



HISTORIC
FRANKLIN
TENNESSEE

ITEM #15
WRKS
01/14/14

MEMORANDUM

January 6, 2014

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: Amendment I to the Agreement between the City of Franklin and Stream Valley Partners LLC

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information related to an Amendment 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, condition (#9) limited the developer to 200 dwelling units west of Five Mile Creek before a second access would need to be established.

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 was 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 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.

Additionally, a phasing plan, allowing for the construction of Phases A, B, and C, consisting of 397 units, (383 single family and 14 townhomes) was approved. The Agreement was approved by the BOMA on October 23, 2012.



Since that time, Stream Valley Partners, LLC, have been in discussion with TDOT related to the placement of the second access. The discussions are ongoing and may require cooperation of a third party to meet the City's requirement. Given the possible delay, Stream Valley, LLC Partners is requesting the Agreement be amended to require TDOT approval of the second connection and construction of that access prior to the approval of final plats or residential building permits in excess of 388 units. This is a change from site plan approval and removes phasing substituting an exact number.

The requirements for Sureties and residential sprinklers remain in place from the Original Agreement.

This amended 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 financial cost to the City. The developer will post a surety in the amount of construction of the access.

Options

Not applicable to this item.

Recommendation

Approval of the Amendment I to the Agreement between the City of Franklin and Stream Valley Franklin Partners LLC is recommended.

**AMENDMENT 1 TO AGREEMENT BETWEEN
THE CITY OF FRANKLIN, TENNESSEE
AND
STREAM VALLEY FRANKLIN, LLC
RELATIVE TO PHASING OF THE STREAM VALLEY DEVELOPMENT
COF Contract No. 2012-0143**

THIS AMENDMENT is made and entered into on this, the ___ day of _____, 2013, by and between the City of Franklin, Tennessee ("City") and Stream Valley, LLC, a Tennessee limited liability company ("Stream Valley") who mutually agree as follows:

WITNESSETH:

WHEREAS, the City and the Stream Valley entered into an agreement relative to phasing of the Stream Valley development, dated October 23, 2012 ("Agreement"); and

WHEREAS, the City and Stream Valley desire to modify the Agreement to include these additional terms.

NOW THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

SECTION I.

The Agreement is hereby amended to delete the following text noted with a strikethrough; to add the following text noted in **bold**; and is approved to read as follows:

9. The Developer must provide certification of TDOT approval of a curb cut for the Second Connection prior to approval of ~~site plans~~ **final plats** or **residential** building permits ~~for Phases D and E in excess of 388 homes.~~

10. The Second Connection or alternative connection must be completed prior to approval of ~~site plans~~ **final plats** or **residential** building permits **in excess of 388** ~~for Phases D and E.~~

~~10-11.~~ **No commercial building permits shall be approved prior to completion of the second connection or alternative connection.**

~~11-12.~~ Any terms or conditions which were approved by Ordinance 2004-108 and are not subject to this agreement remain in full force and effect.

SECTION II.

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. **ENTIRE AGREEMENT.** This Amendment and the Agreement constitutes the entire agreement between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of this Amendment. The terms and conditions may

not be changed except by an Amendment expressly referencing this amendment by section number and signed by an authorized representative of each party.

- 3. SURVIVAL. This Amendment shall survive the completion of or any termination of the original contract, revised contract, or agreement or other document to which it may accompany or incorporate by reference.

Approved by the Franklin Board of Mayor and Alderman on _____.

WITNESS our hands on the dates as indicated.

DEVELOPER

STREAM VALLEY FRANKLIN, 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 STREAM VALLEY FRANKLIN, LLC, the within named bargainor, a limited liability company, and that _____ as such _____ executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company by _____self as _____.

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

Notary Public
My Commission
Expires: _____

