



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Capital Projects

CM/ DCM/ ACM: Mario Canizares

DATE: November 7, 2017

SUBJECT

Consider adoption of an ordinance authorizing a development agreement between the City of Denton and DW Carmel, LLC (the “Developer”); providing for the payment by the Developer to the City of Four Hundred Thousand Dollars and No Cents (\$400,000.⁰⁰) for the City to construct the balance of the Edwards Road perimeter paving improvements required by Phase 5A and 5B of the Villages of Carmel addition(s) to the City of Denton, as Developer’s contribution; authorizing the City Manager to execute the agreement; and providing for an effective date. (Edwards Road paving improvements – Villages of Carmel subdivision)

BACKGROUND

The Villages of Carmel (“VOC”) is a large, multi-phased, single-family residential development, generally located north of Pockrus Page Road, south of Edwards Road, East of Mayhill Road and west of Swisher Road. Since the 2005 onset of the overall subdivision, there have been several discrete development entities involved, such as Holigan Land Development, Ltd; VOC1B LLC; Hmh Lifestyles, L.P.; and DW Carmel, LLC (Phase 5A and 5B, the final phases), being located along Edwards Road, south side. When the Final Plat for Phase 5A was formally approved by the City (September 16, 2015), the related public improvements required to be installed by the Developer included rebuilding and widening a portion of Edwards Road along the Phase 5A frontage, in accordance with Denton Development Code perimeter paving requirement. The Developer’s construction plans for 5A detailed an asphalt street section, 25 feet in width by approximately 640 feet of frontage length.

As the VOC Phase 5A Edwards Road perimeter paving segment was about to go into construction, on January 7, 2016 the City was informed by notice from TxDOT along the lines that:

“The Post Oak Drive bridge over Interstate 35E will close at noon, Friday, January 15, 2016. The structure will remain closed for approximately nine months while it is demolished and reconstructed.”

Straightaway, staff informed the Developer that there could be no disturbance by construction activities to the existing Edwards Road segment along the Villages of Carmel phase(s), during the time TxDOT has the I-35 Post Oak bridge closed, due to the severe constriction of access that would result to and from the residential neighborhoods to the east of the VOC, including the Preserve at Pecan Creek. Edwards Road provides a significant linkage for emergency services responders for the southeast quadrant of the City, and with the inception of the I-35 Post Oak bridge closure, that street connection became a critical linkage for the public’s health, safety and welfare.

In order to aid Developer's progress on their internal subdivision development(s), staff agreed to permit the deletion of the Edwards Road perimeter paving improvements from their Phase 5A 3-Way Development Contract, provided that the Developer would deliver Edwards Road design construction documents, and enter into a separate 3-Way Development Contract for the contemplated Edwards Road improvements, required for Phases 5A and 5B (i.e. all the way to Swisher Road), at a future date, timed subsequent to the opening of the newly constructed I-35 Post Oak bridge. 3-Way Development Contracts are the mechanism the City uses to ensure that the required public improvements for any given development are guaranteed to be constructed.

The City formally approved the Final Plat for Phase 5B on April 13, 2016. As with Phase 5A, as a relief measure for the Developer, staff agreed to allow the internal construction of Phase 5B to progress, outside of the required Edwards Road perimeter paving improvements. However, staff informed the Developer that the City would not file-for-record the Final Plat for Phase 5B plat until the aforementioned Edwards Road 3-Way Development Contract was fully-executed.

The Developer subsequently requested permission to construct Edwards Road with concrete, in lieu of asphalt, indicating that their unit costs for concrete was less than that of asphalt. Staff was not in support of this request for a road material substitute. Existing portions of Edwards Road, west of Phases 5A & 5B are asphalt, therefore street material uniformity along Edwards Road is preferred by Street Department staff, as a street operations and maintenance matter, going forward. Also, anticipated duration of road closure for Edwards Road is minimized by using asphalt road materials for construction, given the faster curing time involved.

Staff approved Developer's 5A & 5B Edwards Road perimeter paving plans as "ready for construction" on December 5, 2016.

Roadway Impact Fees - General

The City's Roadway Impact Fee (RWIF) Ordinance became effective July 5, 2016. Per the RWIF Ordinance, a developer can receive credits for the RWIFs due for roadway improvements made by the developer, up to the total amount of the Roadway Impact Fees. The total value of perimeter street paving required can exceed the RWIF due for the development, but total required by the developer cannot exceed the Maximum Assessable Amount (the "MAA").

Roadway Impact Fees – Specific to VOC

For framing the context of the Development Agreement under consideration, the MAA calculated under the City's RWIF Ordinance is \$1,921,658 for Phases 5A and 5B. The subject subdivision phases are in RWIF Service Area "E", which has a cost factor for that service area of \$2,241 per residential lot, a Vehicle Miles/Per Development Unit (residential lot) factor of 4.9, with 175 residential lots ($\$2,241 \times 4.9 \times 175 = \$1,921,658$).

The Developer indicated their probable costs of Edwards Road construction would be \$643,000, per a December 2016 contractor bid to perform the work.

Presently, Edwards Road is 20 ft. wide, and has a Roadway Overall Condition Index (OCI) of 25 and 26 (which is less than City goal of 40 minimum).

Staff realizes the criticality of improving Edwards Road, as soon as possible. With this in mind, staff looked at the feasibility of constructing the slated road improvements with City of Denton forces. Upon thorough analysis, staff has determined the contemplated VOC Phases 5A & 5B Edwards Road perimeter paving improvements can be constructed by City of Denton forces for \$475,000.

Pursuant to recent dialogue between staff and Developer, in an attempt to achieve an equitable solution for all parties, staff has put forth the idea to construct the prospective Edwards Road improvements with City of Denton forces, conditioned upon first receiving a \$400,000 payment from the Developer.

Phase 5B – Lot 1, Block KK – Park Tract purchase

Related to the proposed Development Agreement at hand, via Ordinance 2016-134, approved May 3, 2016, City Council authorized the purchase of a 6.394 heavily wooded tract from the Developer (the “Park Tract”), for a cooperative purchase, in the amount of \$278,325. The closing date for the purchase of the Park Tract is predicated on the condition that the VOC Phase 5B required improvements are either constructed or a 3-Way Development Contract is in place to ensure that all of its development requirements will be achieved, including recordation of the Phase 5B Final Plat.

Approval of the Development Agreement provides for an expedited asphalt rebuild construction schedule of the outstanding segment of Edwards Road (approximately 1,670 linear feet) and also provides for a near-term closing and funding event for the above cited 6.394 acre Park Tract purchase (Lot 1, Block KK).

OPTIONS

1. Approve the proposed Ordinance.
2. Decline to approve the proposed Ordinance.
3. Table for future consideration.

RECOMMENDATION

Staff recommends approval of the Ordinance.

ESTIMATED SCHEDULE OF PROJECT

Upon approval of this ordinance, staff will proceed with construction start of Edwards Road in June 2018 to coincide with Denton I.S.D. summer recess.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

September 16, 2015 - P&Z approval of the Final Plat of Villages of Carmel – Phase 5A.
April 13, 2016 - P&Z approval of the Final Plat of Villages of Carmel – Phase 5B.

FISCAL INFORMATION

2014 Bond – Edwards Road Improvements (\$65,000 remaining), with any shortfall to come out of the Street Fund annual operating budget.

STRATEGIC PLAN RELATIONSHIP

The City of Denton’s Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: Public Infrastructure

Related Goal: 2.1 Continuously improve the quality of City roadways

EXHIBITS

1. Agenda Information Sheet
2. Location Map
3. Site Map
4. Ordinance

Respectfully submitted:
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