RESOLUTION NO. 3498-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR REVISING A USE PERMIT FOR A 12-LOT PLANNED DEVELOPMENT, INCLUDING SITE PLAN AND DESIGN REVIEW APPROVAL, TO CHANGE THE UNITS FROM LIVE/WORK TO SINGLE FAMILY DWELLINGS, AND RESERVING 12 RESERVE B RESIDENTIAL GROWTH CONTROL ALLOCATIONS FOR THE WINDSOR GARDENS DEVELOPMENT PROJECT (FORMERLY KNOWN AS "WINDSOR LIVE/WORK+") (FILE NO. REV 06-20B)

WHEREAS, by Resolution No. 2801-11, incorporated herein by reference, the Town of Windsor Town Council ("Town Council") approved the Windsor Live/Work+ Planned Development consisting of 12 live/work units on a 1.17 +/- acre parcel. Units range in size from 1,750 to 2,256 square feet. General Plan: Medium Density Residential. Location: 6100 Old Redwood Highway (APN 163-172-017); and

WHEREAS, by Resolution No. 2799-11, herein incorporated by reference, the Town Council adopted a Mitigated Negative Declaration ("MND") for the Windsor Live/Work+ project on June 15, 2011; and

WHEREAS, by Resolution No. 2800-11, herein incorporated by reference, the Town Council approved General Plan Amendments associated with the Windsor Live/Work+ project on June 15, 2011; and

WHEREAS, by Resolution No. 2802-11, herein incorporated by reference, the Town Council approved a Tentative Map for the Windsor Live/Work project on June 15, 2011. The Tentative Map divides the property into 12 parcels and a common area; and

WHEREAS, by Resolution No. 3448-18, herein incorporated by reference, the Town Council adopted General Plan 2040 on April 4, 2018, which changed the General Plan land use designation of the site from General Business (with Medium Density Residential overlay) to Medium Density Residential; and

WHEREAS, by Resolution No. 3448-18, Exhibit D (line 8), the Town Council approved rezoning the subject property to Medium Density Residential to be consistent with the General Plan; and

WHEREAS, the Town has received an application from Misha Weidman ("Applicant") to revise the Use Permit to remove the "work" component of the project, changing the live/work units to single-family dwellings; and

WHEREAS, no changes to the Tentative Map, Site Plan or Design are currently proposed; and

WHEREAS, in accordance with the provisions of law, the Town Council did conduct a public hearing on January 15, 2019 on said application at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the project has a previously adopted Mitigated Negative Declaration (MND). No changes are proposed that would affect the physical environment, nor are there changes in the circumstances under which the project will be undertaken, and therefore, the preparation of a subsequent or supplemental MND is not required, either due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

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 (No. 2802-11); and

WHEREAS, Town staff has further determined that all previously adopted mitigation measures will continue to apply to the Project; and

WHEREAS, the proposed revision does not require additions or alterations to the mitigation measures or the mitigation monitoring program previously adopted; and

WHEREAS, the project, as conditioned, is determined to be consistent with the provisions of the Town of Windsor General Plan, including the Medium Density Residential land use designation; and

WHEREAS, the Town Council makes the following specific findings regarding Use Permit for the Windsor Gardens Planned Development:

1. The proposed Windsor Gardens residential use is permitted within the "Medium Density Residential" zoning district and complies with all other applicable provisions of the Zoning Ordinance and the Town Code. *Supporting evidence: The project's density (10 du/ac) is within the Medium Density Residential zoning density range (8-16 du/ac). Planned developments provides flexibility in site planning mandated by the zoning code, in this case from requirements for lot widths, lot area, and setbacks. The proposal is otherwise generally compliant with the Town's Design Standards, which encourage building orientation to the street and parking to the side or rear, and the underlying zoning district requirements, including building height restrictions.*

2. The proposed use is consistent with the General Plan and any applicable Specific Plan. *Supporting evidence: See Site Plan and Design Review finding #1, below. The subject parcel is not part of a Specific Plan.*

3. The design, location, size, and operating characteristics of the proposed residential use are compatible with the existing and future land uses in the vicinity. *Supporting evidence: The Windsor Gardens project demonstrates unique design and amenities,*

consistent with Town guidelines for planned developments. The buildings are set back from the neighboring properties to the east, with generous landscaping for screening purposes. The project's height is generally consistent and compatible with existing and planned development in the area. The location is suitable for residential development because of access to transit, Highway 101, and Esposti Park nearby, and the project's design is compatible with The Oaks project (north of Merner Drive), which has been reviewed on a conceptual basis by the Planning Commission with a favorable response.

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. *Supporting evidence: The project site is flat and vacant. The project's density is less than the maximum allowed by the General Plan. Sewer and water are available to the site. The approved Windsor Live/Work+ project stipulated that the designated "work" spaces could be used by the homeowner for work or residential purposes, but the work spaces could not be leased to an outside entity. The change to an all residential project is within the scope of the project as originally approved.*

5. 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. *Supporting evidence: The project will provide housing where it is needed and where it can be accommodated. The site is adjacent to a community park (Esposti Park), has access to public transit, and is near Highway 101 access points. The project's design provides public amenities, such as wide sidewalks and planter strips for street trees. The project is consistent with the Americans with Disabilities Act regulations and the CAL Green Building Code. All units will be provided with solar photovoltaic panels; and*

WHEREAS, the Town Council makes the following additional findings regarding the Site Plan and Design Review of the Windsor Gardens project:

1. The design and layout of the Windsor Gardens project are consistent with the General Plan, including Policy LU-12.9, Neighborhood Interface Policy for Properties in the Vicinity of Merner Drive (formerly "Special Area H"), the development standards of the Medium Density Residential zoning district (other than lot size, lot width, and setback reductions specified by the Planned Development), and the Town of Windsor Design Standards. *Supporting evidence: General Plan Policy LU-12.9 has three requirements, including:*
   (1) Maximum 12 units per acre. The project's density is 10 units per acre.
   (2) Three-story construction is allowed at the Old Redwood Highway frontage, tapering to a maximum of 38 feet within the rear 50% of the site and no more than one story within the rear 30 feet. One unit (Lot 7) at the corner of Merner Drive/Old Redwood Highway has a height of 30 feet for architectural interest. The rest of the project has a maximum height of 27 feet. Parking, driveway access, and landscaping are located along the back of the site, so there are no buildings within the rear 30 feet.

(3) *Noise attenuation for residential units shall be achieved through means other than a sound wall along Old Redwood Highway. Interior noise levels will be limited with sound-rated windows and wall insulation. A condition of project approval requires an acoustical analysis for each unit with the building permit.*

Design Standards: The building type is consistent with the Town's Design Standards for residential districts. The project also provides private and common open space in excess of minimum requirements. Awnings are provided to protect front doors from rain. Family rooms (active spaces) with large windows face the street.

2. The design and layout of the Windsor Gardens project will not interfere with the use and enjoyment of neighboring existing or future developments and will not create traffic or pedestrian hazards. <u>Supporting evidence:</u> *The site plan provides two building groups, with six units facing Old Redwood Highway and six units facing Merner Drive. Buildings are oriented to the streets, with minimal setbacks and parking located in the interior of the site. Units have recessed entries from courtyards off the street, as well as internal access from each garage. Adequate parking is provided, including a two-car garage for all units except Unit F, the smallest unit, which has a one-car garage. In addition, there are 14 open spaces on-site and five on-street parking spaces along the Merner Drive frontage, for a total of 19 spaces which can be shared for guest spaces and overflow parking. The project will include construction of 6-8 parking spaces along the Old Redwood Highway frontage, although these spaces are subject to removal in the event of future roadway widening. A traffic analysis for the Windsor Live/Work+ project concluded that the project did not warrant signalization of the intersection at Old Redwood Highway/Merner Drive. As explained in the staff report, traffic from the all-residential project will not exceed the traffic projections of the original live/work project.*

3. The architectural design of the Windsor Gardens project is compatible with the character of the surrounding neighborhood. <u>Supporting evidence</u>: *The buildings are generally a maximum height of 27 feet, with the corner roof element of Unit 7 totaling 30 feet in height. Materials include stucco siding in gold and gray colors; metal awnings, railings, pipe planters, and garage doors in green and brown; vinyl windows with tan trim; and "cherrywood" flat concrete tile roofing. The architecture is more modern than existing buildings in the surrounding area, but it is compatible with the older commercial buildings across the street and with the proposed project "The Oaks" to the north. The earth tone colors will be compatible with the surrounding neighborhood and with Windsor in general.*

4. The design of the Windsor Gardens 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. <u>Supporting evidence:</u> *Automobiles can access the site from a driveway on Merner Drive. Emergency vehicles can exit via an emergency vehicle access (EVA) onto Old Redwood Highway. Ample pedestrian amenities are provided, including a marked pedestrian walkway along the EVA for quick access to the park and transit stops. Ample landscaping and fencing are provided. A*

community garden is provided at the back (southeast) corner of the site, for use by residents. Each unit typically has a private balcony of 70-255 square feet and an inner private courtyard of 430 square feet. An Owner's Association will maintain common areas, including the shared parking spaces.

5. The Windsor Gardens project will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity. <u>Supporting evidence:</u> *The project was reviewed by the Fire District, Police Department, and Public Works Department, which provided input and conditions of approval to make sure the project would be a safe, healthy, functional development project. Primary site access is provided from Merner Drive, with left turn capability through a median break. An emergency vehicle access (only) is provided to Old Redwood Highway from the project's interior.*

6. The project will not result in potential adverse effect, either individually or cumulatively, on wildlife resources. <u>Supporting evidence:</u> *A Biological Assessment was conducted for the project site and revealed no unique biotic resources; and*

WHEREAS, the Tentative Map Resolution (No. 2802-11) Condition No. 91 references 12 growth management waivers for the Windsor Live/Work+ project as part of the Town's "2007 Mixed Use/Mixed Income Pilot Program as established by Town Council Resolution No. 2217-08, adopted on January 16, 2008; and

WHEREAS, because the project is no longer mixed use, the growth management waivers are herein rescinded, and therefore the project requires Growth Control allocations; and

WHEREAS, by Resolution No. 3496-18, the Town Council affirmed the establishment of Five-Year Annual Growth Control Allocation with unused allocations for Reserve A and Reserve B rolled over to subsequent years, as follows:

YEAR:	2017	2018	2019	2020	2021	TOTAL
Reserve A Units	0	0	6	28	29	63
Reserve B Units	0	0	280	114	115	509
Banked Units	0	51	0	0	0	51

; and

WHEREAS, the project is not eligible for Reserve A allocations because it is no longer mixed use and it does not have a density of at least 12 units per acre; and

WHEREAS, a sufficient number of Reserve B allocations remain within the current five-year Growth Control Allocation period to reserve 12 allocations for the project.

NOW, THEREFORE BE IT RESOLVED that the Town of Windsor Town Council hereby approves reservation of 12 Reserve "B" Growth Management allocations for the project from the 2017-2021 Five-Year Growth Control Allocation period approved by Resolution 3496-18. Pursuant to Section 16-4-124 of the Town's Growth Control Ordinance, the reserved growth control allocations shall automatically expire upon expiration of the project's discretionary approvals or expiration of unused building permits issued for the project; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Windsor hereby revises the Use Permit and Final Site Plan/Design Review approval subject to the following conditions, as amended:

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.

2. The applicant shall provide a merge lane design evaluation for Old Redwood Highway (south of Merner Drive) for the southbound merge lane and consider extending the center striping on Merner Drive for the westbound lane. If deemed necessary by the Town Engineer, these provisions shall be included with the project's improvement plans.

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:

3. Interior patio side yard 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.

4. Construction shall comply with all applicable current codes. No site clearance or grubbing (except week abatement), grading, or fill stockpiling, may be performed without prior approval of the Building Official.

5. No site work, including grading, shall be initiated until improvement plans have been approved by the Community Development Director and Town Engineer. Grading permits must be applied for and issued by the Building Department, prior to beginning site work.

6. 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.

7. 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.

8. 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.

9. 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:

10. Improvement Plans shall be approved by Planning and signed by the Town Engineer.

11. 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.

12. 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 Community Development Director.
    b. Trash enclosures shall be reviewed for conformity with Sonoma County Resource Recovery 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.

13. 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.
    c. Each unit shall include plumbing for a future electric vehicle (EV) charging station in the garage.

14. Owners shall post security in the form of a bond, cash deposit or other form acceptable to the Town Community Development 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 Community Development Director.

Conditions applicable to a request for occupancy:

15. 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 Community Development Director.

16. The applicant shall provide to the Town 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 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.

17. CC&Rs shall include a provision stating that no parking is allowed on site other than within garages and in marked parking spaces.

The following general conditions shall apply:

18. 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.

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. 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 Community Development 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.

22. Minor modifications may be approved by the Community Development Director. The Community Development Director may refer substantial modifications to the Planning Commission for review and approval.

PASSED, APPROVED AND ADOPTED this 15th day of January 2019, by the following vote:

AYES:	**COUNCILMEMBERS LEMUS, OKREPKIE, SALMON, VICE MAYOR FUDGE AND MAYOR FOPPOLI**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

DOMINIC FOPPOLI, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK