

RESOLUTION NO. 2304-08

**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 TO INCORPORATE A ROADWAY KNUCKLE
(FILE NO. MNS/UP 00-52)**

WHEREAS, 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: "CC" (Community Commercial). The property is located at 9150 Brooks Road South, Windsor, CA 95492; APN: 161-550-035; and

WHEREAS, the Planning Commission approved Resolution 350-01 adopting a Mitigated Negative Declaration and approving a 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, the public hearing was noticed prior to the Town Council hearing in a manner required by law; and

WHEREAS, in accordance with the provisions of law, the Town Council did conduct a public hearing on June 18, 2008 on said application at which time all interested persons were given an opportunity to be heard; and

WHEREAS, Section 15164 of CEQA requires preparation of an addendum if minor changes to a project occur and when the minor changes do not require preparation of a subsequent Negative Declaration; and

WHEREAS, staff has reviewed the revisions and prepared an addendum to the previously approved Mitigated Negative Declaration per Section 15164 of CEQA; and

WHEREAS, the addendum, incorporated by reference, addresses the revisions to the realignment of Los Amigos Road and finds that the proposed knuckle configuration does not result in any major revisions to the project, which would result in significant changes to traffic patterns and/or a significant increase in vehicle emissions; and

WHEREAS, based on the previously adopted Mitigated Negative Declaration and the addendum, no additional CEQA review is required; 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 bridge in a manner which does not require disturbance of Windsor Creek within its ordinary high water mark; and

WHEREAS, as a result of the regulatory agency agreement to an alternative crossing; considerable time was 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 developer 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 hotel portion of the project was reliant on the completion of the Los Amigos Road realignment and vacation of right-of-way; and

WHEREAS, the Town Council, at a noticed public hearing, approved Resolution 2123-07, which modified the project development sequence, and addressed a new bridge crossing at Windsor Creek for the realigned segment of Los Amigos Road; and

WHEREAS, the staff report of June 18, 2008, incorporated by reference, discusses the realignment of Los Amigos Road; and

WHEREAS, the Town Engineer has been determined that it is feasible to utilize a roadway knuckle in place of a new bridge to satisfy the requirement to realign Los Amigos Road; and

WHEREAS, to complete the realignment of Los Amigos Road Condition 1g of Resolution 351-01 and modified by Resolution 2123-07 requires further modification: and

WHEREAS, based on staff presentation and agenda report, including references to the General Plan maps showing circulation, the Council finds the modification consistent with the General Plan; and

WHEREAS, based on staff presentation and description of the addendum, Council finds the modification does not raise significant environmental concerns.

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

Original Resolution 351-01, and Modified by Resolution 2123-07;

1. Condition No. 1g – Modify to read: A roadway knuckle and a new bicycle/pedestrian bridge over Windsor Creek shall be designed and constructed by the applicant for the

realigned segment of Los Amigos Road. Design and construction of the knuckle and associated roadway, bicycle, and pedestrian facilities shall be to the satisfaction of Town Engineer. The applicant shall obtain the necessary permits to complete construction of the new design. The timing of the construction of the roadway knuckle and associated roadway, bicycle, and pedestrian facilities, as well as the approval of the final map and the issuance of certificates of occupancy shall be pursuant to the terms of the Subdivision Improvement and Occupancy Agreement for the Hampton Inn and Suites approved by Town Council Resolution No. 2305-08.

BE IT FUTHER RESOLVED that the conditions of approval of Resolution 350-01, 351-01, 2123-07, with the exception of the modification above, shall remain in effect.

PASSED, APPROVED AND ADOPTED this 18th day of June 2008 by the following vote:

AYES: COUNCILMEMBERS ALLEN, GOBLE, SALMON AND MAYOR FUDGE
NOES: NONE
ABSTAIN: NONE
ABSENT: COUNCILMEMBER PARKER



DEBORA FUDGE, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK