



## Agenda Item No. 3.

### Staff Report

**Date:** January 24, 2024

**To:** Mayor Brekhus and Council Members

**From:** Christa Johnson, Town Manager  
David Woltering, Planning and Building Department Support Staff

**Subject:** Reintroduction and first reading of an Ordinance, amending and adding language to Chapter 18.16, Single-Family Residence (R-1) District, and Chapter 18.40, General Regulations, of the Town of Ross Municipal Code to Facilitate adding Workforce Housing for Staff and Faculty at the Branson School, 39 Fernhill Avenue (APNs 073-151-05; 073-082-01; 073-082-12; and 073-141-03) in Support of Implementing the 2023-2031, 6<sup>th</sup> Cycle, Housing Element **(Continued from the January 11, 2024 Ross Town Council Meeting)**

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### Recommendation

It is recommended that the Town Council:

1. Waive First Reading, Read by Title Only, and reintroduce an Ordinance, amending and adding language to Chapter 18.16, Single Family Residence (R-1) District, and Chapter 18.40, General Regulations, of the Town of Ross Municipal Code to Facilitate Workforce Housing for Staff and Faculty at the Branson School to Implement the 2023-2031, 6<sup>th</sup> Cycle, Housing Element and direct staff to return for Second Reading and Adoption on February 15, 2024.

### Background

On December 14, 2023, the Town Council introduced Ordinance No. 724 amending Ross Municipal Code (RMC) Chapter 18.16 to implement Program 3-J in the Town's 6<sup>th</sup> Cycle Housing Element. The amendments to Chapter 18.16 facilitate adding Workforce Housing for Staff and Faculty at the Branson School, 39 Fernhill Avenue, on four parcels owned by the Branson School (APNs 073-151-05; 073-082-01; 073-082-12; and 073-141-03) that were included in the Town's prior, 5<sup>th</sup> Cycle Housing Element but weren't developed with housing (the "Re-Use Sites"). Ten

housing units affordable to lower income households were identified on the Re-Use Sites in the 6<sup>th</sup> Cycle Housing Element to meet the Town's Regional Housing Needs Allocation (RHNA).

In order to comply with the requirements of Government Code Section 65583.2(c), RMC Section 18.16.030 A. is being amended to provide that the housing units on the Re-Use Sites are permitted by right with no discretionary review, provided 20% of the units are affordable to lower income households. In addition, a new RMC Section 18.16.040 C. is added to provide the density needed to accommodate the 10 new dwelling units by allowing density to be calculated over the total area of contiguous parcels owned by an educational institution while maintaining the existing one dwelling unit per acre zoning. Finally, a new RMC Section 18.40.220 is added to provide objective standards applicable to the housing units for faculty and staff on the Branson campus.

At the December 14<sup>th</sup> public hearing, concerns were raised by Branson School representatives and its legal counsel related to the objective standards in the proposed zoning ordinance amendments and the application of the Conditional Use Permit adopted pursuant to Resolution No. 2233 (the "CUP") to the housing units on the Re-Use Sites. At the December 14<sup>th</sup> meeting the Town Council introduced Ordinance No. 724. Thereafter, Town staff worked with the Branson School to better understand their concerns related to the objective standards and application of the CUP. Proposed revisions to the objective standards to meet Branson's concerns were brought to the Council on January 11<sup>th</sup> at a noticed public hearing. However, Branson raised additional concerns about the objective standards on January 11<sup>th</sup> and instead of considering the proposed changes the Town Council continued the public hearing to the date certain of January 24<sup>th</sup> to give staff additional time to work with Branson School representatives to address these concerns.

The December 14<sup>th</sup> Town Council staff report can be found here:

[https://www.townofross.org/sites/default/files/fileattachments/town\\_council/meeting/4275/12-14-23\\_he\\_staff\\_report\\_web.pdf](https://www.townofross.org/sites/default/files/fileattachments/town_council/meeting/4275/12-14-23_he_staff_report_web.pdf)

The January 11<sup>th</sup> Town Council staff report can be found here:

[https://www.townofross.org/sites/default/files/fileattachments/town\\_council/meeting/4346/1-11-24\\_final\\_he\\_ordinance\\_staff\\_report.dw\\_and\\_maw\\_and\\_cj\\_review\\_web.pdf](https://www.townofross.org/sites/default/files/fileattachments/town_council/meeting/4346/1-11-24_final_he_ordinance_staff_report.dw_and_maw_and_cj_review_web.pdf)

### **Objective Standards and Application of the CUP**

After the January 11, 2024, Ross Town Council meeting staff worked with Branson School representatives to address their additional concerns related to the objective planning standards and application of the CUP. The following changes to the objective planning standards in RMC Section 18.40.220 introduced by the Town Council on December 14<sup>th</sup> are being proposed for the Council's consideration. Branson's legal counsel has confirmed that with these revisions Branson has no further concerns with the proposed amendments to the zoning ordinance:

- The height of new multi-family residences would be as set forth in the R-1 Zoning District, which is up to 30 feet, or the height of the nearest structure within 250 linear feet of the proposed structure, whichever is greater. The Branson representatives concern was there may be a single-story structure as the nearest structure, and given the allowance is for multi-family housing, they wanted to make sure there could at least be a building height allowed in the R-1 Zoning District;
- Setbacks, minimum yard areas, for new multi-family residences shall be those found in the R-1 zoning section of the Town Code, or not be less than 90 percent of the existing setbacks of the nearest existing structure, whichever is less;
- In terms of providing screening of new multi-family residences, that abut the property line of an existing residential use and the desire to have objective development standards, the existing allowed heights in the Zoning Ordinance for fencing in residential areas of 4' in the front yard areas and 6' in side- and rear yard areas were included;
- Removal of garages from the list of secondary and accessory structures that have to be located to the side or rear of primary structures;
- Changing from using a floor area ratio (FAR) threshold to requiring that all new multi-family residences are required to have two forms of articulation to clarify and simplify the implementation of this objective standard;
- Clarifying that new multi-family residences shall incorporate stucco, wood, and masonry materials and that exterior colors shall be earthtones; and,
- Clarifying that up to two parking spaces shall be allowed for new multi-family residences without a use permit and these parking spaces may be either in a fully enclosed garage or open and uncovered with permeable pavers with landscape treatment to help screen and soften these spaces.

References to the “campus master plan” have been removed from the Zoning ordinance amendments in response to concerns from the School that the reference was to the 1970’s master plan. The reference was actually included to refer to the campus master plan being developed by the School. Because that plan has not yet been adopted it does not provide an objective standard and references have been eliminated.

The Branson School indicated that they were concerned that it was unclear if people other than faculty and staff can reside in the on-campus housing with the faculty or staff member. The limitation of “faculty and staff” is already included in Section 18.16.030 B of the Ross Municipal Code and that same language was utilized to refer to the housing on the Re-Use sites in Section 18.16.030 A. Others can reside in the housing units with members of faculty/staff just as they can in the existing housing units on the campus. Branson’s legal counsel indicated that explanation addresses the School’s concerns related to this issue.

With respect to the application of the CUP to the housing units on the Re-Use Sites, the Town Attorney and Branson’s legal counsel entered into the attached letter agreement that addresses the School’s concerns (Attachment 3).

The proposed amendments to the Town's Zoning Ordinance are set forth in Exhibit A to Attachment 2. Additions are shown in underline, deletions are shown in ~~striketrough~~. Changes to the version introduced by the Town Council on December 14<sup>th</sup> are shown in yellow highlight.

### Findings

The amendments to the Zoning Ordinance are consistent with the Ross General Plan including related goals, policies, and objectives, as described in Ordinance No. 724 (Attachment 2).

### **Alternative Actions**

The Town Council could proceed with introducing this Ordinance with the additional amendments as described above or, alternatively, could direct further changes to the draft Ordinance and Exhibit A before introducing this Ordinance.

### **Environmental Review**

The proposed Ordinance to address facilitating additional staff and faculty housing at the Branson School (Attachment 2) is covered by the previously certified Environmental Impact Report (State Clearinghouse #2022110593) and no further environmental review is required at this time (See CEQA Addendum Memorandum, Attachment 1).

### **NEXT STEPS:**

If the Town Council introduces the attached Ordinance, it is anticipated the Ordinance would be returned to the Town Council for Second Reading and Adoption at its meeting of February 15, 2024.

### **Attachments**

1. CEQA Addendum Memorandum
2. Ordinance No. 724 Amending the Town of Ross Municipal Code to Facilitate adding Workforce Housing at the Branson School
  - Exhibit A – Amendments to Chapter 18.16 with highlighted changes
  - Exhibit B – Clean copy without highlighted changes and strikethrough
3. Letter Agreement

# **ATTACHMENT 1**

M E M O R A N D U M

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To: David Woltering, Town of Ross  
From: Andrew Hill, Principal  
Re: Environmental Review of Modifications to the Housing Element in Response to HCD Comments and Related Zoning Amendments  
Date: December 1, 2023

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David:

On May 31, 2023 the Ross Town Council adopted the 2023-31 Housing Element and certified an accompanying environmental impact report (EIR) (State Clearinghouse #2022110593) in accordance with the California Environmental Quality Act (CEQA). Subsequently, the California Department of Housing and Community Development (HCD) reviewed the Housing Element and requested modifications for compliance with State law, as described below. Additionally, the Town has prepared zoning amendments to facilitate development of workforce housing on the Branson School campus, as envisioned in the Housing Element. This memo has been prepared to demonstrate that the modifications made to the Housing Element in response to HCD comments and adoption of related zoning amendments would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects, and further, that there are no changes in circumstance or new information that would change the findings of the previously certified EIR. This memo serves as an addendum to the 2023-31 Housing Element EIR.

**BACKGROUND**

Pursuant to the CEQA Section 15164, an addendum to a previously certified EIR may be prepared if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Accordingly, the primary purpose of this evaluation is to determine, on the basis of substantial evidence, if one or more of the following conditions are met:

- Substantial changes are proposed as part of the proposed update that would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes have occurred with respect to circumstances under which the proposed update is undertaken (i.e., a significant change in the existing or future condition) that would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and/or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

- The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project but the project proponents decline to adopt the mitigation measure or alternative; or
- Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

#### **MODIFICATIONS TO THE HOUSING ELEMENT AND RELATED ZONING AMENDMENTS**

Overall, the revisions made to the adopted Housing Element in response to HCD's comments principally involve clarifications and the incorporation of additional information to further substantiate the analysis on which the Element is based. Additional details attesting to property owner intent and the absence of development constraints for the 27 Ross Common site have been incorporated into the Element, along with samples of the computer-aided design (CAD) conducted on SB9 candidate parcels identified in the Element to further demonstrate that the existing structures on the sites would not be a barrier to development with SB9 housing and that adequate access would be available. Additional stakeholder interviews with affordable housing developers, service providers, and fair housing advocates were also conducted to solicit their feedback on the content of the Element, and summaries of those discussions have been incorporated.

Additionally, four new programs were added to Chapter 4 of the Housing Element to strengthen the Town's commitment to affirmatively furthering fair housing, including through actions that create the potential for a wider variety of housing types in Ross to expand housing opportunities for people of all ages, backgrounds, incomes, and abilities. Specifically, the new programs involve (a) promoting homeowner participation in a countywide initiative to disavow racially restrictive covenants; (b) adopting a congregational overlay and related development standards that would allow for the construction of affordable housing on church properties in Ross should the churches wish to pursue that option; (c) adopting a co-housing overlay and related development standards that would permit small clusters of private homes with shared common spaces and amenities on parcels over 1-acre in size; and (d) promoting participation by Ross homeowners in the Home Match Marin Home Sharing Program that pairs existing homeowners with renters in need of space by providing information via the website, Town newsletters, and public contact events, referring interested parties to Home Match Marin.

Finally, the Town has prepared zoning amendments and objective standards to facilitate the development of workforce housing on the Branson School campus, to implement Program 3-J of the adopted Housing Element. These zoning amendments permit the maximum number of accessory residences in the B Special Building District to be calculated on the basis of the total combined area of adjacent properties under single, unified ownership of an educational institution, rather than on a parcel-by-parcel basis. The amendments incorporate development and design standards to integrate faculty and staff housing into the campus area in a context sensitive manner. Standards govern building design, architecture, landscaping, parking, and outdoor common spaces and require that at least 25 percent of the units constructed would be for households earning less than 80 percent of the Marin County area median income (AMI) through long-term affordability agreements. An additional bonus of up to 25 percent of the number of units permitted would be available in exchange for a greater number of units affordable to lower income households. As required by Government Code section 65583.2(c), the zoning amendments would permit residential development consistent with the objective standards "by right" on four campus parcels (APNs 073-151-05; 073-082-01; 073-082-12; 073-141-03) that were also included in the Town's Fifth Cycle Housing Element sites inventory when at least 20 percent of the units proposed on those parcels would be affordable to low income households. Overall, the proposed zoning amendments and objective standards - including any bonus units available in exchange for a greater affordability commitment - would permit up to 10 new units on contiguous parcels under common ownership when faculty/staff housing is proposed, as envisioned in Program 3-J of the Housing Element.

## **ANALYSIS**

The proposed zoning amendments implement Program 3-J from the Housing Element, which seeks to facilitate construction of 10 new workforce housing units affordable to households making less than 80 percent of the Marin County AMI on the Branson School site by 2031. As described above, the zoning amendments would permit up to 10 new units of housing on the site and establish objective standards to integrate housing into the area in a context-sensitive manner. The amendments would not permit more units than analyzed in the Housing Element EIR, nor would they permit housing in different locations than previously analyzed. As such, the zoning amendments would not result in new or substantially more adverse impacts than identified in the EIR. The inclusion of "by right" provisions represent a process change, but would not result in any new or different physical changes that could adversely affect the environment. Similarly, the new information added to the Housing Element in response to HCD comments, including evidence of the viability of 27 Ross Common for redevelopment within the planning period, supporting analysis for SB9 candidate parcels, and summaries of discussions with affordable housing developers, service providers, and advocates constitutes minor technical changes and additions to the document which would not lead to physical changes that could adversely affect the environment. None of these modifications would increase the capacity of the housing sites inventory or result in development in different locations than previously analyzed.

With respect to the new programs added to the Housing Element in response to HCD comments:



- Under **Program 1-F**, the Town will promote participation of Ross homeowners in a Marin County initiative that lets residents disavow racially restrictive covenants that might exist in the deeds of their homes. The Town would promote participation at annually public contact events, in townwide newsletters, and by posting information on the Town website. Implementation of this program would involve outreach activities and text amendments to deeds but would not permit any new development or otherwise result in physical impacts that could have adverse effects on the environment.
- Under **Program 2-H**, the Town would adopt a co-housing zoning overlay and related objective standards to permit the development of co-housing communities on lots of 1-acre or more. This overlay would permit the clustering of residences on large sites already identified in the Housing Element without increasing the density permitted in base zoning. The EIR analyzed the potential environmental impacts that could result from housing development on those sites and incorporated mitigation measures to address them. Therefore, at a programmatic level, compliance with existing regulations and the applicable mitigation measures in the Housing Element EIR would ensure that there are no new or substantially more adverse impacts. Should co-housing development be proposed on any of those sites in the future after implementation of Program 2-H and if that development would have the potential for site-specific impacts not previously addressed in the Housing Element EIR, then project-level CEQA analysis may be required.
- Under **Program 3-O**, the Town would conduct outreach and public awareness activities to promote participation by Ross homeowners in the Home Match Marin Home Sharing Program that pairs existing homeowners with renters in need of space. These activities would not permit any new development or otherwise result in physical impacts that could have adverse effects on the environment.
- Under **Program 2-I**, the Town would adopt a zoning overlay that would provide churches in Ross the option to develop affordable housing on their properties and provide technical support to churches should they elect to pursue that option. The purpose of this program would be to expand the range of housing choices in Ross. There are two churches in Ross - St. Anselm Catholic Church and St John's Episcopal Church - and both currently have zoning that permits residential development. Implementation of this program would increase permitted density on the two church sites; however, while this represents an increase in the maximum theoretical development capacity in the planning area, the buildout projections in the EIR are based on a reasonably foreseeable estimate of the amount of development likely to occur during the planning period linked to regional growth projections. The buildout projections in the EIR do not guarantee that any particular site will be developed or redeveloped at the assumed density during the planning period; rather, they represent a cumulative estimate of the total amount of development needed to serve projected demand in Ross through 2031. Therefore, any potential future development on the two church sites would be within the reasonably foreseeable growth projections on which the EIR is based.

Therefore, overall, the modifications made to the Housing Element in response to HCD comments and adoption of related zoning amendments would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Further, in the short period of time - six months - that has elapsed since certification of the Housing Element EIR, there have been no new development projects in Ross, no new or revised local regulations, and

no new or revised State law that would substantially change the cumulative circumstances or the background information on which the previously certified EIR was based. As such, none of the conditions identified in CEQA section 1562 requiring the preparation of a subsequent or supplemental EIR have occurred and an addendum to the previously certified Housing Element EIR is appropriate.

# **ATTACHMENT 2**

# TOWN OF ROSS

## ORDINANCE NO. 724

### AN ORDINANCE OF THE TOWN OF ROSS AMENDING AND ADDING LANGUAGE TO CHAPTER 18.16, SINGLE FAMILY RESIDENCE (R-1) DISTRICT, AND CHAPTER 18.40, GENERAL REGULATIONS, OF THE TOWN OF ROSS MUNICIPAL CODE TO FACILITATE WORKFORCE HOUSING FOR STAFF AND FACULTY AT THE BRANSON SCHOOL TO IMPLEMENT THE 2023-2031, 6<sup>TH</sup> CYCLE HOUSING ELEMENT

The Town Council of the Town of Ross does ordain as follows:

**WHEREAS**, this Ordinance was previously introduced by the Ross Town Council at its meeting of December 14, 2023, but additional amendments to the Ordinance are being proposed, therefore, the Ordinance is being presented for reintroduction. The scope of the additional amendments to the Ordinance are to address the following:

- The height of new multi-family residences shall not exceed the height of the nearest structure within 250 linear feet of existing buildings on properties owned by the educational institution;
- Setbacks, minimum yard areas, for new multi-family residences shall be those found in the R-1 zoning section of the Town Code, or not be less than 90 percent of the existing setbacks of the nearest existing structure, whichever is less; and
- New multi-family residences shall be permitted up to 2 dedicated parking spaces per unit by right, a use permit would be required for more than 2 parking spaces; and

**WHEREAS**, the Town of Ross, California ("Town") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS** State law authorizes cities to adopt and administer zoning ordinances to implement General Plans and requires that zoning regulations be consistent with the General Plan; and

**WHEREAS**, the California Government Code requires General Plan Housing Elements to analyze the availability of land resources in the Town to accommodate the Town's share of the region's future housing needs and to identify zoning amendments needed to meet these needs; and

**WHEREAS**, Government Code Section 65583.2(c) provides that with respect to (a) non-vacant sites used in a prior housing element; and (b) vacant sites included in 2 or more consecutive planning periods ("re-use sites"); that weren't developed with housing and are being used to provide capacity to meet the City's lower-income RHNA they have to: 1) be zoned at the minimum density of 20 du/ac, or if the zoning does not allow for the minimum density, be rezoned to that density unless the City can show that the existing density can provided the requisite capacity; and 2) allow residential use by right for housing developments with at least 20% of the units affordable to lower income households; and

**WHEREAS**, four of the parcels that comprise the Branson Campus at 39 Fernhill Road (APNs 073-151-05; 073-082-01; 073-082-12, and 073-141-03) are included in the 6<sup>th</sup> Cycle Housing Element to provide capacity to meet the Town’s lower-income RHNA, are non-vacant, and were included in the Town’s 5th Cycle Housing Element inventory but were not developed with housing as envisioned; and

**WHEREAS**, the 6<sup>th</sup> Cycle Housing Element include Program 3-J – Workforce Housing at the Branson School, which provides that:

“Faced with the imminent retirement of several long-tenured teaching staff and the high cost of housing in Marin County which is a significant barrier to its staff recruitment efforts, the Branson School has expressed strong interest in developing new housing on its campus in the near-term. The Branson School has engaged an architect and begun preparation of a Campus Master Plan, which will guide the development of housing, academic buildings, social areas and a library onsite. The Master Plan will be completed in 2023 and a capital campaign is planned for 2024, with the goal of obtaining construction permits by the end of 2026. Through this program, the Town will work with the Branson School to facilitate production of new workforce housing on campus. Actions will include:

- Meet regularly with the property owner to help advance site planning and development applications;
- Work with the property owner to identify actions (such as lot line adjustments) to facilitate provision of affordable housing units onsite;
- By January 31, 2024, amend zoning permit procedures for compliance with Government Code Section 65583.2.c, allowing faculty and staff housing by right on APNs 073-151-05, 073-082-01, 073-082-12, and 073-141-03 when at least 20 percent of the proposed units would be affordable to lower income households;
- By January 31, 2024, amend zoning to permit up to 10 new units of workforce housing on the Branson campus and incorporate standards to integrate attached housing product types such as 5+ unit complexes typically affordable to lower income households and net densities of up to 20 du/ac when calculated on the portion of the site where it is constructed;
- Ensure provisions are made for replacement housing onsite in the event any existing units would be demolished, consistent with State law; and
- By mid-2028, evaluate progress toward completion, including affordability, within the planning period and if necessary, take action to identify alternative sites within 1 year.”

**WHEREAS**, the Town wants to ensure the new residential uses on the re-use sites on the Branson School campus reflect a mix of traditional and contemporary architecture, as described in the General Plan, the Town’s Design Guidelines, and the Branson campus master plan, as amended; and

**WHEREAS**, the Town desires to amend its zoning regulations to implement the General Plan Housing Element and the governing provisions of the California Government Code; and

**WHEREAS**, the Government Code specifically authorizes local agencies to impose objective zoning, subdivision, and design standards consistent with the Government Code's provisions, and to adopt an ordinance to implement its provisions; and

**WHEREAS**, the Town seeks to ensure that accessory residences for faculty and staff on the re-use sites on the Branson School campus are consistent with those standards; and

**WHEREAS**, on December 14, 2023, the Town Council conducted a duly noticed public hearing to consider amendments to the zoning ordinance for the purpose of amending its local regulatory requirements pertaining to accessory residences on the Branson School campus in a manner that complies with and is consistent with the General Plan Housing Element and the California Government Code; and

**WHEREAS**, on January 24, 2024, the Town Council conducted a duly noticed public hearing to consider additional amendments to the zoning ordinance for the purpose of amending its local regulatory requirements pertaining to accessory residences on the Branson School campus in a manner that complies with and is consistent with the General Plan Housing Element and the California Government Code; and

**WHEREAS**, following a duly noticed public hearing on May 31, 2023 the Town Council adopted Resolution No. 2309 making findings of fact, adopting the Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program, and certifying the Final Environmental Impact Report (State Clearinghouse # 2022110593) for the Housing Element Update and related amendments (FEIR) which included analysis of proposed zoning amendments which are the subject of this ordinance, no further environmental review under CEQA is required.

**NOW THEREFORE**, the Town Council of the Town of Ross does ordain as follows:

**SECTION 1.** FINDINGS. The above recitals are hereby declared to be true and correct findings of the Town Council of the Town of Ross. In addition, the Town Council hereby finds that the amendments to the Municipal Code taken by this ordinance were considered within the Environmental Impact Report (SCH #2022110593) (EIR) for the Housing Element Update project, certified by Council Resolution No. 2309, adopted May 31, 2023. No supplemental or subsequent EIR is required because none of the circumstances requiring a supplemental or subsequent EIR exist (CEQA Guidelines Section 15162):

(a) No substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The amendments to the zoning ordinance do not create any additional environmental impacts.

(b) No substantial changes have occurred with respect to the circumstances under which the project is undertaken. The EIR was certified in May 2023, and no substantial evidence has been submitted showing any change in the circumstances applicable to the project.

(c) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, has been submitted to the Town.

**SECTION 2. AMENDMENT.** Amendments to Chapter 18.16, Single Family Residence (R-1) District and Chapter 18.40, General Regulations are hereby added to the Town of Ross Municipal Code to read as set forth in **Exhibit A** to this Ordinance, which is hereby incorporated as though set forth in full herein. Deletions shown in ~~striketrough~~ and additions shown in underline). Ellipses (“...”) denote where text is not shown because no changes are proposed.

**SECTION 3. SEVERABILITY.** If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Town Council of the Town of Ross hereby declares that it would have adopted each article, section, and sentence thereof, irrespective of the fact that any one or more of said provision be declared unconstitutional or invalid.

**SECTION 4. PUBLICATION AND EFFECTIVE DATE.** The Town Clerk is directed to certify adoption of this ordinance and cause it to be published and posted in the manner required by law. This ordinance shall go into effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on the 24th day of January, 2024, and was adopted at a regular meeting of the Ross Town Council on the \_\_\_ day of \_\_\_\_\_, 2024 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Elizabeth Brekhus, Mayor

**ATTEST:**

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Cyndie Martel, Town Clerk

**Exhibit A: Amendments to Ross Municipal Code Title 18 (Zoning) for General Plan Housing Element Implementation**

**CHAPTER 18.16, SINGLE FAMILY RESIDENCE (R-1) DISTRICT:**

**18.16.030: Permitted uses:**

- A. Uses permitted without use permits are: (1) single family residences and accessory uses including residential second units considered ministerially without discretionary review, (2) accessory residences for school faculty and staff shall be permitted by right (including multi-unit structures at net densities typically affordable to households earning less than 80 percent of the countywide area median income located on parcels with APNs 073-151-05; 073-082-01; 073-082-12, and 073-141-03 at 39 Fernhill Avenue) when at least 20% of the units are affordable to “lower-income households” as defined by State law, (3) transitional housing, (4) supportive housing, (5) private garages, (6) greenhouses, (7) terraces, (8) arbors, (9) barbecue pits and shelters, (10) tool sheds, (11) swimming pools, (12) private stables (on sites of at least one acre), (13) tennis courts (daytime use), (14) screening walls, (15) fences, (16) driveways, (17) walkways, and (18) home occupations, subject to the requirements of Section 18.12.180. (Ord. 631 (part), 2012).
- B. Uses permitted but requiring use permits are: (1) public and private schools and accessory residences for school faculty and staff not located on parcels listed in subsection (A)(2), above, (2) parks, (3) churches and religious institutions, (4) nonprofit social and recreational clubs, (5) residential care facilities, (6) guesthouses and caretaker units, (7) home businesses, (8) public buildings, (9) private stables (on sites of less than one acre), and (10) 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-time and part-time public enrollment, together with the total enrollment of any affiliate school or coordinate program regularly using the same premises, exceeds four hundred twenty (420) students.

**18.16.040: Minimum Lot Requirements:**

...

(4) Where multiple adjacent lots are under the single ownership and unified control of an educational institution, the calculation of the maximum number of allowable accessory residences for faculty and staff shall be calculated based on the total amount of land in the B Special Building District designations applicable to the



educational institution, divided by the minimum acreage required in the B Special Building District.

To account for differences in standards applying to the B-20 and the B-A Districts, the following rules shall apply: when one or more of the lots is in B District including the B-20 district which requires less land per unit than in other lots on the site that are in a B-A district, the calculation shall assume that all lots are subject to the lot area requirement of the R-1:B-A; and

If there is an existing single family residence on any B-20 designated lot, only the increment above the amount required for that residence shall be used in determining the additional number of residences allowed on the site.

If the educational institution has prepared a master plan for the unified development of the lots that the institution owns and this master plan provides for affordable housing for faculty and staff who qualify as low income households at densities of up to 20 units per net acre on the portion of the campus reserved for this housing, the number of additional allowable units on the site, calculated according to subsections (1) and (2) above, shall be increased by 25 percent, provided that all of these additional units are subject to deed-restricted guarantees of continued affordability to low income households for a minimum of 55 years.

The guarantee of continued affordability for the portion of the new residences for faculty and staff housing that are designated for lower-income households shall be for a minimum of 55 years.

## CHAPTER 18.40, GENERAL REGULATIONS

### **Section 18.40.220, Objective design standards for accessory residences for faculty and staff**

The following objective design standards apply to new accessory residences for faculty and staff that are provided in multi-family buildings with two or more units. In addition to these standards, all provisions of the California Building Codes, the objective requirements of the Subdivision Map Act, and the requirements of this title shall apply to applications for accessory units for faculty and staff.

#### A. Building mass, orientation, scale, and articulation

The height of new multi-family residences shall not exceed that of the tallest existing buildings on properties owned by the educational institution within 250 linear feet of the proposed structures or the height for structures in the R-1 District as set forth in Section 18.16.060, whichever is greater.

Setbacks Minimum yard requirements, i.e., setbacks, for new multi-family residences shall be those found in the R-1 District of the Town Code, or not be less than 90 percent of the existing setbacks of the nearest existing structure, whichever is less.

New multi-family residences abutting the property line of an existing residential use shall be located in residential areas of the campus, consistent with the campus master plan ("the campus master plan"), and be setback and screened with fencing, walls, or landscaping, from adjacent residences on adjoining property. The fencing, walls, or landscaping shall be 4' in height in the front yard and 6' in height in the side and rear yards. New multi-family residences shall and be linked by pathways to other residences, educational buildings, and playing fields.

Secondary and accessory structures, such as garages, including recycling enclosures, and storage facilities shall be located to the side or rear of primary structures.

If the total building floor area in new buildings is more than 25 percent greater than adjacent residences, the design of new multi-family buildings shall use at least 2 of the following forms of architectural articulation to reduce perceived size as viewed from public streets: pitched roofs, wall offsets, setbacks, upper-story setbacks, balcony setbacks and/or changes in wall and roof planes.

#### B. Building materials and colors.

Building materials and colors shall be the same as those used on other buildings on the campus in terms of physical character, texture, patterns, materials, and colors listed in the campus master plan.

Buildings shall incorporate natural materials such as stucco, wood, and masonry. Colors shall be earthtones.

C. Landscaping

All landscaping shall comply with applicable fire prevention standards of the Ross Valley Fire Department.

A landscape documentation package shall be provided with a building permit application that complies with the standards of the "Model Water Efficient Landscape Ordinance" (MWELo) adopted by the California Department of Water Resources in Chapter 2.7 of Division 2 of Title 23 of the California Code of Regulations, which is hereby adopted by reference and shall apply the MWELo to all development of accessory residences with 500 square feet or more of landscape area. If the total landscaped area is 2,500 square feet or less, an applicant may use the prescriptive compliance option provided in Appendix D of the MWELo to streamline the review process. Under this option, turf shall not exceed 25 percent of the landscape area.

A minimum of 15 percent of the residential development site shall be landscaped, consisting of ground cover plant materials, shrubs, and trees.

- i. In order to conserve water, not more than 50 percent of the landscaped area may be turf.
- ii. One tree is required for every 1,000 square feet of lot area.
- iii. Waivers of these standards may be requested under Chapter 17.044.

Any plant that is not specifically prohibited by the Ross Valley Fire District may be selected for landscaping. Criteria for selection of plants shall include:

- i. Protection and preservation of native species and natural vegetation;
- ii. Fire-resistance;
- iii. Drought-tolerance;
- iv. Local climate suitability, disease and pest resistance; and

- v. Selection of trees based on size at maturity as appropriate for the planting area.

D. Outdoor living area

A minimum of 150 square feet of common and private outdoor living area shall be providing for each individual unit in a multi-family building of which at least half of the units shall have 36 square feet of private open space, which may be provided by balconies or decks.

- i. Balconies shall have a minimum horizontal dimension of 6 feet.
- ii. Decks shall have a minimum horizontal dimension of 10 feet.

Courtyards and other common open space and outdoor living areas shall have a minimum dimension of 20 feet.

The Planning Director may approve alternative compliance with this standard, without any private outdoor living area for individual units, provided 200 square feet of common outdoor living area is provided for each individual unit in a multi-family building.

Up to 10 percent of the required common outdoor living area may be in the form of indoor space for residents' use for recreational purposes, such as for yoga, dance, or workout space with gym equipment. This indoor space may be located anywhere on the Branson School campus provided it is accessible to residents of the multi-family units.

E. Parking:

No specific number of parking spaces for affordable multi-family units for faculty and staff shall be required. However, new affordable multi-family residences shall be permitted up to 2 dedicated parking spaces per unit by right. A use permit will be required for more than 2 parking spaces.

~~if the educational institution proposes parking a use permit shall be required for any parking that is proposed for individual units of multi-family buildings, and this~~

For all parking, the following standards shall apply:

EParking for residences shall be covered, meaning provided in a fully enclosed garage or alternatively, up to two uncovered parking spaces per residential unit are permitted provided that they are permeable pavers and landscaped as provided below. or a carport. Guest or shared parking spaces for residents' use also require approval of a use permit; these spaces may be uncovered.

A minimum of ten percent of the interior of any open surface parking area must shall be landscaped for screening purposes.

A perimeter landscaped area at least three feet wide shall be provided around surface parking areas.

Surface parking areas shall be separated from on-site buildings by walkways at least 4 feet wide.

One canopy tree shall be provided for each four parking stalls in a surface parking area.

Surface parking areas shall be screened from view of access driveways and adjacent public streets according to the following standards:

- i. Screening, consisting of walls, fences, plant materials, or berms, shall be at least 3 feet high; and
- ii. Walls may be brick, stone, stucco, or other similar materials and include a decorative cap or top finish.
- iii. Open fences may be wrought iron or similar material combined with plant material to form an opaque screen.
- iv. Plant materials must achieve a minimum height of two feet within 18 months of initial installation.

At least 10 percent of the parking spaces for faculty and staff use shall be designed to meet the standards for electric vehicle (EV) parking spaces established in the California Building Code.

Surface parking areas with 10 or more spaces shall be provided with a minimum of one-half foot-candle and a maximum of 3.0 foot-candles of lighting over the parking surface during the hours of use from one-half hour before dusk to one-half hour after dawn.

- v. Lighting fixtures shall be full-shielded.
- vi. Lighting design and location shall be coordinated with the campus landscape plan to ensure that vegetation growth will not impact the intended illumination.

F. Fences and screening: The following standards are in addition to the requirements of Section 18.40.080:

Wood fencing and metal fencing is allowed, including open wire fencing to accommodate planting. Use of chain-link or vinyl fencing is prohibited.

All exterior mechanical equipment, whether on the roof, on the side of a structure, or on the ground shall be screened from public view from the main access driveway and adjacent public streets.

Screening walls and enclosures shall be built with the same materials and finishes as in the main structure.

When screening with plants, evergreen types of vegetation shall be planted and maintained. Plant material sizes and types shall be selected and installed so that, at the time of building occupancy, such plants effectively screen their respective equipment.

Roof-mounted equipment screening shall be constructed as an encompassing monolithic unit or a series of architecturally similar screening units on large roofs, rather than as several individual screens (i.e., multiple equipment screens, or "hats," surrounding individual elements will not be permitted). The height of the screening element shall equal or exceed the height of the structure's tallest piece of installed equipment.

Ground-mounted equipment that faces the main access driveway or a public street shall be screened to a height of 12 inches above the equipment, unless such screening conflicts with utility access, in which case reasonable accommodation shall be allowed. For screen walls that are three feet high or lower, vegetative materials may be substituted for 50 percent of the screening device.

Wall-mounted equipment, including, without limitation, electrical meters, electrical distribution cabinets, service entry sections, and valves and cabinets that face a main access driveway or public street and are not recessed and/or separated from the driveway or street by intervening building(s) or walls or gates, shall be screened. Screening devices shall incorporate elements of the building design (e.g., shape, color, texture, and material). For screen walls that are three feet in height or lower, vegetative materials may be substituted for 50 percent of the screening device. This requirement does not apply to fire-related elements.

**Exhibit B: Amendments to Ross Municipal Code Title 18 (Zoning) for General Plan Housing Element Implementation**

**CHAPTER 18.16, SINGLE FAMILY RESIDENCE (R-1) DISTRICT:**

**18.16.030: Permitted uses:**

- A. Uses permitted without use permits are: (1) single family residences and accessory uses including residential second units considered ministerially without discretionary review, (2) accessory residences for school faculty and staff shall be permitted by right (including multi-unit structures at net densities typically affordable to households earning less than 80 percent of the countywide area median income located on parcels with APNs 073-151-05; 073-082-01; 073-082-12, and 073-141-03 at 39 Fernhill Avenue) when at least 20% of the units are affordable to “lower-income households” as defined by State law, (3) transitional housing, (4) supportive housing, (5) private garages, (6) greenhouses, (7) terraces, (8) arbors, (9) barbecue pits and shelters, (10) tool sheds, (11) swimming pools, (12) private stables (on sites of at least one acre), (13) tennis courts (daytime use), (14) screening walls, (15) fences, (16) driveways, (17) walkways, and (18) home occupations, subject to the requirements of Section 18.12.180. (Ord. 631 (part), 2012).
- B. Uses permitted but requiring use permits are: (1) public and private schools and accessory residences for school faculty and staff not located on parcels listed in subsection (A)(2), above, (2) parks, (3) churches and religious institutions, (4) nonprofit social and recreational clubs, (5) residential care facilities, (6) guesthouses and caretaker units, (7) home businesses, (8) public buildings, (9) private stables (on sites of less than one acre), and (10) 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-time and part-time public enrollment, together with the total enrollment of any affiliate school or coordinate program regularly using the same premises, exceeds four hundred twenty (420) students.

**18.16.040: Minimum Lot Requirements:**

...

(4) Where multiple adjacent lots are under the single ownership and unified control of an educational institution, the calculation of the maximum number of allowable accessory residences for faculty and staff shall be calculated based on the total amount of land in the B Special Building District designations applicable to the

educational institution, divided by the minimum acreage required in the B Special Building District.

To account for differences in standards applying to the B-20 and the B-A Districts, the following rules shall apply: when one or more of the lots is in B District including the B-20 district which requires less land per unit than in other lots on the site that are in a B-A district, the calculation shall assume that all lots are subject to the lot area requirement of the R-1:B-A; and

If there is an existing single family residence on any B-20 designated lot, only the increment above the amount required for that residence shall be used in determining the additional number of residences allowed on the site.

