

**TOWN OF WESTPORT
PLAN COMMISSION**

**A RECOMMENDATION BY THE TOWN OF WESTPORT
PLAN COMMISSION CONDITIONALLY APPROVING THE
PHASE 5 PRELIMINARY PLAT
OF THE COMMUNITY OF BISHOPS BAY WITHIN THE
TOWN OF WESTPORT, DANE COUNTY, WISCONSIN
(West of CTH M)**

WHEREAS, applications for approval of a preliminary plat (the "Plat" -- attached as Exhibit A) identifying an area of land currently located in the Town of Westport (the "Town") and known as The Community of Bishops Bay, The Prairie and The Farm - Phase 5 (the "Plat" or the "Property"), was submitted by Bishops Bay Farm and Prairie, LLC. ("Petitioner") to the Town and City of Middleton ("City") for review and action May 18, 2017, and the review period will expire on or about August 18, 2017; and,

WHEREAS, the Plat was referred to the Middleton/Westport Joint Zoning Committee (the "JZC") and the Town Plan Commission for review and recommendation to the Town Board and City Council; and,

WHEREAS, the Town Plan Commission has reviewed the Plat, conducted the Town Code required public hearing at its regular meeting on June 13, 2017, and met with staff, Petitioner and Petitioner's representative with respect to the proposed land division; and,

WHEREAS, it appears that no agency with the authority to object under section 236.12, Wis. Stats., has done so and therefore all such objections have been satisfied; and,

WHEREAS, the Town Plan Commission has determined that the requested Plat will only be consistent with the Town and City Ordinances, Ch. 236, Wis. Stats., and the Town Comprehensive Plan, approved by the City as the ETZ Comprehensive Plan, if certain conditions set forth in its recommendation adopted at its meeting on July 10, 2017, and contained in the minutes of that meeting, are met.

NOW, THEREFORE, the Town Plan Commission, based upon the above determinations, hereby recommends conditional approval of the Preliminary Plat of the Community of Bishops Bay, The Prairie and the Farm - Phase 5 attached hereto as Exhibit A, subject to the following conditions and/or restrictions.

1. Approval of SIP rezone;
2. The number, size and location of lots to be allowed in the Plat shall be as shown on Exhibit A, which is consistent with the Town Comprehensive Plan and the GDP Zoning for the Area;
3. A stormwater drainage plan approved by the Dane County Land Conservation Department, Town Engineer and City Staff;

4. All improvements, erosion control measures, stormwater drainage control measures and construction erosion and drainage control measures shall comply with all applicable Town, City, County, State or Federal rules, regulations, and permit requirements, shall be approved by the Dane County Land Conservation Department, and shall provide at a minimum for a standard of “zero” run-off from a 100 year storm, and as required by the zoning of the Property;
5. The Petitioner will satisfy all appropriate parkland dedication or fees in lieu of dedication requirements as shown on the Plat, which dedications are hereby approved as satisfying those requirements. All parkland shown on the Plat shall be dedicated to the public for such purpose unless specifically otherwise indicated. All trails shall be completely constructed and marked for the entire property prior to construction commencing on any structures;
6. The Petitioner shall develop the Plat property in the Town;
7. A Development Agreement between and among the Town, City (as appropriate) and Petitioner, in a form acceptable to the Town and City Attorneys, which shall require the Petitioner to pay Engineer and Attorney review fees. Fees for any and all reviews are to be paid to the Town or City as appropriate prior to the plat approval signatures;
8. Contracts entered into by the Town, City and Petitioner for all public improvements shall be reviewed and approved by the Town and City Attorneys and Town and City Engineers as appropriate or controlling;
9. A letter of credit for contemplated road, sewer, water, stormwater detention/retention, and other required public improvements shall be required in amounts approved by the Town Engineer, and in a form approved by the Town Attorney;
10. The Plat property and related/adjacent property to be developed in the Town shall be added to the Town Water and Sewer Utility Districts;
11. Street improvements as shown in the plans and as approved by the Town Engineer, and variances as necessary are hereby recommended from the strict terms of the Town Code. The Plan Commission finds the following with respect to this variance request:
 - (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
 - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.
12. The Town Engineer shall review and approve plans and specifications for technical compliance and for road construction and design, and the road cross section through the Plat property;

13. Gradation of roadways shall be approved by the Town Engineer after review and approval by the Town's road maintenance staff;
14. Restrictions on traffic or access as approved by the Town Engineer during construction;
15. Trail/Sidewalk improvements as indicated in the plans submitted where necessary;
16. Sanitary sewerage disposal facilities or other sewer utility improvements approved by the Town Engineer;
17. Water supply facilities or other water utility improvements approved by the Town Engineer;
18. Verification of adequate water pressure to the Plat property for fire protection by the Town Engineer;
19. Necessary approvals or permits from all applicable authorities for water and sewer facilities;
20. An erosion control plan specifying erosion control measures to be made in accordance with the Town Erosion Control Ordinance and approved by the Dane County Land Conservation Department, Town Engineer and Town Staff;
21. Gas, electric power and telephone facilities;
22. Easements or access rights for: storm sewer and sanitary sewer facilities; storm water drainage; gas, water, electric power and telephone facilities; emergency or maintenance vehicle access; or, other necessary easements or access rights, including access to and from cul de sac bulbs by homeowners and Town staff. All easements shall be 12 feet wide or wider when recommended by the Town Engineer, as appropriate;
23. Partition fences for lands abutting or adjacent to land used for farming or grazing purposes, and a covenant regarding maintenance of such fences pursuant to section 10-2-63 of the Westport Code of Ordinances approved by the Town Attorney;
24. Review by Town maintenance department as to the provision of Town services to be provided to the property and a written report regarding the same shall be provided and which shall become conditions of approval as if set forth herein;
25. Dedications, notations or other information which should be added to the face of the Plat;
26. All special assessments and fees shall be paid, including any Westport Sewer Utility Area charges and MMSD charges;
27. Restrictive Covenants and Deed restrictions relating to subsequent development, use or division of land as required shall be submitted for review and approval by the Town Attorney;
28. The Petitioner shall pay all costs and fees incurred by the Town and City for any and all reviews, approval requests and document preparation by the City or Town Engineers and Town or City Attorneys relating to the property, and shall enter into an agreement approved by the City and Town Attorneys to pay these costs and fees;

29. All conditions recommended by the Middleton/Westport JZC at its meetings as noted in the minutes of those meetings, which may not already be set forth herein;
30. The Petitioner shall provide a planting plan and maintenance plan for the stormwater management areas, which plans shall be approved by the Town Administrator prior to planting, and which areas shall be constructed by the Petitioner, and then maintained by the homeowners association or outlot owner until the appropriate plantings will maintain themselves, or no less than 10 years;
31. Deep or sub-surface tillage shall be utilized for landscaping of all lots in the Plat to be done as the last construction step on each lot and prior to lawn planting, with the use of appropriate compost where necessary, in order to provide for maximum stormwater infiltration in the Plat property, plans for which shall be submitted by the Petitioner for review and approval by the Town Engineer prior to construction commencement on the Plat property;
32. Any conditions as requested for approval by EMS and Fire as deemed appropriate or necessary by the Town Engineer;
33. Comments in the Municipal Solutions opinion letter and any comments of the City Planner as acceptable to the Town Administrator and Town Engineer;
34. The Development Agreement and/or other recorded restriction document shall contain language to provide for provisions defining prairie plantings allowed and where such prairie plantings shall be required, and for the maintenance of the prairie, farmland and stormwater areas by the landowners or homeowners association, and if not properly maintained, after notice, access for maintenance shall be provided to the Town, and the property owners shall agree to pay the cost for such services by waiver of assessment;
35. Temporary cul de sacs or turnarounds shall be constructed and shown on the Plat to be maintained until such time as roadways are extended into neighboring properties, all as to be approved by the Town Engineer;
36. Any restrictions recommended as part of the zoning of the Property not included herein;
37. Building envelopes shall be shown on the face of the Plat for each lot, and no structures shall be allowed outside of those areas;
38. A tree inventory or study shall be undertaken at the cost of the Petitioner, and a plan shall then be developed in order to minimize tree loss which shall be acceptable to the Town Attorney and City Planning and Zoning Staff, based on which an Environmental Conservancy/Protection Line may be established and identified on the Plat to prevent removal of plants, location of structures, and further grading on the Plat property;
39. A water study underway shall be completed, and the study shall conclude there will be satisfactory water supply to Phase 5 and all existing City Water Utility customers prior to planned construction in 2019 of the Pheasant Branch Connector water main.
40. Approving an Agreement for construction of the City's southerly meter station in Outlot 16 in the Back Nine neighborhood, which construction was deferred from the Phase 4 City/Developer Agreement.

41. The City receiving payment from the Petitioner to City Utility District No. 1 so that the Property can be removed from the City Utility District or an agreement providing for the same;
42. Petitioner shall not restrict future owners of the lots within the Plat Property from objecting to plat changes for the Property;
43. A snow removal plan for the private roadway to be reviewed and approved by the Town Engineer which shall be incorporated into the Deed Restrictions and Covenants for the property.
44. Preservation of the two silos on the Property and a plan for use of the same to be reviewed and approved by the Plan Commission and incorporated into the Deed Restrictions and Covenants, including a maintenance plan by the Petitioner or the Homeowners Association which shall maintain the silos for 10 years;
45. Private road parking restrictions as indicated (no parking in cul de sac bulbs);
46. Requirements for improvements to the intersection of Bishops Bay Parkway and CTH M as recommended by Dane County Transportation and approved by the Town Engineer which may include traffic signal conduit be installed by the Petitioner for later use, in similar form to that attached as Exhibit B hereto, and including ROW dedication along the entire length of the Plat property to 80 feet from the current CTH M centerline;
47. A lighting plan for the Plat property to be reviewed and approved by the Town Plan Commission, including the design of poles and fixtures, to meet the Town's dark skies code, prior to lighting construction commencing, including lights on the CTH M and Bishop Bay Parkway;
48. Parks to be maintained by the Town and those to be maintained by the Petitioner or homeowners association shall be identified and approved by the Town Plan Commission prior to building permits being issued, including agreements regarding the same, and the homeowners association will maintain the recreational path along CTH M for a period of 10 years after construction;
49. A review and report by the Town's historical preservation consultant on structures or natural features prior to demolition, removal or grading, with recommendations to the Town Plan Commission which may be required of the Petitioner;
50. Landscape and planting construction plans for the buffer area along CTH M to be approved by the Town Plan Commission and Dane County Transportation staff prior to construction commencing at the location, and to consider the effect of snow accumulation on CTH M;
51. The Petitioner and the Town shall work with Dane County Transportation staff to lower the speed limit appropriately along CTH M or to at least 45 m.p.h. or less if warranted, or at minimum the placement of advisory reduced speed signs;
52. CTH M trail construction shall be clarified by agreement with the Town Board; and,

53. A recorded copy of the Plat shall be provided to the Town and City Clerks immediately after recording by the Petitioner.

This recommendation was duly adopted by motion at a regular meeting of the Westport Plan Commission on July 10, 2017, by a vote of 4 ayes, 1 nays, with 2 members absent.

TOWN OF WESTPORT PLAN COMMISSION

By: 
Dean A. Grosskopf, Chair

APPROVED: 7/10/17

