



Staff Report

Date: December 14, 2017
To: Mayor Robbins and Council Members
From: Heidi Scoble, Planning Manager
Subject: Lagunitas Country Club Use Permit Amendment, 205 Lagunitas Road
File No. 2017-041

Recommendation

Council approval of Resolution 2035 approving a Use Permit Amendment to reduce the Lagunitas Country Club's (LCC) 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.

Project Summary

Owner: Lagunitas Country Club
Location: 205 Lagunitas Road
A.P. Number: 73-211-40; 73-221-01
Zoning: R-1:B-A (Single Family Residence, 1 acre minimum lot size)
General Plan: RC (Limited Specialized Recreational/Cultural)
Flood Zone: Zone X (area outside the 1-percent annual chance floodplain)

Background and Discussion

On February 9, 2017, the Council adopted Resolution 1984 for the following actions:

1. Adopted a Negative Declaration;
2. Amended the existing Use Permit to allow 9 indoor amplified music events (doors and windows must remain closed during the events) and to retain the existing three outdoor non-amplified music events. All the events are required to end not later than 10:45PM.
3. Amended the existing Use Permit to require that all indoor and outdoor events need to 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 March 16, 2017, Morgan, Lewis, and Bockius LLP on behalf of resident Thom Weisel, filed a petition with the Marin County Superior Court against the Town of Ross and Town Council alleging the Use Permit for the Club violated the California Environmental Quality Act.

Since the filing of the petition, the Town's Attorney, Counsel representing the LCC, and Weisel's Counsel have reached a tentative agreement that would require the Use Permit to be amended to reduce the previously approved indoor amplified music events from nine events to six events, as well as to require a biannual review that would commence after the February 2019 annual review. According, the following conditions are proposed to be amended:

- 1c. Member events shall be permitted to have live indoor amplified music. The maximum number of live indoor amplified music events shall be ~~9~~ 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.
- 1m. 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. ~~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.~~

All other conditions associated with the February 2017 Council approved Use Permit amendment shall remain unchanged as shown in the attached Council Resolution 2035.

Neighbor comments

Public Notices were mailed to property owners within 300 feet of the project site. No comments have been received by the Town as of the writing of the Staff Report.

Fiscal, resource and timeline impacts

Regarding the Use Permit amendments, the LCC is responsible for covering the cost of the amendment. If the Use Permit amendment is approved, 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.

Regarding the Petition filed against the Town, per the "Hold Harmless" provisions in condition of approval 2 of Town Council Resolution 1984, the LCC is responsible for paying all attorneys fees and litigation costs incurred by the Town.

Alternative actions

1. Continue the amendment for modifications or additional information; or
2. Make findings to deny the amendment.

Attachments

1. Resolution 2035
2. Resolution 1984
3. Town Council Minutes from January 12, 2017 and February 9, 2017

ATTACHMENT 1

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 December 14, 2017, 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 14th day of December 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Elizabeth Robbins, 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 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 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 9th 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

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 Brekhus; 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 Brekhus 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

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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.

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)