

**ORDINANCE NO. 2014-285**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
CANCELLING THE DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF  
WINDSOR AND WINDSOR MILL HOMES, LLC  
(FILE NO. GPA/ZC/DA/UP/MJS 04-10)**

**WHEREAS**, in December 2005, the Town Council of the Town of Windsor adopted a Mitigated Negative Declaration and approved a General Plan Amendment, Zone Change, Use Permit, Design Review, and Tentative Map for a residential and live/work project known as Windsor Mill ("Project"); and

**WHEREAS**, in January 2006, the Town Council adopted Ordinance 2005-203 approving a Development Agreement with Cal-WAii Moulding Company (dba Windsor Mill) for the Project; and

**WHEREAS**, the Town Council entered into a Development Agreement in accordance with the provisions of Title XVI, Chapter 1 of the Town of Windsor Code and applicable State law for the Project; and

**WHEREAS**, the Development Agreement was recorded on July 20, 2006 as Instrument No. 2006090228 in the Official Records of Sonoma County; and

**WHEREAS**, pursuant to an Assignment and Assumption Agreement between Cal-WAii Moulding Company (dba Windsor Mill) and Windsor Mill Homes, LLC ("Developer), recorded on July 20, 2006 as Instrument No. 2006090229 in the Official Records of Sonoma County, Developer assumed all rights and obligations under the Development Agreement; and

**WHEREAS**, the Development Agreement was amended pursuant to an Amendment recorded on October 8, 2009 as Instrument No. 2009097313 in the Official Records of Sonoma County; and

**WHEREAS**, the Development Agreement, Amendment, and Assignment and Assumption Agreement are incorporated by reference herein; and

**WHEREAS**, the Project includes the site addresses of 8629, 8709, 8711, 8713, 8716, and 8777 Bell Road; 8955 Conde Lane; 366 Johnson Street; and 8820 Larsen Way; and the Sonoma County Assessor's Parcel Numbers of 066-170-011, and 013; 164-010-020; 164-020-005, 006, 007, 008, 009, and 010; and

**WHEREAS**, at a Town Council meeting on April 4, 2012, the Developer requested termination of the Development Agreement; and

**WHEREAS**, in May, June and August 2012 the Town Council held workshops to consider a redesign of the Project with increased housing density and Project design more consistent with the goals and policies of the Windsor Station Area Plan/Downtown Specific Plan; and

**WHEREAS**, at a Town Council meeting on August 15, 2012, the Town Council directed staff to initiate the process to cancel the Development Agreement; and

**WHEREAS**, on March 17, 2014, Town staff provided written Notice of Intent to Cancel the Windsor Mill Development Agreement to the Developer and property owner; and

**WHEREAS**, pursuant to Title XVI, Chapter 1 of the Town of Windsor Code and applicable State law, the Planning Commission of the Town of Windsor conducted a duly noticed hearing on April 22, 2014 on the proposed cancellation of the Development Agreement, at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, the Planning Commission adopted Resolution No 614-14, recommending cancellation of the Windsor Mill Development Agreement, to the Town Council; and

**WHEREAS**, on May 21, 2014, the Town Council conducted a duly noticed public hearing on the proposed cancellation of the Windsor Mill Development Agreement, at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, the Town Council has considered all written and oral testimony submitted at the public hearing.

**NOW, THEREFORE**, the Town Council of the Town of Windsor does ordain as follows:

**SECTION 1. Recitals.** The above recitals are true and correct and adopted as findings.

**SECTION 2. Findings.**

The Town Council approves the Planning Commission's recommendation and determines with respect to the Development Agreement that:

- a. The Developer requested cancellation of the Development Agreement.
- b. The Town Council supported the request and directed staff to process cancellation of the Development Agreement.
- c. The Developer has demonstrated a desire to develop a redesigned project consistent with the housing density and design goals and policies of the Windsor Station Area/Downtown Specific Plan.
- d. All noticing and public hearings have been completed in compliance with the Town of Windsor Code and applicable State law.
- e. The Development Agreement is hereby cancelled, and all rights of the Developer under the Development Agreement are hereby terminated.
- f. Termination of the Development Agreement shall not prevent Developer from constructing or completing improvements authorized pursuant to other validly issued permits, approvals or entitlements, provided that the Town of Windsor may take any action permitted by law to prevent, stop or correct any violation of law occurring after cancellation of the Development Agreement.
- g. Any future development of the Project site will require compliance with the development standards and process requirements in place at the time of submittal.

**SECTION 3. Severability.**

If any section, subsection, sentence, clause or phrase or word in this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions may be declared unconstitutional, unlawful or otherwise invalid.

**SECTION 5. Effective Date and Publication.**


This Ordinance shall take effect and be in force 30 days following its passage. Before the expiration of fifteen (15) days after its passage, this Ordinance, or a summary thereof, as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulations published and circulated in the Town of Windsor.

**PASSED, APPROVED AND ADOPTED, this 4<sup>th</sup> day of June 2014, by the following vote:**

**AYES: COUNCILMEMBERS ALLEN, FUDGE, GOBLE, SALMON AND  
MAYOR OKREPKIE**  
**NOES: NONE**  
**ABSTAIN: NONE**  
**ABSENT: NONE**

  
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**BRUCE OKREPKIE, MAYOR**

**ATTEST:**

  
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**IRENE CAMACHO-WERBY,  
DEPUTY TOWN CLERK**

