

To: Mayor and Ross Town Council
From: Town Staff
Re: DeRuff Appeal of Construction Completion Penalty, 3 Southwood, A.P. No. 73-152-09
Date: October 2, 2009

I. Project Summary

Town Council consideration of the appeal of David DeRuff, 3 Southwood Avenue, A.P. No. 73-152-09, of the penalty for failure to complete construction under Ross Municipal Code Section 15.50, Time Limits for Completion of Construction and of Resolution No. 1674 acting on the appeal. (Jarjoura, 20 minutes)

II. Discussion

Ross Municipal Code Section 15.50.090(a)(1) allows a property owner to appeal the imposition of construction completion penalties to the Town Council under limited circumstances. The ordinance permits owners and their representatives to appeal when they are unable to comply with the construction time limit for reasons beyond their control “such as labor stoppages; acts of war or terrorism; and natural disasters.”

The code specifically excludes from the grounds for appeal “delays caused by the winter-rainy season; the use of custom and/or imported materials; the use of highly specialized subcontractors; significant, numerous, or late design changes; access difficulties associated with the site; failure of materials suppliers to provide such materials in a timely manner; or by delays associated with project financing.”

The construction completion ordinance is intended to encourage applicants to complete projects in an organized and timely fashion, so that projects are well-designed and thought out prior to construction; sites are not in a construction zone for years; and the duration of construction noise, parking, and traffic impacts are minimized.

Memos from both the planning and building department are attached. Senior Planner Elise Semonian’s memo specifically challenges the appellants arguments regarding planning department project delays. The memo from Building Inspector Bob Haggett shows the history of inspections for the site. According to Mr. Haggett, the large gaps in inspections characterize a project that was not well-managed with inordinately large time gaps between inspections.

Building Official Mel Jarjoura is off on vacation till Monday, however, he will be available at the Council meeting to answer questions on the construction of this project and the appeal related to the construction/building permit.

III. Recommendation

Staff recommends that the Town Council consider this appeal and make an intended decision. The Council action will be memorialized in November in Resolution No. 1674.