


MEMORANDUM

September 4, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator 
Shauna Billingsley, City Attorney
Vernon Gerth, ACA, Community Development
Catherine Powers, Director, Planning and Sustainability

SUBJECT: Agreement between the City of Franklin and Stream Valley Franklin Partners LLC

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information related to an Agreement with Stream Valley Partners, LLC regarding the phasing of the Stream Valley Development, particularly the provision for the timing of a second access to the development.

Background

On June 14, 2005, the BOMA approved a rezoning and concept plan for the Stream Valley development, located on the west side of Interstate 65 and Lewisburg Pike. At the time of Planning Commission approval, a condition (#9) limited the developer to 200 dwelling units before a second access would need to be established.

However, at the first BOMA meeting (April 12, 2005), the developer presented a phasing plan that allowed the construction of 408 units (Phases A and B) prior to the second access. This phasing exhibit was incorporated into the Board's action by motion. It is not clear from the minutes or video record of the meeting whether the Board's intent was to modify the condition requiring the second access to the neighborhood.

In an effort to resolve this inconsistency while still providing for adequate public safety access and the continuation of development, the attorneys for Stream Valley and the City of Franklin have drafted an Agreement for the BOMA's review and approval. This Agreement would allow 280 dwelling units to be constructed prior to the posting of a surety for the construction of the second connection. In order to assure the safety of the residents of the development, those 280 units must have residential sprinklers installed (a practice currently being employed by the developer) unless an additional water line has been installed and approved by the City.

An amended phasing plan, allowing for the construction of A, B, and C, consisting of 397 units, (383 single family and 14 townhomes) has been attached to the agreement. This new phasing plan will require that the second connection must be completed prior to the site plan approval or building permit issuance for Phases D and E.



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MEMORANDUM

This agreement represents a negotiation between the City and developer and will allow the developer to place the second connection in the most advantageous location to best serve the development.

Financial Impact

There is no direct financial cost to the City. The developer will post a surety in the amount of construction of the access.

Options

The Board may approve, modify or decline to enter into the proposed agreement.

Recommendation

Approval of the proposed agreement between the City of Franklin and Stream Valley Franklin Partners LLC is recommended.

**AGREEMENT BETWEEN THE CITY OF FRANKLIN, TENNESSEE
AND
STREAM VALLEY FRANKLIN PARTNERS, LLC RELATIVE TO PHASING OF THE
STREAM VALLEY DEVELOPMENT
COF Contract No. 2012-0143**

This contract between THE CITY OF FRANKLIN, TENNESSEE (“City”) and STREAM VALLEY FRANKLIN PARTNERS, LLC, a Tennessee limited liability company, (“Developer”) entered into on this the _____ day of _____, 2012.

WHEREAS, on June 14, 2005, the Board of Mayor and Aldermen (“BOMA”) approved Ordinance 2004-108, entitled “An Ordinance to Zone 288.70 Acres Planned Residential (PR 1.67), and 74.65 Acres Planned Commercial (PC 4.61), and Approve the Concept Plan of Stream Valley, Located on the West Side of Interstate 65 and East of Lewisburg Pike Approximately 3,700 Feet South of Goose Creek Bypass” (“Ordinance”).

WHEREAS, condition 9 of the Ordinance stated “[d]evelopment shall be limited to no more than 200 dwelling units west of Five Mile Creek until a second access is provided through development of adjacent property.”

WHEREAS, during the first reading before the BOMA on April 12, 2005, the BOMA amended the Ordinance to attach a phasing exhibit provided by the then developer.

WHEREAS, the City has been unable to locate the phasing exhibit in its files.

WHEREAS, the Developer has provided the City with a phasing exhibit it purports to be the phasing exhibit provided and attached to the Ordinance on April 12, 2005.

WHEREAS, the phasing exhibit provided by the Developer provides that Phase A shall consist of 161 single-family lots and 33 townhomes, Phase B shall consist of 214 single-family lots and shall not start construction until required improvements on Lewisburg Pike are complete and a traffic light is built upon TDOT approval, Phase C shall consist of 32 single-family lots, 144 townhomes and 240 condominiums and shall not start construction until 2nd connection is complete, and Phase D shall consist of 10,000 square feet of retail, 290,000 square feet of office space, and 15,000 square feet of civic use and shall not start construction until Goose Creek Bypass is improved and the interchange construction has begun.

WHEREAS, the City and Developer disagree as to whether the second connection must be complete prior to the development of Phase B but both agree that a second connection is required during prior to construction commencing for Phase C.

WHEREAS, the parties agree that in an effort to forgo potential legal action, a negotiated agreement is in the best interest of the parties.

NOW THEREFORE, the City and the Developer, their successors and assigns, do hereby agree as follows:

1. The foregoing recitals are incorporated into this Agreement and made a part thereof.
2. The revised phasing exhibit is attached to this Agreement as Exhibit A and incorporated into this Agreement and made a part thereof.
3. The Developer may build up to 280 homes prior to a performance surety being posted for the second connection in the amount of _____
4. The Developer shall provide residential fire sprinklers for each lot up to the approved 280 lots. At such time that a second connection is accepted and the required fire flow is provided, tested and approved by the City, the remaining sections shall not require fire sprinklers. Both the access and fire flow shall be approved by the City of Franklin through approval of the final plat of that section.
5. The Developer shall not be permitted building permits beyond 280 units until the performance surety has been provided for the second connection or the second connection has been built and the waterline has been installed, tested and approved by the City.
6. The second connection must be completed prior to approval of site plan or building permits for Phases D and E.

Approved by the Franklin Board of Mayor and Alderman on September 25, 2012.

WITNESS our hands on the dates as indicated.

DEVELOPER

STREAM VALLEY FRANKLIN
PARTNERS, LLC,
a Tennessee limited liability company

By: _____

Print Name: _____

Title: _____

STATE OF TENNESSEE)
)
COUNTY OF _____)

Before me, _____, a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged _____ self to be _____ (or other officer authorized to execute the instrument) of FRANKLIN PARTNERS, LLC, the within named bargainor, a general partnership, and that _____ as such _____ executed the foregoing instrument for the purposes therein contained, by personally signing the name of the general partnership by _____ self as _____.

Witness my hand and seal, at Office in _____, Tennessee, this ____ day of _____, 20__.

Notary Public
My Commission Expires:_____

Approved as to form by:

Bryan Echols
Counsel for Developer

CITY

CITY OF FRANKLIN, TENNESSEE, a municipality

By: _____
DR. KEN MOORE
Mayor

Date: _____

Attest

By: _____
ERIC S. STUCKEY
City Administrator

Date: _____

STATE OF TENNESSEE)
)
COUNTY OF WILLIAMSON)

Before me, the undersigned Notary Public of said County and State, personally appeared DR. KEN MOORE and ERIC S. STUCKEY, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to the Mayor and City Administrator, respectively, of the City of Franklin, Tennessee, the within named bargainor, a municipality, and that as such Mayor and City Administrator executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by themselves as Mayor and City Administrator.

Witness my hand and seal this _____ day of _____, 20____.

Notary Public
My Commission Expires: _____

Approved as to form by:

Shauna R. Billingsley
City Attorney