RESOLUTION NO. 4010-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR APPROVING A REQUEST FROM THE DEVELOPER TO MODIFY THE REQUIREMENT TO UNDERGROUND OVERHEAD UTILITIES ON OLD REDWOOD HIGHWAY FOR THE HERITAGE PARK PROJECT (FILE 17-19)

WHEREAS, on July 28, 2020, the Town of Windsor Planning Commission approved Site Plan and Design Review for the Heritage Park Project, located at 8685 Old Redwood Highway, pursuant to Resolution No. 683-20, herein incorporated by reference; and

WHEREAS, the project consists of 33 rental apartments for very low and low income households; and

WHEREAS, the conditions of approval included in Planning Commission Resolution 683-20 require the overhead utilities along the project frontage to be placed underground (Condition No. 35); and

WHEREAS, Michael Weyrick, the developer of the project, submitted a request to have Condition of Approval No. 35 requiring the undergrounding of overhead utilities removed; and

WHEREAS, Town of Windsor Municipal Code Section 16-2-290 – Exceptions, does allow for exceptions to the requirement of the undergrounding rule; and

WHEREAS, Subdivision Ordinance Section 16-8-810(g) allows the Town Council to approve exceptions to the requirement to underground overhead utilities if topographical, soil, or other conditions make undergrounding infeasible or undesirable, and the Town Council has determined that undergrounding of the overhead utilities along the entire project frontage would cause an undue cost burden on the project due to triggered off-site upgrades; and

WHEREAS, Municipal Code Section 16-2-290 allows the Town Council to approve changes to the frontage improvement requirements when all of the specific findings below are made.

1) There are special circumstances and conditions affecting the subject property.

   FINDING: *The existing overhead utilities and utility pole drops serve other properties in the vicinity of the project site. Requiring the placement of the existing overhead utilities to be placed underground along the entire frontage would require substantial offsite improvements and upgrades as required by PG&E.*

2) The exception is necessary for the preservation and enjoyment of a substantial property right of the developer.

   FINDING: *The existing overhead utilities and utility pole drops along the project frontage serve other properties in the vicinity of the project site. Removing the poles*

along the frontage would trigger substantial offsite improvements and upgrades as required by PG&E. The required offsite improvements and upgrades in relation to the size of the proposed project is extensive and would not appear to be roughly proportional to the impacts of this project.

3) The granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

FINDING: *The Project still intends to underground the existing overhead utilities between the two existing utility poles. The placement of two new utility poles along the project frontage is required in order to avoid the need to upgrade substantial offsite utilities. The proposed partial undergrounding will not affect the surrounding properties or their utility connections. Therefore, the exception is not detrimental to the public welfare or injurious to other property in the territory; and*

WHEREAS, Planning Commission adopted a Mitigated Negative Declaration (MND) for the Project on July 28, 2020, and pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162(a), Subsequent EIRs and Negative Declaration, when an MND has been adopted for a project, additional environmental review is not required for changes to the project when all of the following are found:

1) No substantial changes are proposed that would result in new significant impacts.

FINDING: *Modifying the requirement to underground the utilities along the project frontage would not result in new significant impacts, since the remaining overhead utilities would continue to supply power to the other properties currently served by the overhead lines.*

2) No substantial changes have occurred with respect to the circumstances under which the project would be undertaken.

FINDING: *Some new development has occurred within the immediate area of the Project. Those projects have been required to place any overhead utilities underground. There have been three significant wildfires in Sonoma County in recent years, including the Tubbs Fire in October 2017, the Kincade Fire in October 2019, and the Walbridge Fire in August 2020. Downed power lines can be a cause of fires. Modifying the requirement to underground the utilities would not increase the threat of wildfires due to power lines, since overhead power lines would still be required in order to provide power to other properties in the vicinity of the Project. The proposed partial undergrounding will reduce the degree of risk currently presented by existing above-ground utilities.*

3) No new information of substantial importance that was not known at the time of the MND shows that the project will have one or more significant effects not discussed in the MND, significant effects examined in the MND will not be significantly more severe that shown in the MND, mitigation measures found infeasible in the MND would now

be feasible and substantially reduce one or more significant effects, but the developer declines to adopt the mitigation measures, or mitigation measures which are considerably different from this in the MND would substantially reduce one or more significant effects on the environment.

FINDING: *The MND for the Project discussed wildfires, stating, "Windsor is generally surrounded by rural residential or agricultural land uses, and is therefore somewhat insulated from wildland fires" and concluded that there would be "No Impact" related to wildland fires.*

Modifying the requirement to underground utilities would not increase the likelihood of wildland fire, based on the following: 1) overhead utilities would still exist along Old Redwood Highway and other rights-of-way whether or not overhead utilities were placed underground, since riser poles with overhead utilities are needed in order to continue to provide utility service to other properties; 2) the Project would develop the site with buildings, streets, landscaping, and other improvements that are not known to start wildland fires; 3) the properties in the area of the Project site were not designated at the time the MND was prepared and are not currently designated as being located in a high fire hazard severity zone; and 4) under current Building Code requirements, the building would be required to be built using certain 7A Building Code materials and construction standards that are intended to reduce the spread of fire by using fire-resistant materials and methods. No impacts related to wildfires were determined to be significant and would not under current circumstances be considered to be significantly more severe than shown in the MND. No mitigation measures were identified for the MND that were found to be infeasible. There were no mitigation measures required for wildfire impacts, since the impact was identified as "No Impact."

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Windsor does hereby approve the developer's request to modify Condition of Approval No. 35 to read:

All existing overhead utilities (of 26,000 volts or less) between the two existing utility poles on the project frontage of Old Redwood Highway and all 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. Any deviations to this Condition must be reviewed and approved by the Town Engineer.

PASSED, APPROVED AND ADOPTED this 19th day of February 2025, by the following vote:

AYES:	**COUNCILMEMBERS SALMON, WALL, VICE MAYOR POTTER AND MAYOR REYNOZA**
NOES:	**COUNCILMEMBER LEEP**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

ROSA REYNOZA, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK