



Interoffice Memorandum

Minutes

Roadway Agreement Committee

July 2, 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
Christine Lofye – 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
Vince Randazza – Real Estate Management Division
Susan Martin – Risk Management
Robin Hammel – Public Works Engineering Division
Frank Yokiel – Public Works Engineering Division
Matt Bilskie – Transportation Planning
Bryan Festa – Risk Management

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

Approval of Minutes

The Committee reviewed the minutes from the June 18, 2008 Roadway Agreement Committee Meeting and changes were requested as follows:

Page 5 line 25 change "staring" to "starting".

Page 6 line 4 end the sentence after the word "standards".

Page 6 line 39 change "final" to "substantial".

Page 7 line 22 add the word "credits" after "impact fees".

Mr. Kunkel made a motion, with a second by Mr. Hurt to approve the June 18, 2008 Roadway Agreement Committee Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Committee Discussion – Boilerplate Update

County Staff Present: Ray Hanson – Utilities Division

Mr. Harrison explained there was a meeting held on Tuesday July 1, 2008 with Utilities and they asked to include new language in the boilerplate.

Ms. Hammel asked if pump stations needed to be included.

Mr. Kunkel replied that generally they don't put pump stations in the road Right-of-Way.

Mr. Nastasi asked if this was intended to serve only the intended project.

Mr. Hanson replied no.

Mr. Nastasi suggested striking the language "to serve lands within the project".

The Committee agreed to include this new section as part of the revised boilerplate.

Park Plaza APF Agreement (Gilpin)

Road Affected: APF Roads

Previous RIFCC: 5/4/2005, 10/26/2005, 11/09/2005, 12/14/2005, 1/17/2007, 2/21/2007

Attendees: Pat Christiansen, Kendall Keith

County Staff Present:

Mr. Christiansen stated that he had an APF Agreement for the north parcel and needs to amend it to include the south parcel also.

An Amended and Restated APF was presented for the Committee's review.

Mr. Harrison stated that this operates outside the new APF procedures since the existing APF is already in the pipeline.

Mr. Christiansen provided legals and sketches to be used as exhibits.

Page 1 Mr. Christianson will remove the stray dangling sentence in Recital C.

Page 2 Mr. Nastasi asked to take out the word "arterial" and use "Reams Road" instead.

Page 2 Section G change "Board of County Commissioners" to "BCC" since a defined term.

Page 3 Section O Mr. Kunkel questioned the net developable acreage figure. Mr. Keith explained it had been recalculated when the PD was revised.

Page 3 Recital Q Mr. Kunkel asked to change "deficit" to "surplus".

Page 3 Recital R Mr. Nastasi asked if this project is eligible for road impact fee credits. This is provided for in Section 2.6.

Page 4 Section 2.2 Mr. Kunkel questioned the phrase "under threat of condemnation for the Park property dedication". Ms. Alfonso will look into whether this is valid.

Mr. Smogor objected since it is part of APF requirement.

Mr. Christiansen explained the phrase is included for tax purposes.

Mr. Smogor explained that the County is not going into condemnation for a Park.

Mr. Harrison asked Ms. Alfonso to follow-up on this item.

Page 5 Mr. Kunkel questioned Section 2.4. Ms. Alfonso pointed out that this language was included in the original agreement and the Committee agreed it should remain.

Page 5 Section 2.5 Section (2) Mr. Randazza asked for changes to the language. Change “Warrantee” to “Warranty” and change “other title matters” to “except for easements of record acceptable to the County”.

Page 5 Section 2.5 Section (3) Mr. Randazza asked to change “at” to “prior to”.

Page 6 Section 2.5 Subsection (e) the Committee asked to change “closing” to “conveyance”.

Page 6 Section 3 Mr. Kunkel asked if it was 0.65 or 0.66. Mr. Keith stated it should be 0.66.

Page 6 in the middle of the page, there is another “in lieu of condemnation” phrase; Ms. Alfonso will research this item.

Page 7 Section 5 in the Recording Statement the Committee asked to add “within 30 days”.

Page 9 Mr. Christiansen needs to change contact information. Transportation Planning and Growth Management phone numbers and fax numbers are incorrect.

Mr. Christiansen asked to raise another issue regarding the Capacity Reservation Certificate for the Park Plaza project. There is one more payment due and then the Capacity Reservation Certificate expires. Mr. Christiansen asked if they could get vesting through this agreement.

Mr. Smogor suggested applying for a three (3) year extension. If there is no waiting list the CMO can approve the request. If there is a waiting list the applicant will need to go to the Concurrency Review Committee (CRC) and show good faith and request an extension from the Committee.

Mr. Christiansen asked for vesting through this agreement instead.

Mr. Nastasi said not for an APF agreement, since it is a requirement of the ordinance that the property be conveyed.

Mr. Smogor stated that the property is entitled to 6 units currently; the applicant could do a lot split on the north parcel for 3 lots and a lot split on the south parcel for 3 lots.

Mr. Christiansen stated that is not a practical solution.

Mr. Christiansen will apply to the CMO for an extension and if denied then will go to CRC.

Mr. Harrison reviewed the changes made by the Committee at today’s meeting.

Mr. Smogor made a motion, with a second by Mr. Kunkel to approve the Park Plaza (Gilpin) APF Agreement with the changes requested at today’s meeting, subject to Ms. Alfonso resolving the “threat of condemnation” language issue, subject to final review and approval by the Committee, and subject to final review of the Exhibits by the County Surveyor. Motion carried unanimously.

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, 6/18/2008

Attendees: Jim Pratt and Carol Conner

County Staff Present:

The Committee reviewed the Agreement page by page.

Page 1 Ms. Alfonso asked that they remove the reference to Tax Parcel ID#.

Page 2 Ms. Alfonso asked that \$5,000,000 also be spelled out in letters.

Page 3 Section 4 (a) Ms. Alfonso asked they add back in “and approval”. Mr. Nastasi asked why there is still a reference to 90% plans but agreed to leave it as is.

Page 3 Mr. Kunkel stated that the blank on top of the page needs to be filled in and Mr. Kunkel will verify that the number is correct.

Page 4 Mr. Kunkel stated that the numbers need to be included in the blanks in subsections (b) and (c).

Mr. Kunkel asked Ms. Brownlie if we were tracking item 4(c)(i) reimbursements and how those will be handled. Referring to 4(c)(i) Mr. Kunkel asked if that was the amount we paid from the escrowed impact fees. Ms. Brownlie responded yes, that she had all the invoices and could supply the number for subsection 4(c)(i).

Page 4 Mr. Kunkel asked to clarify that the County would not be responsible for any increase of the remaining DE&P work.

Mr. Pratt stated that they were not clear as to what they were transferring; Avalon would not be calling on MSCW to do additional work that was not included in the DE&P work; and if any additional work was requested by the County, then the County would be responsible for those costs.

Mr. Harrison asked if it should read “shall not increase Avalon’s expenses without Avalon’s consent”.

Page 6 Section 6 (a) (ii) Ms. Hammel asked that “sole purpose” clause be taken out and changed to “costs incurred with this agreement”.

Page 6 (a) (i) need figure from Growth Management.

Page 7 Section 6 (c) Ms. Almodovar thought this Section was to be deleted entirely. Mr. Pratt explained this is just a defined term.

Page 8 Section 6 (d) (i) need funding in CIP so the project is fully funded prior to bidding the work.

Mr. Kunkel suggested a letter of credit posted possibly prior to bidding to secure the funding.

Page 8 Mr. Harrison asked they add a subsection that “30 days prior to bidding, Avalon will provide a letter of credit according to the attached form (Exhibit __) and the letter of credit will be released at 75% according to subsection 6 (a) (i)”.

Page 9 Section 6 (c) (ii) change “certificates” to “documentation” per Ms. Alfonso.

Page 11 Ms Alfonso was agreeable with the changes as written under discussion of remedies and the changes made.

Page 11 Mr. Smogor noted that subsection (vi) and (vii) should be number (iv) and (v).

Mr. Pratt will check to see if the remedies language in Subsection 13 (b)(i) is absolutely necessary for parenthetical and work out with Ms. Alfonso.

Page 10 copies to section add phone and fax number to each one.

Page 13 Force Majeure Mr. Pratt and Ms. Alfonso still need to work out differences.

Page 15 Section 23 Ms. Alfonso asked to change “certificate” to “documentation”.

Page 15 Ms. Alfonso asked for additional changes to Section 23.

Mr. Kunkel will verify the figures in the Agreement.

Mr. Harrison will provide May 31, 2008 figure for escrowed impact fee account from Growth Management.

Ms. Almodovar will provide a letter of credit form.

Ms. Alfonso will work with Mr. Pratt on the Limitation of Remedies and Force Majeure sections.

Mr. Kunkel made a motion, with a second by Mr. Nastasi, to approve the Avalon Network First Amended and Restated Agreement with the changes requested at today’s meeting, subject to verifications and changes outlined, subject to final review and approval by the Committee, and subject to final review of the Exhibits by the County Surveyor. Motion carried unanimously.

Activity Update/Summary

Mr. Kunkel asked about whether the contract for Turkey Lake was signed.

There is an issue with the Turkey Lake ESA which may require a Phase II report.

Mr. Nastasi stated it was a little late for finding issues of this nature at this point.

Mr. Harrison adjourned the meeting at 10:20 a.m.