

RESOLUTION NO. 2123-07

**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF WINDSOR
MODIFYING CONDITIONS OF APPROVAL FOR THE
BROOKS ROAD HOTEL, RESTAURANT, AND OFFICE-RETAIL BUILDINGS
AT 9150 BROOKS ROAD SOUTH
(FILE NO. MNS/UP 00-52)**

WHEREAS, the Town of Windsor Planning Commission considered a request the Town of Windsor Planning Commission considered a request from Billa Group, LLC for a Minor Subdivision and Use Permit/Design Review approval for a 108-room hotel, 6,000+/- square foot restaurant, and a 8,550+/- square foot office/retail building. The General Plan: Retail Commercial; Zoning: ACC@ (Community Commercial). The property is located at 9150 Brooks Road South, Windsor, CA 95492; APN: 161-550-035and

WHEREAS, the Planning Commission approved Resolution 350-01 adopting a Mitigated Negative Declaration and approving the Use Permit and Resolution 351-01 approving a tentative map on June 21, 2001; and

WHEREAS, Resolution 350-01 and 351-01 are incorporated by reference; and

WHEREAS, a tentative map was approved for two years and subsequently received five one-year extensions with the final extension granted on June 19, 2007 for a map expiration date of June 21, 2008; and

WHEREAS, project improvements included realignment of Los Amigos Road, a box-culvert extension for the road crossing of Windsor Creek, and vacation of existing right-of-way for project parking; and

WHEREAS, the developer began construction of public improvements in mid-2004 but encountered substantial changes in the regulatory requirements for creek improvements; and

WHEREAS, the developer started negotiations with the regulatory agencies, which resulted in an alternative approach to the proposed box-culvert extension with an open-bottom separated bridged in a manner which does not require disturbance of Windsor Creek within its ordinary high water mark; and

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

WHEREAS, as a result of the regulatory agency agreement to an alternative crossing; considerable time has been lost in complying with a number of the original conditions of

approval and the developer has informed the Town that maintaining the original project development sequence may jeopardize the economic viability of the project due the extended timeframe to complete the remaining items; and

WHEREAS, the hotel portion of the project is reliant on the completion of the creek crossing and vacation of right-of-way; and

WHEREAS, the developer has requested the project development sequence be modified to allow for the issuance of a building permit for the hotel project, prior to approval of improvement plans for construction of the new creek crossing and based on the execution of an agreement assigning the risk solely to the developer and owner of the hotel property, including non-occupancy of the hotel until all public improvements and on-site parking has been acceptably completed; and

WHEREAS, the Town of Windsor Zoning Ordinance allows for the construction of multiple commercial buildings meeting zoning districts standards on a single parcel; and

WHEREAS, construction of the commercial buildings does not require subdivision of the parcel; and

WHEREAS, to address the alternate creek crossing several of the original conditions of approval require modification;

NOW, THEREFORE, BE IT RESOLVED THAT the Town of Windsor Town Council hereby approves the following modifications to the conditions of approval:

Resolution 350-01

1. Condition No.1 – The Improvement Plans shall be approved by the Town Engineer, prior to building permit issuance.
2. Condition No. 3 – Modify to read: No site work, with the exception of grading and foundation, shall be initiated until improvement plans have been approved and/or the agreement for the Hampton Inn and Suites with the Owner and Developer has been negotiated, executed, and implemented to the satisfaction of the Public Works Director and Planning Director.
3. Condition No. 16 – Modify to read: A grading permit may be issued at the discretion of the Planning Director and Town Engineer.

Resolution 351-01

1. Condition No. 1g – Modify to read: A new bridge crossing at Windsor Creek shall be provided for the realigned segment of Los Amigos Road. The crossing design shall be prepared to the satisfaction of Town Engineer. A hydraulic study shall be prepared prior to issuance of building permits. The applicant shall obtain the necessary permits from the Army Corps of Engineers, State of California Department of Fish and Game, and the Regional Water Quality Control Board.

BE IT FUTHER RESOLVED that the conditions of approval of Resolution 350-01 and 351-01, with the exception of those modified above, shall remain in effect.

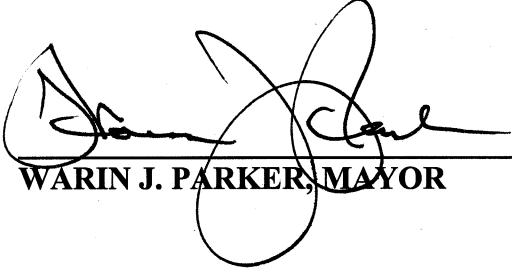
PASSED, APPROVED AND ADOPTED this the 15th day of August 2007 by the following vote:

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

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



WARIN J. PARKER, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK