

From: Glenn Gimbut <GGimbut@sanluisaz.gov>
Sent: Wednesday, November 6, 2024 4:49 PM
To: Maerowitz, Michael <mmaerowitz@swlaw.com>
Cc: Jose A. Guzman <jaguzman@sanluisaz.gov>; Eulogio Vera <evera@sanluisaz.gov>; Jenny Torres <jtorres@sanluisaz.gov>; Kay Macuil <kmacuil@sanluisaz.gov>
Subject: Re: Received, Redline Draft Orchidea Development Agreement and Engineer's comments

Mike,

I am having the phasing language looked at but here are some initial comments. This is on the first ten pages and hopefully will finish all comments today. Sorry but got snagged on other matters.

But this will get you started.

Section 2.1 - I have no problem with 15 years. I did have a hiccup with 30. Jenny, Kay, Jose, and Eulogio - this is a compromise. The initial draft was for 30 years, and I pared that back to 10. They desire 15. We have other agreements for 15 years. If something does not get built, freezing matters for 3 decades seems unreasonable. But 15 is an appropriate compromise.

Section 4.1 - if the last sentence on governing and controlling over even existing regulation is to remain we need to limit such a restriction on the legislative/police power of the city to just the Offsite Infrastructure Improvements only. The first sentence of 4.1 needs to read: "The Property shall be developed in accordance with this Agreement and all applicable regulations and development requirements of the City, including provision of adequate financial assurances, in effect at the time of development for each Phase, except for the Offsite Infrastructure Improvements (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans upon approval by the City. In developing the Offsite Infrastructure Improvements adequate financial assurances shall be posted.)

4.2 Phasing. Eulogio has commented that we may need the development of 24th and 24 ½ in half mile sections, but he also has mentioned that the half mile from E toward the east needs to go in first for both. I need him to look at this part closely. This becomes of concern with Parcel E and you will see other comments below concerning this matter.

4.5 - Special notice. I know this is one of Elizabeth's concerns - but what exactly is meant by the term "would effect the required improvements for the Property" is too vague and indistinct. It also can be considered a possible illegal delegation of police power. This clause needs to go. All city adoptions of ordinances and regulations are adopted pursuant to the notice provisions as provided by law. If Elizabeth wants, she can ask the City Clerk to send her all proposed agendas of the planning and zoning commission and the city council as they go out. They will be sent by email and she will get the same amount of notice that council members and planning and zoning members get. But if one were to implement this clause, in theory it would preclude the city from acting in an emergency if it somehow directly or indirectly affected development of the territory subject to this agreement - so no.

5.3 Need to add the following sentence: "All Master Plans shall conform to the ordinances, rules, regulations, standards, procedures, and administrative policies of the City in effect at the time of submission. Development of infrastructure shall be in accordance with in accordance with all applicable regulations and development requirements of the City, including the provision of adequate financial assurances, then in effect at the time of development."

5.3.3 The only street that needs to be only a half street is 24 1/2. The north half of 24th is built - so only the southern half is needed and is a burden of Von Verde and this agreement. The right of way dedication for a full arterial on 24 1/2 is the property to the south - which is presently owned/controlled by either Von Verde or other entities of the Loo family. So dedication of full width really should not be an issue. That being said - the City is not requiring full width development of 24 1/2 until the land to the south is development and agree that such should be another agreement for another day.

Rather we are asking that there should not be "half width collection to arterial intersections." Meaning the roadways that connect to either 24, 24 1/2, E, or D.

With respect to Ave. D - I will have to let Jose Guzman, Eulogio Vera or Jim Dave weigh in - but if this is to be half width only it will result in a half mile of scallop. Meaning from 24th north a full road and 24 1/2 south a full road but between 24 and 24 1/2 a half road. Eddie Loo at one time had to move APS lines and did not want to do it again. To avoid that, it was agreed that the location of D would shift. My memory is that this meant full width on the existing Property as opposed to half - in order to avoid relocating major power lines. My memory could be mistaken - but I want to make sure the technical staff is looking at this issue. If I am mistaken, great.

5.4 see above. Also not certain about 24th Ave. being developed as a half street. Again need input from technical staff.

5.4.1 - Again not certain about 24th Ave.

5.5 the following sentence "For other offsite improvements not specifically set forth in this Agreement, the City reserves the right to require additional offsite improvements and/or dedications as required for the development of each Parcel in accordance with the City's ordinances, rules, regulations, standards, procedures, and administrative policies of the City now existing, or as may be amended or adopted in the future." needs to be changed to: "For other offsite improvements not specifically set forth in this Agreement, the City reserves the right to require additional offsite improvements and/or dedications as required for the development of each Parcel in accordance with the City's ordinances, rules, regulations, standards, procedures, and administrative policies of the City, **including provision for adequate financial assurances**, now existing, or as may be amended or adopted in the future."

5.7 The following sentence needs to be added. "The City may require Developer to develop the segments of County 24th 1/2 Street and 24th Ave. adjacent to Parcel D as a condition of development of other parts of the Property with an ability to obtain a payback agreement as provided by the building regulations of the City Code."

Will continue. But this should get you started.