

**RESOLUTION NO. 2944-12**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
APPROVING A REVISION TO THE CONDITIONS OF APPROVAL FOR  
PARCEL MAP 05-27, 9750 BROOKS ROAD SOUTH, TO MODIFY CONDITION  
NO. 21**

**WHEREAS**, the Remsen project is comprised of two residential lots, one of which has an existing single family home, with the second lot yet to be developed; and

**WHEREAS**, on August 28, 2007, the Planning Commission adopted Resolution No. 521-07, adopting a Mitigated Negative Declaration and Resolution No. 522-07 approving a Tentative Map; and

**WHEREAS**, on March 4, 2009, the Town Council adopted Resolution 2436-09, which approved a Subdivision Improvement Agreement with a three year term for Parcel Map 05-27; and

**WHEREAS**, subsequently the Town granted a three year extension which expires on March 21, 2015; and

**WHEREAS**, a Mitigated Negative Declaration was approved for the project, the proposed modification does not include any new potential environmental impacts, so no additional environmental review is required; and

**WHEREAS**, the public hearing was noticed prior to the Town Council hearing in a manner required by law; and

**WHEREAS**, on February 17, 2012, the Town received a letter from the subdivider requesting the elimination of Condition No. 21 from the conditions of approval for Parcel Map 05-27, due to the financial burden it places on the project; and

**WHEREAS**, Condition No. 21, states that all existing overhead utilities (of 26,000 volts or less) and proposed utilities, both on-site and along project frontages contiguous to the site, shall be placed underground. This does not include surface mounted transformers, pedestal mounted terminal boxes and meter cabinets; and

**WHEREAS**, staff prepared an estimate of costs to underground the existing overhead utilities totaling \$90,942; and

**WHEREAS**, the cost of undergrounding the existing overhead utilities exceeds the selling price of the newly created lot and is therefore, in staff's opinion, a financial hardship on the property; and

**WHEREAS**, undergrounding of the existing overhead utilities would require removal of the existing mature redwoods trees and landscaping along the frontage of the developed parcel; and

**WHEREAS**, Coastland Civil Engineering recently prepared a utility undergrounding report for the Town which recommended that for in-fill residential lots, including parcel splits that are being built within developed areas, any overhead utilities fronting the lot will not be required to be placed underground; and

**WHEREAS**, all existing and proposed utility service extensions that are brought onto the site will need to be placed underground with overhead drops not being allowed; and

**WHEREAS**, Title XVI, Chapter 2, Section 16-2-290 of the Town's Municipal Code states that the Town Manager, or his/her designee, may recommend that the Town Council authorize conditional exceptions to the requirements set forth in that chapter; and

**WHEREAS**, granting modification to Condition No. 21 will not be detrimental to the public welfare or injurious to other property in the territory of said property in that, among other things, the overhead power lines already exist and have been in place for a number of years; and

**WHEREAS**, considering the current economic conditions and that the cost of undergrounding the existing overhead utilities and removing the existing landscape will exceed the sale price of the developable parcel, staff is recommending that the Town Council adopt a resolution approving a revision to the Conditions of Approval for Parcel Map 05-27 to modify Condition No. 21 to eliminate the requirement to underground the existing overhead utilities. However, all existing and proposed utility service extensions that are brought onto the site would still need to be placed underground with overhead drops not being allowed.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council hereby approves a revision to the Conditions of Approval for Parcel Map 05-27, to modify Condition No. 21 to eliminate the requirement to underground the existing overhead utilities. However, all existing and proposed utility service extensions that are brought onto the site would still need to be placed underground with overhead drops not being allowed.

**BE IT FURTHER RESOLVED** that the condition of approval of Resolution No. 522-07, with the exception of those modified above, shall remain in effect.

**PASSED, APPROVED AND ADOPTED** this 1<sup>st</sup> day of August 2012, by the following vote:

**AYES: COUNCILMEMBERS ALLEN, GOBLE, SALMON, SCHOLAR AND  
MAYOR FUDGE**

**NOES: NONE**

**ABSTAIN: NONE**

**ABSENT: NONE**

  
**DEBORA FUDGE, MAYOR**

**ATTEST:**

  
**MARIA DE LA O, TOWN CLERK**