RESOLUTION NO. 2542-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR DENYING THE APPEAL BY VALERIE HIRSCH AND THEREBY UPHOLDING THE DECISION OF THE PLANNING COMMISSION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND APPROVING THE TENTATIVE MAP (INCLUDING FINAL SITE PLAN AND DESIGN REVIEW) FOR THE OVERLOOK SUBDIVISION AS REQUESTED BY PHIL RICHARDSON (FILE NO. MJS 98-42)

WHEREAS, the Town of Windsor Planning Commission considered the request from Phil Richardson to divide 5.9 +/- acres into 12 residential lots plus a common area, including private street. General Plan: Surrounding Residential (3-6 du/ac); Zoning: "RS/ AS" (Surrounding Residential 3-6 units/acre/ Airport Safety Overlay). The property is located at 7700 Windsor Road (APN 164-140-001); and

WHEREAS, in accordance with the provisions of law, the Planning Commission did conduct a public hearing on August 11, 2009 on said application at which time all interested persons were given an opportunity to be heard; and

WHEREAS, by Resolution 570-09, the Planning Commission adopted a Mitigated Negative Declaration associated with the proposed project and, by Resolution 571-09, the Planning Commission approved the tentative map request subject to conditions; and

WHEREAS, the decision of the Planning Commission was appealed to the Town Council by Valerie Hirsch; and

WHEREAS, in accordance with the provisions of law, the Town Council did conduct a public hearing on September 16, 2009 on said appeal at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Town Council considered the agenda report, testimony at the appeal hearing, and the determinations made by the Planning Commission; and

WHEREAS, the Town Council makes the following findings relative to this project:

1. The Initial Study/Mitigated Negative Declaration has been properly prepared and circulated for public review in accordance with CEQA and local guidelines.
2. The Town Council has reviewed the Initial Study/Mitigated Negative Declaration and considered the document and all comments thereon before making a decision on the project.

3. On the basis of the whole record before it, including the Initial Study/Mitigated Negative Declaration and comments received thereon, the Town Council finds that there will be no significant environmental effects resulting from this project, provided that mitigation measures identified in the Initial Study are incorporated into the project.
4. The Initial Study/Mitigated Negative Declaration reflects the Town's independent judgment and analysis of the potential environmental effects of the project.
5. The proposed project has been processed in accordance with the applicable provisions of the California Environmental Quality Act (CEQA). All noticing and review periods required by CEQA and the Town of Windsor's CEQA guidelines have been satisfied.

WHEREAS, the Town Council makes the following findings relative to the tentative map:

1. The tentative map, as conditioned, is consistent with the provisions of the Town of Windsor General Plan.
2. The tentative map was found to be in substantial conformance to the provisions of the State Subdivision Map Act and the Town of Windsor Subdivision Ordinance.
3. All findings (for denial) pursuant to Section 66474 of the Subdivision Map Act are determined to be inapplicable, based upon the project description and conditions of approval.

WHEREAS, the Town Council makes the following additional findings regarding the proposed design of the project:

1. The design and layout of the proposed development are consistent with the General Plan, the development standards of the applicable zoning district, design standards/guidelines, and architectural criteria for special areas;
2. The design and layout of the proposed development 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 proposed development is compatible with the character of the surrounding neighborhood;
4. The design of the proposed development 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;
5. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity; and

WHEREAS, the project may involve potential adverse effect, either individually or cumulatively, on wildlife resources; and

WHEREAS, the Town Council reserved Growth Control Allocations to serve this project were reserved by the Town Council in Ordinance 2007-227; and

WHEREAS, mitigation measures identified in the Mitigated Negative Declaration have been incorporated herein as conditions of approval. A mitigation monitoring plan is also attached as Exhibit "A" to this resolution.

NOW, THEREFORE, BE IT RESOLVED that the Town of Windsor Town Council, based on the above findings, and the record herein, including but not limited to the staff report and the testimony and evidence presented at the pubic hearing on the appeal, hereby denies the appeal and thereby upholds the decision of the Planning Commission and adopts the Mitigated Declaration and approves the Tentative Map (including Final Site Plan and Design Review) requested by Phil Richardson, subject to the following conditions:

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

Conditions Applicable to Improvement/Site Development Plan Approval:

General Requirements:

1. The developer shall prepare and submit improvement plans for the construction of all public improvements including water, sanitary sewer, recycled water, storm drain facilities, roadway improvements, curbs, gutters, detached sidewalks, parkway strips, signing, striping and streetlights. All design and construction shall conform to the latest edition of the Town of Windsor Design and Construction Standards and Caltrans, AASHTO and other applicable codes, standards, guidelines and specifications.
2. Information shown on tentative maps and site development plans shall not be construed as accepted or meeting Town standards and requirements and is subject to review and approval during the plan review process.
3. Improvement plans must be approved and signed by the Town Engineer prior to the issuing of an Encroachment Permit, Grading Permit or Building Permit.
4. Plan check and inspection fees shall be paid prior to the signature of the improvement plans.
5. Mailbox plans and locations shall be approved by the Windsor Postmaster prior to improvement plan approval. The developer shall provide a letter and exhibit showing mailbox locations from the Windsor Postmaster approving mailbox locations. Installation of mailboxes will not be required until issuance of building permits at which time any requested relocation is subject to the approval of the Postmaster.

6. All broken or sunken curb, gutter and sidewalk along the project frontage shall be repaired as part of the improvements for this project. As well, all nonconforming pedestrian ramps and driveway approaches shall be brought up to current accessibility standards including the pedestrian ramp located at the Southeast corner of Mitchell Lane and Windsor Road.

7. Deviations from Town Standards and applicable Code requirements shall be approved by the Town Engineer. The developer's engineer shall request all design exceptions in writing.

8. Improvement and site development plans shall be drafted on the Town approved sheet format. AutoCAD drawing files are available on the Town's website, (townofwindsor.com).

9. All existing and proposed rights-of-way and easements shall be clearly identified on the design drawings.

10. All improvements shall be clearly annotated as either public or private on the improvement/site development plans. All existing and proposed easements shall be shown on the plans.

11. Project benchmark shall be based on a Town approved USGS benchmark.

12. Improvement plans shall be approved by the Windsor Fire Protection District.

13. In the event that the Town is forced to condemn or acquire off-site property interest in connection with required off-site improvements, the developer shall fund the cost of condemnation or acquisition, including but not to be limited to the amounts necessary to purchase the easement or fee simple interest, document preparation, and severance or other damages payable to the owners of the land upon which the improvements are to be located, the actual cost and acquisition and all fees, including attorney's fee and/or other expenses necessary to prosecute the condemnation action, including expert witness and appraisal fees.

    In the event that the Town elects to proceed with acquisition or condemnation pursuant to Government Code Section 66462.5, the developer shall, within 60 days of written notice by the Town, deposit with the Town, as an advance, the full estimated cost of such acquisition or condemnation. The developer shall prepare any easements or deeds necessary for off-site improvements.

Roadway Improvements:

14. Windsor Road shall be widened to a half-width (centerline to edge of pavement) of 20 feet with an additional 1-foot wide graded shoulder and fabric lined earthen ditch adjacent to the graded shoulder. Windsor Road shall be ground and overlaid to the center line of the roadway with a minimum 0.20-foot of asphalt concrete paving on pavement reinforcing fabric along the entire project frontage, or as approved by the Town Engineer. Failed asphalt pavement areas, along the project frontage, shall be dug out and replaced to the satisfaction of the Town Engineer. The pavement structural section shall be designed for a TI of 9.0. Right-of-way shall be dedicated to a minimum width of 35 feet or as otherwise shown on the tentative map and as approved by the Town Engineer.

15. Parcel A shall have a slope maintenance assess easement dedicated over the entirety of the parcel to facilitate the maintenance of the cut slope along the easterly side of Windsor Road. The developer shall provide a commercial driveway approach and sufficient grading from the Private Street for Town maintenance vehicles to access the Windsor Road cut slope.

16. Mitchell Lane shall be widened to provide a minimum 5-foot wide planter strip (measured from the face of existing curb) and 5-foot wide sidewalk. The existing two twelve foot travel lanes shall be maintained for a total of 24 feet measured from curb face to curb face, except in the areas of the proposed bus pull out. Right-of-way shall be dedicated such that the planter strip, sidewalk, bus pull out and pedestrian ramp(s) are contained within the right-of-way. A minimum 5-foot wide PUE, or as required by the utility companies, shall be dedicated behind the right-of-way.

17. A bus pullout is required along the Mitchell Lane property frontage, easterly of the private street intersection. The developer shall provide the following improvements and dedications, meeting SCT, Town and current accessibility standards, to accommodate the bus pull out:

    a. A 10-foot wide/40-foot long berth area (in addition to a 12-foot travel lane in each direction).

    b. A 30-foot minimum length departure taper.

    c. A 60-foot minimum length approach, with a 30-foot Taper.

    d. Directional pedestrian curb ramps at both sides of the private street intersection.

    e. A 5-foot detached concrete sidewalk extending from Windsor Road to the easterly end of the departure taper including a pedestrian curb ramp, perpendicular to Mitchell Lane and aligning with the westerly ramp of Trione Circle.

    f. A 10-foot wide/25-foot long concrete pedestrian loading/unloading area behind the curb and gutter and within the bus berthing area.

    g. A right of way dedication, along the Mitchell Lane project frontage. The right of way dedication shall encompass the proposed bus pull out and sidewalk improvements as approved by the Town Engineer.

18. Private Street shall be constructed to a width of 24 feet measured from back of curb-to-back of curb with no parking permitted on either side. A minimum 35-foot wide PUE, or as otherwise approved by the utility companies, shall be dedicated over the private street. A 24-foot wide public access easement shall be dedicated over the private street and a 5-foot minimum width public pedestrian access easement shall be provided over the entire proposed sidewalk. Construction shall include concrete rolled curb and gutter on both sides of the street and a 5-foot wide meandering sidewalk set behind a minimum 5-foot wide planter strip (as measured from the face of curb) along the westerly side of the street. Sidewalk shall be extended to the intersection with Windsor Road to the extent practicable.

    A Public Access Easement Agreement shall be approved by the Town, recorded with and referenced on the final map. The Agreement shall provide provisions that the subdivision shall not be gated or otherwise prohibit public access, as well as include property owner's right to construct traffic calming improvements if warranted.

19. The Private Street entryway at the Mitchell Lane intersection shall be dedicated to the Town as public right-of-way. The right-of-way shall include the storm drain curb inlets, curb returns and pedestrian ramps. The extent of the dedication shall be as approved by the Town Engineer.

20. The structural section of all road improvements shall be designed using a soil investigation, which provides the basement soils R-value, and expansion pressure test results. If no R-value tests are supplied, roadway structural sections shall be designed using and R-vale of 5.0. A copy of Geotechnical report and structural section calculations shall also be submitted with the first improvement plan check.

21. ADA compliant pedestrian curb ramps shall be provided at all intersections and crosswalks where sidewalks are proposed.

22. Sidewalk warps shall be provided to allow a clear five-foot walkway at all locations, including areas where mailboxes, streetlights, street signs and fire hydrants are to be installed.

23. One-inch chases shall be installed to all parkway strips from adjacent parcels to allow for the installation of irrigation lines.

24. The developer shall provide sight lines meeting all applicable Caltrans, ASSHTO and Town Standards. A safe stopping distance shall be provided on Windsor Road of 360 feet and on Mitchell Lane of 200 feet from the proposed private street intersections. The developer shall also provide corner sight lines meeting public street intersection requirements on Windsor Road from the Mitchell Lane/Windsor Road intersection of 440 feet. Prior to acceptance of public improvements the developer and Town staff shall verify sight lines, and if required by the Town Engineer, the developer shall make all necessary modifications to grading, landscaping and other physical features to maintain sight lines.

Lighting, Signing and Striping Plan:

25. Striping, pavement markings and traffic signage shall be provided on all streets as necessary and as required by the Town Engineer. The existing center line striping and lane transition striping on Windsor Road shall be replaced, as approved by the Town Engineer, meeting a design speed of 45 miles per hour. Striping and signage meeting the requirements of a class II bicycle lane shall be provided along the east side of Windsor Road. Signage restricting parking and red painted curbing shall be installed where appropriate. Speed limit signs shall be installed at locations determined by the Town Engineer.

26. Streetlights for public and private streets shall be Hadco Victorian "Acorn" or approved equal. Developer shall provide additional streetlights for replacement purposes (5% of total or as otherwise approved). Public and private streets shall meet Town illumination requirements as approved by the Town Engineer.

Drainage Improvements:

27. All project related flooding impacts shall be mitigated by the project developer. Drainage improvements shall be designed by a Civil Engineer registered in the State of California in accordance with the Sonoma County Water Agency's Flood Control Design Criteria. Public and private drainage improvements shall be shown on the improvement plans and shall be approved by the Sonoma County Water Agency (SCWA) prior to approval by the Town Engineer.

28. All design and construction shall conform to the Town of Windsor, Phase II Storm Water Management Plan.

29. No lot-to-lot drainage is allowed. No concentrated drainage may discharge across sidewalks. All site drains must be connected to the public storm drain system, or discharged through the face of curb or to an established waterway.

30. Plans and certifications shall demonstrate compliance of all improvements, including building finished floor elevations, with the Town's Floodplain Ordinance, to the satisfaction of the Building Official and Town Engineer. Building finished floor elevations shall be constructed at a minimum of 1 foot above the 100-year storm event water surface elevation as determined by the Town and certified by the project engineer. The Engineer of Record shall provide a signed stamped letter indicating the project meets the requirements of the Ordinance before plan approval.

31. The developer shall demonstrate that the drainage facilities downstream of the existing 18"CMP on Windsor Road proposed for replacement are adequate to carry design flows. If the facilities are not adequate, the developer shall reconstruct the downstream facilities to current standard.

32. All public storm drain lines shall be located within the public street pavement area. This includes the storm drain on Mitchell Lane.

33. Site drainage design must include facilities for the containment of recycled water runoff due to over irrigation, system leakage or control failure. Storm drain systems shall include valves or other isolation facilities acceptable to the Town. The Town has determined that the use of leak sensing flow meters is not an acceptable method of controlling accidental run-off of recycled water. However, other alternatives to slide gates on storm drain outlets may be considered on a case-by-case basis. The slide gate and structure shall be publicly owned and maintained.

Grading Improvements:

34. The applicant shall submit to the Town for review and approval, a detailed Geotechnical Report prepared by a Civil Engineer registered in the State of California and qualified to perform geotechnical evaluation.

35. The developer shall include a site-grading plan prepared by a Civil Engineer registered in the State of California as part of the required improvement drawings. Lots shall be generally designed to drain to the street, unless otherwise approved in the interest of tree preservation or other unusual circumstances. The grading plan shall incorporate all grading and stabilization recommendations outlined in the approved Geotechnical Report, prepared by BACE Geotechnical, dated October 4, 2007 and the Revisions to the Grading and Drainage Recommendations, prepared by BACE Geotechnical, dated October 8, 2008.

36. Where soil or geologic conditions encountered during grading operations are different from those anticipated in the Geotechnical Report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the Town Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement and seismic activity.

37. All existing wells, septic tanks and/or underground fuel storage tanks shall be permanently destroyed under permit and inspection of Sonoma County Permit and Resource Management Department, Well and Septic Division and/or Sonoma County Environmental Health or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination.

38. The grading plan shall clearly show all existing survey monuments and property corners and shall state that they shall be protected and preserved.

39. Improvements plans shall include an erosion control (winterization) plan.

Tree Preservation:

40. Tree preservation requirements shall be shown on the grading plan or a separate tree preservation plan as approved by the Town Engineer and Planning Director. Tree preservation plan requirements shall conform to the Town's Tree Preservation Ordinance.

Utility Improvements:

41. All existing overhead utilities (of 26,000 volts or less) and proposed utilities, both on-site and along project frontages contiguous to the site, shall be placed underground. This does not include surface mounted transformers, pedestal mounted terminal boxes and meter cabinets.

Sanitary Sewer, Water and Recycled Water Improvements:

42. All public water, sewer and recycled water mains must be located in public right-of-way. Any and all rights-of-way, or if unavoidable, easement dedications must be made by the property owner to the Town, at property owner's expense, prior to final acceptance of the project by the Town.

43. All private storm drain, potable water, fire service, sanitary sewer and recycled water mains, laterals, and appurtenances, must be located within the private property and clearly identified as private on the design drawings.

44. Sewer grades must be designed such that ultimate finished floors are a minimum of 12" above upstream manhole or clean-out rim elevations. Inadequate elevation differentials or grade on private SS mains and laterals, as determined by the Town, must be mitigated by either raising finished floor elevation(s) or installing privately owned and operated SS lift station(s) with grinder/ejector pump(s) on site.

45. All landscaping, private and public must be irrigated with Town of Windsor recycled water. The property owner must enter into, and abide by all the terms of, a Recycled Water User's Agreement with the Town of Windsor. This Agreement must be signed by the property owner prior to connection to the Town's recycled water system and any construction or installation of landscaping improvements.

46. All recycled water mains, service laterals, plumbing, valves, pipes, appurtenances, irrigation parts, vaults and boxes must be purple. Recycled water notification signs shall be installed as directed by the Town Engineer. Recycled water spray, mists and ponding must not be present in any designated eating area.

47. Recycled water/potable water dual plumbing design and layout, construction-installation and final inspection review for individual lots or grouping of lots must be performed by an AWWA certified Cross Connection Specialist at the Property Owner's expense. All deficiencies sited by the Cross Connection Specialist must be corrected by the property owner. Written reports of the Cross Connection Specialist's finding must be submitted to and approved by the Public Works Director prior to acceptance.

Permit Requirements:

48. Provide evidence that a Notice of Intent has been submitted and received by the North Coast Regional Water Quality Control Board for a General Construction Activity Storm Water Permit. Two copies of the project Storm Water Pollution Protection Plan shall be provided to the Town before approval of permits, signature of the improvement plans and filing of the Final Map.

    Provide evidence of permit to fill wetlands as approved by the U.S. Army Corps of Engineers (404 Nationwide Permit) and the Water Quality Control Board (401 Certification) prior to signature of Improvement Plans. Mitigation for loss of wetlands shall be consistent with the November 9, 2007 Programmatic Opinion of the U.S. Fish and Wildlife Service, unless otherwise approved by the USFWS and Corps.

Conditions Applicable to Final Map Approval:

49. A final map, as defined in the State Subdivision Map Act and prepared by a licensed surveyor or civil engineer, showing all parcels, rights-of-way and easement(s) shall be filed with the Town of Windsor Engineer's Office. Upon recording of the map, the subdivision is valid.

50. The developer shall present to the Town of Windsor, free of encumbrances, an irrevocable offer of dedication for rights-of-way as follows:

    a. Right-of-way for all public streets shall be dedicated on the final map.

    b. A slope access and maintenance easement encumbering the entirety of Parcel A.

    c. Public & private access, public & private utility and public slope access and maintenance easements shall be dedicated on the map.

    d. The developer shall secure all necessary rights-of-way and easements for offsite road, utility and drainage facilities. Rights-of-way and easements shall be dedicated on the map or provided by grant deed. The developer shall prepare all necessary legal descriptions and deeds.

51. The Final Map shall be annotated with the following; the assessor's parcel number(s), total area of land being subdivided (in acres), total number of lots and parcels being created and Town file number.

52. The Town's standard PUE Statement shall be revised as necessary to exclude private storm drain facilities and to include recycled water facilities.

Local Agency Sheet:

53. NOTE ON FINAL MAP: "Prior to the issuance of building permits, all applicable development impact fees shall be paid to the satisfaction of the Building Official and in accordance with Town and local district ordinances."

54. NOTE ON FINAL MAP: "The project is located in the immediate vicinity of the Town of Windsor wastewater treatment plant facilities, including storage ponds. Plant operation, including associated noise, odors, lighting and chlorine gas may result in a nuisance to nearby residents."

55. NOTE ON FINAL MAP: "CC&R's have been recorded contemporaneously with this final map."

Subdivision Agreement:

56. The developer shall either complete required construction as shown on the signed improvement plans, or enter into an improvement agreement and post security with the Town of Windsor, agreeing to complete the required construction within 24 months of building permit issuance and prior to a request for occupancy of any structures, or as otherwise established by the Town Engineer.

57. If the property is not presently included, the owner shall execute an agreement to annex into the Town's existing Landscaping and Lighting Assessment District and the Town's new Landscaping and Lighting and Assessment District No. 2.

58. The cut slope stabilization grading and landscaping along Windsor Road shall be installed to the satisfaction of the Town Engineer. The developer shall be responsible for maintenance for a minimum of 5 years following approval of installation, including annual monitoring reports, to be submitted to the Town by May 1st of each year, and posting of appropriate security to cover this work for the 5 year period. The cut slope and landscaping improvements shall not be accepted until these requirements have been completed to the satisfaction of the Town Engineer.

During Construction Operations, the Following Conditions Shall Apply:

59. Prior to beginning construction or receiving a grading permit, the developer shall obtain a demolition permit from the Town for removal of all existing structures on the site.

60. The developer shall keep adjoining public streets free and clean of project dirt, mud, materials and debris during the construction period, as found necessary by the Town.

61. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Sonoma County Environmental Health Department, the Fire Department, the Police Department and the Town Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.

62. During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler's baffles. Failure to do so may result in the issuance of an order to stop work.

63. If grading is to take place between October 15 and April 15, both temporary and permanent erosion control measures, conforming to the project erosion control plans shall be in place before October 1st. Erosion control measures shall be monitored and maintained continuously throughout the storm season.

64. The following minimum Best Management Practices (BMPs) shall be required during construction:

    a. Construction crews shall be instructed in preventing and minimizing pollution on the job.

    b. Stabilize construction entrance/exit to prevent tracking onto roadway. Only one stabilized construction entrance/exit will be allowed per site unless approved by the Town Engineer. Vehicles entering and leaving construction sites spread pollutants such as sediment, gravel, and other loose particles onto adjacent roads. Pollutants are washed into roadside ditches and are a nuisance to drivers and may cause damage to vehicles.

    c. Protect exposed slopes from erosion through preventative measures. Cover slopes to avoid contact with storm water by hydro-seeding, mulch, use of plastic sheeting or other approved means.

    d. Use brooms and shovels when possible to maintain a clean site. Use of a hose is not recommended. Introducing water as a cleanup method adds to water pollution.

    e. Designate a concrete washout area, if needed, to avoid wash water from concrete tools or trucks from entering storm drain systems. Maintain washout area and dispose of concrete waste on a regular basis.

    f. Establish a vehicle storage, maintenance and refueling area, if needed, to minimize the spread of oil, gas and engine fluids. Use of oil pans under stationary vehicles is strongly recommended.

    g. Protect drain inlets from receiving polluted storm water through the use of filters such as fabrics, gravel bags or straw wattles.

    h. Be prepared for rain and have the necessary materials onsite before the rainy season.

    i. Inspect all BMPs before and after each storm event. Maintain BMPs on a regular basis and replace as necessary, through the entire course of construction.

Prior to Acceptance of Improvements and Release of Surety, the Following Conditions Shall Be Satisfied:

65. All improvements shown on the Improvement Plans shall be completed and accepted by the Town.

66. Prior to acceptance of improvements or occupancy of buildings, existing curb, gutter and sidewalk to remain shall be inspected by the Town. Any curb, gutter and sidewalk that is not in accord with Town standards or is damaged before or during construction, shall be replaced.

67. The developer shall provide a written statement signed by his or her engineer verifying that the grading and/or drainage improvements are completed in accordance with the plans approved by the Sonoma County Water Agency, the Town Engineer and the Building Official.

68. A complete set of *As Built* or Record, improvement plans showing all constructive changes from the original plans, shall be provided to the Public Works Department prior to final acceptance of the public improvements.

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:

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

70. 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.

71. 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.

72. 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.

73. 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.

74. 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 applicable to improvement plan approval:

75. NOTE ON PLANS:

a. "Any excess materials shall be considered the property of the contractor and shall be disposed of away from the job side in accordance with applicable local, state and federal regulations."

b. "During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler's baffles. Failure to do so may result in the issuance of an order to stop work."

c. "In the event that archeological site indicators (chipped chert, obsidian tools, waste flakes, grinding implements, darkened soil containing bone fragments and shellfish remains, or ceramics, glass or metal fragments) are uncovered, the Northwest Information Center at Sonoma State University shall be contacted for an evaluation of the site. All ground disturbing work shall cease in the vicinity of any discovery until an archeologist completes an evaluation of significance."

d. "Construction work shall be limited to the hours between 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. to 7:00 p.m. on Saturdays. No work is permitted on Sundays."

e. "All existing overhead utilities (of 26,000 volts or less) and proposed utilities, both on-site and along project frontages, shall be placed underground. This does not include surface mounted transformers, pedestal mounted terminal boxes and meter cabinets."

f. The following notes shall be added to the cover of the plans in bold:

(1) "IMPORTANT NOTICE TO DEVELOPER AND ALL CONTRACTORS: Utility joint trench location shall be field staked and approved by the Town PRIOR TO INITIATION OF ANY TRENCHING. This required approval by the Town is independent of any authorization granted by the Utility Company, the Developer and/or Contractor. Trench locations within the tree protection zones of any protected trees may not be approved by the Town. The Town's inspector may require consultation by the Town's arborist prior to approval of trench location. Failure to comply with these requirements may result in an immediate order to stop work, as well as incurrence of civil penalties as provided by Town Ordinance."

(2) "NOTE: Soil shall not be treated with lime or other cementitious material without prior express permission by the Planning Director and Building Official."

g. "A qualified biologist shall perform a raptor and passerine nest search prior to any land clearing, tree removal or tree trimming if these activities occur between February 1 and July 31. The location of any active nest should be identified and protective measures implemented to prevent disturbance to fledgling birds, in the event an active nest is observed."

76. "Tree Preservation Plan" shall be included as part of the project grading and utility plans and shall include the following:

a. Trunk, diameter, dripline, and Tree Protection Zone (TPZ) locations of existing trees shown "to be saved" on the approved plans.
b. Grading and Utility Plans shall be reviewed and approved by the project arborist regarding compliance to recommendations in the report entitled "Overlook Subdivision Arborist Report", prepared by John Meserve / Horticultural Associates, dated February 8, 2008.
c. All utility trenching, including PG&E, shall be shown outside of the TPZ, to the extent feasible. Evidence of PG&E approval of joint trench location shall be provided.
d. Installation of 2 inch header board at dripline and 4 inches of mulch (only) within dripline area.
e. Tree protection fencing detail per Town requirements.
f. The following notes shall be placed on the grading/improvement plans:
    1. "Fencing shall be installed outside the TPZ of protected trees (as shown hereon) prior to the issuance of a permit that would initiate any on-site work.. Proof of installation of fencing is required prior to any permit issuance and/or any site work. Fencing shall remain in place and not be moved or removed until all construction activities at the site are completed."
    2. "Tree Protection Zone shall not be encroached upon by construction activities, equipment, materials storage, or personnel except as provided herein. Any encroachment into the fenced TPZ must be approved in writing and supervised by the project arborist. Approved TPZ encroachment may require additional mitigation or protection measures that will be determined by the project arborist at the time of the request. Contractor shall be responsible for ensuring availability of arborist for on-site inspections."
    3. "The project arborist shall keep written records of site inspections and shall forward a summary report to the Planning Department of all work authorized within the TPZs, compliance to tree preservation recommendations (including pruning, removal of deadwood, supplemental watering and feedings), and any damage affecting tree survivability in accordance with conditions of project approval. Report shall include final recommendations for retention/removal, and shall be received prior to final clearance of improvements authorized by these plans."
g. Evidence of a contract with a licensed arborist to oversee and verify completion of the above requirements is required. Deviation from these requirements is subject to the approval of the Planning Director.

77. A Landscape Plan (Planting and irrigation plan working drawings) shall be included with the Improvement Plans which details all common area improvements, and which also includes the following:
    a. Irrigation chases shall be specified under sidewalks on the grading/utility plans.
    b. A statement from the landscape architect regarding compliance with Town of Windsor Low Water Use Landscape Design Guidelines in effect at the time of Master Landscape Plan approval.
    c. Fencing design types, locations, and specifications/details both for perimeter project fencing as well as interiors of private lots. Four foot height for rail type "farm fencing" is approved by the Planning Commission within front yard areas (except at corners where sight distance is required) consistent with the approved development plan.
    d. Final design of "gateway" entries for both Mitchell Lane and Windsor Road shall be returned for approval by the Planning Commission prior to inclusion in the Improvement Plans. Design shall include materials consistent with the rural nature of the project and may include use of expanded parkways, paving treatments, fencing and accent landscaping to be maintained in common. Tree selection should match north side of Mitchell Lane, although design of remaining improvements need not otherwise match existing and may be tailored to the rural design theme of this project.

78. Improvement Plans shall include the following:
    a. Private, public, and common area ownership shall be distinguishable and delineated by means of fencing and/or minimum 4 inch wide concrete mow strip.
    b. Any required retaining walls shall not exceed 3 feet in height. Retaining walls visible from public streets shall be of decorative masonry construction (split face block or equivalent).

Conditions applicable to approval of final map:

79. A final Development Plan, consisting of a site plan, landscape plan and associated graphics and details, shall be approved by the Planning Director prior to inclusion in the Management documents. Site plan notations shall identify which lots have pre-approved design review approvals, fencing location and type, tree protection areas as well as other site planning limitations and/or easements. Landscape plan shall identify fencing design details, street tree locations and type.

80. Management documents shall be submitted for approval by the Planning Department and Town Attorney (cost for review to be borne by the subdivider). CC&Rs shall include standard provisions for the Town of Windsor (3rd party and non-amendment clause), as well as the following:
    a. Maintenance provisions for all common areas.
    b. Provisions for Architectural Control Committee to review and approve all building plans and landscape plans for individual lots based on conformity to the Architectural Control Guidelines and the approved Development Plan. Evidence of this approval shall be presented to the Town of Windsor Planning Department at time of building permit plan check.

c. Formatting of content of the CC&Rs as it relates to the Development Plan and Architectural Control Guidelines shall be approved by the Planning Director. Both documents shall be incorporated into the CC&Rs.
d. Architectural Control Guidelines shall be revised (Section 2.7.5) to require use of recycled water for any landscaped areas, including turf areas.
e. Architectural Guidelines shall be revised to require the following additional language (or similar language approved by the Planning Director) applicable to the building design on Lot 11: "Final design shall expand upon the elevations shown in the Development Plan and work with the existing topography of the site to reduce building mass of the structure as viewed from Windsor Road. Techniques could include a stepped foundation system, greater proportion of single story elements, and more layering of the rooflines."

81. Prior to final map approval, the acoustic analysis shall be supplemented to identify specific noise reduction techniques (building and window insulation) proposed to achieve a 25 decibel noise level reduction for residential interiors, as well as performance criteria for fencing construction to protect rear yard areas along Mitchell Lane and Windsor Road. This analysis shall update recommendations included in the Mitigated Negative Declaration and identify specific lot numbers affected. Issues include the following:
    a. High performance sound-rated windows and doors, wall and roof insulation.
    b. Six foot rear yard acoustic barriers along Mitchell Lane and Windsor Road.
    c. Mechanical ventilation requirements where residential units require windows closed for noise attenuation purposes.

82. Notes on final map:

    a. "Building permit applications shall be accompanied by landscape and irrigation plans consistent with the Master Landscape Plan which is included with the Subdivision Improvement Plans."
    b. "Building permit applications shall be accompanied by an approval from the Architectural Control Committee demonstrating compliance with the Architectural Control Guidelines, Development Plan and Master Landscape Plan as approved for the Overlook Subdivision and included within the Conditions, Covenants, and Restrictions (CC&Rs) for the subdivision. Determination of compliance with the Architectural Guidelines is also subject to approval by the Town of Windsor Planning Director."
    c. "Noise attenuation shall be incorporated into the design of residential structures and yard areas as shown on the Development Plan and as described in the acoustic report dated _____ and on file with the Planning Department."
    d. "Tree preservation notes and graphics (including header board, mulch, and Tree Protection Zone and protective fencing requirements) shall be carried forward from the Improvement Plans to the Building Permit Plot Plans. Final inspection by a certified arborist shall be forwarded to the Planning Department prior to occupancy of the affected residences with a recommendation of retention or

removal. Any trees recommended for removal shall be mitigated by the residential developer in accordance with Town Standards."

e. "In the interest of tree health, future owners are advised to avoid irrigation within the dripline of existing oak trees."
f. "Lot Numbers 2 through 9 shall not be issued building permits until the reconfigurations of Holes 3 and 4 of the Windsor Golf Course have been completed to the satisfaction of the Town."
g. "These lots are subject to an Avigation and Clearance Easement in favor of the Charles M. Schulz / Sonoma County Airport and recorded as Document No. _____."
h. "Noise sources affecting this subdivision include Windsor Road, and the Sonoma County Airport. Development of these lots includes construction requirements to attenuate noise in general compliance with the Noise Element of the General Plan. Buyers are advised that the resultant noise environment may continue to be objectionable to some individuals."
i. "Building design on these lots is subject to the requirements of Article VII of the Town of Windsor Code, including provisions for Green Building and Energy Conservation."
j. "All lots are subject to payment of an in-lieu fee to meet Inclusionary Housing Requirements of the Zoning Ordinance prior to the issuance of building permits. Amount shall be based on the fee in place at the time of permit issuance."
k. "Accessory structures for Lot 1 shown on the Development Plan shall be constructed concurrently with the residence"

83. Subdivision Improvement Agreement shall include the following items:
    a. Improvement Plans cited shall include the following:
        1. The Master Landscape Plan
        2. The drawing entitled "Possible Adjustments to Holes 3 and 4" dated September 10, 2004 and prepared by Fred Bliss, Golf Architect, and cited as an Exhibit to the "Amendment of Subordinated Agreement" between Richardson deSilva, Inc. and Windsor Golf Club, Inc.
    b. Securities for the Subdivision Improvement Agreement shall include:
        1. All Common Area improvements, including landscaping and irrigation as shown on the Master Landscape Plan.
        2. $200,000.00 security in the form of a Letter of Credit to guarantee completion of offsite improvements to the Windsor Golf Course, as identified in the "Amendment of Subordinated Agreement" between Richardson deSilva, Inc. and Windsor Golf Club, Inc. The Town has rights to compel performance within this agreement.

84. Street names and addresses shall be submitted to the Planning Department, reviewed by the Windsor Fire Protection District and approved by the Planning Department prior to inclusion on improvement plans.

85. An Avigation and Clearance Easement shall be approved and accepted by the Sonoma County Board of Supervisors and recorded.

Conditions applicable to subdivision final and/or release of securities.

86. 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 (Common Areas) are completed in accordance with the approved drawings and that the irrigation system has been completely tested and found to be functioning per design. This requirement may be deferred to release of securities only if approved by the Town Planning Director.

87. Final arborist report shall be received concluding 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.

The following general conditions shall apply:

88. This tentative map 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 Subdivision Ordinance and the Subdivision Map Act.

89. Any costs incurred to review legal documents, agreements, deeds, easements, etc. shall be born by the applicant/developer, at the time of review.

90. The project shall generally comply with the project description and materials included in the staff report dated August 11, 2009 and materials presented to and approved by the Planning Commission and Town Council, except as modified herein. Improvements shall be maintained as approved.

91. Allocations for this project were reserved by Town Council Ordinance 2007-227, per provisions of the Growth Control Ordinance.

92. Prior to the 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.

    1. No additional fee because the project is exempt from Fish and Game fee.

    2. $_____ because the project is non-exempt from Fish and Game fee, and an EIR was prepared, for a total of $_____.

    3. X $ 1,993.00 because the project is non-exempt from Fish and Game fee, and a Mitigated Negative Declaration was prepared, for a total of $2,043.00. Please provide a check in the amount of $2,043.00 payable to *Sonoma County Clerk.*

PASSED, APPROVED, AND ADOPTED this 16th day of September 2009, by the following vote:

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

ROBIN R. GOBLE, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK

Attachments:
Exhibit "A" – Mitigation Monitoring Plan

MITIGATION MONITORING PLAN

Overlook Subdivision
7700 Windsor Road
MJS 98-42

Exhibit "A" Town Council Resolution No. 2542-09

MITIGATION MEASURE	RESPONSIBLE PARTY	TIME FRAME	COMPLETION DATE
Mitigation Measure # 1 (Biological Resources, Hydrology and Water Quality): Employ Best Management Practices (BMP's) in order to minimize the amount of sediment and other pollutants leaving the site during construction activities. **Monitoring Plan:** BMP's are required as part of the improvement drawings and during construction. (Condition 64)	Town Engineer	Prior to Improvement Plan signature.	
Mitigation Measure # 2 (Biological Resources -- Wetlands): Applicant shall provide evidence of approval of permits from the U.S. Army Corps of Engineers and Water Quality Control Board. Mitigation for loss of wetlands shall be consistent with the November 9, 2007 Programmatic Opinion of the U.S. Fish and Wildlife Service, unless otherwise approved by the USFWS and Corps. **Monitoring Plan:** Evidence of the above permits to be provided prior to signature of the Improvement Plans (Condition 48).	Town Engineer	Prior to Improvement Plan signature.	
Mitigation Measure #3 (Biological Resources – Raptor/Passerines): A qualified biologist shall perform a raptor and passerine nest search prior to	Planning Dept.	Prior to Improvement Plan	

any land clearing, tree removal or tree trimming if these activities occur between February 1 and July 31. The location of any active nest should be identified and protective measures implemented to prevent disturbance to fledgling birds, in the event an active nest is observed. **Monitoring Plan:** Note on Improvement Plans (Condition 75g)		signature.	
Mitigation Measure #4 (Noise): 1. Prior to final map approval, the acoustic analysis shall be supplemented to identify specific noise reduction techniques (building and window insulation) proposed to achieve a 25 decibel noise level reduction for residential interiors, as well as performance criteria for fencing construction to protect rear yard areas along Mitchell Lane and Windsor Road. This analysis shall update recommendations included in the Mitigated Negative Declaration and identify specific lot numbers affected. Issues include the following: a) High performance sound-rated windows and doors, wall and roof insulation. b) Six foot rear yard acoustic barriers along Mitchell Lane and Windsor Road. c) Mechanical ventilation requirements where residential units require windows closed for noise attenuation purposes. 2. Notations on the final subdivision map shall identify the lot numbers affected by acoustic requirements. 3. The following disclosure to buyers within this subdivision shall be provided as a notation on the final subdivision map: "Noise sources affecting this subdivision include Windsor Road and the Sonoma County Airport. Development of these lots includes construction requirements to attenuate noise in general compliance with the Noise Element of the General Plan. Buyers are advised	Planning Dept.	Prior to Improvement Plan & Final Map approval	

that the resultant noise environment may continue to be objectionable to some individuals." **Monitoring Plan:** Conditions # 81, 82b, and 82h address these issues as part of Improvement Plan and Final Map approval.			