



Interoffice Memorandum

Minutes

Roadway Agreement Committee

May 7, 2008

Members Present: Jim Harrison – Growth Management (Chairman)
Joe Kunkel – Public Works Department (Vice Chairman)
Ann Caswell – 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: Roberta Alfonso – County Attorney’s Office
John Geiger - Environmental Protection Division
Heather Brownlie – Transportation Planning Division
Rita Gonzalez – Transportation Planning Division
Vince Randazza – Real Estate Management Division
Gina Segui – Risk Management
Jennifer Cummings – Stormwater Management Division
Frank Yokiel – Public Works Engineering Division
Cristina Crosby – Orange County Utilities Department
Matt Bilskie – Transportation Planning

Mr. Kunkel called the meeting to order at 8:38 a.m.

Approval of Minutes

The Committee reviewed the minutes from the April 16, 2008 Roadway Agreement Committee Meeting and changes were requested as follows:

Page 2 line 12 change “permit” to “impact fee” and at the end of the sentence, add “it existed”.

Page 3 line 9 insert “area”.

Page 3 line 10 change “We are” to Ms. Fitzgerald is”.

Page 4 line 3 insert “issue regarding the limits” to the end of the sentence.

Page 4 line 17 change “Mr.” to “Ms.”.

Page 4 line 42 and beyond to line 48 change paragraph to the new paragraph submitted by Mr. Kunkel (with changes as suggested by Ms. Caswell) leaving the last sentence starting with “The Right-of-Way runs . . .” intact.

Page 5 line 5 “Clarification of the motion” to reflect lines 1- 3 in the paragraph above.

Page 6 line 23 remove the word “both” from the motion.

Page 6 line 34 “re-allocate” should be “relocate”.

Page 7 line 13 insert “The applicant proposed” to the beginning of the sentence.

Page 7 line 27 insert “The applicant would be” to the beginning of the sentence.

Page 7 line 33 change “90%” to “110%” and add “and” before the word “bond”.

Page 8 line 2 move “a” to before “future”.

Page 8 line 20 insert “apparently” after “had”.

Page 9 line 10 replace “without intervention by the County” to “and may need a separate meeting with”.

Mr. Smogor made a motion, second by Mr. Nastasi to approve the April 16, 2008 Roadway Agreement Committee Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Review of Changes to the Boilerplate

Page 2 Section 2(a) deleted “or whatever other event triggers conveyance” from boilerplate.

Page 2 Section 2(a) added Real Estate Management extension language.

Page 2 Section 2(b) added conveyance by plat as an option for all agreements.

Page 1 changed second word; deleted “Developers” and will add title of each agreement at this location.

Page 3 Section 2(d) change title of section and change “Right-of-Way” to “Land”.

Page 4 Section 2 (f) bracketed statement deleted.

Page 6 the recording statement is to include a provision for recording within 30 days.

Similar changes to be made to the Boilerplate Amendment document.

Ms. Caswell suggested attaching a joinder to the boilerplate for developers who do not own the property.

Activity Update/Summary

Woodbury Road Extension – Mr. Nastasi stated that College Suites is scheduled to go to the Board of County Commissioners on June 24, 2008.

Taurus O53B LLC – there are issues with the permitted exceptions.

Challenger Parkway has the same issue as Taurus regarding permitted exceptions.

Ms. Cummings stated that College Suites believes their CAIP Permit was supposed to go on the Board of County Commissioners agenda on June 24, 2008 with the agreement and EPD cannot review their information that quickly.

Mr. Nastasi stated that the condition of zoning needs to be for the conveyance to be made, not just for having an agreement in place.

For the Taurus property, Ms. Caswell stated that the standard is to convey with free and clear title. Ms. Caswell was provided with a list of permitted exceptions to be attached to the Taurus agreement. Real Estate Management received a Title Commitment and it is acceptable and does not contain the Permitted Exceptions which were objectionable. The Title Commitment requires releases of all exceptions objectionable to the County.

Mr. Harrison suggested a pre-meeting teleconference to bullet point the issues.

CR 535 Segment A - Ms. Cummings stated that a mitigation ratio of 100 to 1 was just provided by the Water Management District.

Lake Gifford

Development:

Road Affected: CR 545 Avalon Road

Present: Jim Hall, Kimberly Brown

Previous RAC: None

County Staff Present: Brian Sanders, Cristina Gonzalez, Robin Hammel

Mr. Hall explained that Commissioner Jacobs wanted Right-of-Way conveyed now at the current residential value rather than after a Comp Plan Amendment goes through and land value increases.

Mr. Hall offered to sell the skinny parcel along the lake to the County for stormwater retention.

Mr. Geiger stated that without a CAD determination the County cannot know how much of the land is developable.

Mr. Hall stated that unless the County agrees to take the skinny part he may not have a project.

Mr. Hall said that the current zoning opted out of Horizon West so the cost of the land is not set at \$22,500 since it is not in an SAP and is considered rural agricultural land.

Mr. Hall is willing to sell the property for residential value.

Mr. Nastasi explained that the CAD issue raised by EPD comes back into play and if the land is not developable, there is little value which can be provided for the property even if it was acquired.

Mr. Harrison asked how much acreage was involved.

Mr. Hall estimated 2 acres.

Mr. Nastasi stated that Mr. Hall is returning to the Board of County Commissioners on June 10, 2008 for adoption of the Comp Plan Amendment.

Mr. Kunkel asked Mr. Sanders if the pond locations had been looked at.

Mr. Sanders responded that no topographical data had been collected to date.

Mr. Harrison stated that the applicant is seeking consensus that the Roadway Agreement Committee will obtain the necessary Right-of-Way and possibly a pond location from this property at a residential value.

Issues as outlined by Mr. Harrison:

- 1.) Valued the day before change in listing, so may need to be valued at Agreement. Mr. Hall stated that agricultural is the same as residential.
- 2.) The County cannot make a determination on buying a pond until topographical information is obtained and the viability for placement of a pond in that location.

Mr. Nastasi was amenable to accept the Right-of-Way at a reasonable price and if the pond site is feasible, then it would work out for all parties.

Mr. Hall agreed that his clients would accept road impact fee credits as payment for the property.

Mr. Harrison stated that there is basis for further conversation.

Mr. Hall offered to have a biologist do a GIS line for further research.

Mr. Harrison offered to reschedule this to future meeting after more data is collected.

The Palms at I-Drive / Lake Eve Development

Development: Eve Development, LLC

Road Affected: Westwood Boulevard Extension

Present: Ben Shoemaker

Previous RAC: 5/16/2007, 8/1/2007, 4/16/2008

County Staff Present: Christina Crosby

Page 1 change “Developers” to “Right-of-Way”.

Page 3 values changed to reflect Mr. Hurt’s (Real Estate Management) approved values.

Page 2 the Committee asked to add Real Estate Management Extension language to Section 2(a).

Page 9 changes made pursuant to previous meetings.

The Committee discussed the Utilities Department request for a 15 foot Utility easement.

Mr. Shoemaker requested that the Committee approve the agreement as it stands.

Ms. Crosby asked to co-locate the Utilities in the Slope easement but there is no slope easement.

Mr. Smogor made a motion, seconded by Mr. Kunkel, to approve the Lake Eve PD 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.

Falcon Monk PSP

Development: Falcon Monk Preliminary Subdivision Plan
Developer: Richard Jerman – Falcon Land and Development Company
Road Affected: Overstreet Road and Ficquette Road
Present: Lance Bennett, Richard Jerman
Previous RAC: None
County Staff Present: Brian Sanders, Mirna Barq, Christina Crosby

Mr. Bennett explained that they were sent by Development Review Committee to provide intersection improvements for Overstreet and Ficquette Road.

Mr. Bennett provided a drawing of the proposed improvements.

Mr. Harrison asked Mr. Nastasi if this improvement adds capacity.

Mr. Nastasi stated that resolving a safety issue does not necessarily add capacity. A single left turn lane may not add capacity in which case the project may not be eligible for road impact fee credits.

The cost of the improvement far exceeds the excess capacity created.

Mr. Nastasi explained Falcon-Monk was part of the Chase Road Mitigation Agreement and PAYGO funds may be used instead to fund this as a safety issue.

Mr. Nastasi asked if this improvement would qualify as safe and adequate access as a Development Review Committee requirement.

Mr. Nastasi would have to see if PAYGO funds are available to pay for the improvements.

Mr. Harrison suggested the applicant perform a traffic study to see if additional capacity is created by the turn lane and if there is enough to match the construction costs.

The County will look at PAYGO money to see if any funds are available.

The improvements will be within the existing Right-of-Way.

Additional lanes would increase capacity but need to remain within the existing Right-of-Way.

Mr. Harrison asked that the applicant return at a later date once more information is obtained.

Mr. Nastasi asked that if a cost was provided it be a fixed cost that cannot increase.

Reschedule for May 21, 2008 with a deadline for submission of materials of May 16, 2008.

Karl Corporation

Development: Karl Corporation
Developer: Herb Kahlert
Road Affected: Karl Kahlert Parkway
Present: Miranda Fitzgerald, Marge Tinsley, Herb Kahlert
Previous RAC: 8/16/2006
County Staff Present: Brian Sanders, Cristina Gonzalez, Christina Crosby

Ms. Fitzgerald explained that Right-of-Way needs to be dedicated as APF Right-of-Way and some of it has a right of reverter and is time sensitive.

Looking to draft an agreement including the widths of Right-of-Way and dimensions for the Right-of-Way dedication.

The APF appraisal values tied to timeframes in codes.

A Conserv II line runs east-west along the Schofield Road Right-of-Way.

The County must take subject to the Conserv II line or have the line relocated.

Two slivers for Right-of-Way for Schofield Road are included in area to be conveyed.

The Developers wish to work with the County to identify the exact area.

Mr. Nastasi asked what was happening on the Lake County side.

Ms. Fitzgerald responded not much at this time.

Mr. Nastasi stated that if the County was to limit the improvement to 4 lanes (not 6) they would need 120-feet of Right-of-Way.

Ms. Fitzgerald stated that her clients would like to dedicate additional property for enhanced landscaping but would only expect to get credit for necessary Right-of-Way.

Mr. Nastasi stated that the relocation of utilities will be a big issue.

The applicant is seeking to dedicate property now for APF credits and RIF credits.

Ms. Fitzgerald wants to finalize the Right-of-Way, cross section and easements that would be needed so that Right-of-Way can be conveyed before the existing reverters kick-in.

The areas to be vacated need to be contemplated also.

Mr. Harrison asked the Committee what they wanted to do.

Ms. Fitzgerald suggested that she hold a meeting with County staff.

Once the alignments are worked out, a separate agreement is needed for Karl Corporation to outline the terms and establish values and other items needed at dates certain.

Ms. Fitzgerald will send Mr. Nastasi available dates to set a separate meeting.

Rescheduled for a future Roadway Agreement Committee meeting.

Ravallo Resort

Development: Ravallo Resort Development Company, LLC and Sunterra Corporation

Developer:

Road Affected: Lake Street

Present: Sam Sabaali, Andrew Pughe, Randy Rush

Previous RAC: None

County Staff Present: Brian Sanders, Christina Crosby

Mr. Nastasi explained that the applicant has requested Road Impact Fee Credits for the dedication of Right-of-Way but that they are also seeking to vacate more property than they are dedicating.

The applicant explained that Buena Vista Park re-plat provided for the vacation of Right-of-Way with no offset.

Mr. Harrison asked the applicant if a Petition to Vacate had been filed yet.

Mr. Rush responded that there has been no formal application made, since they are a contract purchaser of the property.

Ms. Caswell asked that a joinder be included in the agreement signed by the owner(s).

Mr. Harrison stated that it is standard practice to less out the area to be vacated.

Mr. Rush explained that the Board of County Commissioners in 1999 provided for \$206,000 per acre and this amount should be paid for the Right-of-Way dedicated.

Mr. Sabaali stated that the LUP recognizes that these areas would be vacated.

Mr. Harrison will not take this agreement to the Board of County Commissioners unless the vacated area is offset, because the County is only willing to pay for any net acreage left after the request to vacate has been processed.

Mr. Rush asked that if they propose an exchange agreement, would they need to come back with a different agreement.

Mr. Harrison responded yes and they would need to calculate the acreage to be dedicated and then calculate the amount to be vacated and if zero, then it remains zero.

Ms. Caswell stated that if they are doing an exchange, the County would be paid the difference; the value of what we are vacating is greater than the value provided. In order to exchange, the County must get equal or greater value.

Ms. Crosby stated that a Triplex Lift Station exists and it cannot be moved.

Ms. Crosby needs a 16 foot alley to remain in place (and not be vacated).

Mr. Harrison asked Ms. Alfonso and Mr. Nastasi to work out how the values would be made equal to enter into agreement including the value of Right-of-Way vs. value of unopened Right-of-Way.

Mr. Harrison asked for a motion that the value of Right-of-Way being vacated be lessened out of value of dedication.

Mr. Nastasi made a motion, seconded by Mr. Smogor, that the value of Right-of-Way being vacated be lessed out of the value of dedication. Motion carried unanimously.

Rescheduled for a future meeting for applicant to return with a different draft agreement.

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

Attendees: Beat Kahli, Eric Marks, Jim Pratt and Carol Conner, Kunz Richard

County Staff Present: Damian Czapka

Mr. Kahli thinks we are very close to coming to an agreement and wants to proceed to the next step.

Mr. Kahli wants to utilize the escrow account, Morgran money and County contributions to get this project into construction.

Mr. Kahli stated that the three (3) items outstanding are:

1. Management Fee
2. Arrangements on cash flow with the County for Zone 2 impact fees
3. What is the carrying cost involved

Mr. Marks stated that the original Agreement defines an administration fee of 6% of the costs incurred.

Ms. Connor has also found management fees in some of the CR 535 Agreements.

Mr. Marks stated that all constructions costs include fees and internal costs as defined in other agreements.

Ms. Connor stated that the \$750,000 fee to be included in the \$9.9 million project cost would equate to an 8 or 9% management fee.

Mr. Kunkel stated that the County is looking at a role reversal from what was outlined in the term sheet where the County takes the final design plans and bids the project and manages the construction. The County would take charge of the Morgran money and the Avalon Escrow Account and use other funding to decrease the shortfall. The Legacy Program lost some of its progress, therefore, Grant funding from Innovation Way may be available for this project and instead of the County providing for a shortfall, Avalon will provide a shortfall of about \$5 million.

Mr. Kunkel stated that this approach would relieve Avalon of the burden of constructing the road.

Mr. Kahli stated that they were only going to construct out of necessity.

Mr. Kunkel added that now that the County has additional funding, we can move forward to make this a County project.

Mr. Kahli suggested that after public bidding, he may be able to move the construction ahead faster.

Mr. Kunkel stated that public bidding is important for transparency and that County staff have processes in place to send this project out for bid in a timely fashion.

Mr. Marks asked what the construction schedule would be.

Mr. Kunkel responded that construction would be ready to start in January 2009 if the design, permits and Right-of-Way are in place at that time.

Mr. Kahli stated that if Avalon has to pay a portion of the deficiency, then they would want to pay at the back end of the project.

Mr. Marks stated if they are getting road impact fee credits then they would have to sell them in the open market.

Mr. Nastasi stated that once the construction schedule is identified, the County can then identify when payments can be made. Avalon needs to submit all the documents as soon as possible.

Mr. Harrison suggested seeing if the revised schedule works, and then amending the agreement to reflect the new terms.

Ms. Czapka provided an overview of the 100% design plans, Legal and Sketches and 90% Right-of-Way maps submitted to date and what permits have been applied for.

Mr. Harrison asked this item be rescheduled for as soon as possible when they are ready to return to amend the agreement.

Mr. Kahli suggested returning to the Roadway Agreement Committee in four (4) weeks on June 4, 2008.

Mr. Kunkel asked for a final number on the Escrow Account.

Mr. Marks offered to provide a spreadsheet as to what it should look like.

Mr. Nastasi asked that Avalon prepare a spreadsheet to show timeframes for payments to be made.

Rescheduled for four (4) weeks to return to the Committee on June 4, 2008.

Mr. Harrison adjourned the meeting at 11:32 a.m.