

RESOLUTION NO. 3278-16

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
SUPERSEDING CERTAIN CONDITIONS OF APPROVAL OF RESOLUTION NO.
2866-11, RESOLUTION NO. 3050-14 AND RESOLUTION NO. 3130-14, FOR THE BELL
VILLAGE PROJECT, FILE NO. GPA/ZC/UP/MJS 09-17;
AUTHORIZING THE TOWN MANAGER TO EXECUTE A MAINTENANCE
AGREEMENT, AN IN-LIEU FEE AGREEMENT, A SUBDIVISION IMPROVEMENT
AGREEMENT AND MANAGEMENT DOCUMENTS DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BELL
VILLAGE COMMERCIAL CENTER ON BEHALF OF THE TOWN; APPROVING
THE FINAL MAP FOR THE BELL VILLAGE COMMERCIAL CENTER, MJS 09-17,
PHASE 1; ACCEPTING CERTAIN OFFERS OF DEDICATION AND MAKING
FINDINGS IN ACCORDANCE WITH THE SUBDIVISION MAP ACT**

WHEREAS, by Resolution No. 2862-11, herein incorporated by reference, the Town Council of the Town of Windsor adopted a Mitigated Negative Declaration (“MND”) for the Bell Village project (“Project”) on December 7, 2011. The property is located at 9290 Old Redwood Hwy., Windsor (APN 161-070-036); and

WHEREAS, by Resolution No. 2867-11, herein incorporated by reference, the Town Council approved the Tentative Map and by Resolution No. 2866-11, herein incorporated by reference, the Town Council approved the related Use Permit, including Final Site Plan and Design Review, and Variance requests for the Project on December 7, 2011; and

WHEREAS, by Resolution No. 3050-14, herein incorporated by reference, the Town Council amended certain Conditions of Approval of the Tentative Map and Use Permit on January 15, 2014; and

WHEREAS, by Resolution No. 3116-14 and Resolution No. 3117-14, herein incorporated by reference, the Town Council amended certain Conditions of Approval of the Use Permit and Tentative Map on August 6, 2014; and

WHEREAS, by Resolution No. 3130-14, herein incorporated by reference, the Town Council superseded Resolution 3117-14 and amended certain Conditions of Approval of the Tentative Map on September 17, 2014; and

WHEREAS, the Developer submitted the Bell Village Commercial Center, MJS 09-17, Phase 1 final map for Town Council approval; and

WHEREAS, Town staff identified modifications needed to maintain internal consistency with certain Conditions of Approval in Resolution No. 2866-11, Resolution No. 3050-14 and Resolution No. 3130-14; and

WHEREAS, the aforementioned Project approvals were adopted based upon the MND; and

WHEREAS, Town staff has reviewed the proposed modifications pursuant to the California Environmental Quality Act (“CEQA”), Public Resources Code, Section 21166 and determined that the proposed modifications require no additional environmental review because they would not change the Project or Project circumstances or, constitute substantial new information such that a new or substantially more severe significant impact than that disclosed in the MND would result. The other proposed actions are not a “project” under CEQA Guidelines section 15378 and do not require environmental review; and

WHEREAS, Town staff has further determined that all previously adopted mitigation measures in the MND do apply and will continue to apply to the Project; and

WHEREAS, modification of Conditions of Approval does not require additions or alterations to the mitigation measures or the Mitigation Monitoring Reporting Program previously adopted; and

WHEREAS, all Conditions of Approval from all entitlements referenced above shall remain in effect with the exception of the specified amendments, additions, and/or deletions contained in this Resolution; and

WHEREAS, these modifications to the Conditions of Approval are deemed consistent with the provisions of the Town of Windsor General Plan; and

WHEREAS, in accordance with the provisions of law, the Town Council conducted a duly-noticed public hearing on April 6, 2016, on the proposed modifications of Conditions of Approval, at which time all interested persons were given an opportunity to be heard. An agenda report dated April 6, 2016, incorporated herein by reference, described and analyzed the proposed amended Conditions of Approval for the Town Council, who considered the agenda report and all comments; and

WHEREAS, the Project was annexed into the Town’s Landscape and Lighting Assessment Districts and the Windsor 1982 Act Benefit Assessment District; and

WHEREAS, the Developer has executed and submitted a Maintenance Agreement for maintenance of improvements along the Old Redwood Highway project frontage; and

WHEREAS, the Developer has executed and submitted an In-Lieu Fee Agreement and paid an In-Lieu Fee of sixteen thousand three hundred and seventy dollars and twenty cents (\$16,370.20) in lieu of constructing the enhanced mid-block pedestrian crossing in Old Redwood Highway as part of the Phase IB project improvements; and

WHEREAS, the Developer has executed and submitted Management Documents Declaration of Covenants, Conditions, Restrictions and Easements for Bell Village Commercial Center which have been reviewed by the Community Development Director and the Town Attorney and found to be acceptable; and

WHEREAS, the installation of the required public improvements for Phase 1A has been completed and accepted by the Windsor Town Council; and

WHEREAS, the Developer has executed a Subdivision Improvement Agreement and supplied the required surety bonds in the following amounts:

Performance Bond	\$3,672,500
Labor and Material Bond	\$3,672,500
Maintenance Bond	\$ 367,250
Monumentation Bond	\$ 10,000

to guarantee the completion of the public improvements for Phase 1B; and

WHEREAS, the final map has been examined and found to be in substantial conformance with the approved Tentative Map and all provision of the Subdivision Map Act and local ordinances; and

WHEREAS, said map shows and names public utility easements and other public easements as offered for dedication, subject to improvement, for public use; and

WHEREAS, said final map has been duly acknowledged and executed, and is ready for approval and recordation; and

NOW, THEREFORE BE IT RESOLVED, that the Town of Windsor hereby finds that no additional environmental review is required for the proposed modifications, and hereby approves the amendments, additions and/or deletions to the Project Conditions of Approval as specifically identified in the following modified Conditions of Approval;

General Condition # 1 of Resolution 2866-11 and Condition #1 of Resolution 3050-14 (Item #3) shall be superseded by the following:

The approved tentative map may be processed and developed as one project in its entirety or may be processed and developed in phases. At a minimum, improvement plans for the first phase of the project shall include improvements as applicable to the first phase which shall include, the Commercial Center, the full length of the Old Redwood Highway, Market Street, Richardson Street, Windsor Square Investors property (APN 066-100-067), and improvements to the Telfer Family Trust properties (161-060-036 & 055) and the Telfer/ Sheldon property (161-060-038). The final map submittal for the first phase of the project shall be accompanied by management documents for long term maintenance of the Commercial Center. At a minimum, the final map for the first phase of the project shall include the entire Commercial Center and all easements and/or rights of way necessary to support the Commercial Center and the first phase of improvements as outlined above. At a minimum, the first final map shall also include the balance of the property as one lot as permitted by the Subdivision Map Act and approved by the Town. The one lot may be further subdivided in subsequent phases provided that the additional lots or parcels

created meet the following requirements:

- a. Phase limits are drawn along parcel lines as shown on the approved tentative map (or minor adjustments thereto),
- b. Each subsequent phase shall be accompanied by improvement plans, condominium plans, CC&Rs, a Homeowners Association and final map or parcel map,
- c. The conditions of approval shall be satisfied on a phase by phase basis unless otherwise required by the Town.

The Tentative Map and Use Permit conditions of approval are comprehensive, are intended to provide requirements for the entire subdivision and are not structured on a phase by phase basis. However, it is understood that if the project is subdivided in multiple phases that only certain conditions of approval as determined by the Town shall be applicable to each phase, depending on the actual phasing and as determined by the Town. Conditions of approval not satisfied with the first final map phase of the project, shall be satisfied in subsequent phases of the project as applicable. Prior to approval of the last final map/parcel map phase, all conditions of approval shall have been satisfied meeting the requirements of the Town.

The following note (or minor modifications thereto) shall be included on a supplemental sheet on all final maps if the project is phased:

“The Town Council approved Bell Village as a phased project. Multiple final maps will be filed based on the approved tentative map, in accordance with Government Code section 66456.1. This Phase 1 Final Map is based on the Tentative Map approved by the Town Council through Resolution No. 2867-11 on December 7, 2011, as amended by Resolution No. 3050-14 on January 15, 2014, and further amended by Resolution No. 3130-14 on September 17, 2014, and Resolution No. 3278-16 on April 6, 2016. Condition No. 1 in Resolution No. 3278-16 provides that conditions of approval will generally be implemented on a “per phase” basis unless otherwise required by the Town”.

Alternatively, the property may be subdivided in a single phase as shown on the approved tentative map, provided that all conditions of approval are satisfied, meeting the requirements of the Town prior to recordation of the final map.

Condition #88 of Resolution No. 3130-14 shall be superseded by the following:

Extinguishment of all private easements including the Romano easements, meeting the requirements of the Town’s Municipal Code and the Town Engineer, shall be completed and recorded prior to recordation of each applicable phase of the final maps.

BE IT FURTHER RESOLVED, that the Maintenance Agreement, the In-Lieu Fee Agreement, the Subdivision Improvement Agreement and the Management Documents Declaration of

Covenants, Conditions, Restrictions and Easements for Bell Village Commercial Center are hereby approved and accepted, and the Town Council authorizes the Town Manager to execute said agreements on behalf of the Town; and

BE IT FURTHER RESOLVED, that said final map titled “Bell Village Commercial Center, MJS 09-17, Phase 1” is hereby approved and accepted; and

BE IT FURTHER RESOLVED, said map shows and names public utility easements and other public easements as offered for dedication for public use to the Town of Windsor which are hereby approved and accepted subject to improvement; and

BE IT FURTHER RESOLVED, that the Town Council directs the Town Clerk to take the necessary steps to assure that said map and agreements are recorded with the County Recorder.

PASSED, APPROVED AND ADOPTED this 6th day of April 2016, by the following vote:

AYES:	COUNCILMEMBERS FOPPOLI, OKREPKIE, SALMON, VICE MAYOR FUDGE, AND MAYOR MILLAN
NOES:	NONE
ABSTAIN:	NONE
ABSENT:	NONE



MARK MILLAN, MAYOR

ATTEST:




MARIA DE LA O, TOWN CLERK