RESOLUTION NO. 2518-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR APPROVING AND AUTHORIZING THE TOWN MANAGER TO FINALIZE, EXECUTE, AND IMPLEMENT A G & C AUTO BODY DEFERRED IMPROVEMENT AGREEMENT (UP 06-57)

WHEREAS, Eugene Crozat and Teri Crozat ("Developer") wish to undertake construction of the G & C Auto Body and associated improvements ("Facility") as shown on the site plan of the previously approved Use Permit and subject to the conditions stated in Town of Windsor Planning Commission Resolution No. 552-08, adopted August 26, 2008; and

WHEREAS, the Planning Commission approved Resolution 552-08 adopting a Mitigated Negative Declaration and approving a Use Permit on August 26, 2008;

WHEREAS, Resolution 552-08 is incorporated by reference; and

WHEREAS, the proposed phasing has been reviewed based on the previously adopted Mitigated Negative Declaration and the conditions of the project and are found to be consistent with the originally approved project, so no additional CEQA review is required; and

WHEREAS, in accordance with the provisions of law, the Town Council did conduct a public hearing on August 5, 2009 on said application at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Developer in the course of the Caltrans approval process has encountered unforeseen delays and has requested that the Town consider phasing the improvements into two phases, while continuing to obtain Caltrans approvals; and

WHEREAS, certain improvements require the Developer to obtain a Caltrans encroachment permit to construct public improvements and work within the Caltrans public right-of-way; and

WHEREAS, the conditions of approval state that all resource agency approvals must be obtained prior to signature on the improvement plans and that all conditions shall be to the satisfaction of the Town Engineer; and

WHEREAS, the Developer has requested that Phase I of the project include building permits to construct the two-story office/caretaker unit and shop building, payment of development impact fees, building permit fees, Phase I inspection fees, bonds, Sonoma County Water Agency approval for drainage improvements, construction of drainage improvements, obtaining a Caltrans encroachment permit for drainage improvements if necessary, and construction of the onsite improvements; and

WHEREAS, the Developer has agreed that no occupancy would be granted for the buildings until all Phase I & II improvements have been completed to the satisfaction of the Town Engineer and Planning Director; and

WHEREAS, the Developer has requested that Phase II include approval of the Improvement Plans, obtaining a Caltrans encroachment permit, construction of all public improvements within the Town/Caltrans public rights-of-way, payment of Phase II inspection fees, and completion of all conditions of the project approval; and

WHEREAS, the Town desires to accommodate Developer's request, subject to the condition that any and all construction associated with the "Facility" is at the sole and exclusive risk of the Developer, with no assumption of risk or liability of any kind by the Town; and

WHEREAS, Town staff has considered the Developers request to phase the project and determined that if the Developer enters into a Deferred Improvement Agreement addressing specific issues related to the phasing, bonding, and construction of improvements that the request is considered consistent with the intent of the conditions of approval; and

WHEREAS, the draft G & C Auto Body Deferred Improvement Agreement is on file with the Town Clerk's office and generally incorporates the phasing requirements to address the conditions of approval for the project;

NOW, THEREFORE, BE IT RESOLVED that the Town Council approves and authorizes the Town Manager to finalize, execute, and implement a Deferred Improvement Agreement for G & C Auto Body with the Developer thereof substantially similar to the draft agreement on file with the Town Clerk's office, said Deferred Improvement Agreement reflects incorporation of Phase I and Phase II requirements and completion of the conditions of approval for the project.

PASSED, APPROVED, AND ADOPTED this 5th day of August 2009, by the following vote:

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

ROBIN R. GOBLE, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK