

**VILLAGE OF WINDSOR  
BOARD RESOLUTION 2019-62**

**APPROVAL OF A SIXTH AMENDMENT TO THE DEVELOPMENT AGREEMENT  
FOR WINDSOR GARDENS SUBDIVISION – PHASE 5A & 5B**

**WHEREAS**, Apple Apartments, LLC, Donald C. Tierney and Joanne K. Tierney (collectively, the "Developer") has requested an amendment ("Sixth Amendment") to the Windsor Gardens Development Agreement to provide for development of Phase 5A & 5B, which includes Lots 144-152, 166-181 and 188 in the plat of Windsor Gardens, and Lot 1 of Certified Survey Map No. 14941, all in Village of Windsor, Dane County, Wisconsin ("**Phase 5A**") (27 lots); and Lots 153-165 and 182-187, in the plat of Windsor Gardens, Village of Windsor, Dane County, Wisconsin ("**Phase 5B**") (19 lots); and

**WHEREAS**, the Developer and Village Attorney have negotiated the Sixth Amendment to address impacts of the Development on the public health, safety and welfare; and

**WHEREAS**, the Developer has executed the Sixth Amendment and is ready to proceed in the manner set forth therein; and

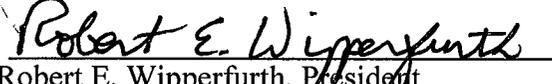
**WHEREAS**, Village staff and consultants have reviewed the Sixth Amendment and recommend the Village Board approve same.

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

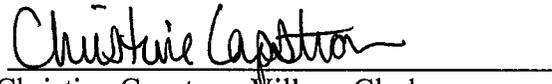
1. The Village Board hereby approves the Development Agreement, in the form attached hereto as Exhibit A, and authorizes the Village President, Village Attorney, and Village Staff to execute same; subject to the condition that the Developer provide the Letter of Credit as specified in the Development Agreement to the Village, and pay any and all outstanding fees due and owing to the Village;
2. All of the conditions set forth in this Resolution shall be satisfied, as determined by the Village Director of Planning / Zoning Administrator, prior to Developer commencing any work pursuant to the Sixth Amendment.

The above and foregoing Resolution was duly adopted at a meeting of the Village Board of the Village of Windsor on June 20, 2019, by a vote of 5 in favor and 0 opposed.

**VILLAGE OF WINDSOR**

  
Robert E. Wipperfurth, President

*Attested by:*

  
Christine Capstran, Village Clerk

**Incorporated by Reference:**

Sixth Amendment to Development Agreement

PLAT OF WINDSOR GARDENS,  
VILLAGE OF WINDSOR,  
DANE COUNTY, WISCONSIN

SIXTH AMENDMENT TO DEVELOPMENT  
AGREEMENT

See Attached



4 4 5 0 2 0 5  
7 :9045049

KRISTI CHLEBOWSKI  
DANE COUNTY  
REGISTER OF DEEDS

DOCUMENT #  
5511823  
08/08/2019 12:46 PM  
Trans Fee:  
Exempt #:  
Rec. Fee: 30.00  
Pages: 7

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO  
Amy Anderson Schweppe  
Village of Windsor  
4084 Mueller Road  
DeForest, WI 53532

PARCEL IDENTIFICATION NUMBERS

**See Exhibit A**

7

**SIXTH AMENDMENT TO DEVELOPMENT AGREEMENT,  
PHASE 5 (A & B), WINDSOR GARDENS, VILLAGE OF WINDSOR, AND  
RELEASE OF TRANSFER RESTRICTION AS TO PHASE 5 (A & B)**

This Sixth Amendment to Development Agreement (the “**Sixth Amendment**”) regarding Windsor Gardens (the “**Plat**”) is entered into by and between the Village of Windsor, a Wisconsin municipal corporation (“**Village**”), and Donald C. Tierney and Joanne K. Tierney, and Apple Apartments, LLC, a Wisconsin limited liability company (collectively “**Developer**”) to be effective when signed by both parties.

**RECITALS**

**WHEREAS**, Village and Developer entered into a Development Agreement dated November 15, 2007, a First Amendment to Development Agreement dated July 16, 2009, a Second Amendment to Development Agreement dated October 17, 2013, a Third Amendment to Development Agreement dated August 7, 2014, a Fourth Amendment to Development Agreement dated September 7, 2015, and a Fifth Amendment to Development Agreement dated May 21, 2019 (collectively the “**Original Agreement**”); and

**WHEREAS**, the Developer now wishes to proceed, promptly after the execution of this Agreement, with the installation of public improvements to serve Lots 144-152, 166-181 and 188 in the plat of Windsor Gardens, and Lot 1 of Certified Survey Map No. 14941, all in Village of Windsor, Dane County, Wisconsin (“**Phase 5A**”) (27 lots); and

**WHEREAS**, the Developer also wishes to proceed with the installation of public improvements to serve Lots 153-165 and 182-187, in the plat of Windsor Gardens, Village of Windsor, Dane County, Wisconsin (“**Phase 5B**”) (19 lots), following the completion of Phase 5A (except for the finish layer of asphalt in Phase 5A), starting during one of the 2020-2022 construction seasons as selected by Developer, subject to market conditions;

**WHEREAS**, the Developer and Village wish to amend the Original Agreement so that the Developer may commence Phase 5A of the Development, promptly after the execution of this Agreement, and commence Phase 5B following the completion of Phase 5A (except for the finish layer of asphalt in Phase 5A), during one of the 2020-2022 construction seasons as selected by Developer, subject to market conditions, all on the terms set forth more fully in this Sixth Amendment;

**WHEREAS**, the Original Agreement and this Sixth Amendment shall be collectively referred to hereafter as the “**Development Agreement;**” and

**AGREEMENT**

In consideration of the above recitals which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and Developer agree as follows:

1. **Amendments to Development Agreement.** The Development Agreement shall be amended as follows:
  - A. The Development Agreement shall be amended to provide that the Developer may construct the public improvements applicable to Lots 144-152, 166-181 and 188, in the plat of Windsor Gardens, and Lot 1 of Certified Survey Map No. 14941, all in the Village of Windsor, Dane County, Wisconsin (Phase 5A), commencing promptly after the execution of this Agreement.
  - B. The Development Agreement shall be amended to further provide that the Developer may construct the public improvements applicable to Lots 153-165 and 182-187 within the plat of Windsor Gardens, Village of Windsor, Dane County, Wisconsin (Phase 5B), commencing after the completion of Phase 5A (except for the finish layer of asphalt), during one of the 2020-2022 construction seasons, as selected by Developer, subject to market conditions.
  - C. The Development Agreement shall be amended to provide that the Village acknowledges that Developer has satisfied all Village requirements with respect to park land dedication, fees in lieu of park land dedication, if any, and park improvement fees with respect to Phase 5(A&B), and all provisions of the Original Agreement relating thereto shall be deemed amended to remove any requirements for further park land dedication, fees in lieu payments or park improvement fee payments by the Developer or lot owners/builders with respect to Phase 5(A&B), including deletion of any requirements for escrowing of any such fees.
  - D. The Development Agreement shall be amended to provide that the development of Phase 5A will commence promptly after the date of execution of this Agreement and be completed by December 31, 2019, except for the finish layer of asphalt which will be installed after the completion of all other work at a time when directed by the Village Engineer (weather permitting) to avoid damage to the finish layer of asphalt, but not later than the time when construction of houses on all of the lots in Phase 5A is substantially completed.
  - E. The Development Agreement shall be amended to provide that the development of Phase 5B will commence after the completion of Phase 5A (except for the finish layer of asphalt), during one of the 2020-2022 construction seasons, as selected by Developer, and be completed by the end of the calendar year in which Phase 5B is commenced, except for the finish layer of asphalt which will be installed after the completion of all other work at a time when directed by the Village Engineer (weather permitting) to avoid damage to the finish layer of asphalt, but not later than that time when construction of houses on all of the lots in Phase 5B is substantially completed.

- F. The Development Agreement shall be amended to provide that the Village Engineer has no objection to the final construction plans for Phase 5(A&B) presented by the Developer's Engineer, Krista Sommerfeldt at MSA Professional Services, Inc., which are dated August 1, 2019. Phase 5(A&B) shall be developed in accordance with said construction plans, and Developer shall provide a certification of such completion for each of Phase 5(A&B) prior to issuance of building permits for each of the Phase 5(A&B) lots.
2. **Security.** The security for performance of each of Phase 5A and Phase 5B shall be by means of a letter of credit for each such Phase. The amount of the letter of credit for Phase 5A shall be \$ 530,788.80. The amount of the letter of credit for Phase 5B shall be determined by the Village Engineer, after reviewing the cost estimate submitted by Developer's Engineer, and Developer shall provide a letter of credit for Phase 5B in the approved amount, prior to the start of construction of Phase 5B. The form of the letters of credit shall be subject to approval by the Village Attorney.
3. **Ratification.** Except as expressly modified herein, the Original Agreement is hereby ratified and reaffirmed by the Village and the Developer as if set forth in full herein.

*SIGNATURES ON FOLLOWING TWO PAGES*





WINDSOR GARDENS, VILLAGE OF WINDSOR  
DANE COUNTY, WISCONSIN

EXHIBIT A

TAX PARCEL NUMBERS

Phase 5 A

Phase 5 B

<u>Lot</u>	<u>Parcel Number</u>	<u>Lot</u>	<u>Parcel Number</u>
144	196/0910-254-0045-0	153	196/0910-254-6023-0
145	196/0910-254-0056-0	154	196/0910-254-6034-0
146	196/0910-254-0067-0	155	196/0910-254-6045-0
147	196/0910-254-0078-0	156	196/0910-254-6056-0
148	196/0910-254-0089-0	157	196/0910-254-6067-0
149	196/0910-254-0100-0	158	196/0910-254-6078-0
150	196/0910-254-0111-0	159	196/0910-254-6089-0
151	196/0910-254-6001-0	160	196/0910-254-6100-0
152	196/0910-254-6012-0	161	196/0910-254-6111-0
166	196/0910-254-6166-0	162	196/0910-254-6122-0
167	196/0910-254-6177-0	163	196/0910-254-6133-0
168	196/0910-254-0122-0	164	196/0910-254-6144-0
169	196/0910-254-0133-0	165	196/0910-254-6155-0
170	196/0910-254-0144-0	182	196/0910-254-6221-0
171	196/0910-254-0155-0	183	196/0910-254-6232-0
172	196/0910-254-0166-0	184	196/0910-254-6243-0
173	196/0910-254-0177-0	185	196/0910-254-6254-0
174	196/0910-254-6188-0	186	196/0910-254-6265-0
175	196/0910-254-0188-0	187	196/0910-254-6276-0
176	196/0910-254-0199-0		
177	196/0910-254-0210-0		
178	196/0910-254-0221-0		
179	196/0910-254-0232-0		
180	196/0910-254-6199-0		
181	196/0910-254-6210-0		
188	196/0910-254-6287-0		
Lot 1, Certified Survey Map # 14941	196/0910-254-0275-1		