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Town of Winchester  
2016 Special Town Meeting



## **ARTICLE 1**

To see if the Town will vote to authorize the Board of Selectmen to amend, modify, replace, or rescind all or part of two agreements between the Town of Winchester and Winning Farm, LLC and to enter into any other and further agreements which in the Selectmen's opinion are in the best interest of the Town. The existing Agreements are:

Winning Farm Operating Agreement dated March 13, 2006 (as amended by Amendment to Winning Farm Operating Agreement dated April 28, 2011) and Winning Farm Regulatory Agreement dated March 23, 2006. The Selectmen request this authorization so that approximately 12.5 acres at Gershon Way, located off Thornberry Road, Winchester, MA which is the subject of the proposed rezoning at this Special Town Meeting under Article 2 can be developed by Ronald S. Bonvie et al. (now BEK Winchester, LLC), substantially in accordance with the development plan presented to this Special Town Meeting, or take any other action in relation thereto.

(Board of Selectmen)

### **MOTION:**

**MOVED AND SECONDED** that the Town authorize the Board of Selectmen to enter into a Development Agreement with BEK Winchester, LLC (the Developer) or their designee, substantially in the form set forth in Exhibit A to this motion and such other terms and conditions, which in the Selectmen's opinion are in the Town's best interest, and further upon the closing as set forth in the Purchase & Sale Agreement between Winning Farm LLC and BEK Winchester, LLC et al (the Developer) to authorize the Board of Selectmen to release Winning Farm LLC from all obligations set forth its current Operating and Regulatory Agreement dated March 13, 2006, as amended and Regulatory Agreement and Declaration of Restrictive Covenants dated March 27, 2006 both with the Town.

### **BACKGROUND:**

In 1996 the town purchased 45+ acres of land off of Thornberry road for \$1.2M. It subsequently sold 12.5+ acres to Winning Farm LLC for \$1.5M in 2006.

As part of that land sale, the land was subject to a Development Agreement, the essence of which was to approve the development of 88 units of assisted living with an affordability component. That development plan has proved to be impractical. Winning Farm LLC now seeks to transfer the same land to BEK Winchester, LLC or its designee, in order to build up to 29 units of 55 and older, age restricted, housing with 2 of the units to be designated , "affordable", as provided for under State law. These proposed transactions would need Town approvals which are the subject of Articles 1 and 2 of this Special Town Meeting.

The Board of Selectmen have negotiated terms that are acceptable to them and that they are recommending to Town Meeting, to substitute a new Development Agreement with BEK Winchester LLC for the development of the 29 townhouses. The main components of this new agreement are:

- The development of no more than 29 townhouse units under an acceptable age-restricted plan with two units to be affordable.
- The payment of \$1M to the Town of Winchester for its agreement to modify the current Operating and Regulatory Agreement.
- Contribution to needed infrastructure upgrades as identified by Town staff and consultants.
- Establishment of trails as previously conditioned by the Winchester Conservation Commission.
- A commitment to market the finished housing product to current age appropriate Winchester residents (see also a letter dated May 26, 2016 from Attorney Mark Vaughan on behalf of BEK Winchester, LLC to Lance Grenzeback, Chairman, Board of Selectmen)

As soon as possible, a draft of the proposed new Development Agreement will be provided in advance of Town meeting. If approved by Town Meeting as recommended, BEK Winchester LLC will be required to seek all applicable local permits for approval of its project. In the event that the proposed project is not satisfactorily permitted, then the current Operating and Development Agreements will remain in place and continue to regulate development of the site unless otherwise altered by the Board and Town Meeting.

Additionally, relevant documentation pertaining to this Article will be available at the Town's website at <http://www.winchester.us/241/Town-Meeting>.

As such, the Board of Selectmen request the approval of Articles 1 and 2.

May 26, 2016

Mr. Lance Grenzeback, Chairman  
Board of Selectmen  
Town of Winchester  
Town Hall  
71 Mount Vernon Street  
Winchester, Massachusetts 01890

Re: Proposed Zoning Change of Winning Farm Property/Terms of Development Agreement

Dear Chairman Grenzeback and Members of the Board:

As you are aware, this firm and the undersigned represent the BEK Winchester LLC (the "Developer") in connection with its interest in the property known as Winning Farm. In connection with the upcoming Special Town Meeting which includes a proposed zoning change of this Winning Farm property to the ARCDOD Zoning Overlay, we have had a series of discussions with the Board of Selectmen and the Town Manager regarding certain obligations of the Developer as it relates to the proposed development of the property as a twenty-nine (29) unit age-restricted residential community (the "Project").

The purpose of this communication is to inform you that the Developer has agreed to the requests which have been made, and which I have listed below. It is our understanding that these commitments would be reflected in a Development Agreement which would be entered into between the Developer and the Board of Selectmen, and which would be binding upon the Project. These obligations are set forth below:

- The Project will be constructed in accordance with the ARCDOD Zoning requirements and would be limited to twenty-nine (29) total dwelling units, and would be subject to an age restriction consistent with the Fair Housing Act and the Housing for Older Persons Act.
- Two (2) of the residential units will be affordable units in perpetuity.
- At the closing on the purchase of the property, a one million dollar (\$1,000,000.00) mitigation payment will be made to the Town of Winchester.
- Conservation trails and walkways shall be provided, as may be approved by the Winchester Conservation Commission, and the Developer will be responsible for the costs associated with same, and the Developer will continue its discussions with the Town of Winchester regarding a suitable location for parking to access the trails.

Mr. Lance Grenzeback, Chairman

May 26, 2016

Page 2

- Developer will make a payment of \$2,400.00 per residential unit, as payment towards the town's water and sewer connection fee.
- Prior to the issuance of any certificate of occupancy, the Developer shall either fund or perform certain pump station improvements at the Thornberry Road pump station in an amount to be agreed upon with the Town.
- Prior to the issuance of any certificate of occupancy, the Developer shall either fund or perform certain downstream sewer improvements on Johnson/Wildwood Road in an amount to be agreed upon with the Town.
- The Developer shall be responsible for the construction of all streets and parking areas within the Project, and said streets and parking areas will be privately owned and maintained.

We understand that there will be other mutually agreed upon terms and conditions to be set forth in the Development Agreement, however in the interest of time wanted to confirm my client's agreement to the above items.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have questions or comments regarding the above.

Very truly yours,



Mark T. Vaughan

MTV:jbf

cc. Mr. Ronald S. Bonvie  
1989772.1

Town of Winchester  
2016 Special Town Meeting



## ARTICLE 2

**ARTICLE 2.** To see if the Town will vote to include the following two parcels of land within the Attached Residential Cluster Development Overlay District (ARCDOD).

**PARCEL ONE-RECORDED LAND:** Lots 2 and 3 as shown on a plan entitled "Plan of Land Located in Winchester, Massachusetts (Middlesex County) prepared for Winning Farm, LLC, dated February 28, 2001 and revised May 29, 2001, by Michael J. Juliano. Professional Land Surveyor, Meridian Engineering, Inc. recorded at Middlesex South Registry of Deeds as Plan 802 of 2006 Sheet 1-14 being a portion of the premises described in a Deed from Winning Home Inc. a.k.a. Winning Home to the Town of Winchester dated February 28, 1997 and recorded with said Deeds in Book 27117, Page 532. Also see Confirmatory Deed dated July 21, 1999 recorded with said Deeds in Book 30552, Page 602.

**PARCEL TWO-REGISTERED LAND:** That certain parcel of land situate in Winchester in the County of Middlesex and said Commonwealth, bounded and described as follows:

SOUTHEASTERLY	by Thornberry Road, ninety-two and 67/100 feet;
SOUTHWESTERLY	by lot 121 as shown on plan hereinafter mentioned one hundred sixty-nine and 15/100 feet;
NORTHWESTERLY	by land now or formerly of Winning Home Corporation, one hundred twenty-seven and 97/100 feet; and
NORTHEASTERLY	by lot 117 on said plan, one hundred fifty-seven and 73/100 feet.

Said parcel is shown as lot 119, Sheet 4, on said plan (Plan No. 20756<sup>0</sup>)

Both parcels are located off Thornberry Road, Winchester, MA and were conveyed to Winning Farm LLC by the Town by deed dated March 27, 2006 or take any other action in relation thereto.

(Planning Board)

**MOTION:**

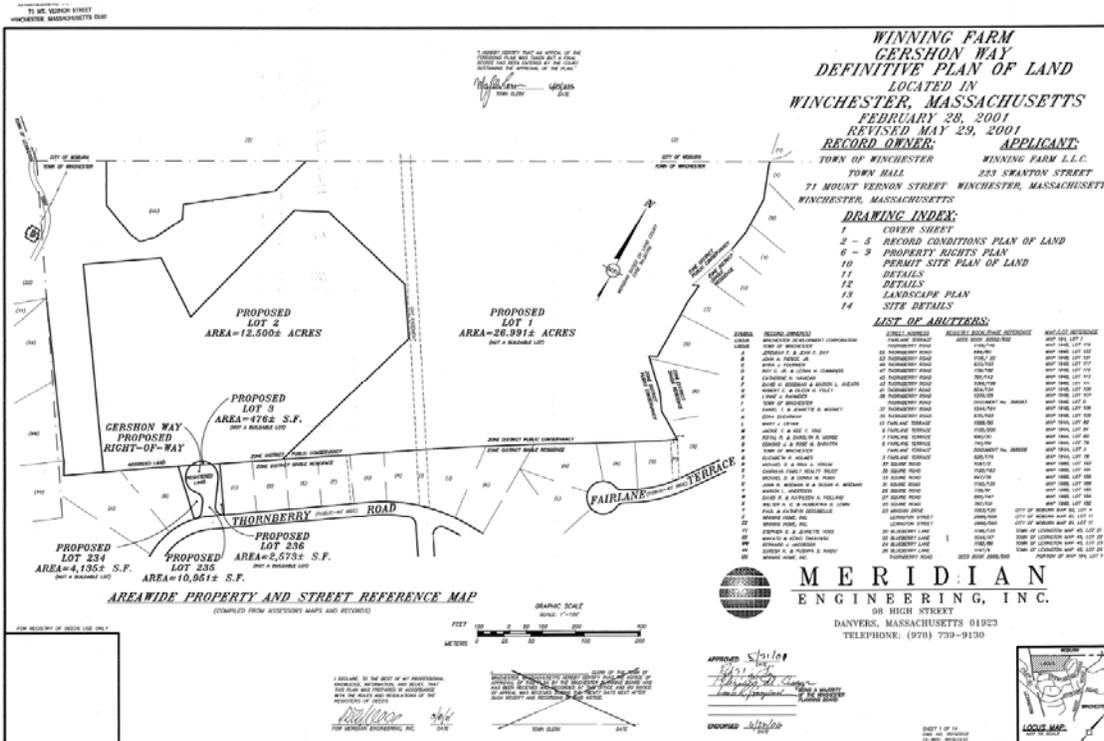
***MOVED AND SECONDED*** that the Town will vote to include the following two parcels of land within the Attached Residential Cluster Development Overlay District (ARCDOD).

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| SOUTHWESTERLY | by lot 121 as shown on plan hereinafter mentioned one hundred sixty-nine and 15/100 feet;          |
| NORTHWESTERLY | by land now or formerly of Winning Home Corporation, one hundred twenty-seven and 97/100 feet; and |
| NORTHEASTERLY | by lot 117 on said plan, one hundred fifty-seven and 73/100 feet.                                  |
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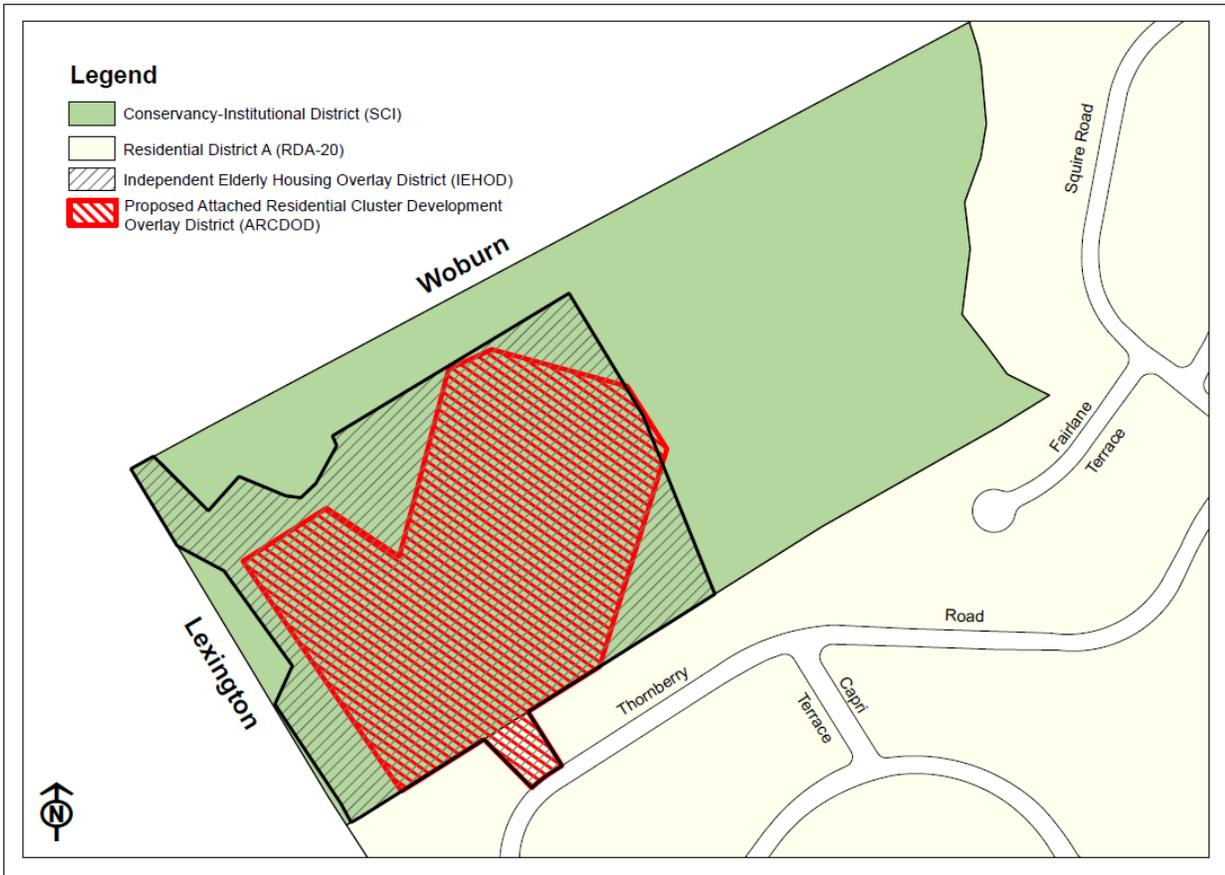
(Planning Board)

## **ARTICLE 2: BACKGROUND**

Lots 2 and 3 as shown on the plan entitled “Plan of Land Located in Winchester, Massachusetts (Middlesex County) prepared for Winning Farm, LLC, dated February 28, 2001 and revised May 29, 2001, by Michael J. Juliano are proposed to be overlaid with the Attached Residential Cluster Development Overlay District (ARCDOD). Currently, the underlying zoning district is Schools, Conservation, Institutional (SCI) with an Independent Elderly Housing Overlay District (IEHOD) situated over an area of land that encompasses Lots 2 and 3, and additional land as well as seen on the map below. The ARCDOD is to be placed on top of Lots 2 and 3, which encompass the Winning Farm, LLC parcels only.

The IEHOD was originally placed on the land for a development plan that incorporated assisted living and public elderly housing in a manner that encouraged the preservation of open space and was to be consistent with the scale of residential development in the community. That proposal has since not come to fruition for various reasons over the past several years and the owner wishes to sell the land to a developer who plans to use the ARCDOD to build cluster residential housing.

The ARCDOD promotes responsible siting of buildings that help protect and enhance the value of real property and encourage the preservation of open land for its scenic beauty and environmental benefits. Additionally, the ARCDOD aims to provide affordable housing opportunities for low and moderate-income households. The ARCDOD is an entirely appropriate zoning tool to be used in this case in order to preserve as much open space as possible on site, which is adjacent to extensive protected conservation land, while providing much-needed down-sizing opportunities for Winchester. This type of housing is lacking in town and there are very few additional places left for such housing to occur. The original IEHOD is to remain, as well as the underlying SCI zoning district. This article does not give any permissions to build and the applicant would still need to go through the Zoning Board of Appeals and the Planning Board in order to receive any permits. This article simply sets up the framework to allow an applicant to apply for cluster residential housing on the Winning Farm, LLC parcels.



**Winning Farm - Existing Zoning & Proposed ARCDOD Rezoning  
Spring 2016 Town Meeting**

Map created 5/26/16

*2/3 Vote Required*