



Interoffice Memorandum

Minutes

Roadway Agreement Committee

June 18, 2008

Members Present: Jim Harrison – Growth Management (Chairman)
Joe Kunkel – Public Works Department (Vice Chairman)
Benj Hurt – Real Estate Management Division
Renzo Nastasi – Transportation Planning Division
Ruby Rozier – Traffic Engineering Division
Diana Almodovar – Development Engineering Division
John Smogor – Planning Division

County Staff Present: Julie Naditz – Highway Construction Division
Roberta Alfonso – County Attorney's Office
Heather Brownlie – Transportation Planning Division
Rita Gonzalez – Transportation Planning Division
John Geiger – Risk Management
Vince Randazza – Real Estate Management Division
Susan Martin – Risk Management
Robin Hammel – Public Works Engineering Division
Frank Yokiel – Public Works Engineering Division
Bryan Festa – Risk Management
Matt Bilskie – Transportation Planning

Mr. Kunkel called the meeting to order at 8:39 a.m.

Approval of Minutes

The Committee reviewed the minutes from the June 4, 2008 Roadway Agreement Committee Meeting and changes were requested as follows:

Page 1 Mr. Randazza's name is listed twice. Remove instance from County Staff Present section.

Page 2 line 10 change "review" to "approved".

Page 2 line 21 change "are" to "Area".

Page 4 line 10 should read proposed roundabout and add the sentence, "Exhibit C should be modified to delete the roundabout".

Mr. Smogor made a motion, with a second by Ms. Almodovar to approve the June 4, 2008 Roadway Agreement Committee Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Activity Update/Summary

Friedman Group: Ms. Alfonso stated that a lawsuit was filed for inverse condemnation against the County. A second lawsuit consolidated with the first was brought by Starkman, but there was no mention of the Roadway Agreement Committee in the proceedings.

Turkey Lake: Mr. Nastasi called Mr. Gorovitz and Mr. Gorovitz will respond via email to Mr. Kunkel and Mr. Nastasi on the status.

Committee Discussion - College Suites

County Staff Present: Abdul Azim

Ms. Brownlie provided the Committee the final, final, final College Suites agreement that will be presented to the Board of County Commissioners.

Mr. Geiger stated that CAIP permit will go on the June 24, 2008 Board of County Commissioners Agenda with the Agreement.

Frye APF

Road Affected: APF Roads

Previous RIFCC:

Attendees: Pat Christiansen, Kendall Keith

County Staff Present:

Mr. Christiansen provided an overview of the project, the changes made to the PD, and submitted an Amended APF to comply with the PD revisions.

Mr. Harrison asked about the changing of ownership and acreages.

Mr. Keith stated that they had to remove one road which did not qualify as an APF road and that they also took out the Fire Station.

Mr. Christiansen stated that there are two portions, one commercial and the other one residential.

Mr. Harrison asked to review the agreement page by page.

Mr. Nastasi asked that a reference be provided to describe the APF roads in question.

Mr. Christiansen said there was a reference to sheet 3 of the PD Land Use Plan.

Mr. Nastasi asked this page to be included as an exhibit.

Mr. Kunkel asked if the total acreage calculation was provided. Mr. Keith stated that 53.6 is included in the agreement.

Mr. Geiger asked if that was a net acreage. Mr. Keith stated it was.

Page 4 the Committee asked they remove the reference to the Fire Station left in by mistake.

Page 9 Section 5 Ms. Alfonso asked to delete the reference to the fire station in that section.

Page 9 Section 6 Ms. Alfonso asked to be consistent between Property Owner's Association and Homeowner's Association.

Page 9 Section 7 add within 30 days of effective date to the recording statement section.

Page 10 need to include 4th remedy for County as Section (iv) “any combination of the foregoing”.

Page 11 add 1393 to County Administrator’s zip code.

Page 11 change Engineering to Transportation Planning.

Page 11 strike Mr. Harrison as contact, and leave as Director.

Mr. Smogor made a motion, with a second by Mr. Kunkel to approve the Frye APF Agreement with the changes requested at today’s meeting, subject to final review and approval by the Committee, and subject to final review of the Exhibits by the County Surveyor. Motion carried unanimously.

Mr. Christiansen stated that the Board of County Commissioners wants the APF finalized to go with PD on the July 8, 2008 Board of County Commissioners agenda.

Karl Corporation

Development: Karl Corporation
Developer: Herb Kahlert, Island Tree, LLC
Road Affected: Karl Kahlert Parkway
Present: Miranda Fitzgerald, Marge Tinsley, Herb Kahlert
Previous RAC: 8/16/2006, 5/7/2008
County Staff Present: Juan Curi

Ms. Fitzgerald explained she had met with County Staff several weeks ago.

Addressing only triangular parcel outside the area addressed in the Valencia Community College (VCC) APF Agreement.

A Right of Reverter exists over this area.

The applicant wants to convey Right-of-Way as provided for under the VCC APF Agreement along with this area

This agreement is to address just the area outside VCC.

The VCC Agreement states that the County will work with the Developer to determine the Right-of-Way areas.

No specific legals are attached. Do we need to re-open the agreement to add different legal and sketches?

Mr. Harrison and Ms. Alfonso do not want to re-open the agreement.

Mr. Nastasi asked they add the Legals and Sketches to the new agreement rather than amending the VCC Agreement.

Ms. Fitzgerald stated that they need to restructure the agreement to include the Legal & Sketches.

Ms. Fitzgerald stated that road impact fee credits are at \$22,500 per acre for any Right-of-Way, but that they want to add a provision, if the value is ever adjusted in the future (a most favored nations provisions).

The project will be rescheduled for July 16, 2008 for a revised agreement.

Fishback PD/KB Homes

Development: Fishback PD

Developer: KB Homes

Road Affected: Ficquette Road

Present: Daniel O'Keefe, Reed Berlinsky

Previous RIFCC: 12/8/2004, 1/5/2005, 1/04/2006, 1/18/2006, 2/15/2006, 3/01/2006, 3/15/2006

County Staff Present: Juan Curi

Mr. O'Keefe stated that his clients have 1) funded part of the CR 535 Chase Road Mitigation 2) provided for improvements to Ficquette Road and 3) also paid 1/3 of the Capacity Reservation Fee.

Mr. O'Keefe stated that the plans include an entrance road to old Ficquette alignment as it exists today.

Mr. O'Keefe stated that the cost of the road project is not feasible in this economy if the applicant was required to build the road prior to completing the project. There is a timing issue and he wants to break this into phases and dedicate Right-of-Way up front and then connect Phase I with a temporary road and eventually construct the realigned Ficquette prior to Phase II but only construct 2 lanes not 4 lanes as originally planned.

Mr. O'Keefe stated that they do not need all of the road impact fee credits they would be getting for building all 4 lanes and have nowhere else to use them.

Mr. Berlinsky stated that there is an issue with tying in at either end since 2 lanes at E and G currently may be constructed at a later date and that they would provide a letter of credit for funding the future lanes 3 and 4.

Mr. Harrison asked if the applicant does not construct the road, then who will.

Mr. Kunkel stated that 4 lane design with striping and transition as shown on the current plans is needed.

Mr. Curi stated that our comment has always been to show four lanes with a taper at the South end back to 2 lanes until Segment G is widened.

Mr. Kunkel stated that Segment E will match into the current two lane existing Ficquette but are looking to continue the four lanes through Segment F until it tapers at Segment G.

Mr. Curi stated that the design has not been completed.

Mr. O'Keefe stated if we can't afford to build four lanes now, then the project remains dormant until the economy turns around. If we build two lanes now, then at least it would straighten the curve with a realignment of the two-lane section.

Mr. Harrison asked if they could make the connection from end to end for Segment F before getting building permits.

Mr. Berlinsky wants to tie into the existing access road for Phase I, then build two lanes of the realignments prior to Phase II construction.

Mr. Harrison asked if they wanted to tie in temporarily and build Phase I of the project and then build two lanes prior to Phase II and post a Letter of Credit for the amount needed for construction of the second two lanes.

Mr. Berlinsky stated that Phase I would be approximately 150 single family homes in the Southeast portion of the property.

The Committee informed them that they would need to dedicate Right-of-Way for realigned Ficquette Road and stormwater retention.

Mr. Nastasi asked how concurrency would be addressed if there is not enough capacity since they cannot get the trips provided for building the four lane road.

Mr. Nastasi asked the applicant to review this concurrency issues and suggested the possibility of keeping the temporary alignment open with new two-lane road open as well, possibly as two two-lane roadways.

Mr. Nastasi stated that we need some assurances that the four lanes will be built in the future. Operational issues would also need to be addressed.

Mr. O'Keefe asked if improvements to Overstreet will add capacity and Mr. Nastasi responded no.

Mr. Kunkel felt that since the agreement provides for no Certificates of Occupancy until the road is completed; the applicant may need to wait for the market to turn around and build the road before starting the project.

Mr. Kunkel stated that the letter of credit is not included in the memorandum provided.

Mr. Smogor suggested that the applicant work out the proposal with Mr. Kunkel and Mr. Nastasi and come back to the Committee when they are ready.

Mr. Harrison explained that they need to be prepared to build two lanes up front and dedicate all the Right-of-Way needed.

Mr. Nastasi stated that if the agreement is amended then the applicant needs to provide the necessary trips and they could lose trips if concurrency changed.

Mr. O'Keefe will set a meeting with Mr. Kunkel and Mr. Nastasi to discuss further and return to the Committee at a later date with a revised proposal.

Avalon Park DRI

Development: Avalon Park DRI

Developer: Avalon Associates

Road Affected: Alafaya Trail

Previous RIFCC: 8/04/2004, 9/1/2004, 9/15/2004, 10/13/2004, 1/5/2005, 9/28/2005, 2/20/2008, 5/7/2008, 6/4/2008

Attendees: Eric Marks, Jim Pratt and Carol Conner
County Staff Present: Damian Czapka, Brian Sanders

The Committee reviewed the Agreement page by page.

Page 4 Section 4 (a) Ms. Hammel asked they remove “and approved” from that section.

Page 4 Section 4 (a) Ms. Hammel asked they remove the last phrase in the section ending the sentence after the word “standards”.

Mr. Nastasi asked why the escrowed impact fees could be only used for construction.

Mr. Marks stated that they do not care what the escrowed impact fees gets spent on.

Page 4 (a) (i) the Committee requested that section be removed with the exception of the first sentence.

Page 5 Section 4(b) Ms Hammel asked they add Task 3.6.

Page 5 Section 4(a) Mr. Nastasi and Ms. Hammel asked for clarification of the ability to work with the Engineering firm MSCW since the Design, Engineering and Permitting (DE&P) are almost completed. Rework this language to make it clearer so that the County can direct MSCW as to the DE&P work.

Mr. Marks asked about the assignment of the contract once the DE&P is completed.

Mr. Marks did not want to have the County issue any change order obligating Avalon.

Page 4 Ms. Alfonso streamlined language in Section 4(a) to outline the County rights. Mr. Pratt agreed to make this change.

Mr. Kunkel clarified that the County would finalize the DE&P work as provided in Scope of Services needed. The County would contract separately with MSCW.

Page 6 Section 5(c) change “with” to “without”.

Page 6 Mr. Nastasi asked that the last sentence of Section 5(c) be removed.

Ms. Hammel asked about how funding will be characterized for invoices paid.

Mr. Nastasi asked about the last section of Section 5 (c)(i) and the requirement not to issue a notice to proceed until all additional Right-of-Way has been acquired.

Ms. Hammel proposed 660 days for substantial completion which gives us two years to build in Section 5(c) (ii).

Mr. Marks asked if the Utilities work is included in that time frame. Ms. Hammel responded yes.

Page 7 take out last sentence of Section 5 (e) at Ms. Naditz's request.

Page 8 Section 6 (i) change date to May 31, 2008 for determining amount of Escrowed Impact Fee Account. Need to get Growth Management to provide a number everyone agrees on.

Page 9 Section 6 (a) (ii) Ms. Hammel asked that "sole purpose of paying construction costs" be replaced with "costs incurred with this agreement."

Mr. Pratt stated that once the agreement is executed, all funds in escrow accounts go to the County.

Upon the new agreement being executed, a new Escrow Account will be started and we begin at zero. The new escrowed impact fees will be credited against the amount Avalon owes.

Page 8 Section 6(a) strike the last clause of the first sentence per Ms. Alfonso.

Page 10 Section 6 (c) Mr. Harrison asked to remove the reference to the dollar amount. The first and second sentences need to be removed.

Mr. Harrison asked to remove the entire Section 6 (c).

Avalon allocation is \$5 million, not including fees. Mr. Pratt will simplify Section 6 (d).

Page 11 Ms Hammel asked they change 80% to 75% in Section 6 (d) (ii).

Page 12 Mr. Harrison questioned subsection (iv) which restricts how Avalon funding is invested and asked they strike the entire paragraph.

Page 12 Section 6 (e) (i) remove "absolute" and cite the provision in the Code.

Mr. Kunkel stated that Avalon will get impact fee credits for building the project.

Page 13 Section 6 (e)(ii) Ms. Alfonso requested paragraph be removed since it provides lenders with a remedy against the County.

Mr. Harrison stated that we can document validity of credits by agreement but will not enter into an agreement with banks.

Page 13 Subsection (iii) Mr. Nastasi stated that this section also needs to come out since the County will not issue Certificates of Estoppel.

Ms. Alfonso will discuss subsection (ii) and (iii) with Mr. Pratt further.

Mr. Nastasi has an issue with Section 6(f) from an accounting standpoint, and questioned why this provision is needed.

A TCA account for \$5 million will be set up for Avalon to then sell on the open market.

Mr. Nastasi explained that the process has worked fine in the past.

Mr. Marks agreed to delete Section 6 (f) but reserved the right to raise issue at the next meeting.

Page 16 Recordation Clause Ms. Alfonso asked to add within 30 days.

Page 16 Ms. Alfonso need to add back in Standard remedy clause which has been omitted. Mr. Pratt showed the original agreement which lacks the remedy. Ms. Alfonso was okay with it if the Committee agrees which they did, since it was not included in the original agreement.

Page 17 Avalon Remedies are more numerous than County's remedies which the committee objected to. Since they relied on the previous agreement then these should be the same also. The Committee compromised by removing (iv) and (v) and removing the parenthetical from subsection (i).

Mr. Pratt suggested some different language and will work on this section further with Ms. Alfonso.

Mr. Harrison asked that the remedies appear the same from a formatting stand point.

Page 19 Section 14(e) change from "time to time".

Page 19 Section 18 Ms. Alfonso had an issue with the interest rate paragraph. Mr. Marks agreed to take this out.

Page 20 Section 25 Ms. Alfonso asked section this be removed.

Page 19 Section 17 Force Majeure language needs to include County Standard provision per Ms. Alfonso.

Page 21 change Mayor's Signature Block.

Return to the next meeting on July 2, 2008 with a black-line version.

Mr. Harrison adjourned the meeting at 12:04 p.m.