If the educational institution has prepared a master plan for the unified development of the lots that the institution owns and this master plan provides for affordable housing for faculty and staff who qualify as low income households at densities of up to 20 units per net acre on the portion of the campus reserved for this housing, the number of additional allowable units on the site, calculated according to subsections (1) and (2) above, shall be increased by 25 percent, provided that all of these additional units are subject to deed-restricted guarantees of continued affordability to low income households for a minimum of 55 years.

The guarantee of continued affordability for the portion of the new residences for faculty and staff housing that are designated for lower-income households shall be for a minimum of 55 years.



## CHAPTER 18.40, GENERAL REGULATIONS

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#### A. Building mass, orientation, scale, and articulation

The height of new multi-family residences shall not exceed that of the tallest existing buildings within 250 linear feet of the proposed structures or the height for structures in the R-1 District as set forth in Section 18.16.060, whichever is greater .

Minimum yard requirements, i.e. setbacks, for new multi-family residences shall be those found in the R-1 District of the Town Code, or not be less than 90 percent of the existing setbacks of the nearest existing structure, whichever is less.

New multi-family residences abutting the property line of an existing residential use shall be screened with fencing, walls, or landscaping, from adjacent residences on adjoining property. The fencing, walls, or landscaping shall be 4' in height in the front yard and 6' in height in the side and rear yards. New multi-family residences shall be linked by pathways to other residences, educational buildings, and playing fields.

Secondary and accessory structures, including recycling enclosures, and storage facilities shall be located to the side or rear of primary structures.

The design of new multi-family buildings shall use at least 2 of the following forms of architectural articulation to reduce perceived size as viewed from public streets: pitched roofs, wall offsets, setbacks, upper-story setbacks, balcony setbacks and/or changes in wall and roof planes.

#### B. Building materials and colors.

Building materials shall incorporate stucco, wood, and masonry. Colors shall be earthtones.

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# **ATTACHMENT 3**



BURKE, WILLIAMS &amp; SORENSEN, LLP

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January 19, 2024

**VIA E-MAIL AND U.S. MAIL**

Riley F. Hurd, III  
Ragghianti Freitas LLP  
1101 Fifth Avenue, Suite 100  
San Rafael, CA 94901  
[rhurd@rflawllp.com](mailto:rhurd@rflawllp.com)

Re: Town of Ross - Housing Element

Dear Riley,

As you know, on May 31, 2023 the Town Council adopted the Town of Ross 6<sup>th</sup> Cycle 2023-2031 Housing Element which was thereafter amended on December 14, 2023 (the "**Housing Element**"). The Housing Element includes four of the six contiguous parcels owned by your client, the Branson School, in the sites inventory specifically Marin County Assessor's Parcel Numbers 073-151-05, 073-082-01, 073-082-12, and 073-141-03 collectively referred to herein as the "**Re-Use Sites**" to provide capacity for 10 housing units affordable to lower income households.

The Re-Use Sites were also included in the Town's 5th Cycle Housing Element inventory but were not developed with housing as envisioned. Government Code Section 65583.2(c) requires that, with respect to the Re-Use Sites, the applicable zoning regulations must (i) provide a density that allows development of the units and (ii) allow residential use by right for housing developments with at least 20% of the units affordable to lower income households. On December 14, 2023 the Town Council introduced Ordinance No. 724 that amends and adds language to Chapter 18.16, Single Family Residence (R-1) District, and Chapter 18.40, General Regulations, of the Town of Ross Municipal Code (RMC) to facilitate Workforce Housing for Staff and Faculty at the Branson School to Implement the 2023-2031, 6<sup>th</sup> Cycle. Among other things, Ordinance 724 revised RMC Section 18.16.030 Permitted Uses to add the following:

"A...(2) accessory residences for school faculty and staff shall be permitted by right (including multi-unit structures at net densities typically affordable to households earning less than 80 percent of the countywide area median income located on parcels with APNs 073-151-05; 073-082-



Riley F. Hurd, III  
January 19, 2024  
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01; 073-082-12, and 073-141-03 at 39 Fernhill Avenue) when at least 20% of the units are affordable to "lower-income households" as defined by State law."

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 current Branson School site, 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. On March 3, 2020, a majority of the electorate of the Town 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.

Subsequent to the approval of Measure F and the resulting amendment to Ross Municipal Code Section 18.16.030 (b) the Town Council adopted Resolution No. 2233 and thereby approved a Use Permit (the "**Use Permit**") to authorize the increase in the total maximum allowed full-time and part-time enrollment at Branson from 320 to 420 students and imposing amended and restated conditions of approval.

This letter confirms that given the State's housing mandates and the requirements of Government Code Section 65583.2(c) with respect to housing units developed on the Re-Use Sites in accordance with Section 65583.2(c) the Use Permit shall not apply to the not to exceed 10 residential units on the Re-Use Sites that are required to be processed ministerially under Government Code Section 65583.2(c) and Ross Municipal Code Section 18.16.030 where 20% of the residential units are affordable to lower income households (the "**Exempt Units**").

All of the requirements of the Town's Municipal Code and any other regulations generally applicable to residential units shall apply to the Exempt Units in the same manner that the apply to other residential units in the Town.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP

A handwritten signature in blue ink, appearing to read "Ben Stock".

Benjamin L. Stock

BLS:vk





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January 19, 2024  
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I, Riley Hurd, III, represent that I am authorized to sign this letter on behalf of the Branson School, and that the Branson School further agrees to the inclusion of the Re-Use Sites in the Housing Element.

Riley Hurd, III

DocuSigned by:  
*Riley Hurd*  
72F08BD3CE0F4A2...

Dated: January 19, 2024