

**TOWN OF WINDSOR
TOWN BOARD RESOLUTION 2014-51**

**RESOLUTION CONDITIONALLY APPROVING THE PRELIMINARY PLAT OF
BEAR TREE FARMS DATED SEPTEMBER 16, 2014 AND PROPOSED REZONING BY
DANE COUNTY FROM A-1 EX, A-2 AND A-3 TO R-2, R-4, B-1, CO-1 AND RE-1
ALL LOCATED IN THE TOWN OF WINDSOR**

[Submitted by Petitioners and owners
Bear Tree Farms, Inc., Statz Bros. Inc., and Steve Pederson]

WHEREAS, Bear Tree Farms, Inc., Statz Bros. Inc., and Steve Pederson (collectively herein, "Petitioners") have applied for approval of the Preliminary Plat of Bear Tree Farms dated September 16, 2014¹ (the "Plat") located in the Town of Windsor, Dane County, Wisconsin, and rezoning by Dane County from A-1 EX, A-2 and A-3 to R-2, R-4, B-1, CO-1 and RE-1 as described with particularity in the Staff Report; and

WHEREAS, Town staff recommendations are set forth in the Staff Report dated September 11, 2014, as further supplemented for presentation to the Town Board on September 18, 2014 (collectively herein, "Staff Report"), which Staff Report is incorporated herein by reference; and

WHEREAS, Petitioners presented their application and a public hearing was held at a regular meeting of the Town of Windsor Plan Commission on July 15, 2014, after which the Plan Commission considered the presentation, staff comments and public comments and recommended conditional approval on the terms set forth in Plan Commission Resolution 2014-21, which is incorporated by reference; and

WHEREAS, at a regular meeting of the Town Board held on September 18, 2014, the Town of Windsor Town Board considered all of the aforementioned and additional information provided to the Town through September 17, 2014, and wishes to conditionally recommend approval as set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Windsor as follows:

- A. The Windsor Town Board **Conditionally Approves** the Preliminary Plat² and Rezone for the property located at Lot 1 of CSM 11197 and referred to as Bear Tree Farms-Windsor or the Plat, and owned by Bear Tree Farms Inc., Statz Bros. Inc., and Steve Pederson (collectively, "Petitioners"), subject to the following conditions:

¹ **NOTE:** The Preliminary Plat as revised on September 16, 2014 is the Plat referenced in this Resolution 2014-51. The initial application included a Preliminary Plat dated June 25, 2014 and interim maps dated August 21, 2014, September 3 and September 10 have been prepared.

² **NOTE:** In the event of a conflict among the documents submitted to and reviewed by the Plan Commission and/or Town Board, the more stringent requirements shall be applied and bind the Petitioners. This determination shall be made by Town staff.

1. Provided that there are no substantive changes to the Final Plat, as determined by the Town Planner, the technical comments set forth in the Planning Comments section of this Staff Report³ shall be addressed as follows:
 - a. As applied to this Plat, the overall gross density of 2.5 D.U./acre for the Transition Residential category per the Town of Windsor Comprehensive Plan: 2025 is found by the Town Board to be a guideline for the Transition Residential category of the Town of Windsor Comprehensive Plan: 2025.
 - b. As applied to this Plat, the 15% open space calculation for the Transition Residential category per the Town of Windsor Comprehensive Plan: 2025 is found to be a guideline for the Transition Residential category of the Town of Windsor Comprehensive Plan: 2025.
 - c. The unit count set forth on the Final Plat shall be limited and set forth in a deed restriction or other binding agreement approved by the Town Attorney, to include the following units:
 1. Single Family 364 units 3.0 DU/acre
 - a. Lots 163-181 (lots along eastern boundary of plat north of OL 4) shall each be 20,000 sf or larger
 - b. All SF Lots shall be 12,000 sf or larger
 2. Multi-Family and Senior shall be on Lots 1, 3, and 270 only
 - a. The maximum number of units on these three lots shall be 232, of which 80 or more shall be senior housing and 152 or less shall be multifamily. (If senior housing increases, multifamily units will decrease. Multifamily will never be more than 152 units.)
 - b. For these purposes, senior housing means housing subject to legal age restrictions, assisted living units and nursing homes. The form of ownership could be condominiums, zero lot line duplexes, or rental units.
 3. The Dwelling Unit Density Information on the Plat shall be revised to more fully reflect the unit count and the restrictions set forth above.
 - d. As to compliance with Section 42-115 of the Town of Windsor Code of Ordinances: A waiver has been requested by the Petitioner and approved by the Town Board with respect to the curb and gutter requirement. The use of a rural cross section with open drainage swales, as shown in the application, is hereby approved by the Town, subject to construction, monumenting and implementation as approved by the Town Planner and Town Engineer.

³ NOTE: The Town of Windsor Plan Commission voted as "Not in Support" of granting waivers to the items set forth in Section A.1.a.-d. (July 15, 2014 Plan Commission Meeting).

- e. As to compliance with Section 42-118 of the Town of Windsor Code of Ordinances: A waiver has been requested by the Petitioner and conditionally approved by the Town Board with respect to the sidewalk requirement. The conditions include: (i) the Town Board's approval of the location of 10-foot multi-purpose paths within public right-of-way or across private easements granted by lot owners, all in a manner that furthers connectivity of a walking, biking and trail system; (ii) execution of a separate easement agreement for any and all multi-purpose paths that cross private property, which agreement shall be subject to approval of the Town Attorney, Town Planner and Town Engineer; and, (iii) execution of a monument and maintenance agreement, which agreement shall be subject to approval of the Town Engineer, Town Planner and Town Attorney.
2. The Petitioners shall address the technical comments set forth in the Engineering Comments section of this Staff Report to the satisfaction of the Town Engineer.
3. The Petitioners shall address the technical comments set forth in the Surveying Comments section of this Staff Report to the satisfaction of the Town Planner.
4. The Petitioners shall address the comments set forth in the Town Policy Concerns/Issues section of this Staff Report to the satisfaction of the Town of Windsor Plan Commission and Board.
5. The Petitioners shall provide letters of no objection to the Town Planning & Development Coordinator regarding the proposed development from the following entities:
 - a. DeForest Area Fire & EMS
 - b. Windsor Sanitary District No. 1
 - c. DeForest Area School District
6. The Petitioners shall present to the Town Planning & Development Coordinator the following fully executed original documents, with exhibits attached, each and all of which shall be in a form that meets the requirements for recording, and is satisfactory to the Town Attorney:
 - a. Deed Restriction, prohibiting the conveyance of a lot to a homeowner prior to the Petitioners complying with the recommended conditions of approval of the Preliminary Plat and Final Plat; and
 - b. Development Agreement using the base template of the Town's Development Agreement, dated 07-17-2014, and covering the installation of improvements for the proposed development including a security for the public improvements in an amount and form required by law, and approved by the Town of Windsor Board, Attorney, and Engineer; and
 - c. Declaration of Covenants and Restrictions, ensuring the quality of development, and approved by the Town of Windsor Board, Attorney, and Engineer; and

- d. Stormwater Management Agreement, for all stormwater management facilities, and approved by the Town of Windsor Board, Attorney, and Engineer. Storm water conveyance should be maintained primarily within public rights-of-way. Where storm water conveyance is maintained along common lot lines, the easement boundaries shall be monumented in a manner intended to give notice to subsequent owners, as approved by the Town Engineer.
7. The Petitioners shall provide a vehicular connection from Warner Drive to Pederson Crossing in the general area of Lot 3 and Lot 11 of Phase 6. *(Note: This is included on the Preliminary Plat.)*
8. The Petitioners shall obtain approval of an Erosion & Sedimentation Control Plan and Stormwater Management Plan by the Town of Windsor, Dane County, and the Wisconsin Department of Natural Resources (WDNR).
9. The Petitioners shall obtain approval of Construction Plans and Specifications, in a form satisfactory to the Town Engineer and in accordance with the Development Agreement, for all public improvements. The Pavement Design Report using the Preliminary Plat Soil Report shall be submitted to verify that the proposed pavement cross-section is sufficient.
10. The Petitioners shall submit cash payment (or in kind equivalent, if so specified in the Development Agreement) to the Town of Windsor for Fees in Lieu of Parkland Dedication in the amount determined pursuant to Section 38-637(b) of the Town of Windsor Code of Ordinances prior to the Town signing the Final Plat.
11. The Petitioners shall submit cash payment (or in kind equivalent, if so specified in the Development Agreement) to the Town of Windsor for Fees for Initial Improvement of Parkland in the amount determined pursuant to Section 38-639(e) of the Town of Windsor Code of Ordinances prior to the Town signing the Final Plat.
12. The final design, amenities, phasing and funding mechanisms for the proposed Community Park shall be agreed upon by the Town of Windsor Board and the Petitioners as part of the Development Agreement.
13. The final design, location, and phasing for the 10' multi-purpose path shall be agreed upon by the Town of Windsor Board and the Petitioners as part of the Development Agreement.
14. The Petitioners shall obtain approval for the Preliminary Plat by Dane County, Village of DeForest, and all other approving authorities.
15. The Petitioners shall obtain approval for the Rezone by Dane County.

16. The Petitioners shall submit the Final Plat within 36 months after the last required approval of the Preliminary Plat. If the Final Plat is not submitted within said 36 months, the Town of Windsor (and any other approving authority) may refuse to approve the Final Plat or may extend the time for submission of the Final Plat, all in accordance with Wis. Stats. Section 236.11(1)(b).
17. The Final Plat shall be consistent with the facts set forth in the Staff Report and the Town Board Resolution, as determined by the Town of Windsor Staff. If the Final Plat is not consistent therewith, then the Town of Windsor Staff may request such action as is necessary to be consistent therewith and/or may refer the Final Plat to the Town of Windsor Plan Commission and/or Town of Windsor Board, or both.
18. The Petitioners shall comply with Division 8 *Fees, Administrative Charges and Financial Guarantees* of Article IV of Chapter 38 of the Town of Windsor Code of Ordinances; however, the Escrow Deposit set forth in Sec. 38-309 shall be set at \$10,000.00 for this project. The Town is revising this Sec. 38-309 to reflect the need for higher escrow deposits on projects such as Bear Tree Farms and the Petitioners are hereby advised that the ordinance currently under consideration shall be applied to Bear Tree Farms.
19. The Petitioners shall promptly⁴ reimburse the Town of Windsor for all costs and expenses incurred by Windsor in connection with the review and approval of the Preliminary Plat and Rezone, including, but not limited to, the cost of professional services incurred by the Town of Windsor for the review and preparation of required documents, attendance at meetings or other related professional services.

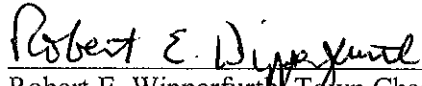
20. THE TOWN OF WINDSOR SHALL NOT SIGN THE FINAL PLAT UNTIL EACH AND ALL OF THE CONDITIONS SET FORTH ABOVE HAVE BEEN MET TO THE TOWN'S SATISFACTION.

- B. It is the Petitioners' obligation to satisfy those conditions adopted by the Town Board, and to provide satisfactory verification of compliance to the Town. All submissions to the Town for determinations of compliance shall be made at least ten (10) business days prior to the date upon which verification of compliance is required.

⁴ As used herein, "promptly" means within 45 days from the date of the Town's invoice to the Petitioners.

The above and foregoing Resolution was recommended for approval at the regular meeting of the Town Board of the Town of Windsor on the 18th day of September, 2014, with a delayed effective date to allow for final review and ratification at the regular meeting of the Town Board of the Town of Windsor on the 2nd day of October, 2014. The Resolution above was ratified and is effective October 2, 2014.

TOWN OF WINDSOR



Robert E. Wipperfurth, Town Chair

Donald G. Madelung, Town Supervisor

Bruce Stravinski, Town Supervisor

Alan Buchner, Town Supervisor



Monica M. Smith, Town Supervisor

Attested by:

Christine Capstran, Town Clerk

Documents incorporated by reference:

Preliminary Plat for Bear Tree Farms dated September 16, 2014
Staff Report