misstatements of facts.

This letter is a brief summary seeking to address some of the seeming prevarications submitted to the Town in letter form.

Naturally, I am available by phone, email, zoom or in person to address any questions on these matters.

1. Circle Drive is a public right-of-way owned by the Town of Ross, maintained by the Town of Ross, and conforming to Town of Ross maintenance standards as an extant street for a period over 80 years. Approximately 2011, the Town of Ross initiated a special study to confirm that Circle Drive is a Town maintained street. Town Council acted on a special Council authorized Town record research inquiry and, based on the results of the research over a period of over 6 months, reconfirmed by recorded Town Council action (vote) that Circle Drive is a fully Town dedicated, and fully accepted Town maintained public street and public right-of-way.
2. Hillgirt Drive is a public right-of-way, with free and unfettered lawful vehicle and pedestrian use by the public in accordance with applicable California statutes. Hillgirt is not maintained by Town of Ross. Parcels abutting Hillgirt have full use of the right-of-way for vehicle, pedestrian, parking, and construction access in accordance with

applicable ordinances and statutes. Due to standard operational conditions of gravity, the sewer lines from eleven of the eleven residential parcels abutting Hillgirt use the sewer main under Hillgirt as their means of residential waste disposal.

3. For over 30 years the Town of Ross has contracted for a mechanical sweeper to sweep both sides of Hillgirt, weekly. The mechanical sweeper has no difficulty, whatsoever, with standard equipment, negotiating the width of the Hillgirt pavement. Hillgirt Drive is not now, nor has it ever been, a single lane street.
4. Hillgirt is a private street, maintained by the owners of parcels abutting Hillgirt. Ten parcels abut Hillgirt; eleven Ross residences abut Hillgirt.
  1. Two Hillgirt (N.B., waste line runs to Norwood, not to Hillgirt; all other residential waste lines connect to Hillgirt waste line)
  2. 25 Norwood (driveway accessed via Hillgirt Drive)
  3. One Hillgirt
  4. Seven Circle (parking on both Hillgirt and Circle Drive)
  5. Five Circle (parking on both Hillgirt and Circle Drive)
  6. Three Hillgirt
  7. Five Hillgirt
  8. Three Circle (parking on both Hillgirt and Circle Drive)
  9. Seven Hillgirt
  10. Eight Hillgirt (N.B., two single family houses are located at the "dead end" of Hillgirt; both eight and nine Hillgirt residences are on a parcel owned by Branson School)
  11. Nine Hillgirt (N.B., two single family houses are located at the "dead end" of Hillgirt; both eight and nine Hillgirt residences are on a single parcel owned by Branson School).
5. The residential houses at 8 and 9 Hillgirt have full and unfettered access to Hillgirt, per applicable ordinances and statutes and use permits. The residents of these houses can have dinner parties, invite attendees to park on the Branson parcel, and otherwise occasionally have more than two cars at each house. I am aware there has never, not once, been an adverse use or abuse of the vehicle parking on the Branson residential parcel at the end of Hillgirt. There has never, not once, been a "traffic jam" on Hillgirt in the 12 years I have recorded activity on Hillgirt. To the contrary, whenever the Branson School seeks any activity affecting Hillgirt directly or indirectly, the School facilities staff sends emails describing planned activities and offering to answer any relevant questions. Comments alluding to Branson misusing their use-by-right to Hillgirt or Circle would appear to me to be a possible prevarication.
6.
  - a. The width of the pavement on Circle Drive is approximately 16 feet. Circle Drive has no shoulders on either side of the circle. It is a level street, with no inclines. Sight lines are impeded by the curved nature of the street, but not relative to the low speed on the street.
  - b. Ivy is a narrow private road with difficult and dangerous conditions extant. The width of Ivy varies. Much of Ivy is a single lane of pavement. The initial incline of Ivy

has a paved surface approximately 13 feet wide. Much of the beginning of Ivy is on a moderate incline, with steep uphill slope (over 50 degrees) slope of dirt, and a precarious downhill slope of dirt on the downhill edge of the paved surface. The beginning of Ivy has no shoulders on either side of the paved surface.

- c. The width of the pavement on Hillgirt is approximately 16 feet. Approximately 75% of the Hillgirt pavement includes flat, easily parked "shoulders" aside the flat pavement. The paved area, extant shoulders, level aspect, and surface conditions are superior to both Circle Drive and Ivy. Hillgirt has no compromised sight lines.
  - d. The condition of the Hillgirt pavement, width of the pavement, level aspect, easy sightlines, existing and width of shoulders throughout combine to present a roadway condition not inferior to many public and private rights-of-way extant in Town of Ross. It appears a prevarication to describe the Hillgirt Drive as a narrow and constricted roadway, relative to the dead end designation and extremely low traffic volume.
7. Over the past 35 years the Hillgirt street has required minimal maintenance, primarily for broken water main (twice) and an upgraded street drainage grate (instigated by the owner of 3 Circle). Seven of the twelve residences have successfully upgraded their sewer laterals to meet current standards, over the past 8 years. Each of the lots abutting the right-of-way has an opportunity to participate in the relevant expenses; sometimes all lots and sometimes just some of the lots participate (due to age of residents, frequency of use, access to water, ease of administering de minimus expenses, etc.). Irrespective of direct financial participation, per State statute each abutting lot to Hillgirt maintains full access via Hillgirt.
  8. The house at 7 Circle has maintained a parking space on Hillgirt for over 35 years. For 10 years the homeowner at 7 Circle has had a resident park in this spot, and use the stairs to access the residences at 7 Circle. In addition, when the second resident at 7 Circle moved the Hillgirt parking space at 7 Circle was used (by express verbal permission) by the daily caregiver of the resident of One Hillgirt.
  9. The house at 5 Circle maintains a parking area at the toe of the slope down to Hillgirt, primarily for occasional use by gardeners. The residents at 7 Hillgirt and 5 Hillgirt use this area for occasional parking inasmuch as their side of Hillgirt does not have parking area as easily accessed.
  10. The house at 3 Circle has stabilized a slope down to Hillgirt, and improved a preexisting parking area along Hillgirt with plants and soil stabilization and a conforming stairway to the residence.
  11. Over the past 5 years the Branson School has become increasingly solicitous of their adjoining neighbors. A copy of a 2018 email to Hillgirt residents was previously sent to the Town Council as an exhibit to a letter referencing Hillgirt. This email exhibit is typical of the Branson School pattern of communication; even when neighbor approval

is not required, Branson School often contacts neighbors proactively to ensure inadvertent conflict is avoided. The exhibit to the Town of a 2018 email seemingly is an example of good conduct; Branson School has, by right, an option to park 12 cars on Branson property for a special event. To detail this parking "event" as an example of untoward behavior is seemingly without a connection to reality.

12. I have carefully monitored and recorded activities regarding the use of Hillgirt. There has never, once, been a "traffic jam" on Hillgirt. There has never, once, been a problem with excessive cars driving down Hillgirt due to a "misdirected" Google instruction. There HAVE been cars misdirected down Hillgirt, but it has NEVER been a problem. The google directions are NOT usual, are NOT an impedance to the level of service of the Hillgirt Street, and have NOT resulted in any unbearable traffic or parking issues. I would consider statements to the contrary to be possible prevarications, seemingly without proper foundation.
13. In the past 12 years, I was present for all of the graduations. I am aware of no parking, walking, or traffic issues related to Hillgirt whatsoever. Any inference that there were impactful issues would seemingly be a prevarication.
14. Special attention to Hillgirt in the Conditions of Use beyond the existing wording is wholly unwarranted. The Conditions of Use adequately address efforts to minimize the School adverse impacts. To my knowledge, the School has proactively managed all matters related to Hillgirt without issue for over 35 years.
15. I have contracted for and completed professional traffic counts on Hillgirt. The Staff Report and the Transportation consultant have capably described the topic of "Level of Service". Access to Hillgirt does not need to be "limited" inasmuch as the road is severely overimproved for the volume of traffic extant, and no change in traffic is called for in the Conditional Use Permit. There is no need to hire third party consultants to monitor traffic on Hillgirt; such a suggestion seems disconnected.
16. In times of increasing fire danger, I find no concern that fleeing students might trample old men and women as they run to safety. To the contrary, I find great comfort that hoards of Branson students fleeing down Hillgirt might pick up the old men and women on Hillgirt and help us to safety! The Town of Ross has been sent a letter with a "worry" of the possible impact of fleeing students on residents of Hillgirt, and I am appalled at the letter-writers lack of concern for basic human dignity and safety. There is not now, nor will there ever be, any valid concern that students from Branson will adversely impact the residents of Hillgirt in the event of fleeing a major fire or mass casualty event. This matter is not worthy of further study, whatsoever.

Please call or write if I can clarify any of these comments. I encourage Town Council approval of the increase in Branson student enrollment.

Sincerely,

Peter Nelson  
3 Circle Drive  
Ross, CA

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Friday, January 14, 2022 9:24 AM  
**To:** Patrick Streeter; Linda Lopez  
**Subject:** FW: Fernhill neighbor and resident support for Branson application to expand enrollment.

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** Genny Biggs <genny.biggs@gmail.com>  
**Sent:** Thursday, January 13, 2022 10:48 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Cc:** andrew.biggs@gmail.com  
**Subject:** Re: Fernhill neighbor and resident support for Branson application to expand enrollment.

Hi - I looked through all the materials online tonight and wondered why our letter of support was not included? I would have raised my hand to read it but didn't finish reading through them until the cutoff had passed for public speakers. I'd really appreciate it if you could add this to the record so our voice is in the mix too.

—  
[genny.biggs@gmail.com](mailto:genny.biggs@gmail.com)  
[genny.biggs@aya.yale.edu](mailto:genny.biggs@aya.yale.edu)

On Jan 8, 2022, at 4:29 PM, Genny Biggs <[genny.biggs@gmail.com](mailto:genny.biggs@gmail.com)> wrote:

Dear Town Council,

Thank you, as always, for the work you do to govern our town and community. Andrew and I write to express our hearty endorsement of Branson's request to expand enrollment. Our support is rooted in three core considerations:

**1. Satisfaction with already improved traffic and safety.** We live at 12 Fernhill Avenue, down the road from Branson. As proximate neighbors, we have an especially close view of the school and the comings and goings of students and others to campus and can attest to the care with which the school has already implemented traffic improvements, including adding traffic guards, remote drop-offs and pick-ups, increased bus ridership, and incentives for pedestrians and bikers, to name just a few. (As an added benefit, and in our observation, the traffic guards' presence seems also to slow drivers who have no present or past affiliation with Branson.) Fernhill already feels quieter and safer than it ever had before, and we are confident in the traffic measures proposed to maintain traffic neutrality even with expansion.

**2. Agreement that an expanded and more diverse student body will yield an even better education for (more) Branson students.** In the 2020 town election with Measure M, more than 60% of town residents voted in favor of Branson’s request to expand. In part, that reflects an understanding that increasing the number of students would allow the school to remain on par with other peer schools, and also provide more resources toward financial aid packages for students from different socioeconomic backgrounds. For Ross residents, it is also worth noting that 100 new student spots would create new opportunities for Ross families to send their children to Branson.

**3. Branson, and Branson’s leadership and administration, play a positive role in our community, and expanding would enhance that role and ensure the school can stay.** Under Chris’ leadership, the school has strengthened its ties to Ross School, Ross Recreation, Cedars of Marin, and the Town’s activities— modeling service to the community and dependable partnership even in these turbulent, upended times.

We look forward to Zooming into the meeting, and hope that the Branson request for phased student growth is approved. Thanks again for your service and know we send you all wishes for a happy and healthy new year,

Genny & Andrew Biggs  
12 Fernhill Ave. #1386

—  
[genny.biggs@gmail.com](mailto:genny.biggs@gmail.com)  
[genny.biggs@aya.vale.edu](mailto:genny.biggs@aya.vale.edu)

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Friday, January 14, 2022 9:23 AM  
**To:** Patrick Streeter; Linda Lopez  
**Subject:** FW: Branson-Ross residents in full support of expansion

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** paul macomber <maco8787@gmail.com>  
**Sent:** Friday, January 14, 2022 7:13 AM  
**To:** CouncilAll <towncouncil@townofross.org>; Elizabeth Robbins <eliz.robbins@gmail.com>  
**Subject:** Re: Branson-Ross residents in full support of expansion

Hi Elizabeth,

Thank you for your email.

You run a very good meeting! You are very fair and even handed in conducting the flow of the agenda.

I was in the meeting last night from 6:30-10:30 pm. It was nice to see so many people participate, and share their points of view. I believe strong community input and discussion helps lead to the correct outcome.

As you know, my wife and I sent an email in strong support of allowing Branson to add another 100 students over four years. From the meetings we have attended, everything we have read and discussed, with people at Branson and fellow Ross residents, it seems that the school has addressed the concerns of the town.

We believe that Branson is an incredible asset to, and of, the town! We have a world class school in our very back yard. As you know first hand, so many past, present, and future residents, have and will, benefit from this incredible institution. If they are not able to expand, their ability to maintain that level of excellence will not last. What a tragedy that would be, not only for Branson, but the residents of Ross who benefit so much from the school.

I believe it is always good to address everyone's concerns, and all involved should have their say and chance to express their concerns and beliefs. Hopefully one more meeting gets this done.

To me, last night's meeting was a clear indication that the residents of Ross would like to see this passed. As Beach said, at some point we need to trust our fellow neighbors that they will do as they have said. If they don't, there are serious penalties, and remedies in place to correct.

We hope, for Branson, and the beneficial residents of Ross, that a vote in favor happens soon.

We thank you and the council, for your efforts on this and all agendas, that you work so hard on for all us residents!

Most Sincerely & Appreciatively,

Paul & Sasha Macomber  
197 Lagunitas

On Thu, Jan 13, 2022 at 4:37 PM Elizabeth Robbins <[eliz.robbins@gmail.com](mailto:eliz.robbins@gmail.com)> wrote:

Thank you for your email about Branson; it's helpful to hear residents' opinions.

Sincerely,

Elizabeth Robbins, MD  
Mayor, Town of Ross  
415-734-6449

On Tue, Jan 11, 2022 at 8:05 PM paul macomber <[maco8787@gmail.com](mailto:maco8787@gmail.com)> wrote:

Dear Town Council,

We are writing to say we are in full support of Branson's, well thought out, plan for expansion.

We have attended meetings, read through their plans to address traffic, and neighborhood concerns, as well as other possible factors that may affect Ross residents.

We believe that having a school of Branson's caliber in our town is a benefit and a great resource. It has, and will for years to come, benefit many Ross children with a world class secondary education.

It is our belief that a good education is the foundation needed to make, not only the individual more successful in life, but in turn, helps to improve the world that we all share.

We have two children at Ross School, and our first choice for their secondary education is for them to attend Branson.

We hope that you will pass their expansion plans, so that they may not only stay in Ross, but be able to stay highly competitive with the schools in our area.

Thank you for your time and consideration of this matter, and all others that benefit our good town of Ross!

Sincerely,

Paul & Sasha Macomber  
197 Lagunitas Road  
Residents since 2013

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Thursday, January 13, 2022 3:57 PM  
**To:** Linda Lopez; Patrick Streeter  
**Subject:** FW: Branson enrollment increase

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** John Esrey <jesrey@sprintmail.com>  
**Sent:** Thursday, January 13, 2022 3:30 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Branson enrollment increase

As a Ross resident, I thoroughly encourage the Town to pass the enrollment increase. The town of Ross strongly benefits from the Branson school and it would be a shame not to pass.

In addition, the school has gone above and beyond to mitigate any issues including increased traffic.

The citizens have Ross have spoken through the latest ballot measure and I encourage the Town council to listen to their voice and pass without hesitation.

Thanks

John Esrey  
12 Skyland Way

## Linda Lopez

---

**From:** Christa Johnson - Town Manager  
**Sent:** Thursday, January 13, 2022 3:03 PM  
**To:** Linda Lopez; Patrick Streeter  
**Subject:** FW: Branson application tonight

*Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org*

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**From:** Lisa Williams <lisa@williamsross.net>  
**Sent:** Thursday, January 13, 2022 3:00 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Branson application tonight

Dear Ross town Council,

We are 26 year residents of Ross and neighbors of Branson. We are at 61 Glenwood Avenue, just a block up from Branson.

We wholeheartedly support Branson's request to increase enrollment. They have thoroughly done the work needed to make the transition as smooth as possible and to not increase traffic which is our biggest concern. They have been diligent and methodical and conscientious about the process, and we are lucky to have the institution in Ross. It is quite an endeavor to run an independent school and they need to increase enrollment to stay competitive and viable with other peer institutions in Marin County .

One of our three kids went to Branson, so we are also supporters of the school in that respect. Let's hope that Branson is in Ross for another 100 years. We are happy to speak with anyone on the town Council if you have any questions or concerns from a neighbor. Even though we are a block away and not directly next door to Branson, but we are impacted by the school so consider ourselves to be next-door neighbors and very happy to support them in increasing enrollment. We are happy to speak with anyone on the town Council if you have any questions or concerns from a neighbor.

Thank you for your consideration,  
Lisa and Ted Williams  
61 Glenwood Avenue, Ross since 1994

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Thursday, January 13, 2022 3:00 PM  
**To:** Linda Lopez; Patrick Streeter  
**Subject:** FW: Branson Expansion

Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org

-----Original Message-----

From: brian hunt <28rian@gmail.com>  
Sent: Thursday, January 13, 2022 12:22 PM  
To: CouncilAll <towncouncil@townofross.org>  
Cc: Erica <erica@order-sf.com>  
Subject: Branson Expansion

Dear Town Council

Please include this note as a declaration of support for the Branson proposed expansion of student body. Branson is a long standing and highly respected educational entity within our community and county. We support their efforts to increase volume of their student body.

Sent from my iPhone

## Linda Lopez

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**From:** Christa Johnson - Town Manager  
**Sent:** Thursday, January 13, 2022 2:59 PM  
**To:** Linda Lopez; Patrick Streeter  
**Subject:** FW: Branson expansion

Christa Johnson  
Town Manager, Town of Ross  
PO Box 320  
Ross, CA 94957-0320  
415-453-1453 x107  
cjohnson@townofross.org

-----Original Message-----

**From:** Stephanie Evans <soevans2@gmail.com>  
**Sent:** Thursday, January 13, 2022 1:10 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Branson expansion

In favor of it.  
Stephanie Evans

Sent from my iPhone