

RESOLUTION NO. 2801-11

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
APPROVING A USE PERMIT, INCLUDING FINAL SITE PLAN AND DESIGN REVIEW,
FOR THE WINDSOR LIVE & WORK PROJECT (FILE NO. GPA/UP/MJS 06-20)**

WHEREAS, the Town of Windsor Town Council considered the request from Misha Weidman / Pegasus Ventures for a Live/Work Planned Development consisting of 12 live/work units on a 1.17 +/- acre parcel. Total interior unit areas range from 1,750 to 2,256 square feet, including work spaces from 280 to 844 square feet, and residential living spaces from 1,470 to 1,741 square feet. The request includes a tentative map to divide 1.17 acres into 12 live/work lots plus common areas, as well as associated use permit and General Plan Amendment actions to accommodate the proposal. General Plan: General Business with a "Surrounding Residential" Overlay / Special Planning Area "H"; Zoning: "CC" (Community Commercial). Property located at 6010 Old Redwood Highway (APN 163-172-017); and

WHEREAS, by Resolution No. 2799-11, the Town Council has adopted a Mitigated Negative Declaration associated with the proposed project; and

WHEREAS, by Resolution No. 2800-11, the Town Council has approved the General Plan Amendments associated with this proposal; and

WHEREAS, the applicant has also submitted a request for approval of a Tentative Map associated with this proposal. This request is addressed in a separate resolution; and

WHEREAS, the Planning Commission, in Resolution No. 583-11, has recommended approval of the Use Permit and Site Plan & Design Review request, and;

WHEREAS, in accordance with the provisions of law, the Town Council did conduct a public hearing on June 15, 2011 on said application at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Use Permit and Site Plan & Design Review request, as conditioned, is determined to be consistent with the provisions of the Town of Windsor General Plan, including the General Business Land Use Category with Medium/High Density Residential Overlay approved as part of this proposal; and

WHEREAS, the Town Council makes the following specific findings regarding the Windsor Live and Work project:

1. The proposed live / work use is permitted within the "Community Commercial" zoning district as approved for the property, and complies with all other applicable provisions of the Zoning Ordinance and the Town Code.
2. The design, location, size, and operating characteristics of the proposed live / work use are compatible with the existing and future land uses in the vicinity. The Windsor Live & Work Project demonstrates unique design and amenities consistent with Town guidelines for planned developments.
3. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

4. Granting this use 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 project is located.

WHEREAS, the Town Council makes the following additional findings regarding the proposed design of the Windsor Live and Work project:

1. The design and layout of the Windsor Live & Work Project are consistent with the General Plan (including Special Area H policies), the development standards of the Community Commercial zoning district, and the Town of Windsor Design Standards;
2. The design and layout of the Windsor Live & Work Project will not interfere with the use and enjoyment of neighboring existing or future developments, and will not create traffic or pedestrian hazards;
3. The architectural design of the Windsor Live & Work Project is compatible with the character of the surrounding neighborhood;
4. The design of the Windsor Live & Work Project will provide a desirable environment for its occupants, visiting public, and its neighbors through the appropriate use of materials, texture, and color, and will remain aesthetically appealing and be appropriately maintained through an Owner's Association;
5. The Windsor Live & Work Project will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity; and
6. The project will not result in potential adverse effect, either individually or cumulatively, on wildlife resources.

WHEREAS, mitigation measures identified in the Mitigated Negative Declaration have been incorporated into the associated Tentative Map resolution, and conditions require completion of tentative map requirements prior to construction. A mitigation monitoring plan is attached as Exhibit "A" to the Tentative Map resolution.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Windsor hereby approves the Use Permit and Final Site Plan/Design Review request subject to the following conditions:

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

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

1. A tentative map shall be approved and a final map recorded prior to the issuance of a building permit. All right of way dedications and dispositions, public improvements and utility extensions, as well as public use easements will be required as part of the mapping process.

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

Conditions applicable to issuance of a building permit:

2. Interior patio sideyard walls, where provided, shall include sleeves for emergency drainage to the satisfaction of the Building Official. Alternatively, these interior walls may be replaced with property line (wood) fencing, provided that appropriate fire protective ratings are maintained for all units.
3. Construction shall comply with all applicable current codes. No site clearance or grubbing (except weed abatement), grading, or fill stockpiling, may be performed without prior approval of the Building Official.
4. No site work, including grading, shall be initiated until improvement plans have been approved by the Planning Director and Town Engineer. Grading permits must be applied for and issued by the Building Department, prior to beginning site work.
5. Abandon any existing wells, septic tanks, or underground fuel storage tanks under permit and inspection of Environmental Health or other designated agency. If there are none, provide a letter from the project engineer relating to the scope of the search done to make this determination.
6. Upon initiation of plan check, the developer shall file with the Building Official a preliminary soils report, prepared by a civil engineer experienced and knowledgeable in the practice of soils engineering, who is registered in this state. The preliminary soil report may be waived if the Building Inspection Department shall determine that, due to the knowledge of such department as to the soils qualities of the project, no preliminary analysis is necessary.
7. The developer shall pay all applicable development impact fees as required by the Town of Windsor, prior to the issuance of a building permit. The developer shall pay all applicable impact fees to the Windsor Unified School District and Windsor Fire Protection District, prior to issuance of a building permit.
8. Site improvements shall be reviewed by the Windsor Fire Protection District.

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

Conditions are applicable to issuance of a building permit:

9. Improvement Plans shall be approved by Planning and signed by the Town Engineer.
10. An acoustical analysis shall be submitted reviewing the construction drawings for compliance with the Town's noise attenuation requirements and the provisions of the Environmental Noise Assessment conducted by Illingworth & Rodkin, Inc. dated July 23, 2007.
11. Plans shall include the following general requirements:
 - a. Lighting shall comply with Section 27.20.030 D of the Town of Windsor Zoning Code. Lighting plan shall include a site plan, photometric diagram, fixture schedule, and fixture cut sheets submitted and indexed as part of the architectural drawings. Poles shall not exceed 20 feet in height, and individual fixtures shall not exceed 250

watts. Exterior fixtures shall generally be high-pressure sodium (or LED). Wall mounted fixtures shall be sconce type with light source shielded, unless otherwise approved by the Planning Director.

- b. Trash enclosures shall be reviewed for conformity with West County Disposal recommendations, including sufficient space for recycling and pedestrian entry. Material shall include split face block with integral color to complement the building color, and solid metal gates.
 - c. Building plans shall specify colors and materials as approved by the Planning Commission and Town Council. Downspouts shall be coordinated with background building color and shown on plans.
12. Plans shall include the following:
- a. Exterior midwall, signage, and security lighting shall be placed on a common meter and controlled by the owners' association.
 - b. Garage parking spaces shall measure 20 feet X 20 feet clear of obstructions, including water heaters or other utilities.
13. Owners shall post security in the form of a bond, cash deposit or other form acceptable to the Town Planning Director to assure that the required landscape planting and irrigation improvements are completed in accordance with the approved construction documents. This requirement may be deferred to a request for occupancy at the discretion of the Planning Director.

Conditions applicable to a request for occupancy:

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

The following general conditions shall apply:

16. This project is approved for an initial two year period from the effective date of adoption of this resolution. Extensions of time may be requested at that time in accordance with the Town Code. Following approval of the tentative map, time limits of the map expiration shall apply, except that building permits shall be issued within one year of final map recordation.
17. Prior to issuance of building permits, and within 5 working days of project approval, applicant shall submit \$50.00 (payable to the Sonoma County Clerk) to the Planning Department for filing of a Notice of Determination, and
- a. No additional fee because the project is exempt from Fish and Game fee.
 - b. \$2839.25 because the project is non-exempt from Fish and Game fee, and an EIR was prepared, for a total of \$2889.25.
 - c. \$2,044.00 because the project is non-exempt from Fish and Game fee, and a Mitigated Negative Declaration was prepared (for a total of \$2,094.00), unless

a No Effect Determination is received from the Department of Fish and Game for filing with the Notice of Determination.

18. General Plan Amendment necessary to accommodate the project shall be approved by the Town Council.
19. Building permits are subject to payment of Inclusionary Housing In-Lieu fees in place at the time of permit issuance. Fee shall be based on residential square footage only.

