



9 November 2021

Hello David,

As you know, Town staff met recently to discuss the project review, including the additional transportation information you have provided. In order to support a determination for a Class 14 categorical exemption to CEQA, as suggested by Branson, Town staff will require certain revisions to the TDM Plan to ensure that no significant effects on the environment would occur as a result of Branson's proposed increase in enrollment. Accordingly, we request that Branson submit a revised TDM Plan which incorporates all of the recommended revisions requested by the Town, which Branson indicated in its response of October 18, 2021, that it would implement and/or include. The Town also provides the following clarifications that need to be included in the revised TDMP:

- We support Branson's proposed semi-annual meetings with the Neighborhood Partnership Group, and recommend that those meetings be held after receipt of the Fall Monitoring Report and Spring Monitoring Report, as defined below. This would allow Branson the opportunity to share and discuss with its partners current results of the semi-annual vehicle trip monitoring and the efficacy of its TDMP measures.
- With respect to the Town's recommendation to reform employee parking pricing, we have read Branson's response and accept its decision not to implement such a reform; Branson may, of course, choose at some time in the future to implement such a measure.
- Regarding the Special Events – Parking & Transportation Plan ("Special Events Plan"), we believe this is a good first step, but believe greater specificity is needed to identify exactly when it would be put into place and implemented. We assume that at the beginning of the academic year that Branson knows when it will be holding graduation, admissions open house events, parents' day and likely the same can be said for certain performances and/or sporting events. Thus the Town's expectation is that those events will be specifically identified as being held subject to implementation of the Special Events Plan. We appreciate that "large sporting events" are less predictable to a certain degree, perhaps with the exception of certain "rivalry" games. Accordingly, the Town would also like to see a process included in the TDMP for Branson to provide the Town, at the beginning of each academic calendar year, a list of the day, time and anticipated length of planned Special Events at which it will implement the Special Events Plan. Further, this list will need to be updated throughout the academic year and provided to the Town every month thereafter during the academic calendar year in order to reflect any additional Special Events that have been identified by Branson, such as playoff games. Additionally, this list of planned Special Events should be shared with the community.
- With respect to the third party consultant hired to collect vehicle trip data, we want to be clear that the Town will need to approve the consultant engaged by Branson to collect the data, as well as review and approve the vehicle trip monitoring protocol or methodology to be implemented. Further, the consultant shall be required to distribute the monitoring data collected for the applicable Monitoring Period and its analysis of whether the average daily or Saturday vehicle trip cap has been exceeded in the form of a report ("Monitoring Report") to Branson and the Town



- simultaneously; in no event shall either the consultant or Branson claim any such data or Monitoring Report is confidential, privileged or constitutes a trade secret.
- The daily (Monday-Friday) vehicle trip cap will be the average of 860 trips generated; in the analysis of average daily trips, the days with the highest and lowest trips observed shall be discarded. The Saturday vehicle trip cap, however, will be the average of 346 trips generated, plus 5%, or an average of 363 trips generated on Saturdays.
 - With respect to on-going monitoring of vehicle trips to ensure the project does not exceed the average daily or Saturday vehicle trip cap noted above, the Town will require that monitoring be conducted for a continuous two (2) week period, while all classes at Branson are in session and there are no intervening holidays or reductions in the normal length of the academic day, twice during the academic calendar year in the months of September-October ("Fall Monitoring Period") and March-April ("Spring Monitoring Period"). The Fall Monitoring Period and Spring Monitoring Period shall each constitute a "Monitoring Period".
 - Monitoring shall be conducted on an annual basis for the first ten (10) full academic calendar years following approval of the project by the Town Council. If there has been no violation of the average daily or Saturday vehicle trip cap, as measured in a Monitoring Report for a Monitoring Period, within those first ten (10) full academic calendar years, then the monitoring may be reduced to every other academic calendar year. If a violation of either the average daily or Saturday vehicle trip cap has occurred within the first ten (10) full academic calendar years, as measured in a Monitoring Report for a Monitoring Period, then monitoring shall continue on an annual basis until such time that no violation of either the average daily or Saturday vehicle trip cap has occurred for a continuous period of ten (10) full academic calendar years, as measured in a Monitoring Report for a Monitoring Period. At such time that no violation of either the average daily or Saturday vehicle trip cap has occurred for a continuous period of ten (10) full academic calendar years, as measured in a Monitoring Report for a Monitoring Period, the monitoring may then be reduced to every other year. Monitoring shall continue, either annually or bi-annually as appropriate in compliance with this condition, as long as Branson or any successor or assignee operates an educational use on all or any portion of the premises in reliance on any permit granted by the Town.
 - The TDMP must include, and the project conditions of approval will include, the following enforcement mechanisms if either the average daily or Saturday vehicle trip cap is exceeded, as measured in a Monitoring Report for a Monitoring Period:
 - Any Monitoring Report regarding a Monitoring Period that shows that either the average daily or Saturday vehicle trip cap has been exceeded shall, upon delivery to and receipt by Branson of the Monitoring Report, constitute (i) a determination by the Town that Branson has violated the terms and conditions of its use permit in contravention of Section 18.44.040 of the Town Code, (ii) a determination by the Town that a nuisance exists on the Branson campus in violation of Section 18.64.040 the Town Code, and (iii) written notice to Branson from the Town, in conformance with Section 9.04.150 of the Town Code, of the existence of the nuisance and a demand that the nuisance be abated in accordance with the TDMP ("TDMP Nuisance Abatement Notice").



- Upon receipt of a TDMP Nuisance Abatement Notice in connection with a Monitoring Period, Branson shall undertake such measures consistent with the TDMP to achieve a reduction of vehicle trips to a level at or below the applicable average daily or Saturday vehicle trip cap, as measured in the TDMP Nuisance Abatement Monitoring Period Report for the Nuisance Abatement Monitoring Period, as defined herein, and, if necessary, all subsequent TDMP Nuisance Abatement Monitoring Period Reports for a Nuisance Abatement Monitoring Period until the violation is abated.
- As used herein, a "TDMP Nuisance Abatement Monitoring Period Report" shall mean a monitoring report for the period of time commencing no later than thirty (30) calendar days following the date of Branson's receipt of a TDMP Nuisance Abatement Notice and the last day of the month of the next following Monitoring Period (i.e. either October 31 or April 30) (the "Nuisance Abatement Monitoring Period"), during which Branson shall cause a third party consultant to install monitoring equipment to collect daily (Monday-Friday) and Saturday vehicle trip data, excluding periods of the year that school is not in session (e.g. summer break, spring break, winter break, holidays, etc.), and the analysis of whether the average daily or Saturday trip cap has been exceeded shall be based on all of the vehicle trip data collected during the Nuisance Abatement Monitoring Period.
- If a TDMP Nuisance Abatement Notice is not abated through a reduction of vehicle trips to a level at or below the applicable average daily or Saturday vehicle trip cap, as measured in a TDMP Nuisance Abatement Monitoring Period Report for a Nuisance Abatement Monitoring Period, then the allowable enrollment in the next following academic year shall be decreased by up to 25 students. The Town, in its sole discretion, may limit an enrollment decrease to fewer than 25 students if it is demonstrated by Branson, to the satisfaction of the Town, that it can achieve a reduction of vehicle trips to a level at or below the applicable average daily or Saturday vehicle trip cap with a smaller decrease in enrollment. Until such time as a TDMP Nuisance Abatement Notice is abated through a reduction of vehicle trips to a level at or below the applicable average daily or Saturday vehicle trip cap, as measured in a TDMP Nuisance Abatement Monitoring Period Report for a Nuisance Abatement Monitoring Period, the allowable enrollment in subsequent academic years shall be decreased by up to an additional 25 students, or until enrollment is reduced to the currently permitted level of 320 students. Thus, enrollment reduction is cumulative; even after student enrollment has been decreased due to non-compliance with the average daily or Saturday vehicle trip cap, an additional reduction in enrollment can be required if compliance with the applicable vehicle trip cap is not achieved, as measured in a TDMP Nuisance Abatement Monitoring Period Report for a Nuisance Abatement Monitoring Period. Thus, student enrollment could keep declining each year down to 320 students if Branson does not comply with the average daily or Saturday vehicle trip cap over an extended period of time, as measured in a TDMP Nuisance Abatement Monitoring Period Report for a Nuisance Abatement Monitoring Period.
- Once compliance with the applicable vehicle trip cap is achieved, as measured in a TDMP Nuisance Abatement Monitoring Period Report for a Nuisance Abatement Monitoring Period, monitoring shall return to preparation of a Monitoring Report for a Monitoring Period and the enrollment for the following academic year may be increased by 25 students, and by 25 students for each academic year thereafter, until such time as the enrollment cap of 420



- students is reached, subject to continued compliance with the average daily and Saturday vehicle trip cap, as measured in a Monitoring Report for a Monitoring Period.
- In addition to the reduction in student enrollment as outlined above, if a TDMP Nuisance Abatement Notice is not abated through a reduction of vehicle trips to a level at or below the applicable average daily or Saturday vehicle trip cap, as measured in a TDMP Nuisance Abatement Monitoring Period Report for a Nuisance Abatement Monitoring Period, then within thirty (30) calendar days of receipt of the TDMP Nuisance Abatement Monitoring Period Report for the Nuisance Abatement Monitoring Period, Branson shall pay the Town one thousand and 00/100 dollars (\$1,000.00) for each day during the Nuisance Abatement Monitoring Period that the daily or Saturday vehicle trips, as reflected in the data in the TDMP Nuisance Abatement Monitoring Period Report, exceed the average daily or Saturday trip cap rate as an administrative penalty in accordance with Section 9.04.155 (a) of the Town Code. The aforementioned administrative penalty may not exceed one hundred thousand and 00/100 dollars (\$100,000.00) pursuant to Section 9.04.155 (a) of the Town Code.
 - If Branson timely pays the administrative penalty to the Town, then Branson may, within thirty (30) calendar days of payment of the administrative penalty to the Town, file a written request with the Town Clerk seeking reconsideration of the amount of the penalty by the Town Council. Any such request for reconsideration of the amount of the penalty submitted by Branson shall be accompanied by a written explanation outlining factors, consistent with Section 9.04.155 (b) of the Town Code, justifying the requested penalty reduction and payment by Branson of the then applicable appeal fee for the item to be heard by Town Council. Timely payment of the administrative penalty by Branson to the Town, as well as timely submission of a request for reconsideration by Branson, accompanied by its written explanation and justification for reconsideration, and payment of the applicable appeal fee with the Town Clerk are jurisdictional requirements for reconsideration of the administrative penalty by the Town Council.
 - Upon receipt of a request for reconsideration submitted in compliance with the requirements outlined above, the Town Clerk shall schedule the matter for consideration by the Town Council, no sooner than thirty (30) calendar days after receipt of the request, at the next available regular meeting of the Town Council.
 - If a TDMP Nuisance Abatement Notice continues unabated through a reduction of vehicle trips to a level at or below the applicable average daily or Saturday vehicle trip cap, as measured in a TDMP Nuisance Abatement Monitoring Period Report for a Nuisance Abatement Monitoring Period, Branson shall pay the Town one thousand and 00/100 dollars (\$1,000.00) for each day during the Nuisance Abatement Monitoring Period that the daily or Saturday vehicle trips, as reflected in the data in the TDMP Nuisance Abatement Monitoring Period Report, exceed the average daily or Saturday trip cap rate as an administrative penalty in accordance with Section 9.04.155 (a) of the Town Code, for each such continuing violation, subject to the right of Branson to seek reconsideration of the penalty by the Town Council as set forth above.



Please revise the TDMP to reflect the items above and the items the school has agreed to in the TOR Responses document (attached). Please provide a clean revised version of the TDMP with an updated date and a redline showing the changes/revisions.

Finally, please note that Town staff continue to evaluate Branson's suggested revisions to existing conditions 11 and 12 related to the use of athletic facilities. As with the TDMP, Town staff need to ensure use of these facilities will not result in significant effects on the environment as a result of the requested increase in enrollment.

Please let us know if you have any questions.

Thank you,

A handwritten signature in blue ink, appearing to read "P. Streeter", with a long horizontal flourish extending to the right.

Patrick N. Streeter, AICP
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