



STAFF REPORT

DATE: 1/21/2025

Consent

TO: Mayor and City Council
FROM: Sophia Jensen, Senior City Planner
AGENDA ITEM: **Crossroads East – 5th Amendment to the Development Agreement**
REVIEWED BY: Sarah Evenson, Landscape Architect
Sarah Sonsalla, City Attorney
Jason Stopa, Community Development Director

BACKGROUND:

The City has received a request by Amy Johnson with Crossroads Properties on December 30th, 2024, for a fifth amendment to the Development Agreement for Crossroads East development (11160 Hudson Blvd and 11190 Hudson Blvd). The request is to revert section 32 'Reduction of Security' to the City's standard security reduction for a landscape warranty. Below is a summary of the amendments to the development agreement to date:

1. 1st Amendment – An amendment to allow the developer to proceed with vertical construction of the buildings on the platted property prior to completion of the public improvements. (2022).
2. 2nd Amendment – An amendment to extend the time allowed to complete the public infrastructure improvements. This would be an interim agreement while staff revised the agreement to remove the restrictions on tenant improvements. (2022)
3. 3rd Amendment – An amendment extending the deadline for public infrastructure improvements and allowing issuance of tenant building permits. (2022).
4. 4th Amendment – An amendment extending the deadline for public improvement completion in exchange for the installation of a screening fence along the northern property boundary. (2022)

The proposed 5th Amendment is to change the landscape security release percentages to the City's standard language. This development has a unique reduction percentage for landscaping and the intent of this regulation is unclear. The developer has made strides in addressing inspection memos and address concerns since its initial approval. It is anticipated the Development will be accepted into the 2 year landscape warranty (and qualify for the initial reduction) in the Spring of 2025. Staff finds the request reasonable given their efforts towards acceptance and the request is consistent with what we require of other developments.

ISSUE BEFORE CITY COUNCIL:

Should the City approve a fifth amendment to the Development Agreement for Crossroads East as outlined in the staff report?

PROPOSAL:

Current Development Agreement. Section 37 The current Development Agreement's security release is unique to this development. It allows 35% security release for initial acceptance of landscaping, a 37% reduction after the first year, and a final 25% reduction once the warranty period is complete. It is unclear why staff required this breakdown at the time.

Proposed Development Agreement Language. The Developer is asking that the Development Agreement for Crossroads East be amended to the City's standard landscape reduction language which

allows a 75% security reduction when landscaping has been accepted into warranty and a 25% final reduction when the landscaping has made it through the two year warranty period.

FISCAL IMPACT:

- None.

OPTIONS:

- 1) Approve the fifth amendment to the Development Agreement Amendment for Crossroads East.
- 2) Deny the fifth amendment to the Development Agreement Amendment for Crossroads East.
- 3) Change the proposed fifth amendment to the Development Agreement for Crossroads East. to say something different than what is being proposed.

RECOMMENDATION:

Staff recommends that the City Council approve the proposed amendment. *If removed from the Consent Agenda*, Staff recommends the following motion:

“Motion to approve Resolution 2025-009 approving the fifth amendment to the development agreement for Crossroads East.”

ATTACHMENTS:

- Amendment Requests from the Developer
- Crossroads East Development Agreement (Original)
- Resolution 2025-009 Approving the Second Amendment to the Development Agreement

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

RESOLUTION NO. 2025-009

*A RESOLUTION APPROVING THE FIFTH AMENDMENT TO THE DEVELOPMENT
AGREEMENT FOR DEVELOPMENT OF THE CROSSROADS EAST FIRST ADDITION
SUBDIVISION*

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

WHEREAS, Airlake Development, Inc. and Crossroads East, LLC (together the “Developer”) previously submitted an application to the City of Lake Elmo (the “City”) for a final plat for Crossroads East First Addition; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2021-115 on November 3, 2021 approving the final plat for Crossroads East First Addition; and

WHEREAS, the Lake Elmo City Council adopted Resolution No.2021-134 on December 7, 2021, approving the Development Agreement for Crossroads East First Addition; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2022-034 on April 5, 2022 approving the First Amendment to Development Agreement (the “First Amendment”); and

WHEREAS, the First Amendment authorized Developer to proceed with vertical construction of the buildings on the property prior to completion of the public subdivision improvements provided that the public subdivision improvements were completed on an agreed-upon schedule; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2022-076 on August 3, 2022 approving the Second Amendment to Development Agreement (the “Second Amendment”); and

WHEREAS, the Second Amendment provided the Developer with an extension of time to complete public improvements providing certain restrictions were placed on tenant improvements; and

WHEREAS, the Lake Elmo City Council adopted Resolution 2022-078 on August 16, 2022 approving the Third Amendment to Development Agreement (the “Third Amendment”); and

WHEREAS, the Third Amendment allowed the Developer to obtain building permits for its building tenants provided that public improvements were completed no later than September 30, 2022; and

WHEREAS, the Lake Elmo City Council adopted Resolution No. 2022-091 on October 18, 2022 approving the Fourth Amendment to Development Agreement (the “Fourth Amendment”); and

WHEREAS, the Fourth Amendment moved the deadline for a shortened list of public improvements to December 31, 2022 in exchange for the erection by the Developer of a 6-foot-tall opaque fence on the top of the screening berm running along the northern lot line within the same deadline; and

WHEREAS, the Developer has requested an additional amendment to the Development Agreement that would amend the landscaping security reductions in section 32 of the Development Agreement so that they would be the same as the City’s current standard reductions as it relates to the warranty period; and

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

Passed and duly adopted this 21st day of January 2025 by the City Council of the City of Lake Elmo, Minnesota.

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

**FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT CROSSROADS EAST 1ST
ADDITION**

THIS FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT (this “Fifth Amendment”) is entered into this _____ day of _____, 2025, by Airlake Development Inc., a Minnesota corporation and Crossroads East, LLC, a Minnesota limited liability company (collectively, the “Developer”) and the City of Lake Elmo, a Minnesota municipal corporation (the “City”).

R E C I T A L S

WHEREAS, the City and the Developer entered into that certain Development Agreement dated February 15th 2022 and recorded with Washington County on April 5th 2022 as Document No. 7368700 (the “Development Agreement”); and

WHEREAS, the Development Agreement relates to the subdivision located in Lake Elmo, Minnesota known as Crossroads East First Addition and the property is legally described on Exhibit 1 attached hereto (the “Property”); and

WHEREAS, the City and the Developer entered into a First Amendment to the Development Agreement on April 5th 2022 and recorded with Washington County on April 29th 2022 as Document No. 4368700 (the “First Amendment”); and

WHEREAS, the City and Developer entered into a Second Amendment to the Development Agreement on August 3rd 2022 and recorded with Washington County on August 22nd 2022 as Document No. 4382483 (the “Second Amendment”); and

WHEREAS, the City and Developer entered into a Third Amendment to the Development Agreement on August 11th 2022 and recorded with Washington County on August 22nd 2022 as Document No. 4382484 (the “Third Amendment”); and

WHEREAS, the City and Developer entered into a Fourth Amendment to the Development Agreement on October 18th 2022 and recorded with Washington County on _____ as Document No. _____ (the “Fourth Amendment”); and

WHEREAS, the Developer is requesting a Fifth Amendment to the Development Agreement to amend Section 32 of the Development Agreement so that the landscaping security reductions be changed to the City’s standard landscaping security reduction percentages; and

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

1. Paragraph 32 of the Development Agreement is hereby amended to read as follows:

32. REDUCTION OF SECURITY. Upon written request by the Developer and upon receipt of proof satisfactory to the City Engineer that: 1) all Subdivision Improvements are Complete; 2) all of the storm sewer improvements have been installed by the Developer in accordance with the Corrected Storm Sewer Plan and deemed Complete by the City Engineer and the stormwater BMPs in the public right-of-way have been tested and deemed successful by the City and Valley Branch Watershed District; and 3) that all financial obligations to the City have been satisfied, the City Engineer may approve reduction in the Security up to 75 percent of the Security associated with the itemization on Exhibit C.

- (A) Twenty-five percent of the original Security amount, excluding grading and landscaping improvements shall be retained until the warranty period has expired.
- (B) The City may reduce the Security attributable to accepted Landscaping Improvements by up to 75 percent upon acceptance of the Landscaping Improvements into the warranty period by the City. The City will retain the remaining 25 percent of the Security attributable to accepted Landscaping Improvements until (1) all Landscaping Improvements have been fully completed and accepted by the City, including all corrective work and warranty punch list items being completed by the Developer; (2) all financial obligations to the City have been satisfied; and (3) the warranty period has expired.

3. Amendment Controls; Ratification and Affirmation. In the event that the terms of this Fifth Amendment and the Development Agreement and the various amendments to the Development Agreement are held to be inconsistent, the terms of this Fifth Amendment shall control. The parties each agree and warrant that, in all other respects, the Development Agreement and its various amendments are unmodified, in full force and effect, and each party hereby ratifies and affirms the Development Agreement, its various amendments, and any terms contained therein not otherwise modified by this Fifth Amendment.

4. Counterparts. This Fifth Amendment may be executed in counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Fifth Amendment as of the date first written above.

DEVELOPER:

AIRLAKE DEVELOPMENT, INC.

By: _____
Dan Regan
Its: Vice President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Dan Regan as Vice President of Airlake Development, Inc., a Minnesota corporation, on behalf of the corporation.

Notary Public

CROSSROADS EAST, LLC

By: _____

Amy Johnson
Its: President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Amy Johnson as President of Crossroads East, LLC., a Minnesota limited liability company, on behalf of the company.

Notary Public

CITY:

City of Lake Elmo

By: _____
Charles Cadenhead
Its: Mayor

By: _____
Julie Johnson
Its: City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this 21st day of January 2025, by Charles Cadenhead and Julie Johnson, the Mayor and City Clerk, respectively, of the City of Lake Elmo, a Minnesota municipal corporation on behalf of the City.

Notary Public

This instrument was drafted by:

Kennedy & Graven, Chartered (SJS)
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT 1 to Fifth Amendment

Legal Description of the Property

All lots and outlots located within the plat of Crossroads East First Addition, according to the recorded plat thereof, County of Washington, State of Minnesota