



STAFF REPORT

DATE: February 20, 2018
REGULAR 21

TO: Mayor and City Council
FROM: Emily Becker, Planning
AGENDA ITEM: Northport Development Agreement Amendment
Director
REVIEWED BY: Kristina Handt, City Administrator
Jack Griffin, City Engineer
Sarah Sonsalla, City Attorney

BACKGROUND:

The City has received a request by Pulte Homes of Minnesota, LLC to amend the Development Agreement for Northport 1st Addition to allow phasing within the development. The previous agreement did not reference a phasing plan.

ISSUE BEFORE COUNCIL:

Should the Development Agreement for Northport 1st Addition be amended to allow the City to release building permits after completion of required items within phases within the 1st Addition?

PROPOSAL:

Phasing Allowed within Previous Development Agreements. The City has allowed building permits to be released for completion of certain items within a phasing plan in the past (i.e. Royal Golf Club at Lake Elmo, Hammes 1st and 2nd Additions). The items that require completion within each phase are as follows: sanitary sewer and water mains tested and approved by the City; storm sewer inverts have been verified; curb and gutter and one lift of asphalt have been installed and tested for all public streets; property monuments have been installed; lot grading and lot drainage have been verified and approved by the City through as-built lot corner elevations and as-built elevations for all emergency overflow elevations and downstream drainage systems.

Current Development Agreement Does Not Allow Amendment to Phasing Plan. The current development agreement template does allow a preapproved phasing plan to be followed, but only if that phasing plan has been approved in advance of the preconstruction meeting for the subdivision. The phasing plan cannot be amended once construction has started. Therefore, an amendment to the Development Agreement is required in order to allow building permits to be released through completion of required items within a phase of this development.

Amendment to Phasing Plan Has Been Made. The developer has provided a phasing plan, which has been reviewed by the City Engineer and still requires amendments. The amendment to the Development Agreement references this phasing plan and indicates that the City will not consider revisions to the phasing plan once it has been approved.

Proposed Amendment. The proposed amendments to the Northport Development Agreement include the following:

- A. No building permit shall be issued for any lot within a phase of the Subdivision, identified or within a completed phase of the Subdivision in the Preapproved Phasing Plan, until such time that sanitary sewer and water mains have been tested and approved by the City in such phase; storm sewer inverts have been verified by the City in such phase; curb and gutter and one lift of asphalt has been installed and tested for all public streets in such phase; property monuments have been installed in such phase; lot grading and lot drainage has been verified and approved by the City in such phase through as-built lot corner elevations and as-built elevations for all emergency overflow elevations and downstream drainage system ponds for Phase 1 lots; sidewalks have been installed in such phase; and street and traffic control signs are installed in such phase. The “Preapproved Phasing Plan” is defined as the “Phase 1A Northport 1st Addition” plans dated _____, prepared by Sathre-Bergquist, Inc.” The City will not consider revisions to the Preapproved Phasing Plan for the purpose of issuing building permits.

FISCAL IMPACT:

A minimal amount of staff time in monitoring separate phases for completion of items within those phases.

OPTIONS:

- 1) Approve Resolution No 2018-020 approving Northport Development Agreement amendment
- 2) Do not approve Resolution No 2018-020 approving Northport Development Agreement amendment
- 3) Amend and then approve Resolution 2018-020

RECOMMENDATION:

Staff recommends that the Council approve the proposed amendments to the Easton Village 3rd Addition Development Agreement.

“Motion to adopt Resolution No 2018-020 approving the request to amend Northport Development Agreement to allow building permits to be released upon completion of required items within phases as per the approved phasing plan.”

ATTACHMENTS:

- Resolution 2018-020 approving amendments to Northport Development Agreement
- Amended Development Agreement for Northport

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement (Amendment) is made and entered into this ____ day of _____, 2018, by and between the City of Lake Elmo, a municipal corporation under the laws of Minnesota (the “City”) and Pulte Homes of Minnesota LLC, a Minnesota liability company (the “Developer”).

RECITALS:

A. The City and the Developer have entered into a Development Agreement dated September 19, 2017 and recorded with Washington County on November 15, 2017 as Document No. 4135228 (the “Development Agreement”).

B. The Development Agreement relates to that subdivision located in the City of Lake Elmo, Minnesota known as Northport and the property is legally described on Exhibit A attached hereto.

C. The Developer has requested and the City has agreed to amend the Development Agreement in order to allow for phasing within the Subdivision.

NOW, THEREFORE, in consideration of the above recitals, which are expressly incorporated herein, and for other good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, the City and the Developer agree to amend the Development Agreement as follows:

1. Section 27 (A) of the Development Agreement shall be amended to read as follows:

A. No building permit shall be issued for any lot within a phase of the Subdivision, identified or within a completed phase of the Subdivision in

the Preapproved Phasing Plan, until such time that sanitary sewer and water mains have been tested and approved by the City in such phase; storm sewer inverts have been verified by the City in such phase; curb and gutter and one lift of asphalt has been installed and tested for all public streets in such phase; property monuments have been installed in such phase; lot grading and lot drainage has been verified and approved by the City in such phase through as-built lot corner elevations and as-built elevations for all emergency overflow elevations and downstream drainage system ponds for Phase 1 lots; sidewalks have been installed in such phase; and street and traffic control signs are installed in such phase. The "Preapproved Phasing Plan" is defined as the "Phase 1A Northport 1st Addition" plans dated _____, prepared by Sathre-Bergquist, Inc." The City will not consider revisions to the Preapproved Phasing Plan for the purpose of issuing building permits.

2. All other terms and conditions of the Development Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the City and the Developer have executed this First Amendment to the Development Agreement as of the date first written above.

CITY OF LAKE ELMO

By: _____
Mike Pearson, Mayor

By: _____
Julie Johnson, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Mike Pearson and Julie Johnson, the Mayor and the City Clerk, respectively of the City of Lake Elmo, a Minnesota municipal corporation, on behalf of the City.

Notary Public

PULTE HOMES OF MINNESOTA, LLC

By: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____, the _____ of Pulte Homes of Minnesota LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public

This document was drafted by:

Kennedy & Graven, Chartered (SJS)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

Legal Description of the Property

Lots 1-16, Block 1, Lots 1-8, Block 2, Lots 1-6, Block 3, Lots 1-6, Block 4, Outlots B and G, all in the recorded plat of Northport, County of Washington, State of Minnesota.

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2018-020

*A RESOLUTION APPROVING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT FOR
NORTHPORT*

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Pulte Homes of Minnesota LLC, 7500 Flying Cloud Drive, Suite 670, Eden Prairie, MN 55344 (the "Applicant") has previously submitted an application to the City of Lake Elmo (the "City") for a final plat for Northport; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2017-089 on September 5, 2017 approving the final plat for Northport; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2017-097 on September 19, 2017, approving the Development Agreement for Northport; and

WHEREAS, the Applicant and City have agreed to amend the approved Development Agreement in order to allow building permits to be released upon completion of required items within two separate phases of Northport as per the approved phasing plan.

NOW, THEREFORE, based on the information received, the City Council of the City of Lake Elmo does hereby approve the First Amendment to Development Agreement for Northport and authorizes the Mayor and City Clerk to execute the First Amendment to Development Agreement.

Passed and duly adopted this _____, day of _____, 2018 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk