

**RESOLUTION NO. 3286-16**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR  
RESCINDING USE PERMIT AND VARIANCE APPROVALS AND APPROVING  
AMENDMENTS TO A SITE PLAN AND DESIGN REVIEW APPROVAL FOR THE  
VINTAGE OAKS PROJECT, FILE NO. GPA/ZC/UP/MJS 09-17 AND  
MJS/VAR/UP/DRC 14-17**

**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 (“Bell Village Project”) on December 7, 2011. The property is located at 9290 Old Redwood Hwy., Windsor (APN 161-070-036); and

**WHEREAS**, by Resolution No. 2866-11, herein incorporated by reference, the Town Council approved a Use Permit, Variance, and Site Plan and Design Review for the Bell Village 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, herein incorporated by reference, the Town Council amended certain Conditions of Approval of the Use Permit, Variance and Site Plan and Design Review on August 6, 2014; and

**WHEREAS**, an application was filed to amend the Use Permit, Variance and Site Plan and Design Review for the residential portion of the Bell Village Project and which relate to a revised development proposal; and

**WHEREAS**, the residential portion of the Bell Village Project has been renamed Vintage Oaks on the Town Green (“Vintage Oaks Project”); and

**WHEREAS**, the Use Permit approved by Resolution No. 2866-11 granted: (a) a reduction of off-street parking spaces for the residential portion of the Bell Village project; and (b) a drive-through sales window associated with a then-proposed pharmacy; and

**WHEREAS**, the Vintage Oaks Project provides more than the minimum number of required off-street parking spaces, and the commercial portion of the Bell Village project was constructed without a pharmacy or drive-through sales window. As such, a Use Permit is no longer necessary; and

**WHEREAS**, the Variance approved by Resolution No. 2866-11 authorized an increase to the maximum permitted building height (i.e., 45 feet to 55 feet) within the commercial portion of the Bell Village project.

**WHEREAS**, subsequent to approving Resolution No. 2866-11, the Town Council adopted the

Windsor Station Area/Downtown Specific Plan which provides no maximum building height standard in this location (i.e., Compact Residential (CR) zone), and, therefore, a Variance is no longer necessary; and

**WHEREAS**, the design aspects of the entire Bell Village project (e.g., building design, landscaping, site planning) were approved under a Site Plan and Design Review via Resolution No. 2866-11 since it constituted new construction of a multi-family use on a vacant parcel; and

**WHEREAS**, the proposed Vintage Oaks Project is substantively different from the prior approval; therefore, the developer requested changes to the approved project, pursuant to Zoning Ordinance §27.44.060.; and

**WHEREAS**, the Bell Village Project approvals were adopted based upon the MND adopted on December 7, 2011 by Resolution No. 2862-11. The Town prepared a draft Addendum dated April 27, 2016 as CEQA compliance for the Vintage Oaks project; and

**WHEREAS**, prior to taking action on the Vintage Oaks project, the Town Council conducted a duly-noticed public hearing on May 18, 2016, in conformance with the requirements of Government Code Sections 65090 and 65091, at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, an agenda report dated May 18, 2016, incorporated herein by reference, described and analyzed the draft Addendum, and proposed Project amendments for the Town Council, who considered the Addendum, agenda report and all comments; and

**WHEREAS**, by Resolution No. 3284-16, incorporated herein by reference, the Town Council adopted the CEQA Addendum and a refined Mitigation Monitoring and Reporting Program for the proposed Vintage Oaks project; and

**WHEREAS**, by Resolution No. 3285-16, incorporated herein by reference, the Town Council amended the Tentative Subdivision Map, and repealed previously imposed conditions of approval, replacing them with revised conditions of approval; and

**WHEREAS**, the amended Site Plan and Design Review, as conditioned, is be consistent with the provisions of the Town of Windsor General Plan; and

**WHEREAS**, the Town Council makes the following findings required by Zoning Ordinance §27.42.030. H. regarding Site Plan and Design Review for the project:

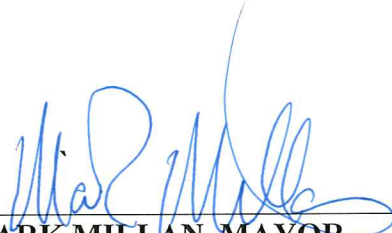
1. The design and layout of the Vintage Oaks Project is consistent with the General Plan and Downtown Specific Plan/Station Area Plan, the development standards of the “Compact Residential” zoning district, and the Town of Windsor Design Standards;
2. The design and layout of the Vintage Oaks Project will not interfere with the use and enjoyment of neighboring existing or future developments, and will not create traffic or pedestrian hazards;

3. The architectural design of the Vintage Oaks Project is compatible with the character of the surrounding neighborhood;
4. The design of the Vintage Oaks Project will provide a desirable environment for its occupants, visiting public, and its neighbors through the appropriate use of materials, texture, and color, and will remain aesthetically appealing and be appropriately maintained; and
5. The Vintage oaks Project will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

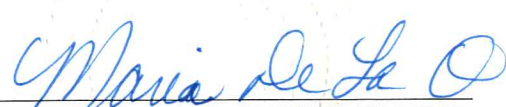
**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Windsor hereby rescinds Resolution No. 2866-11, Resolution No. 3050-14, Resolution No. 3130-14, Resolution No. 3116-14, and Resolution No. 3278-16 and replaces them with this resolution approving the amended Site Plan and Design Review request for the Vintage Oaks project, subject to the Conditions of Approval attached hereto in Exhibit A, which is incorporated herein by reference.

**PASSED, APPROVED AND ADOPTED** this 18th day of May 2016, by the following vote:

<b>AYES:</b>	<b>COUNCILMEMBERS FOPPOLI, OKREPKIE, VICE MAYOR FUDGE, AND MAYOR MILLAN</b>
<b>NOES:</b>	<b>COUNCILMEMBER SALMON</b>
<b>ABSTAIN:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>NONE</b>

  
 \_\_\_\_\_  
**MARK MILLAN, MAYOR**

**ATTEST:**

  
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**MARIA DE LA O, TOWN CLERK**

**Exhibit Attached:**

- Exhibit A – Vintage Oaks Site Plan and Design Review Conditions of Approval

(Clerk’s Note: A typographical error in the vote count was corrected on June 1, 2016.)

**VINTAGE OAKS – SITE PLAN AND DESIGN REVIEW**

**GENERAL (ALL DEPARTMENTS)**

1. The phasing for this approval shall be in accordance with the conditions imposed on the amended Tentative Map approved by the Town Council under Resolution No. \_\_\_\_.
2. Mitigation Monitoring and Reporting Plan. Plan checkers for each Department shall be responsible for determining compliance with the Mitigation Monitoring and Reporting Plan in the final package, including the following milestones:
  - a) Prior to Signature of Improvement Plans / Site Development Plans
  - b) Prior to Issuance of Building Permits (including Grading Permit)

Applicant shall submit a compliance package with Improvement Plan Check documents indicating each mitigation measure and where the mitigation measure is noted on drawings or within accompanying documents. Department personnel responsible for verification of conditions shall document to the Project Planner that the required mitigation measures have been incorporated into construction drawings prior to signature of the plans, and field inspectors shall similarly verify construction compliance with approved plans to the Project Planner upon project completion and prior to release of securities.

**TOWN ENGINEER (Unless otherwise stated, conditions in this section shall be to the satisfaction of the Town Engineer):**

**The following conditions are applicable to issuance of a building permit:**

3. Improvement Plans shall be approved by Planning and signed by the Town Engineer prior to issuance of permits for site development and utilities. Final map shall be recorded prior to issuance of building permits for above ground structures. All right of way dedications and dispositions, public improvements and utility extensions, public use easements and site improvements will be required as part of the improvement plan and mapping process.

**BUILDING INSPECTION DEPARTMENT (Unless otherwise stated, conditions in this section shall be to the satisfaction of the Building Official):**

**Conditions applicable to issuance of a building permit:**

4. The developer shall retain a Certified Access Specialist to review accessibility plans and specifications for building interior compliance with state and federal accessibility laws, codes and regulations. The Certified Access Specialist shall conduct all necessary research, prepare accessibility reports, and/or conduct accessibility inspections, to the

satisfaction of the Building Official.

5. Upon initiation of plan check, the building plans shall include details and specifications or other information indicating compliance with California law requiring access for persons with disabilities. All specifications, to include any analysis if required shall be provided to the satisfaction of the Building Official demonstrating full compliance.
6. A California registered civil engineer with a California authorization as a geotechnical engineer shall perform the geotechnical evaluation. A written report of the investigation shall be submitted to the Building Official by the owner or authorized agent at the time of permit application. The geotechnical report shall include, but shall not be limited to, site-specific evaluations of design criteria related to the nature and extent of foundation materials, groundwater conditions, liquefaction potential, settlement potential and slope stability.
7. Abandon any existing wells, septic tanks, or underground fuel storage tanks under permit and inspection of Environmental Health or other designated agency. If there are none, provide a letter from the project engineer relating to the scope of the search done to make this determination.
8. Construction shall comply with all applicable current codes. No site clearance, grubbing (except weed abatement), grading, or fill stockpiling, may be performed without prior approval of the Building Official.
9. Site improvement plans shall be reviewed by the Central Fire Authority.
10. Improvement Plans shall be approved by the Town Engineer prior to issuance of an Encroachment Permit, unless otherwise allowed by the Town Engineer. No construction shall occur prior to approval of the on-site development plans. At the discretion of the Building Official, the Community Development Director and Town Engineer the Building Department may issue a separate demolition permit, a tree removal permit and a foundation only permit prior to approval of the on-site development plans.
11. The Developer shall pay all applicable development impact fees for Drainage, Parks & Recreation, Public Facilities, Traffic and Recycled Water upon the earlier of the date of final inspection or issuance of the certificate of occupancy for each lot and shall pay all applicable development impact fees for Water Capacity and Wastewater Capacity prior to the issuance of a building permit for each individual lot. The developer shall pay all applicable school impact fees for each lot to the Windsor Unified School District per the school district policies and/or code.
12. A pre-construction meeting shall be held with the Building Official, prior to permit issuance. The purpose of the meeting is to coordinate construction activities related to job site sanitary facilities, tree preservation, utility trenching, and other requirements related to construction of the proposed project.
13. Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition, to the satisfaction of the Building Official.

14. Construction sites shall be maintained in a trash and litter free condition for the duration of the construction activity, to the satisfaction of the Building Official.

**PLANNING DEPARTMENT (Unless otherwise stated, conditions in this section shall be to the satisfaction of the Planning Director):**

**Conditions are applicable to issuance of a building permit:**

15. Building Plans shall include the following:
  - a) Minimum finish floor height shall be 24 inches above the sidewalk elevation at the front of the units along Old Redwood Hwy to provide separation from the sidewalk and residential windows.
  - b) Electric vehicles: Charging facilities required by the California Green Building Standards Code shall be evenly distributed throughout the site or as determined by the Community Development Director or designee.
16. Plans shall include the following general requirements:
  - a) Lighting shall comply with Section 27.20.030 D of the Town of Windsor Zoning Code. Lighting plan shall include a site plan, photometric diagram, fixture schedule, and fixture cut sheets submitted and indexed as part of the architectural drawings. Poles shall not exceed 20 feet in height, and individual fixtures shall not exceed 250 watts. Exterior fixtures shall generally be LED to match Old Redwood Highway lighting. Wall mounted fixtures shall be sconce type with light source shielded, unless otherwise approved by the Planning Director.
  - b) Trash enclosures shall be reviewed for conformity with West County Disposal recommendations, including sufficient space for recycling and pedestrian entry. Material shall include masonry block with colors to complement the building colors.
  - c) Building plans shall specify colors and materials as approved by the Planning Commission and Town Council. Downspouts shall be coordinated with background building color and shown on plans.

**Conditions applicable to a request for occupancy:**

17. Final arborist report concerning protected trees shall be received, including conclusions regarding construction impacts and determination of any additional required tree mitigation shall be made in accordance with the Chapter 27.36 of the Zoning Ordinance (Tree Preservation and Protection) to the satisfaction of the Planning Director.
18. The applicant shall provide to the Town Planning Director a written statement signed by the Landscape Architect who prepared the approved construction documents verifying that the landscape planting and irrigation improvements are completed in accordance with the approved drawings and the Town's Water Efficient Landscape Ordinance, and

that the irrigation system has been completely tested and found to be functioning per design.

19. All Common Area improvements (per phase) shall have been completed per approved plans, unless an alternative form of agreement and security is approved by the Planning Director.
20. Owner shall execute an agreement and provide deposit to guarantee replacement of any oaks which die or are determined to be unsafe for a minimum 5 year period following construction (per phase). In the event that oaks require replacement, landscaping compatible with the new oak plantings shall be provided to infill any remaining gaps. The Town Arborist shall be advisory regarding appropriate deposit amount based on the risks associated with the Improvement Plans, as well as compatible plant materials proposed in the vicinity of new or existing oaks.
21. Public Works, Building, and Planning Departments shall verify that all mitigation measures applicable to building construction have been completed based on construction compliance with approved plans.

**The following general conditions shall apply:**

22. Prior to the issuance of building permits, and within 5 working days of project approval, applicant shall submit \$50.00 to the Planning Department for filing of a Notice of Determination, plus the additional fee applicable to the Department of Fish and Game based on a non-exempt project for which a Mitigated Negative Declaration was prepared. Check shall be written to the Sonoma County Clerk and based on DFG fee in place January 1, 2012 (due to second reading of the zoning ordinance amendment in January 2012).
23. Building permits issuance shall comply with the terms of the Affordable Housing Agreement executed prior to final map approval.
24. Compliance with the Town's Growth Control Ordinance as established in Town Council Resolution No. 2543-09.
25. The applicants shall defend, indemnify and hold harmless the Town and its agents, officers, attorneys or employees from any claim, action, or proceeding brought against the Town or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Planning Commission and/or Town Council decisions relating to this Project. This indemnification shall include damages or fees awarded against the Town, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by Applicants including its partners, principals, or agents, the Town and/or the parties initiating or bringing such action. Applicant shall defend, indemnify and hold harmless the Town, its agents, officers, employees and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the EIR or Addendum), if made necessary by said legal action.

In the event that a claim, action or proceeding describer above is brought, the Town shall promptly notify Applicants of the existence of the claim, action or proceeding, and the Town will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the Town from participating in the defense of any claim, action or proceeding. In the event that Applicants are required to defend the Town in connection with any said claim, action or proceeding, the Town shall retain the right to (i) approve the counsel to so defend the Town, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with Applicants in the defense of said claim, action or proceeding. If the Town chooses to have counsel of its own to defend any claim, action or proceeding where Applicants have already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town Attorney's office participates in the defense, all Town Attorney fees and costs shall be paid by the Applicants.

Applicants shall indemnify the Town for all the Town's costs, fees, and damages which the Town incurs in enforcing the above indemnification provisions.

**The following conditions of Site Plan and Design Review approval apply to on-going use of the site:**

26. This approval amends the approval of the Bell Village mixed use project which authorized a total of 387 dwelling units and 83,500+/- square feet of commercial space. Improvements for both the Bell Village (i.e., commercial area) and Vintage Oaks (i.e., residential area) shall maintained in accordance with the following:

Bell Village Project

- a) Plans entitled "Bell Plaza and Bell Village", including complete civil, landscape, and architectural drawings, with cover sheet dated "Revision June 3, 2011."
- b) Drawings entitled "Proposed Old Redwood Highway Streetscape Design, October 2011", prepared by Landesign Group.
- c) Drawings entitled "Bell Village Materials and Furniture, July 2011" prepared by Bell Village LP.
- d) Revised Site Plan / Landscape Plan Drawings (Sheets L1-L4) dated October 2011.
- e) Plans and Drawings included within the 11 x 17 document entitled "Response to Planning Comments from the September 27, 2011 meeting" (Attachment No. 2 to the November 8, 2011 staff report).

Vintage Oaks Project

- f) Plans entitled "Vintage Oaks on the Town Green, Windsor, California, Final Planning Submittal, April 22, 2016" including civil, landscape and architectural drawings.



g) Building color and material boards received April 22, 2016.

Conflict Between Approval Exhibits

h) Should there be any conflict between the aforementioned approval exhibits, those for the Vintage Oaks Project shall control.

27. Commercial and Residential uses shall be subject to the following limitations:
- a) Zoning approvals shall follow allowable uses and procedures prescribed in the zoning ordinance, except as noted in Condition 34 below.
  - b) Noise shall be controlled on an on-going basis in accordance with the Noise Element of the Town of Windsor General Plan and the zoning ordinance.
  - c) All signage shall be erected and maintained in conformance with the approved comprehensive sign program.
  - d) Roof and utility appurtenances (except residential television satellite dishes 18-31 inches in maximum diameter) shall be limited to approved locations and screened from view from all public streets. Air conditioning placement shall comply with screened locations shown on the development plans.
  - e) Lighting shall be maintained so as not to be a source of glare onto adjacent residential uses or public rights-of-way. The Planning Director reserves the right to require fixture replacement if it is found that glare continues to be an issue following installation.
28. Availability of affordable housing units shall be maintained in accordance with the Housing Agreement executed with the Town and recorded with the final map.
29. Major tenants shall be limited to a minimum 25,000+/- square foot Grocery as included in this use permit approval and shown on the development plans. Changes to either of these major tenants, as determined by the Community Development Director, shall require a revision to this use permit and approval by the Town Council.
30. Each commercial tenant space with frontage on Old Redwood Highway shall maintain its primary entry facing the street. At least 25% of these tenant frontages shall have recessed entries. Where tenant frontage is limited to Old Redwood Highway only (including the grocery), use of obscure glass (or other visual blockage techniques) shall be limited to not more than 1/3 of the tenant's frontage. In the event the tenant space has frontage on both Old Redwood Highway and the internal parking area, no obscure glass (or other visual blockage techniques) is permitted on Old Redwood Highway.
31. These provisions shall be included in the CC&Rs and lease requirements for the commercial properties.