

RESOLUTION NO. 2852-11

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
ACCEPTING THE APPLICANTS WITHDRAWAL OF THE 275 UNIT PROPOSAL FROM
FURTHER CONSIDERATION OF GROWTH CONTROL ALLOCATION
RESERVATIONS UNDER THE 2010 MERIT PRESENTATION'S PROCESS,
DESIGNATING THE WINDSOR MILL PROJECT (REVISED) AS A POTENTIAL
PRIORITY DEVELOPMENT, AND AGREEING TO FURTHER CONSIDERATION OF THE
CURRENT PROPOSAL FOR UP TO 425 UNITS AT A FUTURE WORKSHOP TO
DETERMINE PROJECT MERITS AND APPROPRIATE PROCESSING PROCEDURES
(FILE NO. 10-13)**

WHEREAS, the Windsor Mill Project received entitlement approvals for a 201 unit planned development on 20 acres on December 7, 2005 and as contained in Town Council Resolution Nos. 1839-05 and 1840-05, incorporated by reference; and

WHEREAS, these entitlements were further secured in the form of a Development Agreement, approved on January 18, 2006 as Ordinance 2005-203, incorporated by reference, in which the Town Council agreed to reserve 201 Growth Control Allocations for the Windsor Mill Project in return for certain commitments of the property owner. These commitments include major infrastructure improvements, roadway and bridge connections, affordable housing, creek and rail side trails(provided at no cost to the Town) and park dedication and improvement; and

WHEREAS, the Development Agreement was amended on July 15, 2009 in Ordinance 2009-254, incorporated by reference, to extend the terms of the Agreement related to initiation of construction for an additional three years to July 15, 2012; and

WHEREAS, in February 2010 the property owners requested consideration of revisions to the approved plans, including change to product types, increasing the number of residential units from 201 to 270, incorporation of up to 150 low income units, and other site planning modifications. The new project design is identified as Windsor Mill Project (Revised); and

WHEREAS, Planning staff determined that the nature of these changes constituted a new project for purposes of the existing Development Agreement and the Growth Control Allocations committed within the agreement. In order for the proposed revisions to go forward, and since Growth Control Allocations cannot be transferred to new projects, Growth Control Allocations would either need to be newly approved or, at the discretion of the Town Council, retained for the revised project through action of the Town Council; and

WHEREAS, Planning staff identified the Merit Presentation Process, as established by the Town Council, as the appropriate venue for consideration of the revised project merits and the discretionary action of the Town Council to either grant new or retain prior allocation reservations; and

WHEREAS, at a duly noticed public hearing on May 19, 2010 the property owners presented plans for the Windsor Mill Project (Revised) to a joint meeting of the Town Council and Planning Commission conducted as the Merit Presentation Forum; and

WHEREAS, the Planning Commission further considered the Merit Presentation Projects at its August 24, 2010 meeting at which time it forwarded recommendations to the Town Council regarding

relative ranking of the participating Merit Presentation Projects as well as major features and issues to be retained or resolved should the Council determine that these projects should move forward; and

WHEREAS, the Town Council considered the recommendations of the Planning Commission regarding the Merit Presentation Projects at a duly noticed public hearing on November 3, 2010. The Council determined that the Windsor Mill (Revised) Project merited ranking for further consideration of allocations; and

WHEREAS, the Town Council found that the Windsor Mill Project (Revised) warranted further consideration for reservation of allocations previously assigned to the Windsor Mill Project; and

WHEREAS, the Town Council determined that the proper mechanism to consider retention / re-assignment of existing assigned allocations is through amendment to the existing Development Agreement. The Council further determined that the terms associated with amending the Development Agreement were critical to the Council's support of a revised project; and

WHEREAS, the Town Council further determined that any reservation of allocations for the Windsor Mill Project (Revised) were conditional upon timely presentation by the property owners of specific amendments requested to the existing Development Agreement, as well as acceptance by the Council of those proposed revisions; and

WHEREAS, consistent with the provisions of the Growth Control Ordinance, the Town Council determined that no application for entitlements, or major revisions to entitlements, shall be accepted by the Town unless and until reservation of allocations, in the case of this project, is documented by a resolution of the Town Council acknowledging elements to be retained or amended to the existing Development Agreement; and

WHEREAS, the Town Council ranked the Windsor Mill (Revised) project for further consideration of Growth Control allocation reservations, tabled consideration of allocation reservations for one year based on findings of uncertainty of water supply to serve development as further supported in the analysis from Town Consultant RMC dated October 13, 2010, and adopted by Resolution No. 2756-10, incorporated by reference; and

WHEREAS, at the Town Council meeting of August 17, 2011, the Town's engineering department presented an update regarding the status of the of water supply availability for development and identified supply options to meet future development and growth; and

WHEREAS, the 2011 Annual Growth Control Report further discusses the current status of water supply and water supply options that allows the Council to consider continued processing of development projects that are beneficial to the Town in meeting housing and development goals; and

WHEREAS, the Town received a request from the Windsor Mill (Revised) project applicants requesting withdrawal of the 275 unit proposal from further consideration of Growth Control allocation reservations from the 2010 Merit Presentations process, requesting that the current proposal for 425 units project be granted further consideration as a potential priority development in accordance with Town's Growth Control Ordinance and Town Council Resolution 2568-09.

NOW THEREFORE BE IT RESOLVED, that the Town Council hereby accepts the applicant's withdrawal of the 275 unit project proposal from further consideration for Growth Control Allocations under the 2010 Merit Presentation Process, designates the Windsor Mill Project (Revised) as a potential priority development, and agrees to further consideration of the current proposal for up to 425 units at a future workshop to determine project merits and appropriate processing procedure as either a Priority Development Area Waiver or as a Development Agreement Amendment. These actions are conditioned upon the following:

- a) The applicant shall apply for the above mentioned Workshop within 6 months of the adoption of the Station Area Plan.
- b) The terms of the current Development Agreement between the Town and Windsor Mill LLC remain in effect unless modified by agreement of both parties. It is the applicant's responsibility to ensure that performance deadlines associated with the agreement are met (including initiation of construction by July 15, 2012), or that appropriate amendments to allow consideration of a revised project are filed for consideration by the Town Council well in advance of currently required deadlines.

PASSED, APPROVED, AND ADOPTED this 2nd day of November 2011, by the following vote:

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



STEVE ALLEN, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK