

TOWN OF COTTAGE GROVE
SPECIAL TOWN BOARD MEETING
NOVEMBER 10, 2016

Notice of the meeting was posted at the Town Hall and on the Town's internet site. Town Chair Kris Hampton, Supervisors Mike Fonger, Steve Anders, Kristi Williams and Mike DuPlayee were all present, along with Clerk Kim Banigan, Treasurer Debra Abel, Highway Superintendent Jeff Smith, Public Works Employees Dan Dresen, Andrew Perry and Matthew Pederson, Attorney Connie Anderson and Engineer Thomas TeBeest.

Hampton called the meeting to order at 7:00 P.M.

I. Viney's Addition to Skyhigh:

A. Review Plan Commission recommendation to Town Board regarding Final Plat: Hampton read the Plan Commission's recommendation for preliminary approval pending satisfaction of all conditions outlined by TeBeest. The final plat is not to be signed until a developer's agreement is signed and all fees are paid.

B. Consider/Approvals related to Development, including:
(Documents related to each of the eight points below were reviewed simultaneously during a discussion lead by Atty. Connie Anderson, using the resolution to be adopted by the Town Board to tie them all together.)

1. final plat: TeBeest had identified a list of 12 points related to the final plat in his letter to the Clerk dated November 4, 2016. These were discussed and Anderson recommended a final punch list of those still outstanding be put in the resolution. Williams wanted to know if there is room on each lot for two septic systems, a well and a house. TeBeest said it would be tight. Dan Birrenkott said perk tests will be performed next week. The County must approve areas for septic systems and these must be protected from construction. Lots 6 and 7 potentially will share an existing well, the other lots will all have individual wells.
2. development agreement: Atty. Anderson said the developer's agreement is acceptable to the developer except for one issue: Fee in lieu of park land. See discussion under 6. below.

Other topics of discussion for the developer's agreement included:

- Required standards and specifications for improvements. It was noted that street and traffic signs are to be purchased by the Town but reimbursed and installed by the developer. A Type 3 barricade must be installed at the end of Vineys Trail.
 - Requirements for contractors engaged by the developer.
 - Exhibit 1 identifies and incorporates plans submitted by the developer's engineer and indicates the Town Engineer's acceptance of them.
 - Exhibit 2 includes provisions recommended by the Town Planner, including a mature tree preservation plan. Discussion was that there are not very many mature trees on the property. Discussion was to simply specify that best faith efforts should be made to maintain mature trees on lots 7 and 15. The Town Planner's recommendations for a landscape buffer along CTH "N" were acceptable to all. Anders wondered if the term noxious weeds referred only to those specifically identified by statute, or all undesirable weeds. TeBeest said the term was not limited to those identified by statute.
3. covenants:
 - Section 3.07 specifies minimum home sizes. John Loeffler, 2574 Hupmobile, stated that this size is not comparable to surrounding homes, and questioned whether homes of this size achieve the tax basis the Town is hoping for.

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Discussion was to increase the minimums to 1,700 square feet for a single story building, 2,000 square feet for a two story building, and 1,700 feet on the two main floors of a raised ranch, bi-level or tri-level home, or other building styles not specified.

- Section 3.10 requires concrete driveways. Smith asked that a 2 foot patch of asphalt be required where the driveway meets the road so it doesn't have to be milled with an overlay.
 - It was noted that the maximum lot area for a garden was at 25% in section 3.15 and 20% in 3.19, and determined that 20% is the appropriate percentage.
 - Section 3.25 defines a 2-tier point system for landscaping requirements. Discussion was to require 500 points for each lot.
 - Energy Star appliances are not required.
4. stormwater maintenance agreement: This is a four party document binding the developer, the homeowner's association, the County and the Town regarding maintenance of the stormwater management facilities. Exhibit A includes a very thorough list of inspection and maintenance practices to follow. It was suggested that a second exhibit be added to show drainage easements and direction of flow.
 5. letter of credit: A sample form used recently by Attys. Anderson and Lawton for a development in Windsor was provided as an example, and the Clerk confirmed that the Bank of Deerfield had indicated they can work with this form. It was agreed that one letter of credit should cover the full amount of \$297,743.00, of which \$55,542.50 is to favor Dane County to secure performance required by the erosion control and storm water management permit.
 6. park fees in lieu of dedication: The ordinance defines a formula based on the Town Assessor's valuation of one acre of land in the platted subdivision, which was determined to be \$40,000. The resulting fees amount to \$27,586.00 or \$1,839 per lot. Kyle Broom, realtor for the developer, felt that this is high based on the developer's purchase price of the property. Mike Lawton, Attorney for the developer, said that recently Windsor charged a developer \$1,400 per lot. Discussion was that the purpose of the fee in lieu of park land is to pay for the replacement of land, so the question becomes is \$40,000 per acre a reasonable price? Board consensus was to leave the cost as is.
 7. early start permit: Birrenkott stated that the final plat needs to be run through the Stat's plat review process, which can take up to 45 days. The developer would like to get started on site work sooner than that. Atty Anderson stated that this would be a variance as the ordinance has no provision for an early start. The advantage of an early start to the the Town would be time to allow the road base to settle through the winter, but it would add additional costs for the Town to ensure that erosion control is put into place, and could be an invitation for other issues. Carol Marshall, 2575 Bass Road, wanted to be notified when they would be working at the end of the existing Bass Road. Sandra Goke, 2570 Hupmobile, was concerned about erosion control issues with the spring thaw. **MOTION** by Fonger/Anders to approve an Early Start permit, with no tear out of any blacktop on Bass Road this fall. All Fall and Winter construction traffic must come off of CTH "N" and Carol Marshall is to be notified prior to the beginning of construction in the Spring. The Town will not accept any road base until the plat is signed. **MOTION CARRIED 5-0.**