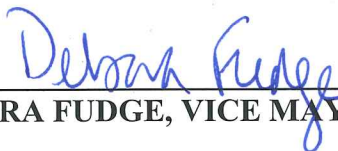
The following conditions of Use Permit approval shall apply to on-going use of the site:

20. The project shall generally comply with the project description and materials included and referenced in the staff report dated April 12, 2011 and materials presented to and approved by the Planning Commission and Town Council, except as modified herein. Improvements shall be maintained in accordance with plans approved by the Town.
21. "Work" uses and "Work" use areas shall be subject to the following limitations:
 - a. Work uses shall be limited to the following uses as further defined in the Zoning Ordinance and provided for in the "Community Commercial" zoning district:
 - 1) "Home Occupations" as provided in Zoning Ordinance Section 27.34.100. Includes those which may be considered through Minor Use Permit, subject to Minor Use Permit procedures.
 - 2) Handcraft industries
 - 3) Studios (art, dance, music, photography, etc.)
 - 4) Business Support Services
 - 5) Child and Adult Day Care Centers
 - 6) Child Day Care -- Small family day care homes
 - 7) Medical Services -- Clinics, offices, laboratories
 - 8) Offices -- Accessory to primary use
 - 9) Offices -- Business and Professional
 - 10) Personal Services (Not including "Personal Services, Restricted")
 - 11) Other uses similar in nature and not otherwise listed in the zoning ordinance, subject to the approval of the Owners' Association and the Planning Director.
 - b. Zoning approvals shall follow procedures prescribed in the zoning ordinance. The Owners' Association shall assign and monitor shared parking spaces to ensure adequate parking availability.
 - c. Work space areas shall generally comply with Unit Area Matrix, including optional Expanded Ground Floor Work Space, described in Exhibit "A" to this resolution and as approved by the Planning Director. Garages shall not be used or converted for work space.
 - d. Work use shall be conducted by the residential occupant. Bottom floor of each unit shall not be sub-leased or rented, except to a business entity owned or controlled by the resident. In the absence of a work use, the work space may be used as part of the residence.
 - e. Business use hours of operation within the "Live / Work" structures shall be limited to 7:00 a.m. to 9:00 p.m. Monday through Friday, 8:00 a.m. to 6:00 p.m. Saturday, and 9:00 a.m. to 6:00 p.m. Sunday.
 - f. Noise shall be controlled on an on-going basis in accordance with the Noise Element of the Town of Windsor General Plan and the zoning ordinance.
 - g. All signage shall be erected and maintained in conformance with the approved

- comprehensive sign program.
- h. Roof and utility appurtenances (except residential television satellite dishes 18-31 inches in maximum diameter) shall be limited to approved locations and screened from view from all public streets. Air conditioning placement shall comply with screened locations shown on the development plans.
 - i. The above restrictions shall also be included in the Conditions, Covenants, and Restrictions for the project to the satisfaction of the Planning Director. The Owner's Association and/or CC&Rs may elect to be more restrictive than the above, subject to internal enforcement.
22. The following general conditions shall apply:
- a. Lighting shall be maintained so as not to be a source of glare onto adjacent residential uses or public rights-of-way. The Planning Director reserves the right to require fixture replacement if it is found that glare continues to be an issue following installation.
 - b. Exterior colors shall comply with color groupings approved by the Town.
 - c. Community Garden may be replaced with parking option as shown on the approved plans subject to the approval of the Department of Public Works, Building, and Planning Department.
23. Growth control allocations are established for this project in Town Council Resolution No. 2217-08.
24. General Plan Amendments necessary to accommodate the project shall be approved by the Town Council.


PASSED, APPROVED AND ADOPTED this 15th day of June 2011, by the following vote:

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



DEBORA FUDGE, VICE MAYOR

ATTEST:



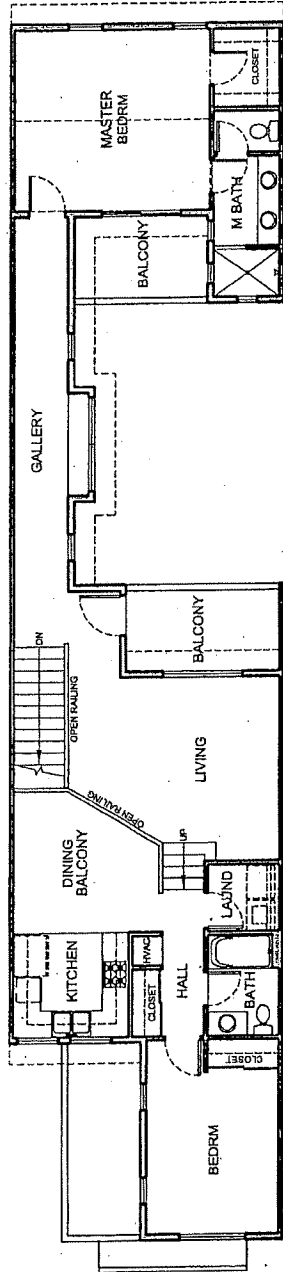
J. MATTHEW MULLAN,
DEPUTY TOWN CLERK

Attachment: Exhibit A – Unit Area Matrix, including Expanded Work Space Option
 (I:\60 - Planning & Building Dept\Planning Department\2006-10\06\06-20 Live + Work Misha Weidman\Resolutions\TC Resolutions\Exhibits\Use Permit Exhibit A.pdf)

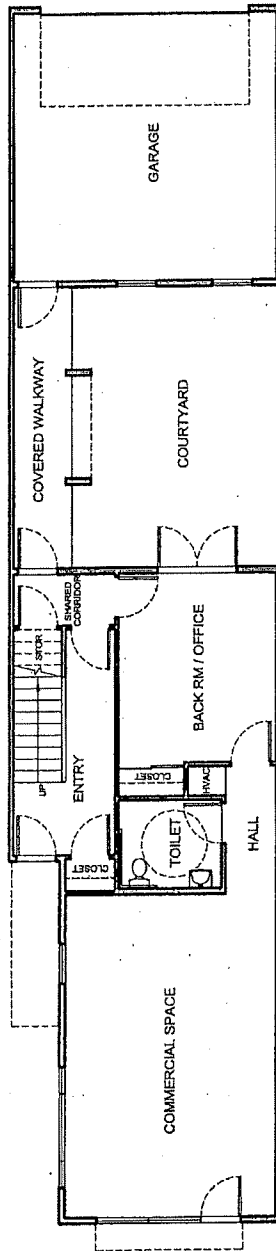
UNIT AREA MATRIX

Unit Type	Unit Count	Lot Placement	Bedrooms	Per Unit Totals			Totals Per Unit Type		
				Live SF	Work SF	Total SF	Live SF	Work SF	Total SF
A	2	7/12	3	1,741	515	2,256	3,482	1,030	4,512
B	4	8/9/10/11	3	1,738	407	2,145	6,952	1,628	8,580
C	1	6	3	1,696	439	2,135	1,696	439	2,135
D	3	3/4/5	3	1,681	439	2,120	5,043	1,317	6,360
E	1	2	2	1,479	276	1,755	1,479	276	1,755
F	1	1	2	1,470	280	1,750	1,470	280	1,750
				Grand Totals			20,122	4,970	25,092

Unit Area Matrix
Windsor Live+Work



UPPER LEVEL



LOWER LEVEL

WINDSOR LIVE + WORK - VERSION 3
 REVISED UNIT D (2 bedroom) W/ COMMERCIAL SPACE

MAIN LIVING UNIT - 1425 SQ FT
 COMMERCIAL SPACE - 717 SQ FT
 GARAGE & SHARED CORRIDOR - 472 SQ FT

REVISED DESIGN BY HEDSPRETH ARCHITECTS
 NOV 12, 2008

UNIT AREA MATRIX with Maximum Expanded Ground Floor Work Space: ESTIMATE

Unit Type	Unit Count	Lot Placement	Bedrooms	Per Unit Totals			Totals Per Unit Type		
				Live SF	Work SF	Total SF	Live SF	Work SF	Total SF
A - Full Work	2	7,12	2	1,412	844	2,256	2,824	1,688	4,512
B - Full Work	4	8,9,10,11	2	1,404	741	2,145	5,616	2,964	8,580
C - Full Work	1	6	2	1,394	741	2,135	1,394	741	2,135
D - Full Work	3	3,4,5	2	1,403	717	2,120	4,209	2,151	6,360
E*	1	2	2	1,479	276	1,755	1,479	276	1,755
F*	1	1	2	1,470	280	1,750	1,470	280	1,750
				Grand Totals			16,992	8,100	25,092

*Not eligible for expanded work space