



STAFF REPORT

DATE: April 17, 2018
CONSENT #17

AGENDA ITEM: Wildflower at Lake Elmo 2nd Addition Development Agreement Amendment
TO: Mayor and City Council
SUBMITTED BY: Emily Becker, Planning Director
REVIEWED BY: Kristina Handt, City Administrator
Jack Griffin, City Engineer

BACKGROUND:

The City has received a request by Robert Engstrom Companies to amend the Development Agreements for Wildflower at Lake Elmo 2nd Addition to allow building permits prior to installation of sidewalks.

ISSUE BEFORE COUNCIL:

Should the Development Agreement for Wildflower at Lake Elmo 2nd Addition be amended to allow the City to release building permits prior to installation of sidewalks?

PROPOSAL:

The Council approved an amendment to the Development Agreement template on December 19, 2017 which allowed building permits to be released prior to installation of sidewalks in response to a request by the developer of Easton Village 3rd Addition for the same. The Council has also approved the same amendment to the Northport Development agreement.

The amendment includes the following:

- Section 27 (A): Removal of the requirement that sidewalks be installed prior to issuance of building permits and the provision that boulevard grading must be completed within the entire right-of-way (without holding down grading for the future sidewalk or any other improvements).
- Section 27 (F): The provision that if building permits are issued prior to the construction of front yard sidewalks or trails, the Developer assumes all responsibility for the coordination, liability and costs to; 1) that the sidewalks and trails are constructed continuously from end of street to end of street without exceptions or gaps in the sidewalk or trail; 2) that there is a stop work order on all building construction for impacted lots during the sidewalk and trail construction and curing periods to prohibit traffic prior to City approval; and, 3) that all boulevard grading and restoration re-work is completed immediately following the sidewalk or trail construction.
- Section 38 (E): That the one-time, 50% security reduction for categories 4-5 of the security amount may not be released until sidewalks or trails have been installed.

It should be noted that while the aforementioned one-time, 50% security reduction was approved for Wildflower 2nd Addition streets and sidewalks at the December 5, 2017 Council meeting, the developer has again increased the letter of credit back to bring the security required for this category to 100%.

FISCAL IMPACT:

Requiring sidewalks to be installed prior to the release of building permits could result in better infrastructure, thereby possibly reducing future maintenance and repair costs. However, Staff feels that the proposed conditions to which building permits may be released prior to issuance of building permits will protect such infrastructure.

OPTIONS:

- 1) Approve Resolution No 2018-041 approving the Wildflower at Lake Elmo 2nd Addition Development Agreements amendment
- 2) Do not approve Resolution No 2018-041 approving Wildflower at Lake Elmo 2nd Addition Development Agreement amendment
- 3) Amend and then approve Resolution No. 2018-041

RECOMMENDATION:

Staff recommends that the Council approve, as part of tonight's consent agenda, the proposed amendments to the Wildflower at Lake Elmo 2nd Addition Development Agreement. If removed from the consent agenda, the recommended action may be made by the following motion:

“Motion to adopt Resolution No 2018-041 approving the request to amend Wildflower at Lake Elmo 2nd Addition Development Agreement to allow building permits to be released prior to installation of sidewalks.”

ATTACHMENTS:

- Resolution 2018-041 approving amendments to Wildflower at Lake Elmo 2nd Addition Development Agreement
- Development Agreement Amendment for Wildflower at Lake Elmo 2nd Addition

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

RESOLUTION NO. 2018-041

*A RESOLUTION APPROVING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT FOR
WILDFLOWER AT LAKE ELMO 2ND ADDITION*

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

WHEREAS, Robert Engstrom Companies, 4801 West 81st Street, #101, Bloomington, MN 55437 (the “Applicant”) has previously submitted an application to the City of Lake Elmo (the “City”) for a final plat for Wildflower at Lake Elmo 2nd Addition; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2016-106 on December 6, 2016 approving the final plat for Wildflower at Lake Elmo 2nd Addition; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2017-021 on March 21, 2017, approving the Development Agreement for Wildflower at Lake Elmo 2nd Addition; and

WHEREAS, the Applicant and City have agreed to amend the approved Development Agreement in order to allow building permits to be released prior to installation of sidewalks with the conditions that boulevard grading must be completed within the entire right-of-way (without holding down grading for the future sidewalk or any other improvements); that the developer assumes all responsibility for the coordination, liability and costs ensure that sidewalks and trails are constructed continuously from end of street to end of street without exceptions, that work stops for curing, and that boulevard grading and restoration re-work is completed immediately following sidewalk and trail construction; and that the one-time, 50% security reduction for Categories 4-5 will not be released until sidewalks are installed.

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 Wildflower 2nd Addition and authorizes the Mayor and City Clerk to execute the agreement.

Passed and duly adopted this 17th day of April, 2018 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

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 Robert Engstrom Companies, a Minnesota corporation (the “Developer”).

RECITALS:

A. The City and the Developer have entered into a Development Agreement dated June 15, 2017 and recorded with Washington County on June 20, 2017 as Document No. 4116417 (the “Development Agreement”).

B. The Development Agreement relates to that subdivision located in the City of Lake Elmo, Minnesota known as Wildflower 2nd Addition 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 the Subdivision, or within a completed phase of the Subdivision in a City preapproved phasing plan, until such time that sanitary sewer, water, storm sewer, curbing and one lift of asphalt has been

installed and tested for all public streets; boulevard grading has been completed within the entire right-of-way (without hold down grading for the future sidewalk or any other improvements), street and traffic control signs have been installed; property monuments have been installed and grading as-built plans have been submitted and approved by the City. A “preapproved phasing plan” is defined as a phased construction plan that has been submitted by the Developer and approved by the City in advance of the preconstruction meeting for the Subdivision. Once the construction has started, the City will not consider revisions to the phasing plan for the purpose of issuing building permits.

2. A new paragraph (F) shall be added to Section 27 of the Development Agreement which shall read as follows:

F. If building permits are issued prior to the construction of front yard sidewalks or trails, the Developer assumes all responsibility for the coordination, liability, and costs to: 1) that the sidewalks and trails are constructed continuously from end of street to end of street without exceptions or gaps in the sidewalk or trail; 2) that there is a stop work order on all building construction for impacted lots during the sidewalk and trail construction and curing periods to prohibit traffic prior to City approval; and 3) that all boulevard grading and restoration re-work is completed immediately following the sidewalk or trail construction.

3. Paragraph (F) of Section 27 of the Development Agreement shall be re-lettered as paragraph (G).

4. Section 37 (E) of the Development Agreement shall be changed to read as follows:

E. In addition to the above project milestone based Security reductions, the Developer may submit a written request and upon receipt of proof satisfactory to the City Engineer that work is progressing in accordance with the approved Plans and the terms of this Agreement and that all financial obligations to the City have been satisfied, the City Engineer may approve a one-time reduction in the Security for Construction Categories 2-5 in an amount not to exceed fifty (50) percent of the initial Security amount. This one-time Security reduction does not apply to Categories 4-5 if boulevard sidewalks or trails have not been installed.

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

EXHIBIT A

Legal Description of the Property

Lots 1-10, Block 1, Lots 1-3, Block 2, Lots 1-4, Block 3, Lots 1-3, Block 4, Outlot A, all in the recorded plat of Wildflower at Lake Elmo 2nd Addition, County of Washington, State of Minnesota.