

**RESOLUTION NO. XXX-XX**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF WINDSOR APPROVING A USE PERMIT, TENTATIVE MAP AND SITE PLAN AND DESIGN REVIEW FOR THE MILL CREEK DEVELOPMENT PROJECT LOCATED AT 8703 BELL ROAD (APNs: 164-010-020, 164-020-005, 164-020-006, 164-020-007, 164-020-008, 164-020-041, 066-170-013, and 066-170-033). (FILE NO. UP/DRR/MJS 14-09)**

**WHEREAS**, the Town of Windsor Planning Commission considered an application submitted by Peter Stanley on behalf of Windsor Mill Community, LLC (“Applicant”) requesting approval of a Use Permit, Tentative Map, and Site Plan and Design Review for a 360-unit development project consisting of 16 three-story buildings and 2 two-story buildings, a spa, a club room with leasing office, parking facilities, creekside improvements along Windsor Creek including a pedestrian pathway and pedestrian bridge crossing to Windsor Creek Elementary School, and extension of Bell Road and Bill Beedie Way (the “Project”) on a 20.3-acre site located at 8703 Bell Road (APNs: 164-010-020, 164-020-005, 164-020-006, 164-020-007, 164-020-008, 164-020-041, 066-170-013, and 066-170-033). General Plan land use designations: High Density Residential (16 to 32 units per acre), Medium Density Residential (8 to 16 units per acre), and Low Density Residential (5 to 8 units per acre); and

**WHEREAS**, the Priority Development Area Waiver Agreement, dated May 29, 2014, requires the following Key Components be retained in the project’s design:

- a. Up to 360 residential rental units. *The project includes 360 residential units that could be rented or sold.*
- b. 2 ½ Acre linear park/open space along the creek corridor. *The project includes an approximately 2 ½ - acre linear park along the creek corridor*
- c. Creekside pedestrian and bicycle trail. *The project includes a trail that will accommodate pedestrian and bicycle access along Windsor Creek.*
- d. Rail side pedestrian and bicycle trail. *The project accommodates a future rail side multi-use pathway to be constructed by the Sonoma Marin Area Rail Transit agency.*
- e. A vehicle bridge to the south. *The project includes extension of Bell Road south over Windsor Creek and has been conditioned to include an irrevocable offer of a public easement to accommodate possible future construction of a vehicle and/or pedestrian bridge at the southern end of the project site along the Old Oak Road alignment.*
- f. Pedestrian bridge across Windsor Creek. *The project includes a pedestrian bridge across Windsor Creek that will connect to the Windsor Creek Elementary School and future Class I pathway system along Windsor Creek. In addition, the project has been conditioned to include an irrevocable offer of a public easement to accommodate possible future construction of a vehicle and/or pedestrian bridge at the southern end of the project site along the Old Oak Road alignment.*

- g. Payment of In-Lieu inclusionary housing fees. *The project has been conditioned to pay the in-lieu inclusionary housing fees in effect at the time of issuance of building permits for construction of the project.*

and;

**WHEREAS**, no items were identified as needing to be resolved during review of the project application in the Priority Development Area Waiver Agreement, dated May 29, 2014; and

**WHEREAS**, by Resolution No. \_\_\_\_ and based upon the Initial Study prepared for the Project, the Plans and the Project Description included with the Planning Commission staff report dated February 26, 2019 the Planning Commission adopted a Mitigated Negative Declaration for the proposed Project; and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing on February 26, 2019, on said application at which time all interested persons were given an opportunity to be heard; and,

**WHEREAS**, the Planning Commission makes the following findings for approval of a Use Permit to allow multi-family dwellings in the Village Residential Zone and Use Permit to allow a reduction in the number of onsite parking spaces as required by Zoning Ordinance Section 27.42.050(F):

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Ordinance and the Town Code;

*The proposed multi-family dwelling units are allowed in the Village Residential District subject to Use Permit approval and a reduction in the number of parking spaces is allowed subject to approval of a Minor Use Permit. Subject to conditions of approval, the proposed multi-family dwellings and the proposed parking comply with all other applicable provision of the Windsor Zoning Ordinance and Town Code.*

2. The proposed use is consistent with the General Plan and any applicable specific plan;

*Multi-family dwellings and associated parking are envisioned in the Low Density Land Use Designation of the General Plan and in the Village Residential Zoning of the Station Area/Downtown Specific Plan. As described in the staff report and subject to conditions of approval, the multi-family dwellings and parking are consistent with the applicable objectives, policies and standards of the General Plan and Station Area/Downtown Specific Plan.*

*Furthermore, the density proposed in the Village Residential area of the Project site is consistent with that allowed by the General Plan and the Project is consistent with General Plan Housing Element goals and policies to provide housing for all segments of the community and to provide housing for persons with special needs. The design of the Project avoids the environmentally sensitive areas located along Windsor Creek, and avoids and reduces potential impacts to the oak trees located in the riparian corridor.*

*The Project is consistent with the density allowed by the Station Area/Downtown Specific Plan (Station Area Plan) and with the type of housing envisioned by the Plan in the Village Residential Zone.*

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

*The multi-family dwellings proposed in the Village Residential zone are designed, located and sized to be compatible with existing and future land uses in the vicinity of the project. Windsor Creek provides a buffer between the proposed multi-family dwellings and the single-family detached homes in the neighborhood on the southeasterly side of the creek and the SMART railroad tracks separate the proposed multi-family dwellings from the public utility uses to the southwest. Furthermore, the scale and density of the development proposed in the Village Residential District tapers from higher density and scale in the areas adjacent to the Compact Residential portions of the Project site to lower density and scale toward the south and the area near the single-family homes on the opposite side of the creek. A three-story, 19-unit building is adjacent to the Compact Residential Zone and south of the 19-unit building is a smaller three-story, 11-unit building. Farther south there are two, two-story, 2-unit buildings and lastly one-story carports, the creek-side trail and the creek buffer.*

*Proposed parking will also be compatible with existing and future land uses in the vicinity in that an adequate supply of parking will be provided. While the Zoning Code requires on average 2.03 parking spaces for the 360 units, as documented by the analysis conducted by W-Trans, parking demand for the Project is anticipated to be between 1.23 to 1.65 parking spaces per unit and the Project will be supplied with 1.87 parking spaces per unit. Furthermore, parking is distributed around the site to provide convenient access for residents and visitors of all 360 dwelling units.*

4. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and

The site is physically suitable for the proposed multi-family dwellings and the parking reduction in that it is flat, has relatively few trees, is an in-fill site located within walking distance of downtown and the future SMART station, has a history of urban uses and has access to utilities and public streets.

5. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

*Multi-family dwellings in the Village Residential Zone and a reduction in parking for the Mill Creek project will not be detrimental to the public interest, health, safety, convenience, or welfare or materially injurious to persons, property, or improvements in the vicinity and zoning districts in which the property is located in that the dwellings in the Village Residential Zone are designed and sited to be consistent with their surroundings and the proposed supply of parking will be adequate to meet the Project's demand for parking as documented in the W-Trans analysis.*

*Furthermore, the Project was reviewed by the Public Works Department, Planning Division, Building Division, Police Department, Windsor Fire District, and Parks and Recreation*

*Department. Conditions of approval were applied to the Project to ensure the Project is consistent with Town requirements, which in part are intended to ensure development is not detrimental to public health, safety, or welfare or injurious to other properties or improvements in the vicinity. Construction and operation of the Project are required to comply with the Zoning Ordinance Performance Standards, Town Standards, and the mitigation measures for Project. Mitigation measures for air quality, biological resources, cultural resources, geology/soils, hydrology/water quality, land use/planning, and noise are included to reduce potential impacts to a less than significant level. Compliance with the mitigation measures reduces impacts on the Project site, and persons and property in the vicinity of the Project site. Based on the above, and as conditioned, the Project is consistent with this finding.*

and;

**WHEREAS**, the Town of Windsor Planning Commission has made the following findings relative to the Tentative Map as required by Subdivision Ordinance Section 16-8-400(f)(3)(A):

1. The tentative map and improvement plans, as conditioned, are consistent with the provisions of the Town of Windsor General Plan and any applicable specific plans or area plans.

*As described in detail in Sections A-General Plan Consistency and B-Station Area/Downtown Specific Plan of the January 22, 2019 Planning Commission Staff Report, and with the Conditions of Approval, the Project is consistent with the provisions of the Town of Windsor General Plan and applicable specific plans.*

2. The tentative map and improvement plans, as conditioned, are consistent with Town's Design Standards.

**FINDING:**

*The Project plans have been reviewed by appropriate Town staff and public agencies including the Public Works and Engineering Department, Community Development Department, Parks and Recreation Department, Police Department, Water District, and Fire District and found the Project and improvement plans, as conditioned, to be consistent with the Town's Design standards including minimum lot size and dimensions, roadway widths, parking design, utilities, pedestrian and bicycle paths and all other physical design elements of the subdivision and associated improvements. As a condition of approval, prior to permit approvals, construction documents for the infrastructure improvement plans will be reviewed and approved by the appropriate Town Departments and agencies.*

3. The tentative map and improvement plans, as conditioned, are consistent with the Zoning Ordinance.

*As conditioned and with use permit approval for a reduction in parking, the tentative map and improvement plans for the Project are consistent the Town's Zoning Ordinance including standards for density, lot size, lot dimensions, building setbacks, building height, parking, and open space.*

4. The tentative map and improvement plans, as conditioned, are consistent with the Town of Windsor Municipal Code, including but not limited to, the Growth Control Ordinance.

*The Project has been reviewed by Public Works Department and Planning Division staff and, subject to conditions of approval, determined to be consistent with the Subdivision Ordinance. The project is consistent with the Growth Control Ordinance in that the project was granted a waiver from the Growth Control Ordinance merit process and awarded up to 360 allocations on May 7, 2014. As required, the applicant entered into a Priority Development Area Waiver Agreement dated May 29, 2014, and the Town Council reserved 360 allocations for the project. The Priority Development Area Waiver Agreement identified key components for the project. The project, as conditioned, is consistent with the key components.*

and;

**WHEREAS**, the project has been reviewed against the findings in Government Code Section 66474 that would require disapproval of a subdivision. None of the findings in Section 66474 is applicable, based on the following:

*The tentative map and proposed improvements, as conditioned, are consistent with the LDR, MDR and HDR General Plan land use designations and VR, MDR and CR Specific Plan land use designations, including the density as allowed with the density bonus described above and approved herein, and consistent with Town and State policy. The site is suitable for the proposed development because it is relatively flat, located within an urbanized area near services and transportation options, and surrounded by existing single-family, multi-family and public institutional development. As conditioned, the Project is not likely to cause significant environmental damage or significantly and avoidably injure fish or wildlife or their habitat, as described in CEQA findings (c) and (d), above; nor will the Project cause serious public health problems. The Project will not conflict with any public easements through the site.*

and;

**WHEREAS**, the Planning Commission makes the following additional findings regarding the proposed Site Plan and Design of the Project, as required by Zoning Ordinance Section 27.34.030(H):

1. The design and layout of the proposed development are consistent with the General Plan, the development standards of the applicable zoning district, design standards/guidelines, and architectural criteria for special areas.

*The Project is consistent with General Plan in that: 1) the land use designations for the Project site allow up to 479 units; 2) the General Plan Housing Element identifies the site as a potential site for 360 dwelling units; 3) the Project is consistent with Housing Element policies to: a) provide adequate housing sites and encourage the availability of housing types for all economic segments of the community (Policy H-1); b) encourage development of a range of housing types affordable to various income groups, including single-family and multi-family dwellings, "move up" housing, senior housing, secondary and other*

*smaller housing units, and special needs housing (Policy H-1.2); c) facilitate and encourage the construction of a variety of housing types to provide alternatives to single-family detached housing and to address special needs housing (Policy H-6.1); and d) require projects that contain 20 or more dwelling units and are located within ½ mile of the Station to design and build 10 percent of the units to be habitable by persons with disabilities.*  
*Policy H-6.5*

*Over 79% of the existing housing stock in Windsor consists of single-family detached dwellings. Consistent with the General Plan, the Project adds to the variety of housing type by increasing the supply of multi-family housing, and smaller units. Furthermore, 35% of the units in the Project are one- and two-bedroom ground-floor flats and thereby more readily accessible by persons with limited mobility and consistent with Building Code requirements will be habitable by persons with disabilities. Lastly, one- two- and three-bedroom units are provided in the project and units range in size from 690 square feet to 1,725 square feet.*

*The Project meets the affordable housing objectives of the Housing Element through the payment of in-lieu fees. In addition, as described in the Housing Element, “rental units in Windsor are generally affordable to moderate-income households (see Table 4-18). Therefore, even as a market-rate rental project, many of the units included in Windsor Mill may be affordable to moderate-income households. The Housing Element conservatively estimates that about 30 percent (108 units) will be moderate-income units and 252 units (70 percent) will be above moderate-income units.”*

*The Project is subject to the Station Area Plan design and development standards. The Project is consistent with the Station Area Plan in that: 1) the zoning for the Project site would allow 368 units or up to 400 units subject to discretionary Town Council approval; 2) the Project is allowed with Planning Commission approval of a Site Plan and Design Review application, which was requested by the developer; 3) the Project is consistent with the parking required with Planning Commission approval of a Minor Use Permit for a parking reduction, which was requested by the developer; 4) and 5) the Project is consistent with the requirements for development standards, architectural design, and materials with implementation of conditions of approval that the height of buildings in the MDR and VR districts be reduced to no more than 35 feet and the street facing stoops in the VR districts be no less than 48 inches deep and raised two feet above the public sidewalk.*

*The Project, as conditioned, is consistent with the Zoning Ordinance in that: 1) the zoning allows 368 dwelling units on the Project site; 2) multi-family dwellings are allowed in the Village Residential district with Planning Commission approval of a Use Permit and are a permitted use (no use permit required) in the Medium Density Residential and Compact Residential zoning districts; 3) the Project is consistent with the Tree Preservation and Protection requirements and will be required to obtain a Tree Removal Permit to allow removal of 68 trees, which was requested by the developer, prior to the removal of any protected trees from the site; and 4) the Project is consistent with the applicable Zoning Ordinance requirements.*

*Based on the above, and as conditioned, the Project is consistent with this finding.*

2. The design and layout of the proposed development will not interfere with the use and enjoyment of neighboring existing or future developments and will not create traffic or pedestrian hazards.

*The Project includes extension of Bell Road with a bridge connection over Windsor Creek, extension of Bill Beedie Way into the Project site, and an internal private street and drive aisles. Sidewalks, planter strips with street trees, and on-street parking are provided along streets in the Project and a bicycle lane is provided along Bell Road. A pedestrian bridge between the Project site and Windsor Creek Elementary School is also provided and a ten-foot wide path is provided along Windsor Creek. The Project was reviewed by Public Works and no pedestrian or traffic hazards were identified. An initial environmental study, which included a traffic study, was prepared for the Project and did not identify any traffic or pedestrian hazards resulting from the Project. Based on the above, and as conditioned, the Project is consistent with this finding.*

3. The architectural design of the proposed development is compatible with the character of the surrounding neighborhood.

*The Project would be located on a 20+-acre site separated from surrounding development by Windsor Creek and the riparian vegetation along the creek banks on the southeast side of the Project site and the SMART railroad tracks along the west side of the Project site. Therefore, there is no established neighborhood design or character in the portions of the Project along the creek or railroad. Along the northerly site boundary where the project is adjacent to existing one- and two-story residential development, the project has been designed to be compatible by placing the proposed three-story buildings 30 to 65 feet from the property lines and screening the three-story structures with landscaping and single-story garages or carports.*

*In addition, the Project is consistent with the Station Area Plan design standards, as described in the staff report, which are intended to create attractive projects. The building facades are articulated to provide visual interest and relief and to project the appearance of the scale of buildings that is compatible with that of existing structures in the surrounding neighborhoods. Based on the above, and as conditioned, the Project is consistent with this finding.*

4. The design of the proposed development 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.

*The Project is consistent with the Station Area Plan development standards, including requirements for design, with conditions of approval. Outdoor amenities for the use of the occupants, such as a recreation center, community pool, tot lot, and Creekside trail, which create a desirable environment for the occupants. Based on the above, the Project is consistent with this finding.*

5. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

*See Use Permit finding #5.*

**NOW, THEREFORE BE IT RESOLVED** that the Planning Commission hereby approves the Use Permit, Tentative Map, Site Plan and Design Review as shown on the Project plans dated December 19, 2018 included with the Planning Commission staff report dated January 22, 2019, subject to the following conditions of approval.

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

**Conditions Applicable to Improvement/Site Development Plan Approval:**

**General Requirements:**

1. The developer shall prepare and submit improvement plans for the construction of all public and private improvements including water, sanitary sewer, storm drain facilities, private roadway improvements, curbs, gutters, detached sidewalks, parkway strips, street trees, signing, striping, and streetlights. All design and construction of all public improvements shall conform to the latest edition of the Town of Windsor Design and Construction Standards, Caltrans, AASHTO, and other applicable codes, standards, guidelines, and specifications.
2. Improvement plans must be approved and signed by the Town Engineer prior to the issuing of an encroachment permit, a grading permit, or a building permit.
3. An encroachment permit and a performance bond are required for public improvements and work within a public right-of-way.
4. Information shown on the tentative map and preliminary site development plans shall not be construed as accepted or meeting Town Standards and requirements and is subject to review and approval during the plan review process.
5. Plan check and inspection fees, based on the most current edition of the Town's Master Fee Schedule at the time of improvement plan submittal, shall be paid for prior to the signature of the improvement plans.
6. Mailbox plans and locations shall be approved by the Windsor Postmaster prior to improvement plan approval. The developer shall provide a letter and exhibit showing mailbox locations from the Windsor Postmaster approving mailbox locations.
7. All broken or sunken curb, gutter and sidewalk along the project frontage shall be repaired as part of the improvements for this project. As well, all nonconforming pedestrian ramps and driveway approaches shall be brought up to current accessibility standards.
8. Deviations from Town Standards and applicable code requirements shall be approved by the Town Engineer. The applicant's engineer shall request all design exceptions in writing. When possible, design exceptions should be processed before first plan submittal.
9. Public improvement drawings shall be drafted in the Town approved sheet format. AutoCAD drawing files can be found on the Town's website ([townofwindsor.com](http://townofwindsor.com)).
10. Project benchmark shall be based on a Town-approved USGS NAVD 88 benchmark.
11. Improvement plans shall be approved by the Windsor Fire Protection District.



12. All improvements shall be clearly annotated as either public or private on the improvement/site development plans.
13. All existing and proposed rights-of-way and easements shall be clearly identified on the design drawings. Where the project is adjacent to the Town Boundary, the Town Boundary shall be clearly shown.
14. In the event that the Town is forced to condemn or acquire off-site property interest in connection with required off-site improvements, the developer shall fund the cost of condemnation or acquisition, including but not to be limited to the amounts necessary to purchase the easement or fee simple interest, document preparation and severance, or other damages payable to the owners of the land upon which the improvements are to be located, the actual cost and acquisition and all fees, including attorney's fee and/or other expenses necessary to prosecute the condemnation action, including expert witness and appraisal fees.  
In the event that the Town elects to proceed with acquisition or condemnation pursuant to Government Code Section 66462.5, the developer shall, within 60 days of written notice by the Town, deposit with the Town, as an advance, the full estimated cost of such acquisition or condemnation. The developer shall prepare any easements or deeds necessary for off-site improvements.
15. It is the Town's desire that on-street parking be maximized due to the proximity to the Windsor SMART station. For this reason, it is desirable that in lieu of parallel parking on the west side of Bill Beedie Way from Johnson Street to Bell Road, angled parking shall be required and installed. To accommodate the angled parking the cross section of Bill Beedie Way shall meet the following minimum widths: Two (2) 11-foot travel lanes and curb and gutter on both sides; 8-foot parking lane, 5-foot planter strip, and 6-foot sidewalk on the eastside of the road; 17-foot (measured perpendicular to the road alignment) angled parking lane, and 5-foot planter strip on the westside of the of the road. The Conditions of Approval included herein, were based on the proposed Tentative Map submitted by the applicant illustrating parallel parking in the above-mentioned segment of Bill Beedie Way. With required angled parking, there may be minor changes to these conditions as the design of the roadway is developed and refined. The Town Engineer shall have the discretion, with the concurrence of the Community Development Director, to make such minor changes and modifications to these Conditions of Approval as a result of the change from parallel to angled parking on Bill Beedie Way.

### **Street Improvements:**

16. Improvement plans shall include the following utility, roadway, and traffic related improvements such as asphalt concrete pavement, signage, striping, concrete curb, gutter and sidewalk, landscape strips, areas with landscaping and irrigation, a pedestrian bridge and a reinforced concrete highway bridge. Improvements for the private streets, common driveways and public streets shall conform to the Complete Streets Design Guidelines and the Town's Design and Construction Standards. Said improvements shall include but shall not be limited to:
  - a. The structural section of all road improvements shall be designed using a soil investigation which provides the basement soils R-value and expansion pressure test results. If no R-value tests are supplied, roadway structural

sections shall be designed using an R-value of 5.0. A copy of Geotechnical report and structural section calculations shall be submitted with the first improvement plan check.

- b. Bell Road: The developer shall construct the new sections of Bell Road to accommodate two 11-foot wide travel lanes, two six-foot bike lanes, 8-foot wide parking stalls on both sides of the street in the areas shown on the tentative map, a minimum 5-foot wide landscape area with street trees in tree wells and an 8-foot wide sidewalk on the project side of the street southerly of the Bill Beedie Way/Bell Road intersection and an 8-foot wide sidewalk on both sides of the street northerly of the Bill Beedie Way/Bell Road intersection. The developer shall dedicate sufficient right-of-way to accommodate the required improvements and shall provide an additional 5-foot minimum PUE behind the right-of-way. The developer shall also reconstruct the existing portions of Bell Road from the northerly boundary of the Bell Manor Apartments (APN: 164-020-004) to the southerly limits of the existing Bell Road improvements and shall construct Bell Road as specified above from the southerly boundary of the Bell Manor Apartments to the southerly limits of the Bell Road/Grayson Way intersection.
- c. The developer shall obtain the necessary 5-feet of additional right of way and a 5-foot public utility easement on the east side of Bell Road from the owners of the Bell Manor Apartments (APN 164-020-004). Should the developer not be able to acquire the necessary right of way and public utility easement, the Bell Road street section, as described in item (b.) above and shown on the approved tentative map, shall be shifted westerly into the project site. Appropriate transitions, meeting Town and Caltrans standards, shall be provided at the northerly conform locations to the existing Bell Road street improvements subject to review and approval by the Town Engineer. The applicant may propose alternative options to this Condition of Approval for consideration by the Town Engineer.
- d. Public low impact development features, designed to capture public street storm water, shall be located in the Bell Road right-of-way and not in a landscape parcel.
- e. The Bell Road/Bill Beedie Way intersection shall be regulated by a stop sign on Bill Beedie Way and shall have a striped pedestrian crosswalk in Bell Road on the north side of the intersection. The Bill Beedie Way leg of the intersection shall have a minimum of 50-feet of center line strip meeting Town standards and thermoplastic stop bars at the crosswalk leg of the intersection. The pedestrian curb ramps shall be directional and shall meet current ADA requirements with and shall have flared wings.
- f. The Bell Road/Grayson Way intersection shall be regulated by stop signs on all legs of the intersection. Each leg of the intersection shall have a minimum of 50-feet of centerline strip meeting Town standards and thermoplastic stop bars. Striped pedestrian crosswalks shall be installed on the easterly and southerly leg of the intersection. The pedestrian curb ramps shall be directional and shall meet current ADA requirements with flared wings.
- g. As part of the Bell Road improvements, the developer shall install a reinforced concrete highway bridge across Windsor Creek. The bridge shall accommodate two 11-foot wide travel lanes, two 6-foot wide bike lanes and

- two 6.5-foot wide sidewalks including a concrete curb on each side of the bridge and the required impact barriers and bridge rails. The bridge, impact barriers, bridge rails and appurtenances shall be designed in accordance with the CalTrans bridge design standards and practice. The bridge shall be designed to clear span the creek. As part of the first submittal the developer shall submit sight line diagrams for the vehicular bridge from all approaches.
- h. Prior to beginning the Windsor Creek vehicular bridge design, the developer shall prepare an Advanced Planning Study for aesthetics of the reinforced concrete bridge for review, comment and approval by the Town Engineer. The study shall also include alternate bridge rail types for review. As a part of the Advanced Planning Study, the developer shall prepare for review, comment and approval of the Town Engineer, geometric layouts that show how the rail side path, bridge, creek side path, bike lanes and intersections will interface in a safe fashion.
  - i. The developer shall install a 6-foot wide concrete pedestrian sidewalk on the west side of Bell Road from the north end of the vehicular bridge to the public trail crossing at Bell Road. The developer shall also install a pedestrian curb ramp on the west side of Bell Road and continue a 10-foot wide concrete sidewalk/trail at the proposed trail crossing up to the SMART right-of-way for future connection to the multi-use path (MUP). The developer shall also install a 6-foot wide public sidewalk on the west side of Bell Road from the south end of the vehicular bridge to the most southerly crosswalk at Grayson Way/Bell Road intersection including a directional pedestrian ramp.
  - j. The developer shall install a striped crosswalk at the public creek trail crossing at Bell Road as directed by the Town Engineer.
  - k. Bill Beedie Way: The developer shall construct Bill Beedie Way to accommodate two 11-foot travel lanes in areas where parking is proposed and two 12-foot travel lanes in areas where no parking is proposed, 8-foot wide parking stalls on both sides of the street to all extent possible, a 5-foot wide landscape area with street trees and tree wells and a 6-foot wide sidewalk on the project side of the street. West curb face in Bill Beedie Way shall be located at 7-feet from the SMART right-of-way, or 2-feet from the SMART right-of-way if street parking is angled. The developer shall construct Bill Beedie Way from the Bill Beedie Way/Bell Road intersection to the north side of the Bill Beedie Way/Johnson Street intersection as required by the Town Engineer. The Bill Beedie Way/Johnson Street intersection shall be designed meeting Town standards and as required by the Town Engineer. The intersection area shall be dug out, repaired and overlaid with AC pavement or, completely reconstructed, based on the results of field borings performed and paid for by the developer per limits of reconstruction established by the Town Engineer.
  - l. Public low impact development features designed to capture public street storm water shall be located in the Bill Beedie Way right-of-way and not in a landscape parcel.
  - m. The developer shall provide a stop sign, thermoplastic stop bar and legend on the Johnson Street leg of the Bill Beedie Way and Johnson Street intersection.
  - n. Prior to the first improvement plan submittal, the design engineer shall submit a preliminary geometric design of the Bill Beedie Way/Johnson Street

intersection to the Town Engineer for review and approval. The preliminary geometric layout shall also include the required site line evaluations. The developer will need to consider using a larger centerline radius in Johnson Street to soften the curve and to shift the intersection southerly to all extent possible.

17. Private streets shall be constructed meeting Town standards and shall be designed as required by the Town Engineer, shall be marked private, shall be constructed to the dimensions shown on the approved tentative map and subject to the approval of the Windsor Fire Protection District.
18. Common drive isles shall be constructed to the dimensions shown on the approved tentative map and the requirements of the same as above Windsor Fire Protection District.
19. Trash enclosures shall be covered in accordance with Town requirements. It is recommended that any drainage from the trash collection area shall be contained within the enclosure and drained to the sewer system. The enclosure slab shall be designed and constructed so that tributary surface drainage does not enter the enclosure.
20. The developer shall install a minimum 10-foot wide prefabricated pedestrian bridge across Windsor Creek at the northeasterly portion of the site. The bridge shall be designed to clear span Windsor Creek such that no portion of the bridge structure will impede flow in the creek. Nor shall the pedestrian bridge raise the creek's Town approved 100-year hydraulic gradeline. Prior to beginning the pedestrian bridge design, the developer shall prepare and submit an Advanced Planning Study of alternate bridge concept designs for review, comment and approval by the Town Engineer. These may be in the form of catalog cuts for prefabricated bridges. Preliminary layout plans shall also be provided showing the new bridge alignment, creek side path, sidewalks and a school drop-off area at the intersection of Private Road B&C subject to review and approval by the Windsor Unified School District, the Windsor Police Department, the Windsor Fire Protection District, the Town Engineer and the Community Development Director. Lighting shall also be provided for pedestrian safety to the satisfaction of the Community Development Director and Town Engineer.
21. The pedestrian bridge shall be aligned to connect to the school district property (APN: 164-020-040) near the northwesterly portion of the school district parcel and the northeasterly portion of the project site. Any and all work proposed on the school district property shall be approved by the school district in writing prior to Town Engineer approval of the improvement plans. The developer shall secure fully executed easements from the school district necessary for the bridge, bridge landings and public pedestrian trail prior to Town Engineer approval of the improvement plans. The developer shall bear all costs associated with the easement document preparation, document review and recordation.
22. The developer shall provide an updated geotechnical report that provides conclusions and recommendations regarding the design and construction of the bridge foundations, including pile foundations, for both the vehicular bridge at Bell Road and pedestrian bridge across Windsor Creek. The report shall also assess the erosion potential of the creek bed to address the scour potential at the bridge locations. Soil samples shall be tested by an accredited lab for their corrosion potential. The investigation and report shall be prepared in general conformance with current Caltrans standards and procedures.

23. Sidewalk widening shall be provided to allow a clear 6-foot walkway at all locations, including areas where mailboxes, street furniture, streetlights, street signs and fire hydrants are to be installed or, as otherwise directed by the Town Engineer.
24. Any existing curb and gutter that is removed and replaced with new curb and gutter shall be reconstructed meeting Town standards.
25. Americans with Disabilities Act (ADA) compliant pedestrian curb ramps shall be provided at all intersections where sidewalks and/or crosswalks are proposed. The ramps shall conform to current ADA standards.
26. The Engineer of Record shall provide exhibits demonstrating that the private streets and common driveways meet fire and refuse hauling truck turning requirements with the first improvement plan submittal. Any locations found to not be acceptable by the Town Engineer/Windsor Fire Protection District or the refuse hauler shall be revised to meet the requirements of the Town Engineer/Fire District & refuse hauler.
27. The applicant's design engineer shall coordinate the roadway improvement design with Sonoma County Transit regarding the need for and design of bus/transit facilities to serve this project.

### **Street Lighting, Signing, and Striping:**

28. Striping, pavement markings and traffic signage shall be provided on all streets as necessary and as required by the Town Engineer. Signage restricting parking and red painted curbing shall be installed where appropriate. Speed limit signs shall be installed at locations determined by the Town Engineer. Onsite fire lane signing, curb painting and legends shall conform to the requirements of the California Vehicle Code and the Windsor Fire Protection District. Twenty-five miles per hour speed limit signs shall be installed within the subdivision at locations determined by the Town Engineer. Existing striping, signage and lighting disturbed or damaged during construction of the project shall be replaced to the satisfaction of the Town Engineer.
29. Street lights used to illuminate public intersections and crosswalks shall be Decorative LED Pendant lights installed in accordance with Town Standard 220. All other street lights used to illuminate the public right of way shall be Decorative LED lights installed in accordance with Town Standard 219. Public streets shall meet Town illumination requirements as approved by the Town Engineer.
30. The improvement plan submittal for Bell Road shall include a photometric design analysis. Illumination within the street portion of Bell Road shall maintain an average illumination of 1.6 foot-candles and a minimum of 1.1 foot-candles. Illumination within the street portion of Bill Beedie Way shall maintain an average illumination of 0.9 foot-candles and minimum of 0.6 foot-candles. Within intersections and pedestrian crossings, a minimum of 2.6 foot-candles shall be maintained. At pedestrian sidewalks and parking bays an average illumination of 1.2 foot-candles and a minimum illumination of 0.8 foot-candles shall be maintained. Modifications to the illumination requirements established above will need to be submitted as a Design Exception in writing to the Town Engineer for review and approval.
31. Onsite lighting shall conform to the requirements of the Town Zoning Code and Planning Department requirements.
32. Signage restricting parking and red painted curbing shall be installed where required by the Town Engineer.

**Grading Improvements:**

33. A site-grading plan prepared by a Civil Engineer registered in the State of California shall be included as part of the required improvement drawings. Lots shall be generally designed to drain to the public or private streets, unless otherwise approved in the interest of tree preservation or other unusual circumstances.
34. Creek setback lines shall be established in accordance with standard SCWA criteria (30 feet from top of bank, or 2.5:1 plus 30 feet from toe of bank, whichever is greater). The developer shall provide a plan and creek cross-sections with the first submittal of the improvement plans that shows how the creek setback line was established.
35. The applicant shall submit to the Town for review and approval a detailed Geotechnical Report prepared by a Civil Engineer registered in the State of California and qualified to perform geotechnical evaluations. The grading plan shall incorporate the recommendations of the approved Geotechnical Report.
36. All existing wells, septic tanks and/or underground fuel storage tanks shall be permanently destroyed under permit and inspection by the Sonoma County Permit and Resource Management Department, Well and Septic Division and/or Sonoma County Environmental Health or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination.
37. All existing structures shall be demolished in accordance with the requirements of a demolition permit, which shall be obtained from the Town Building Department before a grading permit will be issued.
38. Where soil or geologic conditions encountered during grading operations that are different from those anticipated in the Geotechnical Report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the Town Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement, and seismic activity.
39. The grading plan shall clearly show all existing survey monuments and property corners and shall state that they shall be protected and preserved.
40. Improvements plans shall include an erosion control (winterization) plan. The plan must include an order of work and staging/scheduling component indicating when facilities must be installed and when they may be removed.

**Tree Preservation:**

41. Tree preservation requirements shall be shown on the grading plan or a separate tree preservation plan and shall be subject to approval by the Town Engineer and Community Development Director. Tree preservation plan requirements shall conform to the Town's Tree Preservation Ordinance in effect at that time.

**Drainage Improvements:**

42. All project-related flooding impacts shall be mitigated by the project developer. Project flood control and drainage design and construction shall meet all requirements of the Sonoma County Water Agency Flood Control Design Criteria or, the most recent manual in effect at the time of improvement plan design, the Town of Windsor Design and Construction Standards, and these conditions. Flood control and drainage

improvements shall be designed by a Civil Engineer, registered in the State of California, to the satisfaction of the Town Engineer. Public and private flood control and drainage improvements shall be shown on the improvement plans and shall be approved by both Sonoma County Water Agency and the Town Engineer.

43. In addition to any other provisions or requirements, and notwithstanding any conflicting conditions or requirements, project design and construction shall:
- a. Result in a no net increase in any above-ground water surface elevation adjacent to or at any point downstream or upstream of the project site between pre-development conditions and post-development conditions for any storm event with a recurrence interval of 100 years or less. For purposes of this evaluation, pre-development conditions shall mean those hydrological and hydraulic conditions existing on the project site per the Town's Storm Water Master Plan Phase I, dated September 2017; post-development conditions shall mean those hydrologic and hydraulic conditions existing on the project site upon completion of construction and occupancy of the project in its entirety.
  - b. Provide adequate underground storm drain capacity across the project site to accommodate 10-year flows under conditions of full development of the project site and all upstream areas draining to the project site in accordance with the most recent adoption of the Town of Windsor General Plan.
  - c. Provide adequate underground and overland flow capacity across the project site to accommodate 100-year flows under conditions of full development of the project site and all upstream areas draining to the project site in accordance with the most recent adoption of the Town of Windsor General Plan, without flooding of structures or unacceptable flooding or damage to other facilities, as determined by the Town Engineer. All finished floor elevations of structures shall be a minimum of one foot above the 100-year water surface elevation so determined, excepting only garage floors provided that garages shall be of flood-proof construction to a minimum of one foot above said water surface elevation.

The developer shall provide such analyses and calculations as determined by the Town Engineer necessary to demonstrate compliance with these conditions, said analyses and calculations to be subject to the approval of the Town Engineer. The project shall include such drainage improvements, including but not limited to storm drains, detention facilities, and unobstructed overland relief paths, as are required to satisfy these conditions.

44. No lot to lot drainage is allowed. No concentrated drainage may discharge across sidewalks. All site drains must be connected to the public storm drain system or, discharged through the face of curb or to an established waterway.
45. The drainage in Bell Road, Bill Beedie Way and the Bill Beedie Way/Johnson Street intersection shall be collected in a public storm drain system, meeting Town standards, and discharged into Windsor Creek downstream of the proposed vehicular bridge. No drainage shall be allowed to drain into the SMART right-of-way. The design engineer shall coordinate all storm drain outfalls with the governing resource agencies and shall obtain written approval for the new outfall(s) prior to the approval of the improvement plans by the Town Engineer.
46. Plans and certifications shall demonstrate compliance of all improvements, including building finished floor elevations, with the Town's Floodplain Ordinance, to the satisfaction of the Building Official and Town Engineer. The Engineer of Record shall

provide a stamped and wet signed letter indicating the project meets the requirements of the Ordinance before plan approval. Building finished floor elevations shall be constructed at a minimum of 1 foot above the 100-year floodplain as approved by the Town and certified by the engineer of record.

47. The developer shall provide safety fencing as required by the Town Engineer to secure the existing inlet structure for the dual 72-inch creek bypass conduits located in Windsor Creek.
48. The developer shall construct a creek side path along the westerly side of Windsor Creek from Bell Road to the Windsor Unified School District parcel. The path shall be construed to a width of 10-feet of asphalt pavement with 2-foot wide aggregate base on both sides. The developer shall install longitudinal drainage facilities as necessary to assure that concentrated drainage does not flow across the path.

### **Utility Improvements:**

49. 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 includes the existing distribution lines located with transmission lines along the rail corridor. This does not include surface mounted transformers, pedestal mounted terminal boxes and meter cabinets.
50. Final joint trench plans shall be provided by the owner/developer to the Town Engineer for review and approval prior to issuance of encroachment. Any conflicts with existing utilities and trees shall be resolved prior to permit issuance.
51. The existing spur line, which runs from the site to the SMART rail tracks, shall be completely removed up to and including the switch. All work within the SMART right-of-way requires approval of SMART. Proof of an encroachment permit from SMART will be required prior to issuance of a grading permit. This condition of approval shall be waived if it is confirmed that SMART will be removing the spur line and switch with their own forces as part of the extension to the north.

### **Sanitary Sewer, Water and Recycled Water Improvements:**

52. Sewer grades must be designed such that ultimate finished floors are more than 12 inches above upstream manhole rim elevation. Inadequate elevation differentials or grade on private sewer mains and laterals, as determined by the Town Engineer, must be mitigated by raising finished floor elevation(s), installing privately owned and operated sanitary sewer lift station(s) with grinder/ejector pump(s) on site, or installing a sewer backwater check valve in the building sewer line at a location approved by the Town Engineer.
53. The existing sanitary sewer lateral at the southwesterly corner of the Bell Manor Apartments (APN: 164-020-004) shall be re-routed entirely onto Bell Manor Apartment property and connected to the proposed public sanitary sewer in Bell Road unless directed otherwise by the Town Engineer. The developer shall be responsible for obtaining a right-of-entry letter from the owners of the Bell Manor Apartment property and shall submit written proof to the Town Engineer prior to Town Engineer approval of the improvement plans.
54. All private storm drain, potable water, fire service, sanitary sewer and recycled water mains, laterals, and appurtenances, must be located within the private property and



- clearly identified as private on the design drawings. All private utilities serving multiple parcels, shall be located in a private easement, shall be privately owned and privately maintained. Upon conversion to condominiums, the developer shall provide for maintenance of all shared private utilities in the CC&R's, subject to review and approval by the Town Engineer, Community Development Director and Town Attorney. The developer shall pay all costs associated with preparation and review of the documents.
55. All public water, recycled water, sewer mains shall be located in public right-of-way or a public easement offered to the Town of Windsor and Windsor Water District, including the water, recycled water and sewer mains in the private streets. Any and all rights-of-way, or if unavoidable, easement dedications shall be made by the property owner to the Town of Windsor and Windsor Water District at the property owner's expense prior to recordation of the final map.
  56. Prior to TE approval signature of improvement plans or, recordation of the final map, whichever occurs first, the property owner/developer shall enter into a maintenance agreement for the maintenance of public utilities located in private streets, common driveways and private common area parcels. Said agreement shall be subject to review and approval by the Town Attorney and Town Engineer. The developer shall pay all costs associated with preparation and review of the agreement. The agreement shall be recorded in the Sonoma County Recorder's Office and shall run with the land.
  57. All utilities proposed to cross Windsor Creek shall be located in a transfer casing for the length of the crossing as required by the Town Engineer. No utilities shall be allowed to cross under the bridge abutments.
  58. As part of the first improvement plan submittal the developer shall include a sewer profile for the proposed sewer in Bell Road based on recent survey data. Should the proposed new sanitary sewer not be able to tie into the existing 48" trunk main due to unforeseen conditions, the developer shall provide a sewer study of localized and downstream sanitary sewer capacities to determine the systems adequacy to handle the project's loading. The loading from existing and foreseeable future development within the local sewer drainage area shall also be included in the study. Existing sewer mains, which are inadequately sized, shall be replaced at the developer's expense.
  59. All existing underground utilities through the site shall be completely removed unless slated to remain in service, or as otherwise directed by the Town Engineer. In the interest of tree preservation, existing utilities within tree protection zones may be abandoned in place within the limits of the tree protection zone meeting Town standards.
  60. The developer shall install public recycled water mains from it offsite source in Windsor Road by extending a 12-inch recycled water main to the project site via Duncan Drive including a jack-and-bore beneath the Smart railroad right of way. The developer shall extend the 12-inch recycled water line to Bell Road then northerly to the northerly project limits. The developer shall install a 6-inch recycled water line in Bill Beedie Way and the southern section of Bell Road from the Bill Beedie Way/Johnson Street intersection to the Grayson Way/Bell Road intersection. The developer shall also install a 6-inch recycled water main loop in Private Road A, B & C and shall provide two 6-inch stubs up to the Windsor Unified School District (WUSD) property on the north and south side of the WUSD parcel. All recycled water main design and construction shall meet Town standards and the requirements of the Town's Urban Recycled Water Facilities Planning Study prepared by West Yost Associates, dated May, 2013. The two recycled water stubs to the WUSD property shall be located in areas approved by the Town Engineer and that will not require a creek crossing.

61. All landscaping, private and public, must be irrigated with Town of Windsor recycled water unless otherwise directed by the Town Engineer. The property owner must enter into and abide by all the terms of a Recycled Water User's Agreement with the Town of Windsor. This Agreement must be signed by the property owner prior to approval of the improvement plans, issuance of a building permit, issuance of an encroachment permit or connection to the Town's recycled water system, or as otherwise directed by the Town Engineer.
62. All recycled water mains, service laterals, plumbing, valves, pipes, appurtenances, irrigation parts, vaults and boxes must be purple. Recycled water notification signs shall be installed as directed by the Town Engineer. Recycled water spray, mists and ponding must not be present in any designated eating area.
63. Recycled water/potable water dual plumbing design and layout, construction-installation and final inspection review for individual lots or grouping of lots must be performed by an AWWA certified Cross Connection Specialist at the Property Owner's expense. All deficiencies cited by the Cross Connection Specialist must be corrected by the property owner. Written reports of the Cross Connection Specialist's finding must be submitted to and approved by the Public Works Director prior to acceptance.
64. A 12-inch high pressure gas transmission main and other underground facilities are located along the railroad right-of-way with other underground facilities located in other areas of the site. These facilities shall be physically located, both horizontally and vertically, and shall be shown on the improvement plans in accordance with State law. The utility companies owning the existing utilities and easements shall approve the improvement plans in writing prior to signature of the improvement plans by the Town Engineer.
65. The developer shall enter into an agreement to purchase the existing Windsor Water District (WWD) well parcel (APN:164-020-007). The developer shall pay all costs associated with the purchase of the well parcel, including but not limited to, parcel appraisal, grant deed document preparation & review, Town Attorney costs, escrow and recordation costs
66. Each residential unit shall also be individually metered by privately owned and maintained water meters, in accordance with State regulatory requirements and shall be managed by the management company of the apartment complex or, the project HOA once condominium plans are filed with the State.
67. The common area commercial facility (recreation facility) shall be required to install a grease interceptor, meeting Town standards, if a common area kitchen is proposed for the facility.

### **Storm Water Quality Improvements:**

68. All design and construction shall meet the requirements of the most recent editions of Town of Windsor, Phase I Ms4 permit and the City of Santa Rosa Low Impact Development Technical Design Manual. Prior to approval of the improvement plans, the applicant shall submit a Final Storm Water Low Impact Development Plan (FSWLID) subject to review and approval by the Town Engineer. The plan shall include post-construction storm water treatment and peak reduction measures and shall address maintenance of private and/or public storm water facilities. The FSWLID shall be approved by the Town Engineer prior to signature of the improvement plans or, as otherwise directed by the Town Engineer.

69. Private storm water quality improvements shall be privately owned and privately maintained.
70. The developer/property owner shall execute an agreement to annex into the Town's 1982 Act Benefit Assessment District for maintenance of all public storm water quality features and for maintenance of the Windsor Creek Parcel. The owner/developer shall pay all fees associated with setting up a new zone. Annexation shall occur prior to, or contemporaneously with, Final Map recordation.
71. Prior to recordation of the final map the owner/developer shall enter into a Declaration of Covenants Regarding Maintenance of Storm Water Best Management Practices (BMP) Facilities. The declaration shall be recorded with the Sonoma County Recorder's Office and shall run with the land.
72. An LID Certification will be required from the Design/Project Engineer, who shall complete a final inspection and certification that all BMPs will function per the intent of the approved design. A copy of the certification shall be provided to the Town of Windsor prior to the issuance of the first certificate of occupancy.

### **WELO, Landscaping & Irrigation:**

73. Street trees, irrigation, and landscaping along the project frontage within the public right-of-way or, along the private streets & common driveways shall be owned and maintained by property owner.
74. Chases shall be installed to all parkway strips and tree wells to allow for the installation of irrigation lines. Chase sizes shall be determined by the Landscape Architect.
75. Landscaping and irrigation shall meet the requirements of the Town's Water Efficient Landscape Ordinance (Ordinance No. 2015-73) as detailed in Section 12-3-900 of the Town's municipal code. WELO calculations shall be submitted using the commercial project specifications of the Town's MS Excel based WELO calculator found online at <http://www.townofwindsor.com/documentcenter/view/14426> , which utilizes Windsor specific parameters for evapotranspiration and rainfall. The WELO calculations, along with a landscape design plan, a completed hydrozone table, and an irrigation design plan shall be submitted for review and approval by the Town Engineer prior to improvement plan approval.

### **Permit Requirements:**

76. Provide written evidence that a Notice of Intent has been submitted and received by the Water Resources Control Board for a Construction General Permit and that a WDID number has been issued by the State. Two copies of the project Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the Town for review and approval by the Town Engineer, prior to issuance of a Town grading permit or building permit, whichever occurs first.
77. Prior to issuance of a Town grading permit, building permit or Town Engineer approval of the improvement plans, whichever occurs first, the developer/property owner shall obtain all necessary permits from SMART and incorporate the conditions of approval of the SMART permit(s) into the improvement plans as applicable. All work within the SMART right-of-way shall be approved in writing by SMART and written approval shall be provided to the Town Engineer prior to signature of improvement plans. No

work shall occur in the SMART right of way without an encroachment permit from SMART.

78. Prior to issuance of a Town grading permit, building permit or Town Engineer approval of the improvement plans, whichever occurs first, the developer/property owner shall obtain all necessary permits from the North Coast Regional Water Quality Control Board (Board) and incorporate the conditions of the Board permit into the improvement plans as applicable. The property owner/developer shall submit a copy of the Board permit and conditions to the Town Engineer prior to Town Engineer approval of improvements plans.
79. Prior to issuance of a Town grading permit, building permit or Town Engineer approval of the improvement plans, whichever occurs first, the developer/property owner shall obtain all necessary permit(s) from the Army Corp of Engineers (Corp) and incorporate the conditions of the Corp permit(s) into the improvement plans as applicable. The property owner/developer shall submit a copy of the Corp permit and conditions to the Town Engineer prior to Town Engineer approval of improvements plans. .
80. Prior to issuance of a Town building permit(s), Town Engineer approval of the improvement plans, whichever occurs first, the developer/property owner shall obtain all necessary permit(s) from the California Fish and Wildlife Department (CFWD) and incorporate the conditions of the CFWD permit(s) into the improvement plans as applicable. The property owner/developer shall submit a copy of the CFWD permit and conditions to the Town Engineer prior to Town Engineer approval of improvements plans.

#### **Rights-of-Way & Easements:**

81. All existing and proposed rights-of-way and roadway and utility easements shall be clearly identified on the design drawings.
82. Prior to final map approval, the developer/property owner shall provide written evidence of agreement from all non-Town utility companies and easement holders that the utility companies and easement holders approve of the relocation of any utilities and easements as proposed by the owner/developer.
83. The property owner shall dedicate a 36-foot wide irrevocable offer of dedication subject to improvements for public right of way & public utilities to the Town of Windsor and Windsor Water District, with an additional 5-foot public utility easement (PUE) behind the right-of-way, from Old Oak Road to the proposed Bell Road right-of-way. The dedication shall meet Town standards for a public street alignment to be utilized in the future if a public street connection is desired. The proposed private street in this area shall be designed to public standards and shall follow the proposed future public street dedication alignments to minimize disturbance to the private project improvements should it become necessary to construct a public street in this reach.

#### **Landscape & Creek Parcels:**

84. The developer/property owner shall dedicate to the Town of Windsor landscape parcels from the westerly back of curb in Bell Road and Bill Beedie Way to the SMART right of way and the landscape area at the southeasterly corner of the Johnson Street/Bill Beedie Way intersection. The landscape parcels shall be annexed into LLAD No. 1 & No.2 for landscape parcel maintenance. The developer shall pay all associated costs of

annexation and shall pay the assessments until such time that the property undergoes conversion to condominiums at which time the assessment shall be reapportioned between the new owners.

85. The developer/property owner shall dedicate in fee a Windsor Creek parcel to the Town of Windsor from the easterly limits of the public trail to the easterly property boundary.
86. A Creek Revegetation and Enhancement Plan (Plan) will be required to mitigate removal of riparian vegetation and/or to enhance any existing “riparian gaps” in Windsor Creek. The Plan shall be prepared by the Town Biologist or by a professional biologist in accordance with requirements established by the Town Biologist, including plant materials and sizing, irrigation, establishment period, and monitoring by the professional biologist. A final inspection for compliance to plan requirements shall be provided by the professional biologist prior to acceptance by the Town. The Plan may also be used to satisfy requirements of the State Department of Fish and Wildlife, Army Corps of Engineers and the North Coast Regional Water Quality Control Board but, is otherwise an independent requirement of the Town. The Plan shall be included in cost estimates, is subject to bonding and if applicable, shall be included in an improvement agreement, unless alternate agreement and security is otherwise approved by the Town Engineer and Planning Director. The Plan is subject to a five (5) year establishment and monitoring period with yearly monitoring reports submitted to the resource agencies and the Town for review and approval. All requirements of the resource agencies shall be included and be an integral part of the Plan.

**Conditions Applicable to Final Map Approval:**

87. A final map, as defined in the State Subdivision Map Act and prepared by a licensed surveyor or civil engineer, showing all parcels, rights-of-way, and easement(s) shall be filed with the Town of Windsor Engineers Office. Upon recording of the map, the subdivision is valid.
88. The developer shall present to the Town of Windsor, free of encumbrances, an irrevocable offer of dedication for rights-of-way as follows:
  - a. The developer/property owner shall dedicate sufficient public right-of-way for the Bell Road public improvements as required by the Town Engineer with a 5-foot public utility easement behind the right-of-way on both sides of the street.
  - b. The developer/owner shall dedicate sufficient public right-of-way for the Bill Beedie Way public improvements as required by the Town Engineer with a 5-foot public utility easement behind the right-of-way on both sides of the street.
  - c. Public utility easements, as necessary, adjacent to all street right of ways including the west side of Bill Beedie Way and Bell Road from the project’s northern property boundary to the southerly property boundary.
  - d. The developer shall secure all necessary rights-of-way and easements for both onsite and offsite pedestrian bridge and utility facilities. Rights-of-way and easements shall be dedicated on the map or, provided by grant deed. The developer shall prepare all necessary legal descriptions and deeds.
  - e. The Windsor Creek open space parcel shall be dedicated to the Town in fee title. A Phase I ESA may be required by the Town prior to finalization of the property transfer. The developer shall pay all costs associated with the property transfer, document preparation and review and reports.

- f. Public landscape parcels.
  - g. Private ingress/egress easements for the private streets & common driveways as required by the Town Engineer.
  - h. Private onsite utility and drainage easements as required by the Town Engineer.
  - i. Public utility and access easements as required by the Town Engineer.
89. The Final Map shall be annotated with the following information:
- a. The assessor's parcel number
  - b. Total area of land being subdivided (in acres)
  - c. Total number of lots and parcels being created
  - d. Town file number
90. Should it become necessary, the developer shall pay all costs associated with any necessary vacation or abandonment of public rights-of-way or easements and shall prepare all necessary documents and post all required notifications.
91. Patios, balconies, structural portions of the buildings and the like may not encroach into public rights-of-way or easements.
92. Prior to condominium conversion the following requirements shall apply:
- a. A condominium plan prepared in a Town approved format and sufficiently detailed with regard to units and lots to determine substantial compliance with the tentative map shall accompany the final map. The CC&R's shall be reviewed and approved by the Town, prior to being recorded, shall run with the ownership of the units served, and shall be disclosed to all potential owners. The CC&R's shall include, but shall not be limited to, the following:
    - 1. The common commercial unit.
    - 2. The residential condominium units.
    - 3. Shared parking for both the commercial unit and the residential units within the project.
    - 4. Shared parking, access, and maintenance of all common areas and private shared infrastructure.
    - 5. Area outside of the building footprint designated as common area for the common commercial unit (recreation facility).
    - 6. A non-amendment clause regarding the above unless approved by the Town. The Town has benefits of third-party rights but, is under no obligation to compel compliance to these provisions.
  - b. Town approval of shared public water meter(s) for the proposed condominium units shall include a condition of ownership of all condominium units served by the shared water meters:
    - 1. Membership by all owners in a single Owners Association shall be a condition of ownership of any of the condominium units served by a shared water meter. The Owners Association shall be solely responsible to the Town for all aspects of the shared water and sewer service.
    - 2. Each unit shall also be individually metered by privately owned and maintained water meters and shall be managed by the project Owners Association in accordance with State regulatory requirements in effect at that time.
    - 3. A single water reclamation rate shall be applied to all flow measured

- by the shared water meter, said single water reclamation rate being determined in accordance with the Town's standard practices based upon the highest wastewater strength generated by any of the individual condominium units served by the common water meter. The highest rate for any single condominium unit based on wastewater strength shall be applied to the flow generated by all condominium units served by the shared meter, notwithstanding that some or all of the remainder of the units served are generating lower strength wastewater.
4. The common commercial unit (recreation facility) shall be individually metered with a public water meter.
  5. The common area pool shall be individually metered with a public water meter.
93. A 5-foot minimum width public utility easement (PUE) shall be provided behind the public right-of-way on the east and west side of Bell Road and Bill Beddie Way.
94. The developer shall provide private easements for the following:
- a. The private streets as illustrated on the Town approved tentative map.
  - b. The common drive isles as illustrated on the Town approved tentative map.
95. The Final Map shall be annotated with the following information:
- a. The existing assessor's parcel number
  - b. Total area of land being subdivided (in acres)
  - c. Total number of lots and parcels being created
  - d. Town file number

### **Local Agency Sheet:**

96. NOTE ON PARCEL MAP: "Prior to the issuance of building permits, all applicable development impact fees shall be paid to the satisfaction of the Building Official and in accordance with Town and local district ordinances".
97. NOTE ON FINAL MAP: "The project is located in the immediate vicinity of the Town of Windsor wastewater treatment plant facilities, including storage ponds. Plant operation, including associated noise, odors and lighting may result in a nuisance to nearby residents.
98. NOTE ON PARCEL MAP: A Declaration of Covenants Regarding Maintenance of Storm Water Best Management Practices (BMP) Facilities affecting this parcel map has been recorded in the Sonoma County Recorder's Office as Document No. \_\_\_\_\_.
99. NOTE ON PARCEL MAP: A maintenance agreement for all shared private streets/common driveways and public utilities affecting this parcel map has been recorded in the Sonoma County Recorder's Office as Document No. \_\_\_\_\_.
100. Limits of the 100-year flood elevation, as determined by the Town, shall be shown on the final map and labeled as "Subject to Inundation" (if applicable). The following note shall also be provided:
- NOTE ON FINAL MAP: "Portions of Lot 2, Bell Road and the Windsor Creek Parcel are located within the 100-year flood elevation as determined by the Town of Windsor.

The lowest floor (as defined by the Federal Emergency Management Administration and local ordinance) of structures will be required to be constructed at a minimum of 1 foot above the 100-year flood elevations (as determined by the Town). Nevertheless, flooding may be experienced in certain areas in the event of a 100-year storm.”

101. A "Declaration of Restrictions" or equivalent instrument shall be approved by the Town and record upon conversion to condominiums. This declaration shall include requirements that the owner, and successors in ownership, shall include the following language in the deeds for those units inundated or partially inundated by a 100-year flood.
102. NOTE ON FINAL MAP: Prior to filing condominium conversion documents, the property owner/developer shall submit “CC&R’s to the Town for review and approval. The developer shall pay all associated costs of review. The CC&R’s shall be recorded with the Sonoma County Recorder’s Office upon conversion to condominiums.

**Subdivision Agreement:**

103. The developer shall either complete the required construction as shown on the signed improvement plans or enter into an improvement agreement and post security with the Town of Windsor, agreeing to complete the required construction within 24 months of building permit issuance and prior to a request for occupancy of any structures, or as otherwise established by the Town Engineer. Security shall include the following: Performance Bond, Labor and Materials Bond, Monumentation Bond and a Maintenance Bond.
104. Unless otherwise approved by the Town Engineer, the owner/developer shall post security for maintenance of the public improvements prior to acceptance of the public improvements by the Town or prior to project completion of an encroachment permit by the Public Works Inspector. Said security shall remain valid and in full force for a minimum one-year period from the date of acceptance of the public improvements or project completion of an encroachment permit.
105. The property owner shall execute an agreement to annex into the Town’s Landscaping and Lighting Assessment District No 2. Upon development of the property, the property will be assessed in Landscaping and Lighting Assessment District No. 1 as a developed property.
106. Prior to recordation of the final map and in lieu of constructing the sidewalk on the west side of Bell Road and Bill Beedie Way, the property owner/developer shall pay the Town a cash contribution of three hundred and fifty thousand dollars (\$350,000) for the future construction of a Multi-Use Path (MUP) by others within the SMART right-of-way. The property owner/developer shall pay the contribution regardless of whether SMART obtains grant funding for any portion of the MUP. The MUP contribution amount shall be included in the Subdivision Improvement Agreement.
107. Prior to recordation of the final map, the developer/property owner shall pay the Town a cash contribution of two hundred and eighty thousand nine hundred and fifty-four dollars (\$280,954.00), equaling a 30.8% pro rata share, for the recently installed traffic signal improvements at the Bell Road/Windsor River Road intersection. The traffic signal contribution amount shall be included in the Subdivision Improvement Agreement. All signal and intersection modifications required as part of the Mill Creek development shall be paid by the developer prior to recordation of the final map.



**During Construction Operations, the Following Conditions Shall Apply:**

108. If applicable, the applicant shall obtain a demolition permit from the Town for removal of all existing structures on the site prior to beginning construction.
109. The developer shall keep adjoining public streets free and clean of project dirt, mud, materials and debris during the construction period, as found necessary by the Town.
110. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Sonoma County Environmental Health Department, the Fire Department, the Police Department and the Town Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
111. During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler's baffles. Failure to do so may result in the issuance of an order to stop work.
112. If grading is to take place between October 15 and April 15, both temporary and permanent erosion control measures, conforming to the project erosion control plans shall be in place before October 1st. Erosion control measures shall be monitored and maintained continuously throughout the storm season.
113. The following minimum Best Management Practices (BMPs) shall be required during construction:
  - a. Construction crews shall be instructed in preventing and minimizing pollution on the job.
  - b. Stabilize construction entrance/exit to prevent tracking onto roadway. Only one stabilized construction entrance/exit will be allowed per site, unless otherwise approved by the Town Engineer. Vehicles entering and leaving construction sites spread pollutants such as sediment, gravel, and other loose particles onto adjacent roads. Pollutants are washed into roadside ditches and are a nuisance to drivers and may cause damage to vehicles.
  - c. Protect exposed slopes from erosion through preventative measures. Cover slopes to avoid contact with storm water by hydro-seeding, mulch, use of plastic sheeting or other approved means.
  - d. Use brooms and shovels when possible to maintain a clean site. Use of a hose is not recommended. Introducing water as a cleanup method adds to water pollution.
  - e. Designate a concrete washout area, if needed, to avoid wash water from concrete tools or trucks from entering storm drain systems. Maintain washout area and dispose of concrete waste on a regular basis.
  - f. Establish a vehicle storage, maintenance and refueling area, if needed, to minimize the spread of oil, gas and engine fluids. Use of oil pans under stationary vehicles is strongly recommended.
  - g. Protect drain inlets from receiving polluted storm water through the use of filters such as fabrics, gravel bags or straw wattles.
  - h. Be prepared for rain and have the necessary materials onsite before the rainy season.

- i. Inspect all BMPs before and after each storm event. Maintain BMPs on a regular basis and replace as necessary, through the entire course of construction.

**Prior to Acceptance of Improvements and Release of Surety, the Following Conditions Shall Be Satisfied:**

114. All public improvements shown on the Improvement Plans shall be completed and accepted by the Town.
115. Existing curb, gutter and sidewalk to remain shall be inspected by the Town. Any curb, gutter and sidewalk, which is not in accord with Town Standards or is damaged before or during construction, shall be replaced.
116. The developer shall provide a written statement signed by his or her engineer verifying that the grading and/or drainage improvements are completed in accordance with the plans approved by the Sonoma County Water Agency, the Town Engineer and the Building Official.
117. Prior to acceptance of the public improvements, the developer shall provide the Public Works Department a complete set of As-Built/Record Drawing Mylar improvement plans showing all construction changes from the original plans, TIFF files (or alternate format determined by Public Works) for each of the improvement plan sheets and one paper copy of the As-Built/Record improvement plans, including an electronic copy of the approved Storm Water Pollution Prevention Plan (SWPPP), the approved Final Storm Water LID (FSW LID) and the Declaration of Covenants Regarding Maintenance of Storm Water Best Management Practices (BMP) Facilities.

**COMMUNITY DEVELOPMENT DEPARTMENT – BUILDING DIVISION (Unless otherwise stated, conditions in this section shall be to the satisfaction of the Building Official): Conditions applicable to issuance of a building permit:**

118. Construction shall comply with all applicable current codes. No site clearance, grubbing, grading, or fill stockpiling, may be performed without prior approval of the Building Official.
119. No construction shall be initiated until plans have been approved. A separate grading/foundation plan may be issued at the discretion of the Town Engineer, Chief Building Official and Town Community Development Director.
120. No building or ground disturbing permits shall be issued until written evidence of all applicable permits including any required mitigation payments from the appropriate resource agency(s) (NCRWQB, USACE, USFWS, CDFG, and/or RWCQB) as may be required have been acquired. Prior to issuance of a grading permit and/or start of any construction, in compliance with the adopted Mitigation Monitoring Plan copies of the permits and payments shall be filed with the Planning Department. Any deviations from this requirement require approval by the Community Development Director.
121. Abandon any existing wells, septic tanks, or underground fuel storage tanks under permit and inspection of Sonoma County 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.
122. Building permit plans shall comply with the applicable mitigation measures for the Project included in the Mitigation Monitoring and Reporting Program.
123. 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. 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 and shall comply with the Mitigation Measure GEO-1.
124. 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.
  125. 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.
  126. 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.
  127. The Developer shall pay all applicable development impact fees for Drainage, Parks & Recreation, Public Facilities, Traffic, Recycled Water, Water Capacity and Wastewater Capacity prior to the issuance of a building permit. The developer shall also pay all applicable school impact fees for each lot to the Windsor Unified School District per the school district policies. The developer shall also pay all applicable Windsor Fire Protection District/Sonoma County Fire District fees.
  128. Site improvements shall be reviewed by the Windsor Fire Protection District/Sonoma County Fire District.
  129. Improvement plans, maps, and construction shall comply with all state and federal accessibility requirements, to the satisfaction of the Town Building Official.

### **COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION**

130. The Project shall generally comply with the Project description, plans, and materials included in the Planning Commission staff report, dated January 22, 2019, as well as all materials presented to and approved by the Planning Commission, except as modified herein.
131. Following approval of entitlements, the Developer shall provide five (5) full-sized plans sets to the Town of Windsor for Planning and Public Works' records. These plans shall include all corrections required by the conditions of project approval.
132. The mitigation measures included in the Final Initial Study / Mitigated Negative Declaration for the Mill Creek Development Project dated December 17, 2018, are incorporated herein by reference as conditions of approval.
133. Within one day of Project approval, the Developer shall provide a check for the County Clerk's filing fee for the Notice of Determination (currently \$50) and the California Department of Fish and Wildlife CEQA filing fee (currently \$2,354.75) so that the Notice of Determination can be filed within five days of Project approval.
134. The Project shall pay Inclusionary Housing In-Lieu Fees to satisfy the requirements of the Town's Inclusionary Housing Ordinance. Payment of required Inclusionary Housing In-Lieu Fees shall be made at the time the first building permit for project construction is issued at the fee rate in effect at the time of issuance.

135. Gas meters shall either be relocated to a place where they are not visible from a street or are concealed in fully enclosed and roofed utility closets that will further break up the mass of the buildings, including in locations where there are unarticulated, three-story vertical building elements.
136. The maximum front yard setbacks of Building Nos. 5, 6, 13 and 14 shall be reduced to comply with the maximum 10-foot front yard setback from Bell Road.
137. The maximum building height of the buildings in the MDR and VR zones (Building Nos. 8, 9, 10, 15, and 16) shall be reduced to not exceed 35 feet.
138. The minimum height above the public sidewalk of the porches or stoops on buildings in the VR zone (Building Nos. 15 and 16) shall be revised to be no less than two feet, or the maximum height possible without violating Building Code accessibility requirements.
139. The minimum length and width of stoops on buildings in the VR zone (Building Nos 15 and 16) shall be revised to be no less than four feet.
140. In compliance with the bicycle parking standards of the Zoning Code, secured, lighted and covered bicycle parking to accommodate 42 bicycles shall be provided in multiple locations around the project site convenient to residents of the project.
141. A final landscape and irrigation plan shall be provide. The final landscape and irrigation plan is to be consistent with the water efficiency landscape ordinance and shall identify the specific species, planting container size and quantities of trees, shrubs and ground cover for the Project. A Tree Removal Permit shall be obtained prior to issuance of any grading or building permit for the project
142. NOTE ON PLANS: Any unanticipated discovery of archeological or paleontological resources during construction activities shall be evaluated by a qualified archeologist or paleontologist. If the discovery is determined to be potentially significant, a treatment plan shall be developed in accordance with State law.”
143. NOTE ON PLANS: “Any unanticipated discovery of resources of Native American origin also requires consultation with and participation by tribes with traditional lands or cultural places located within the project site. Inadvertent finds may be subject to data recovery or may be left in situ and preserved in place.”
144. Plans submitted for building permit shall include the following and are subject to staff review and approval.
  - a. Construction staging plan that locates all materials, vehicles and equipment outside of the drop lines of protected oak trees, including trees off-site.
  - b. Details for all exterior lighting, including but not limited to building lighting, parking lot lighting, and outdoor amenity and pathway lighting. The lighting shall be compatible with the design of the Project and consistent with Zoning Ordinance requirements for site lighting and performance standards for light and glare.
  - c. Photometric plan that demonstrates compliance with the Zoning Ordinance performance standards for lighting.
  - d. Final landscape plan that includes the fire-wise landscaping and plant materials required by the Windsor Fire Protection District and that identifies the size, species, number and location of the trees, shrubs, ground covers, other plants, and landscape materials.
  - e. Location roof and utility appurtenances (including satellite dishes), which shall be screened from view from neighboring properties and streets to the extent feasible.

- f. Exterior materials and colors identified on the elevations and as approved by the Planning Commission.
145. Prior to or at the time of application for a building permit, the Developer shall submit an application for address assignment to the Community Development Department.
146. The following conditions are applicable to approval of a grading permit and/or start of any ground disturbing construction and/or applicable to improvement plan approval:
- a. No construction shall be initiated until plans have been approved. A separate grading/foundation plan may be issued at the discretion of the Town Engineer, Chief Building Official, and Community Development Director. Any deviations to this condition require review and approval by the Town Engineer, Building Official, and Community Development Director.
  - b. Improvement Plans shall be approved by Community Development and signed by the Town Engineer. Prior to approval, plans shall include the following:
    - i. Transformers, fire line check valves, meter cabinets, and backflow preventers shall also be specified on landscape drawings and appropriately screened.
    - ii. A statement on the plans by the Project Landscape Architect verifying design compliance with the Town’s Low Water Use Guidelines as well as a statement that design provides sufficient quantity and sizing of plant materials to achieve 100% coverage within 3 years of installation (turf areas within 30-60 days). In the event that reclaimed water is used for irrigation purposes, plant materials are exempt from the Town’s Low Water Use Guidelines and the Project landscape architect statement shall reflect this exemption.
    - iii. Tree Protection Measures included as part of Project grading and utility plans as follows:
      - A. Trunk, diameter, dripline, and Tree Protection Zone (TPZ) locations of existing trees shall be marked “to be saved” on the approved plans.
      - B. All utility trenching, including PG&E, shall be shown outside of the TPZ, to the extent feasible. If grading or trenching for drainage or utilities must be done within the TPZ of protected trees, the Project arborist shall be present to monitor the work. At least 24 hours’ notice shall be given to schedule site visits (48 hours is preferable). No work shall be done within the TPZ of protected trees without the presence of an arborist.
      - C. If any roots larger than 1” are encountered which cannot be preserved, they should be cut cleanly across the face of the root with a sharp saw under the supervision of the arborist.

- D. If pruning for clearance or hazard reduction is required on any trees to remain, it should be done by trained, qualified tree workers according to ISA and ANSI 300 Pruning Guidelines prior to construction. Pruning should be the minimum necessary for hazard reduction (i.e. the removal of deadwood 2” and larger, etc.) and clearance.
  - E. Tree protection fencing (as per Town of Windsor detail) shall be installed to create a Tree Protection Zone (TPZ). The tree protection fencing will be shown on the plans and installed at the outer edge of the tree dripline plus a minimum of one inch for every inch of the diameter of the tree, or a minimum of 3’ beyond the dripline, whichever is greater, including protected trees on the adjacent property or within right-of-way. If access within the TPZ will be required, the Project arborist shall be notified and asked to verify that roots are disturbed minimally during any construction activity. Fencing shall be installed prior to the start of clearing or grading operations and kept in place throughout construction activities.
  - F. No parking, operation of equipment, storage of materials, disposal of waste, or other construction activity shall occur within the TPZ of protected trees.
  - G. The Project arborist shall keep written records of site inspections and shall forward a summary report to the Community Development Department of all work authorized within the TPZs, compliance to tree preservation recommendations (including pruning, removal of deadwood, supplemental watering and feedings), and any damage affecting tree survivability in accordance with conditions of Project approval. Report shall include final recommendations for retention/removal, and shall be received prior to final clearance of improvements authorized by these plans.
  - H. Evidence of a contract with a licensed arborist to oversee and verify completion of the above requirements is required. Deviation from these requirements is subject to the approval of the Community Development Director.
147. The following are required prior to request for a Certificate of Occupancy:
- a. The Developer shall provide to the Community Development Director a written statement signed by the Landscape Architect who prepared the approved construction documents verifying that the landscape planting and irrigation improvements were completed in accordance with the approved drawings and that the irrigation system has been completely tested and found to be functioning per

design. This requirement may be deferred to release of securities only if approved by the Community Development Director.

- b. The Developer shall provide to the Community Development Director a written statement signed by the Project Arborist that the Project complies with the recommendations of the Project Arborist and identifying any additional recommendations for tree preservation and protection.
148. The Improvements shall be maintained in accordance with plans approved by the Town, unless otherwise reviewed and approved by the Community Development Director, in advance of any modifications.  
Indemnification.
149. The Developer 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 the Developer, including its partners, principals, or agents, the Town and/or the parties initiating or bringing such action. The Developer 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 Categorical Exemption), 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 the Developer 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 the Developer is 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 the Developer 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 the Developer has 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 Developer.

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

150. The Community Development Director may approve minor modifications to the Project that are in substantial conformance with the conditions of approval and approved plans.
151. Zoning land use entitlements (e.g. Use Permit and Site Plan and Design Review) approved as part of the project shall be valid from date of adoption of this resolution and remain valid for the life of the Tentative Map, or for two years from the date of approval of the Final Map for the project, whichever is longer. Extensions of time may be requested at that time in accordance with the Town Code.

**PLANNING COMMISSION**

[PLACEHOLDER]

**PASSED, APPROVED AND ADOPTED this 26<sup>nd</sup> day of February 2019, by the following vote:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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**CHAIR**