

RESOLUTION NO. 7863
A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA,
APPROVING A COMPREHENSIVE PLAN AMENDMENT, A PLANNED UNIT
DEVELOPMENT, AND THE PRELIMINARY PLAT OF WINDERMERE

WHEREAS, D.R. Horton, Inc. - Minnesota, applicant and property owner, have made application for a Comprehensive Plan Amendment, a Planned Unit Development, and Preliminary Plat of Windermere; and

WHEREAS, the property upon which the request is being made is legally described as:

See Attached Exhibit; and

WHEREAS, the Planning Commission of the City of Shakopee did review the application on February 9 & April 6, 2017; and

WHEREAS, all required public notices regarding the public hearing for the Comprehensive Plan Amendment, a Planned Unit Development, and Preliminary Plat were duly sent and posted and all persons appearing at the hearing have been given an opportunity to be heard thereon; and

WHEREAS, the City Council of the City of Shakopee did review the application on April 18, 2017 and adopted the following findings:

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Shakopee hereby adopts the following findings of facts relative to the Comprehensive Plan Amendment request:

- | | |
|--------------------|--|
| Criteria #1 | The original zoning ordinance is in error. |
| <i>Finding #1</i> | <i>The original zoning ordinance is not in error; however, the original zoning ordinance established a zoning boundary that is not compatible with the recently approved West End Study Area, which included this development area.</i> |
| Criteria #2 | Significant changes in community goals and policies have taken place. |
| <i>Finding #2</i> | <i>Significant changes in community goals and policies that concern this property have taken place, as stated at the public meetings during discussion of the West End Study Area. The proposed plan is consistent with the West End Study Area plan approved by City Council in June, 2016.</i> |

Criteria #3 **Significant changes in development patterns have occurred.**
Finding #3 *Significant changes in development patterns have occurred for the subject property, as referenced in the approved West End Study Area plan.*

Criteria #4 **The Comprehensive Plan requires a different provision.**
Finding #4 *The comprehensive plan is proposed to be amended to adjust the guiding for this property from Single Family Residential, Medium Density Residential and Commercial; to Single Family, Medium Density & High Density Residential, and Commercial.*

BE IT FURTHER RESOLVED, that the request to re-guide the property as stated in this resolution is hereby approved.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Shakopee hereby adopts the following findings of facts relative to the Planned Unit Development (PUD) request:

Criteria #1: **Whether the proposed development is consistent in all respect with the comprehensive plan and with this section.**

Finding No.1: *The use of the property will be in compliance with the proposed Comprehensive Plan Amendment.*

Criteria #2: **Whether the proposed development, including deviations from design standards of the underlying zones, is compatible with surrounding land uses.**

Finding #2: *The proposed deviations relating to setbacks for the residential lots, increase in density and number of units per building of the townhouse neighborhoods, minimal impact to a degraded bluff, and reduction in street widths of the townhouse neighborhoods are in keeping with the character of the previously approved project. This project is generally consistent with the West End Study Plan approved by the City Council in June, 2016.*

Criteria #3: **Whether the proposed development, including deviations from development standards of the underlying zone, provides adequate open space, circulation, parking, recreation, screening, and landscaping.**

Finding #3: *The proposed project will be providing a significant number of trails, park land and open space, with connections set up to tie into future adjacent developments. No changes are proposed in regard to landscaping, open space, or screening. A number of the proposed deviations from development standards are to allow for a better trail and open space network.*

Criteria #4: **Whether the primary function of the PUD is to encourage development which will preserve and enhance the worthwhile, natural terrain characteristics and not force intense development to utilize all portions of a given site in order to arrive at the maximum density allowed. In evaluating each individual proposal, the recognition of this objective will be a basic consideration in granting approval or denial.**

Finding #4: The proposed development will preserve and enhance the worthwhile, natural terrain characteristics and not force intense development to utilize all portions of the site in order to arrive at the maximum density allowed.

Criteria #5: Whether there exists an overall compatibility of land uses and overall appearance and compatibility of individual buildings to other site elements or to surrounding development. However, the architectural style of buildings shall not solely be a basis for denial or approval of a plan.

Finding #5: The ultimate development of the PUD will provide for overall compatibility of land uses, buildings, and other site elements to the surrounding development. The proposed development will generally be similar in architectural style to the surrounding properties and will be compatible with the surrounding land uses.

Criteria #6: Whether the proposed PUD plan would afford a greater general public benefit than would be realized under the underlying zoning district and/or general zoning provisions.

Finding # 6: The proposed PUD allows for the flexibility to develop a creative site plan for a site with significant development challenges related to topography and street connections. The proposed PUD also allows for adequate pedestrian circulation to connect to the adjacent residential and park areas. The proposed development will afford a greater general public benefit than would be realized under the underlying zoning district and/or general zoning provisions.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHAKOPEE, MINNESOTA, AS FOLLOWS:

That the Planned Unit Development for Windermere is hereby approved to allow the development in the following manner:

1. 7 ½ foot minimum side yard setbacks for the single family (R-1B) lots.
2. Density of 10.5 units/acre in the townhome segments.
3. 7-unit townhome buildings.
4. 20-foot minimum front yard setbacks for the townhome lots.
5. Any combination of 20 feet between townhome buildings (total).
6. Right-of-ways and public streets widths less than the minimum requirements, as identified on the PUD/Plat Plan dated 03/16/17, unless as noted by City Engineering.
7. 25-foot minimum front yard setbacks for the single-family (R-1B) lots.
8. Encroachment into the Bluff Impact Zone, as identified on the PUD/Plat Plan dated 03/16/17.
9. Trail and walk layout as identified on the PUD/Plat Plan dated 03/16/17.
10. If the applicant constructs a monument sign for this subdivision, the sign must meet City Code standards for design and location and receive a sign permit. All signage is required to be located within a dedicated sign easement.
11. A utility coordination plan is required and must receive approval from the City of Shakopee. Right-of-way permits will not be granted without an approved coordination plan.
12. The development as a whole, including the construction of the County Road improvements, shall meet the City Water Resources design criteria.

13. Per our drainage meeting on March 22nd, 2017, Scott County is comfortable with the construction of a temporary storage pond on the South Side of the proposed County Road adjacent to Pond #3. The purpose of the pond is to reduce the need for oversized trunk storm sewer facilities down stream of Pond #3 accommodate existing conditions upstream of the development that will be required to reduce their discharge rate as future development occurs. Scott County will require this design to not overflow onto the County Road in storms less than a 50-year event. The analysis will need to include running the 100-year storm in this scenario to show its impact on all other downstream resources.
14. The design of the County Road shall meet all County Construction requirements.
15. Of the land proposed as open space, Outlot J may be acceptable as dedicated park property excluding the ponding area. All other outlots would not be acceptable for Park Dedication.
16. The applicant to provide a trail connection from 17th Avenue south into Outlot J.
17. The applicant is required to install sidewalk on one side of all residential streets.
18. The applicant is required to install a trail along the north side of 17th Avenue.
19. The applicant shall provide and install park, open space, and trail boundary signage as determined to be needed by the city. The city shall provide the signage and posts for the park, and the applicant provide the installation of the signage. The city shall provide the signage for open space and trail boundary, and the applicant provide the posts and installation of the signage.
20. Land conveyed or dedicated to the city shall not be used in calculating density requirements of the city zoning ordinance, and shall be in addition to and not in lieu of open space requirements for planned unit developments.
21. Wetland, ponding areas, drainageways, and utility easements accepted by the city shall not be considered in the park land and/or cash contribution to the city.
22. The project shall comply with the conditions noted in the Minnesota Department of Transportation (MnDot) letter dated January 19, 2017.
23. Windermere Way and 17th Avenue shall have a minimum eight feet between the back of curb and trail/sidewalk. A trail easement shall be given for any portion of the trail which is outside of the city right-of-way, plus an additional two feet beyond the trail.
24. Soil modification within the planting strips on Windermere Way and 17th Avenue is required as approved by the city engineer.
25. Tree planting/landscaping done within the city right-of-way or easements must be approved by the city engineer. This includes but is not limited to species selection, location, quantity, sizing, maintenance, installation schedule, and warranty. Trees are required to be planted at a minimum 40-foot spacing on each side of the street on Windermere Way and 17th Avenue, as approved by the city engineer.
26. A joint trench is required for all underground wire utilities. The location of the joint trench, utility coordination plan, and installation schedule is to be approved by the city engineer.
27. A right-of-way permit is required before installation of any utilities within city right-of-way or easements.
28. The applicant must meet all vegetation establishment requirements within stormwater areas and city outlots, as approved by the city engineer.
29. Proposed impacts to the bluff impact zone along the trail located in Outlot A, adjacent to Block 3, Lot 1, are acceptable due to previous agricultural disturbance.

30. Landscaping within the project shall comply with the standards listed in the City Code.
31. Landscaping (including trees, shrubs and soils) design/details shall be approved by the City Engineer or designee prior to issuance of a grading permit.
32. Municipal water service is available subject to their standard terms and conditions. These include, but are not limited to: installing a lateral water main distribution system in accordance with utility policy, paying the associated inspections costs, granting any necessary easements, paying the Trunk Water Charge, and paying the Water Connection Charge.
33. Underground electric service is available subject to their standard terms and conditions. These include, but are not limited to: entering into an Underground Distribution Agreement, granting any necessary easements, and paying the associated fees.
34. Street lighting installation is available subject to their standard terms and conditions. These are contained in the current City of Shakopee Street Lighting Policy. Applicant must pay the associated fees.
35. The applicant shall work with SPUC regarding a site for a Water Pressure Booster Station to enable service to the 2nd High Elevation Service District (project is located within the 1st and 2nd High Elevation Service Districts).
36. At time of Final Plat review, the road design shall comply with the City of Shakopee and Scott County's design standards, including providing the required public right-of-way and easements for 17th Avenue and County Hwy. 15.
37. At time of Final Plat review, the storm water management plan shall comply with the City of Shakopee and Scott County's design standards.
38. Trails throughout the development (including along County Hwy. 15 and 17th Avenue) shall be constructed consistent with City and County design standards.
39. Right of way sight triangles shall be dedicated on the plat at intersections with the County roadway and at the County Hwy. 15/17th Avenue intersection that mirror the Countryside plat.
40. No ponding or berming, shall be permitted within the County right-of-way unless specifically approved by County staff.
41. A tree and landscaping plan shall be approved by the County prior to installation of plantings in their public right-of-ways and public easements.
42. Any field accesses to County Hwy. 15 shall be completely removed from the county right-of-way and graded to match the existing ditch.
43. Any work within the County right-of-way shall require the appropriate County permit.
44. Noise levels will increase as traffic levels increase in the area. Noise attenuation for the homes along the County Roads is the responsibility of the developer.

WHEREAS, the Planning Commission of the City of Shakopee reviewed the preliminary plat on February 9 and April 6, 2017 and recommended that the City Council approve the preliminary plat of Windermere Addition; and

WHEREAS, the City Council reviewed the preliminary plat on April 18, 2017.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Shakopee, Minnesota that the preliminary plat of Windermere is hereby approved subject to the following conditions:

I) The following procedural actions must be completed prior to the recording of a Final Plat:

1. Execution of a Developer's Agreement, which needs to include provisions for security for public improvements within the subdivision and payment of the Street and Utility Fee and the Watermain Fee.
2. Payment of all Storm Water Management Plan Review Fees need to be made, as required by the most current City of Shakopee Fee Schedule.
3. Payment of the Trunk Sanitary Sewer Charge needs to be made, as required by the most current City of Shakopee Fee Schedule.
4. Payment of the Trunk Storm Water Charge needs to be made, as required by the most current City of Shakopee Fee Schedule.
5. Payment of the Sign Installation Fee needs to be made, as required by the most current City of Shakopee Fee Schedule.
6. Payment of the Bituminous Sealcoat Fee needs to be made, as required by the most current City of Shakopee Fee Schedule.
7. The applicant will submit a detailed contractor's bid for all public improvements associated with this subdivision.
8. The applicant will submit a detailed lot area drawing showing the total plat area, the total drainage and utility easement area encompassing high water levels of wetlands/storm water basins, the total area of right-of-way, the total area of conservation easements and outlots, the total area of bituminous street and the total area of lots.
9. The applicant will submit a detailed wetland delineation report/review and application to document the existence/nonexistence of wetlands onsite. This application needs to be reviewed by members of a TEP and needs to be approved by the City of Shakopee acting in its role as the LGU for administration of the WCA.
10. Should wetlands exist in the subdivision, the applicant will provide the required buffers, dedicate adequate outlots or conservations easements to encompass the buffers and wetlands and provide signage per requirements set forth in Chapter 54.32 of the City of Shakopee Code of Ordinances.
11. The applicant will need conditional approval of the subdivision's storm water management plan.
12. The applicant will submit a detailed geotechnical report outlining any groundwater encountered as well as infiltration rates in appropriate locations.
13. The applicant will move the proposed retaining wall in Outlot D to the north so it is not located in the drainage and utility easement adjacent to Windermere Way.
14. The applicant will provide additional right-of-way in the form of sight triangles 15 feet in dimension at every intersection.
15. The proposed extension of Outlot A to Linwood Circle and Willow Circle needs to be eliminated and incorporated into the adjacent lots. A trail will be required in these locations; therefore, a trail easement document shall be created and recorded.
16. Easements will be shown on the Final Plat as approved by the City Engineer. They include, but are not limited to the following:
 - Once adequate utility plan and profile sheets are prepared, the applicant will verify appropriate drainage and utility easements for public sanitary sewer and storm sewer systems are provided. The minimum widths of drainage and utility

easements are set forth in Section 10.1 (A-D) of the City of Shakopee Design Criteria.

- Provide a minimum of 15 feet of drainage and utility easement adjacent to all of County Road 15 (Marystown Road) and County Road 16 (17th Avenue) rights-of-way.
 - Provide a minimum of 10 feet of drainage and utility easement adjacent to the Windermere Way right of way, even in the outlots.
 - Provide a minimum of 5 feet of trail/sidewalk easement adjacent to the entire length of the westerly right of way of Windermere Way and also a 15-foot trail/sidewalk easement along the entire length of both sides of County Road 16 (17th Avenue).
 - Provide a drainage and utility easement to encompass the storm sewer which runs northerly from Benton Drive to Belmont Drive and thence easterly on Belmont Drive to the pond located in Outlot L.
17. Provide electronic files (AutoCAD and Portable Document Format – PDF) of the Final Plat to be recorded with datum on the Scott County coordinate system.
18. The proposed 100 year HWL of Pond #4 exceeds the Rim elevation of the storm sewer structures to the north that are supposed to direct their runoff to the this pond. Per County design criteria, the 100 year HWL shall be at least 1 foot below the rim elevation. This may require changing the size or grading of that proposed pond to meet this criteria if the outlet size cannot be increased.
19. Park Dedication as outlined in City Code 150.65 shall be met. The applicant shall meet park dedication requirements by providing the land consistent with the following formulas:
- | | |
|----------------------|---|
| Single Family Homes: | 53 lots (66-13) X 3 persons per lot/75 people/acre = 2.12 acres |
| Multi Family: | 131 Units X 1 person per unit/75 people/acre = 1.75 acres |

Total acreage = 3.87 acres

The following items need to be addressed / completed prior to approval of a grading permit and/or a building permit:

1. The applicant will need final approval of the subdivision's storm water management plan.
2. The applicant will grade the entire site, as proposed on the approved plans, in one phase within one year from the date of approval of the grading permit application. Grading is defined as bringing the site to the proposed finished grade with materials deemed acceptable by the City of Shakopee engineering department, providing topsoil per City requirements and applying seed, mulch and/or sod per City requirements and providing an as-built record grading plan per Section 2.5 of the City of Shakopee Design Criteria.
3. Class IV fieldstone riprap and geotextile fabric will be placed at each flared end section. The riprap and fabric will be installed to the bottom of the storm water basin.
4. The proposed storm sewer in the rear of Blocks 4 and 5 needs to be located entirely within Outlot A.
5. The proposed storm sewer in the rear of Block 1 needs to be eliminated. Any needed catch basins should drain to the County Road 16 (17th Avenue) storm sewer system.

6. In order to minimize/eliminate storm sewer located on side lot lines, reroute the storm sewer from between Lots 1 and 2, Block 4 to the storm sewer system on Windermere Way.
7. The applicant will work with the City of Shakopee to verify whether or not storm sewer needs to be extended in Tamarack Road to serve future developments to the west.
8. The applicant will work with the City of Shakopee to verify whether or not storm sewer needs to be extended in Windermere Way to serve future developments to the south.
9. The applicant will work with the City of Shakopee to eliminate lots with public utilities on both side lot lines.
10. Storm manholes will need to be added in order to reduce flow velocities at flared end sections to an acceptable rate. This rate will be determined by the engineering division.
11. The applicant will seed the disturbed storm water basin area with a native vegetation. The seed mixture, application and maintenance requirements will be determined by the City Engineer or their assign.
12. The applicant shall provide adequate permanent erosion control, as approved by the City Engineer, for the ravine draining to pond 3 and also the upstream slopes of pond 3. There is a large tributary area to the southwest draining to this pond that has the potential to create long term erosion and maintenance issues.
13. The applicant shall fill in the ditch along County Road 15 (Marystown Road). All field accesses will be removed as part of this project. Storm sewer and a bituminous trail will be required.
14. The applicant will install trunk sanitary sewer to the west and south property lines as directed and approved by the city engineer.
15. The sanitary sewer extended from the existing Metropolitan Council's trunk facility will need to be of a material approved by the city engineer.
16. Retaining walls 4 feet or greater in height must have a design certified by a registered professional engineer.
17. The applicant will install a maintenance trail 12 feet in width over or near the required trunk sanitary sewer in Outlot A. This trail, if possible, will be connect to the trail system near the storm basin in Outlot A to the southwest.
18. The applicant is showing several streets that do not comply with the minimum back of curb to back of curb width. Local streets shall be 34 feet back of curb to back of curb with the exception of Windermere Way which shall be 37 feet back of curb to back of curb.
19. The applicant will provide vertical street curves that comply with city requirements, unless otherwise approved by the city engineer.
20. The typical section for County Road 16 (17th Avenue) needs to be determined by the city and the county.
21. The applicant will submit detailed pavement design calculations.
22. The applicant will submit a landscaping plan in compliance with the most recent version of the City of Shakopee's Easement Fencing and Landscaping Policy. If the applicant wishes to vary from these requirements, a detailed subdivision-wide utility service corridor plan will need to be submitted for review.
23. Record plans need to be provided per the City of Shakopee Design Criteria, Section 2.5 and Section 11.2 (A-L). The record plans need to be submitted to the engineering department.
24. Detailed design issues will need to be addressed by the applicant prior to

- approval of the stormwater management plan and issuance of a grading permit.
25. The recent plans indicate a gas station use. The applicant needs to be aware that runoff from a gas station site cannot be routed to an infiltration basin, per MPCA requirements. If that use is to move forward, the stormwater management needs to be revised accordingly to meet city rate, quality, and volume control.
 26. Drainage and utility easements must encompass all drainage infrastructure and 100-year HWLs around any stormwater basins.
 27. A final stormwater analysis and HydroCAD model demonstrating rate, volume and water quality standards are met. It should be noted that the City does not allow orifices smaller than 8-inches. Currently the stormwater management plan includes 6-inch orifices. The proposed stormwater design should replace the 6-inch orifices with 8-inch.
 28. Final grading plan with legends that contain all symbology and more contour labeling. Also, the grading around Willow Circle between Lots 7 & 8 and Lots 14 & 15 appears to create flooding situation within the street and driveway areas. Westwood should reconsider grading in this area, and others with a similar situation.
 29. Stormwater Report that summarizes the phasing of this development, including a description and proposed drainage that includes the development of the upstream tributary area.
 30. Utility plans and plan/profile for all sanitary and stormsewer service lines shall be reviewed and approved by the City.

BE IT FURTHER RESOLVED,

**Adopted in _____ session of the City Council of the City of Shakopee, Minnesota,
held on the ____ day of _____, 2017.**

Mayor of the City of Shakopee

ATTEST:

Lori Hensen, City Clerk

PREPARED BY:
City of Shakopee
129 Holmes Street South
Shakopee, MN 55379

EXHIBIT A

All that part of the East Half of the Northeast Quarter of Section 14, Township 115, Range 23, Scott County, Minnesota lying Southerly of the following described line:

Commencing at the Northeast corner of said Section 14; thence South 01 degrees 01 minutes 25 seconds East, assumed bearing, along the East line of said Northeast 1/4, a distance of 1,300.98 feet to the point of beginning of said line; thence North 85 degrees 45 minutes 11 seconds West, a distance of 153.40 feet to the Westerly right-of-way line of the Minnesota Commissioner of Transportation Right-of-Way Plat No. 70-15; thence continuing North 85 degrees 45 minutes 11 seconds West, a distance of 1,171.22 feet to the West line of said East Half of the Northeast Quarter and there terminating.

Except:

The land taken by the Minnesota Department of Transportation for highway right-of-way as recorded on the Minnesota Commissioner of Transportation Right-of-Way Plat No. 70-15.

AND EXCEPT

That part of the Northeast Quarter of Section 14, Township 115, Range 23, Scott County, Minnesota described as follows:

Commencing at the Southeast corner of said Northeast Quarter; thence North 00 degrees 00 minutes 00 seconds East, assumed basis for bearings, along the East line of said Northeast Quarter 274.70 feet to the point of beginning of the land herein described; thence South 89 degrees 22 minutes 01 seconds West 441.00 feet; thence North 00 degrees 00 minutes 00 seconds East 150.00 feet; thence North 89 degrees 22 minutes 01 seconds East 441.00 feet to a point in the East line of said Northeast Quarter; thence South 00 degrees 00 minutes 00 seconds East along said East line. 150.00 feet to the point of beginning.

AND EXCEPT

All that part of the East Half of the Northeast Quarter of Section 14, Township 115, Range 23, Scott County, Minnesota, described as follows:

Beginning at the East Quarter Corner of said Section 14, Township 115, Range 23 and running thence North on the section line 208.70 feet; thence West parallel to the South line of the East 1-half of the Northeast Quarter 208.71 feet thence South and parallel to the East line of said Section 14, 208.70 feet to the South line of said East 1-half of the Northeast Quarter; thence East on said South line 208.71 feet to the niece of beginning.

AND:

All that part of the of the West half of the Northeast Quarter of Section 14, Township 115, Range 23, Scott County, Minnesota described as follows:

Commencing at the Northeast corner of said Section 14; thence South 01 degrees 01 minutes 25 seconds East, assumed bearing, along the East line of said Northwest quarter, a distance of 1,300.98 feet; thence North 85 degrees 45 minutes 11 seconds West, a distance of 153.40 feet to the Westerly right of way line of the Minnesota Commissioner of Transportation Right of Way Plat No. 70-15; thence continuing North 85 degrees 45 minutes 11 seconds West, a distance of 1,171.22 feet to the West line of said East Half of the Northeast Quarter to the point of beginning; thence continuing North 85 degrees 45 minutes 11 seconds West, a distance of 216.14 feet; thence South 40 degrees 13 minutes 55 seconds West, a distance of 463.16 feet; thence South 00 degrees 40 minutes 02 seconds East, a distance of 1,192.71 feet to the South line of said West Half to the Northeast Quarter; thence North 88 degrees 20

minutes 48 seconds East, along said South line, a distance of 518.67 feet to the East line of said West Half of the Northeast Quarter; thence North 00 degrees 40 minutes 02 seconds West, along said East line, a distance of 1,515.36 feet to the point of beginning.