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8. miscellaneous approvals: **MOTION** by Anders/Williams to adopt Resolution 2016-10 Approval of Documents Related to Plat of Viney's Addition to Skyhigh as discussed tonight, and notated by Atty. Anderson on her copy. **MOTION CARRIED 5-0.**
- C. Consider/Adopt motion to move into closed session pursuant to Wisconsin Statute 19.85(1)(c) for the purpose of considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility: Employee Compensation: **MOTION** by DuPlayee/Williams to go into closed session for the reason stated above. **MOTION CARRIED 5-0 BY ROLL CALL VOTE** The Town Board, Atty. Anderson, and all present Town Employees were allowed to stay for the closed session. Others left and the door was locked. The closed session began at 9:07 P.M.
- D. Consider/Adopt motion to reconvene to open session to take any action necessary from closed session: **MOTION** by Anders/Fonger to reconvene to open session. **MOTION CARRIED 5-0 BY ROLL CALL VOTE.** The closed session ended at 9:55 p.m. Smith and the three public works employees had left during the closed session.
 1. Discuss/Adopt Resolution 2016-09 A Resolution of Inclusion under the Wisconsin Retirement System, and Designation of an Agent/Alternate.: **MOTION** by Anders/Williams to adopt Resolution 2016-09 for inclusion under the Wisconsin Retirement system effective January 1, 2017, allowing current employees a one time opportunity to opt out. Agent is to be Clerk Kim Banigan with Treasurer Debra Abel as backup agent. **MOTION CARRIED 5-0. MOTION** by Anders/Williams to roll the 12% retirement allowance into wages for all employees currently receiving this benefit who choose to opt out of WRS, and roll 5.2% into wages of employees currently receiving the retirement allowance who elect to participate in WRS, effective January 1, 2017. **MOTION CARRIED 5-0.**
 2. Discuss/Consider Employee Health Insurance.: Tabled until the December 5th meeting
- II. Adjournment: **MOTION** by DuPlayee/Williams to adjourn. **MOTION CARRIED 5-0.** The meeting ended at 10:03 P.M.

Kim Banigan, Clerk
Approved 11-21-2016

**TOWN OF COTTAGE GROVE
BOARD RESOLUTION 2016-10**

**APPROVALS RELATED TO
PLAT OF VINEY'S ADDITION TO SKYHIGH**

WHEREAS, on June 29, 2016, Donald Viney ("Subdivider") submitted a preliminary plat for Viney's Addition to Skyhigh (the "preliminary plat"), which is located in the Town of Cottage Grove, Dane County, WI; and

WHEREAS, on July 18, 2016, the Town Board conditionally approved the preliminary plat subject to the conditions set forth in Town Board Resolution 2016-04, which is incorporated herein by reference; and

WHEREAS, the Subdivider has submitted for approval the final plat for Viney's Addition to Skyhigh (the "final plat") as well as certain additional documents intended to satisfy the conditions of approval, and has also requested an early start permit; and

WHEREAS, the Town Planner and Town Engineer have reviewed the request, and prepared separate reports to the Town Clerk for consideration by the Town Board (collectively hereafter, the "Reports"), which Reports are incorporated herein by reference; and

WHEREAS, the Plan Commission considered the request for approval of the final plat and has made its recommendations to the Town Board; and

WHEREAS, the Town Board has considered the foregoing and shall take action as set forth herein.

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

The Town of Cottage Grove Town Board has completed its review of the final plat for Viney's Addition to Skyhigh (Subdivider: Viney Acres, LLC) located in Lot 1, CSM No. 3894, and in the SE ¼ of the SW ¼, Section 21, T7N, R11E, Town of Cottage Grove, Dane County, Wisconsin, and hereby resolves as follows:

1. **Approvals Obtained from Dane County and Wisconsin Department of Natural Resources (DNR).** The approvals listed below have been obtained from Dane County and DNR are hereby acknowledged by the Town. Subdivider's compliance with Dane County's and DNR's requirements are a continuing obligation of the Subdivider and a condition of approval, which may be enforced by Dane County, DNR and/or the Town. The approvals obtained as of the date of this resolution include:
 - a. Dane County Permit to Work in Right of Way Number 16U156 dated 10/28/2016
 - b. Dane County Erosion Control Permit EC2016-0352 with start date of 10/21/2016 and stabilization/expiration date of 5/31/2017
 - c. Dane County Stormwater Permit (as reviewed by Town Engineer and to be issued upon execution of Stormwater Maintenance Agreement)
 - d. DNR WPDES General Permit No. WI-S067831-04 Construction Site Storm Water Runoff with start date of September 8, 2016 and expiration September 8, 2019
 - e. Dane County Rezone to R-2 Residence District: Petition 10992
 - f. Dane County Final Plat Approval (with conditions) dated November 8, 2016, which includes the following conditions, which are incorporated as requirements of the Town:

- i. Compliance with the Dane County Comprehensive Plan is to be established.
 - *See memo from Planner Pam Andros that verifies that this plat is consistent with the land use plan for the Town of Cottage Grove.*
- ii. Rezone Petition #10992 is to become effective and all conditions established are to be satisfied no later than September 7, 2018.
 - *An approved Plat Map shall be recorded with the Dane County Register of Deeds Office.*
 - *The zoning is conditioned upon a maximum 15-lot/1-outlot subdivision plat being approved and recorded.*
 - *A transfer of development right document shall be recorded on the Dahl Farm, Section 26, and the Wood Farm, Section 35, identifying that 2 housing density rights have been used for the creation of the residential subdivision.*
- iii. The public park land appropriation requirement is to be satisfied (private park land does not satisfy this requirement).
 - *The developer will be paying park fees to the Town of Cottage Grove.*
- iv. All public land dedications are to be clearly designated “dedicated to the public.”
 - *Outlot 1 will be dedicated to the public for storm waterpond/management.*
- v. All streets shall be noted as dedicated to the public.
 - *Bass Road is being extended to the east and Vineys Trail is a new road to the north serving lot 1*
 - *The Town further adopts the Town Engineer’s recommendation that a permanent Type 3 barricade be installed at the end of Vineys Trail*
- vi. A suitable turn around shall be installed at the end of VINEYS TRAIL that meets the specifications or requirements of the Town of Cottage Grove.
- vii. All streets shall be graded and surfaced in accordance with plans, specifications and requirements of the Dane County Highway Commission and the Town of Cottage Grove.
- viii. Comments from the Dane County Highway department are to be satisfied:
 - *CTH N is a controlled access highway.*
 - *Access to remain to serve outlot maintenance only.*
 - *Access to be gated at all times.*
 - *Right of way appears to be correct.*
- ix. Utility easements are to be provided.
- x. Street names with respect to Ch. 76 of the Dane County Code of Ordinances are to be assigned.
 - *Dane County Surveyor approval has been obtained for Vineys Trail.*
- xi. The required approval certificates are to be satisfied.
 - *Town of Cottage Grove*
 - *Village of Cottage Grove*

- xii. Compliance with Ch. 14.45 DCCO, Erosion Control Plans is to be established prior to the start of construction.
 - xiii. Compliance with Ch. 14.46 DCCO, Stormwater Control Permits is to be established prior to the start of construction.
2. **Town Approval of Erosion Control Permit and Storm Water Permit.** As indicated above, the Subdivider has obtained Dane County Erosion Control Permit EC2016-0352 with start date of 10/21/2016 and stabilization/expiration date of 5/31/2017 (“Erosion Control Permit”), Dane County Stormwater Permit (reviewed by Town Engineer and to be issued when Developer executes Stormwater Maintenance Agreement referenced in paragraph 3 below), and DNR WPDES General Permit No. WI-S067831-04 Construction Site Storm Water Runoff with start date of September 8, 2016 and expiration September 8, 2019 (“DNR Construction Site Permit”). By this Resolution, the Town Board acknowledges and accepts the standards set forth therein, which standards supersede any prior approvals as to the subject matter contained therein.
 3. **Town Documents Approved.** The documents listed below have been reviewed and approved by the Town Board at the Town Board meeting on November 10, 2016, and the Subdivider shall provide executed and notarized originals of same to the Town Clerk, along with appropriate recording fees, for review by the Town Attorney for consistency with these approvals and for final signature by the Town and recording at the Dane County Register of Deeds office:
 - a. Development Agreement
 - b. Construction Plans dated 11/8/2016, as reviewed and approved by the Town Engineer
 - c. Covenants, Restrictions, Conditions and Easements for Plat
 - d. Declaration of Covenants and Restrictions for Maintenance of Stormwater Management Measures
 - e. TDR Notices and Easements as prepared by Dane County on July 27, 2016 (Approved as to form prepared by Dane County; Developer to provide final information and complete documents; completed documents require Town Attorney review/approval, as appropriate.)
 4. **Monitoring by Town Engineer.** The Town Board requires that the Town Engineer monitor the Subdivider and construction site for compliance with the Erosion Control Permit, the Storm Water Permit and the Development Agreement.
 5. **Plat Approval Conditioned on Compliance.** The Final Plat is approved subject to Developer’s satisfaction of the following remaining conditions to the satisfaction of the Town Engineer:
 - a. Correct spelling error(s).
 - b. Letter of credit requirement allocated to survey monumentation to remain in place until survey monumentation is complete. Town Board will allow completion of survey monumentation as required in the Development Agreement.
 - c. Concurrence from electric and communications utilities as to location of easements and no pedestals in public drainage easement areas.
 6. **Payment of Fees in Lieu of Parkland.** The Subdivider shall pay the Town the required fees in lieu of parkland prior to issuance of an early start variance permit or the Town’s execution of the Plat.
 7. **Letter of Credit.** The Letter of Credit shall be in the form recommended by the Town Attorney. The total amount of the letter of credit shall be \$297,743.00. Of this total amount, \$55,743 shall be held jointly by and between Dane County and the Town as required for the erosion control and stormwater

management permit requirements (either may draw on this part of the LOC), and \$242,000.00 shall be solely for the Town for other required improvements for the development (only the Town may draw on this part of the LOC).

8. **Plat and Document Execution and Recording.** The Subdivider shall obtain approval for the plat from all other approving authorities, as required by law. The Subdivider shall provide fully executed and notarized originals of the Plat and all approved Town Documents identified in paragraph 3 above. Recording shall be coordinated with the Town Clerk and Town Attorney so that documents are fully completed and recorded in the proper sequence to assure priority of the obligations set forth in the required Town documents. If an early start permit is allowed, all requirements except final approval and recording of the Plat must be met, as confirmed by the Town Clerk in consultation with the Town Attorney, as necessary, prior to issuance of the early start variance permit.
9. **Reimbursement from Subdivider.** The Subdivider shall promptly reimburse the Town of Cottage Grove for all costs and expenses incurred by the Town in connection with the review and approval of the preliminary and final plat, including, but not limited to, the cost of professional services incurred by the Town of Cottage Grove for the review and preparation of required documents, attendance at meetings or other related professional services. The Subdivider shall pay the Town accrued Town consultant fees prior to issuance of an early start variance permit or the Town's execution of the Plat.
10. **Expiration.** This conditional approval by the Town Board shall expire at termination of the Village of Cottage Grove's Waiver of its ETJ over the area included in the preliminary plat. If the final plat has not been recorded prior to such termination, the Subdivider shall be required to obtain approval from the Village of Cottage Grove and the Town of Cottage Grove shall have an opportunity to reconsider and adjust the terms and conditions set forth herein.

The above and foregoing Resolution was duly adopted at a meeting of the Town Board of the Town of Cottage Grove held on the 10th day of November, 2016, by a vote of 5 in favor and 0 opposed.

TOWN OF COTTAGE GROVE



Kris Hampton, Town Chairperson

Attested by:


Kim Banigan, Town Clerk

Reports from Town Consultants Incorporated by Reference:

Town Engineer Reports dated July 14, 2016, July 21, 2016 and November 4, 2016
Town Planner Reports dated July 14, 2016, July 22, 2016 and October 31, 2016