

To: Mayor and Ross Town Council
From: Elise Semonian, Senior Planner
Re: Branson School, Amendment to Watercourse Design Review and
Negative Declaration of Environmental Impact, File DR493
Date: June 7, 2007

I. Project Summary

Legal Owner: The Branson School
Location: 39 Fernhill Avenue
A.P. Numbers: 73-082-12 and 73-141-03
Zoning: R-1:B-A (Single Family Residence, One Acre Minimum Lot Size)
General Plan: Limited Quasi-Public/ Private Service
FIRM Designation: Zones A and C (areas of minimal flooding, creek is in area of 100 year flood)

II. Project Description

Amendment to the April 17, 2006 Town Council design review and tree removal approval to allow creek bank stabilization at the lower campus area. The project includes construction of 140 linear feet of shotcrete wall, finished to model nearby exposed bedrock, within guideline watercourse setbacks (25 feet recommended, 0 feet proposed.) The amendment is requested to permit diversion of water around the project area under the supervision of biologists, if necessary, and to approve a Mitigated Negative Declaration of Environmental Impact for the project.

III. Discussion

This project involves stabilization of two banks of Ross Creek on The Branson School site. The Council approved design review for the bank work in April 2006. The staff report and meeting minutes are attached. The stabilization of the bank adjacent to the gymnasium has already been completed. The second phase of the bank stabilization was originally thought to be categorically exempt from environmental review under the California Environmental Quality Act (CEQA) because it fell within a class of projects that generally do not have a significant effect on the environment. However, the project involves dewatering the creek at the construction site to divert water from the area during construction, which may involve relocating federally-listed endangered salmonids (steelhead). The dewatering may result in adverse environmental impacts and potential "take" of an endangered species. Therefore, environmental review is required.

The Town retained Prunuske Chatham, Inc. to prepare the Initial Study of Environmental Impacts for the project at the applicant's expense. The Initial Study identifies the potential impacts of the project and mitigation measures that Branson has agreed to perform to mitigate the impacts to a less than significant level.

Only one comment has been received on the project since the draft Negative Declaration of Environmental Impact was prepared. The California Department of Fish and Game has indicated that they may require a Streambed Alteration Agreement. Staff has

included a condition of approval that requires Branson to obtain all necessary Federal, State and local permits prior to issuance of the building permit.

IV. Recommendation, Findings, & Conditions

Based on the documents attached, staff believes that the project will not have a significant effect on the environment and recommends that Council adopt a Mitigated Negative Declaration of Environmental Impact for the project.

Findings:

1. This project, as conditioned, is consistent with the Town of Ross General Plan and Zoning Ordinance.
2. The Town Council has independently reviewed and analyzed the Initial Study and Proposed Mitigated Negative Declaration for the proposed project and finds that the Initial Study and Proposed Mitigated Negative Declaration reflect the independent judgment of the Town of Ross. Council approves the Mitigated Negative Declaration of Environmental Impact.

Conditions

1. Mitigation measures shall be implemented as stated in the mitigated negative declaration.
2. The applicant is responsible for obtaining all appropriate Federal, State and local permits prior to issuance of a building permit, including a Streambed Alteration Agreement from the Department of Fish & Game, permit from the U.S. Army Corps of Engineers and the Regional Water Quality Control Board. The applicant shall comply with any additional requirements of the agencies.
3. Prior to the issuance of a building permit, the applicant shall submit a final drainage plan for the review and approval of the Director of Public Works.
4. A construction and traffic management plan shall be submitted for the review and approval of the Director of Public Works prior to the issuance of a building permit.
5. No tree removal shall be permitted until a building permit for project construction has been issued by the Town of Ross.
6. The applicants shall pay required Town fees of \$3 for every cubic yard of off-haul resulting from this project. Final off-haul amounts shall be calculated by the project civil engineer with calculations submitted to the Director of Public Works prior to the issuance of a building permit.
7. 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. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
8. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. 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.
9. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.

10. Failure to secure required building permits and/or begin construction by June 14, 2008 will cause the approval to lapse without further notice.
11. 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.
12. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
13. 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.