



STAFF REPORT

DATE: June 20, 2017

Consent

ITEM #: 19

MOTION

TO: City Council
FROM: Stephen Wensman, Planning Director
AGENDA ITEM: Inwood 5th Addition Developers Agreement
REVIEWED BY: Jack Griffin, City Engineer
Sarah Sonsalla, City Attorney
Brian Swanson, Finance Director

BACKGROUND:

On April 4, 2017, the City Council adopted Resolution 2017-029 approving the Final Plat and Final PUD for Inwood 5th Addition. An executed Developers Agreement is a condition of final plat approval and is required prior to recording the final plat with Washington County.

At its last meeting, the Council considered the Inwood 5th Addition Developers Agreement. Discussion was held regarding the trail along 10th Street that was included in previous plans. The draft Developers Agreement previously presented to Council did not mandate the developer to construct this trail. The Council motioned to remove language which allowed this exception, and the Developer Agreement was recorded without this language. A First Amendment to Development Agreement has now been drafted.

ISSUE BEFORE COUNCIL:

The City Council is being asked to adopt Resolution 2017-067 approving an amendment to the Developer Agreement for Inwood 5th Addition.

REVIEW/ANALYSIS:

The Amendment to Development Agreement amends the following:

- The Developer agrees to develop the Property in accordance with City approvals with the exception of requiring a multi-purpose trail to be constructed along 10th Street.

This is due to the City and County determining that a trail along 10th Street between Island Trail and Inwood Avenue is not needed and therefore not required.

FISCAL IMPACT:

None.

OPTIONS:

The City Council is being asked to consider the approval of the Developer's Agreement:

- 1) Adopt Resolution 2017-067 approving the Developer Agreement for Inwood 5th Addition.

RECOMMENDATION:

Staff recommends the City Council adopt Resolution 2017-067 approving an amendment to the Developer's Agreement for Inwood 5th Addition Planned Unit Development.

Staff recommends the following motion:

“Move to adopt Resolution 2017-067 approving the 1st amendment to the developer's agreement for Inwood 5th Addition Planned Unit Development”

ATTACHMENTS:

- Resolution 2017-067
- 1st Amendment to Inwood 5th Addition Developer's Agreement

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

RESOLUTION NO. 2017-067

*A RESOLUTION APPROVING AN AMENDMENT TO DEVELOPER'S AGREEMENT FOR THE
INWOOD 5TH ADDITION PLANNED UNIT DEVELOPMENT*

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

WHEREAS, Hans Hagen Homes, 941 NE Hillwind Road, Suite 300, Fridley, MN ("applicant") has previously submitted an application to the City of Lake Elmo ("City") for a Final Plat for Inwood 5th Addition Planned Unit Development; and

WHEREAS, the Lake Elmo City Council considered and approved the Inwood PUD General Concept Plan on September 16, 2014; and

WHEREAS, the Lake Elmo City Council approved the Inwood Preliminary Plat and Preliminary PUD Plan on December 2, 2014; and

WHEREAS, the Lake Elmo City Council adopted Resolution 2017-029 on April 4, 2017 approving the Final Plat and Final PUD for Inwood 5th Addition; and

WHEREAS, a condition of approval of said Resolution 2016-090, establishes that prior to execution of the Final Plat by City officials, the Applicant shall enter into a Developer's Agreement with the City; and

WHEREAS, the Applicant and the City have agreed to enter into such a contract and a copy of the Developer's Agreement was submitted to the City Council for consideration at its June 6, 2017 meeting;

WHEREAS, after further study, it has been determined by the City and Washington County that a trail along 10th Street between Island Trail and Inwood Avenue is not needed and is not being required;

WHEREAS, the City acknowledges that this condition of City Council Resolution 2017-029 approving the Final Plat is no longer a condition of approval and agrees that the Developer shall not be required to construct, dedicate, or convey an easement for a trail along 10th Street between Island Trail and Inwood Avenue.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve an amendment to the Developer's Agreement for Inwood 5th Addition PUD and authorizes the mayor and city Clerk to execute the document.

Passed and duly adopted this 20th day of June, 2017 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 _____, 2017, by and between the City of Lake Elmo, a municipal corporation under the laws of Minnesota (the “City”) and M/I Homes of Minneapolis/St. Paul, LLC, a Delaware limited liability company (the “Developer”).

RECITALS:

A. The City and the Developer have entered into a Development Agreement dated June 6, 2017 and recorded with Washington County on June ____, 2017 as Document No. _____ (the “Development Agreement”).

B. The Development Agreement relates to that subdivision located in Lake Elmo, Minnesota known as Inwood 5th Addition and the property is legally described on Exhibit A attached hereto.

C. The Development Agreement required a multi-purpose trail to be constructed by the Developer along 10th Street between Island Trail and Inwood Avenue (the “Trail”). This was a requirement of Washington County.

D. Washington County is no longer requiring the Trail to be constructed.

E. The City and the Developer desire to amend the Development Agreement to reflect this change.

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 7 of the Development Agreement shall be changed to read as follows:

7. DEVELOPMENT PLANS. The Developer agrees to develop the Property in accordance with the City approvals, including the terms and conditions of approval of the final plat as detailed in City Council Resolution No. 2017-29 (with the exception of requiring a multi-purpose trail to be constructed along 10th Street between Island Trail and Inwood Avenue, as detailed in Section 29 (G) of this Agreement), and to construct all improvements in accordance with the approved construction plans and specifications (collectively, the “Plans”) prepared by a professional engineer registered in the State of Minnesota at its sole expense. All terms and conditions of the City approvals are hereby incorporated by reference into this Agreement. The documents which constitute the Plans are those on file with and approved by the City and are listed on **Exhibit B** attached hereto. The Plans may not be modified by the Developer without the prior written approval of the City.

2. A new paragraph (G) shall be added to Section 29 of the Development Agreement which shall read as follows:

G. After further study, it has been determined by the City and Washington County that a trail along 10th Street between Island Trail and Inwood Avenue is not needed and is not being required. Therefore, the City acknowledges that this condition of City Council Resolution No. 2017-29 approving the final plat is no longer a condition of approval and agrees that the Developer shall not be required to construct, dedicate, or convey an easement for a trail along 10th Street between Island Trail and Inwood Avenue.

3. 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 _____, 2017, 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

M/I HOMES OF MINNEAPOLIS/ST. PAUL, LLC

By: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, the _____ of M/I Homes of Minneapolis/St. Paul, LLC, a Delaware limited liability company, on behalf of the 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

The property subject to the foregoing First Amendment to Development Agreement is legally described as follows:

Outlots A, B, F and G, Inwood 3rd Addition, according to the recorded plat thereof, Washington County, Minnesota.