



Interoffice Memorandum

August 19, 2014

SEE MINUTES
FOR MOTION
AUG 19 2014 NP/KH

TO: Mayor Teresa Jacobs
and Board of County Commissioners

FROM: Mark V. Massaro, P. E., Director, Public Works Department

CONTACT PERSON: Ruby Dempsey Rozier, Manager
Traffic Engineering Division

PHONE NUMBER: (407) 836-7890

SUBJECT: Road Impact Fee Windermere Cay Phase 1B
Application #14-002

The alternative traffic impact fee calculation for Windermere Cay Phase 1B was reviewed and approved by the Impact Fee Committee on July 24, 2014.

The impact fee variables approved by the Committee to be used to calculate the alternative impact fee for this development are:

Variable	Alternative Impact Study Results	Ordinance Rate Multi-Family
Trip Generation Rate per dwelling unit	5.51	6.60
Assessable Trip Length (miles)	4.85	6.12
Percent New Trips (%)	100%	100%
Limited Access Discount Factor (%)	23.2%	28.8%

The alternative traffic impact fee utilizing the above variables is \$1,372.00 per multi-family dwelling unit. This rate differs from the applicable ordinance rate of \$1,893.00 per multi-family dwelling unit (per Ordinance Rate Schedule of May 20, 2013 to August 15, 2014).

The Impact Fee Committee requests the approval of the Road Impact Fee Agreement regarding an alternative impact fee calculation between Timberlock Partners, LP and Orange County. Additionally, Timberlock Partners, LP has paid the County \$3,700 for future monitoring for this site. This fee will be used to conduct a follow-up study of the trip generation, trip length, percent new trips and limited access discount factor for of the above referenced site, as provided for in the Road Impact Fee Agreement. This agreement has been approved in form by the County Attorney's Office and Risk Management.

Action Requested: Approval of Transportation Impact Fee Agreement regarding an Alternative Impact Fee Calculation for Windermere Cay Phase 1B by and between Timberlock Partners, LP and Orange County, Florida. District 1.

MVM/RDR/dlj

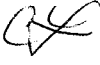
Attachments



Interoffice Memorandum

July 25, 2014

TO: Ivelisse Torres, MBA, Assistant Project Manager
Community, Environmental and Development Services Dept.
Fiscal and Operational Support Division

FROM: Christine Lofye, P.E., Project Manager 
Traffic Engineering Division

SUBJECT: **Alternate Impact Fee Case # 14-002**

Following is the staff report and recommendation subsequent the review by the Impact Fee Committee of the above referenced project:

Project Information:

Project Name: Windermere Cay Phase 1B

Location: Jayme Drive and Reams Road

Size: 108 Multi-Family Dwelling Units

Study Results:

Trip Generation: 5.51 Trips / DU

Assessable Trip Length: 4.85 Miles

% New Trips: 100%

Limited Access Discount Factor 23.2%

Monitoring:

Based on a review of the property's site plan, the fee for the subsequent monitoring at the site was calculated as: \$3,700

Additional Information:

Date Approved by ARIFC: July 24, 2014.

Comments:

Orange County Transportation Impact Fee Calculation Sheet Outside the AMA

Site Name and Location:	Multi-Family
Alternative Impact Fee Project #:	14-002
Anticipated Date of Permit Issuance:	7/30/2014

Trip Characteristics

Trip Rate (Trip Ends)	5.51	Daily Trips/Unit
Assessable Trip Length	4.85	miles
% New Trips	100%	
Limited Access Discount Factor	23.2%	

Impact Fee Calculation Constants

Cost/VMC	\$393.86
Cost/Lane-mile	\$3,744,000.00
Capacity	9,506
Credit/VMT	\$52.60
\$/GAL	\$0.186
MPG	18.19
NPV	14.0939

Impact Fee Calculation

Total Trip Length	5.35
VMT _{cost}	13.36
VMT _{credit}	14.74
Total Impact Cost	\$4,042.00
Gas Tax Credit	\$775.00
Impact Fee per Development Unit	\$3,267.00
Policy Discount Factor	42%
Net Impact Fee per Development Unit	\$1,372.00

Total Impact Fee for the Site

Size of Development		Units
Total Impact Fee for Development	\$0.00	



OFFICIAL RECEIPT
 Orange County
 201 S. Rosalind Avenue
 Orlando, FL 32802

Receipt Date: 07/24/14 00:00:00
Receipt #: 119881
Cashier Name: 123207@OCFL.NET

Payee Information:

Windermere Cay

Ref #: OFP14004690

Receipt #: 119,881

Project Name#: Windermere Cay Apts -
Parcel ID:

Fee Description	Amount
Moitoring Fees	\$3,700.00
Record Total:	\$3,700.00
Payment Total:	\$3,700.00

Payment Method	Amount
CHECK	\$3,700.00
Total:	\$3,700.00
Overpayment:	0.00

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Mike Wright
Timberlock Partners, LP
1350 Orange Avenue, Suite 250
Winter Park, FL 32789

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

AUG 19 2014 NP/KH

Tax Parcel ID #02-24-27-7150-01-000

**TRANSPORTATION IMPACT FEE AGREEMENT
REGARDING AN ALTERNATIVE IMPACT FEE CALCULATION
FOR WINDERMERE CAY PHASE 1B**

This TRANSPORTATION IMPACT FEE AGREEMENT REGARDING AN ALTERNATIVE IMPACT FEE CALCULATION FOR Windermere Cay Phase 1B (the “Agreement”), effective as of the latest day of execution (the “Effective Date”), is made and entered into by and between Timberlock Partners, LP, a Texas limited partnership, whose mailing address is 1350 Orange Avenue, Suite 250, Winter Park, FL 32789 (“Owner”), and Orange County, a charter county and political subdivision of the State of Florida, whose mailing address is c/o County Administrator, P.O. Box 1393, Orlando, FL 32802-1393 (“County”).

WITNESSETH:

WHEREAS, Owner is the owner of fee simple title to certain real property, as more particularly described on Exhibit “A,” attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, Owner intends to develop all or a portion of the Property as a Multi-family Residential Development, known as Windermere Cay Phase 1B (“the Project”); and

WHEREAS, pursuant to section 23-93 of the Orange County Code (the “Alternative Impact Fee Code”) and Orange County Administrative Regulations 4.01 and 4.02, Owner conducted an Alternative Impact Fee Traffic Study (“Alternative Impact Fee

Study”) and submitted the Alternative Road Impact Fee Study Number 14-002 to County prior to the issuance of any building permit for the Project; and

WHEREAS, Owner calculated the Alternative Impact Fee in accordance with the formula set forth in section 23-93 of the Orange County Code; and

WHEREAS, on July 24, 2014, County conditionally accepted Owner’s Alternative Impact Fee calculation with the following results: Average Daily Trip Generation Rate of 5.51 trip(s) per Dwelling Unit; Percentage of New Trips 100%; LADF of 23.2%; and Assessable Trip Length of 4.85 mile(s) as all such terms are defined in the Alternative Impact Fee Code; and

WHEREAS, pursuant to the Alternative Impact Fee Code, the parties are required to enter into this Agreement.

NOW, THEREFORE, in consideration of the premises contained herein and other good and valuable consideration exchanged by and between County and Owner, the receipt and sufficiency of which are hereby acknowledged, the parties hereto stipulate and agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

2. **Conditional Acceptance of Alternative Traffic Impact Fee Calculation.** Subject to sections 3 and 4 of this Agreement, County conditionally accepts the Alternative Impact Fee calculation submitted by Owner.

3. **Monitoring.**

(a) Pursuant to Section 23-93(h), Orange County Code, within the applicable time frame, County shall conduct, or shall have begun to conduct, “monitoring.” For purposes of this Agreement, the term “monitoring” shall mean (i) taking machine traffic counts and/or manual traffic counts at all entrances and exits to and from the Project for five (5) consecutive days, excluding legal holidays, and/or (ii) conducting surveys for five (5) consecutive days to determine trip length and/ or percentage of new trips

associated with the Project. Such monitoring may be done by County or by an authorized agent acting on behalf of County.

(b) Contemporaneously with Owner's execution and submittal of this Agreement, Owner shall deliver a check to County in the amount of Three Thousand Seven Hundred Dollars (\$3,700.00) to cover County's cost of conducting monitoring pursuant to paragraph 3 (a) ("Monitoring Fees"). The check shall be made payable to "Orange County Board of County Commissioners" and shall be brought to the Fiscal and Operational Support Division of the Community, Environmental, and Development Services Department. Upon payment of the Monitoring Fees to County, no further Monitoring Fees shall be owed by Owner to County under this Agreement.

(c) If the monitoring performed by County, or by its authorized agent on behalf of County, results in any additional impact fee, Owner shall pay the difference between the Alternative Traffic Impact Fee conditionally accepted by County under section 2 above, and any additional fee shown to be owing (the "Additional Alternative Impact Fee").

(d) Owner shall pay the Additional Alternative Impact Fee to County within thirty (30) days following written demand by County to Owner, or to its successors or assigns. Owner shall pay to County, by certified cashier's check, the Additional Alternative Impact Fee, plus interest from the date of this Agreement until the date of demand, at the rate in effect on the date the monitoring is completed, as established quarterly by the Comptroller of the State of Florida for judgments and decrees, pursuant to section 55.03, Florida Statutes, as may be amended.

(e) Any Additional Alternative Impact Fee owed shall be calculated using the cost variables found in the Orange County transportation impact fee ordinance existing on the Effective Date and the monitoring variables which result from County's monitoring.

(f) If monitoring by County results in a decreased total impact fee, Owner shall not be entitled to any refund.

(g) Once paid to County, the Alternative Impact Fee, Monitoring Fees, and/or Additional Alternative Impact Fee are all non-refundable.

4. ***Expansion of Development.*** This Agreement is effective only for the limits and scope of the Project as identified, described, and approved by County as of the Effective Date. In the event the Project expands or is altered after the Effective Date, Owner or its successors or assigns shall be subject to County's usual development process, which may include payment of an additional impact fee pursuant to the fee schedule set forth in section 23-92 of the Orange County Code, as may be amended from time to time.

5. ***Early termination, renewal.*** This Agreement shall automatically terminate if Owner has not applied for and received permits for vertical construction of the Project within three (3) years of the Effective Date (the "Early Termination Date"), except that the parties may execute an amendment renewing the term of this Agreement for no more than three (3) years beyond the anticipated Early Termination Date.

6. ***Successors and Assigns.*** This Agreement shall be binding upon, and shall inure to the benefit and burden of, the heirs, legal representatives, successors, and assigns of the parties and shall run with Property and be binding upon the successors and assigns of Owner and upon any person, firm, corporation, or entity who may become a successor in interest to Property.

7. ***Notices.*** Any notice delivered with respect to this Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address set forth opposite the party's name below, or at

such other address or to such other person as the party shall have specified by written notice to the other party delivered in accordance herewith:

As to Owner: Mike Wright
1350 Orange Avenue, Suite 250
Winter Park, FL 32789
407-385-0664

As to County: Director, Orange County Public Works Department
4200 South John Young Parkway
Orlando, Florida 32839

With copies to: Orange County Public Works Department
Manager, Traffic Engineering Division
4200 South John Young Parkway
Orlando, Florida 32839

Orange County Community, Environmental,
and Development Services Department
Manager, Fiscal and Operational Support Division
201 South Rosalind Avenue
Post Office Box 1393
Orlando, FL 32802-1393

8. ***Recordation of Agreement.*** The parties hereto agree that this Agreement shall be recorded in the Official Records of Orange County, Florida, at Owner's expense, within ten (10) business days of the Effective Date.

9. ***Applicable Law.*** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and in accordance with the Orange County Code.

10. ***Specific Performance.*** County and Owner shall each have the right to enforce the terms and conditions of this Agreement only by an action for specific performance. Notwithstanding the foregoing statement, nothing herein precludes County from imposing a lien(s) against the Property for non-payment of impact fees, with interest continuing to accrue until the date of payment in full to County. Venue for any action(s)

initiated under or in connection with this Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.

11. ***Attorney Fees.*** In the event either party hereto brings an action or proceeding, including any counterclaim, cross-claim, or third party claim, against the other party arising out of this Agreement, each party in such action or proceeding, including appeals therefrom, shall be responsible for its own attorney fees.

12. ***Amendments.*** No amendment, modification, or other change to this Agreement shall be binding upon the parties unless in writing and executed by all the parties hereto.

13. ***Construction of Agreement.*** Captions of the sections of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, County and Owner have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.



COUNTY
ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: *8.19.14*

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Kate Smith*
Deputy Clerk

OWNER

TIMBERLOCK PARTNERS, LP,
a Texas limited partnership

By: MMI REAMS ROAD, LLC, a
Florida limited liability company,
General Partner

By: _____
Michael E. Wright,
Manager

Date: 7/21/14

WITNESSES:

Jessica A Jones
Print Name: Jessica Jones

Angel de la Portilla
Print Name: Angel de la Portilla

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING instrument was acknowledged before me by Michael E. Wright, as Manager of **MMI REAMS ROAD, LLC**, a Florida limited liability company, and General Partner of **TIMBERLOCK PARTNERS, LP**, a Texas limited partnership, on behalf of the said corporation and general partnership, this 21st day of July, 2014. S/he is personally known to me or has produced N/A (type of identification) as identification and did/did not (circle one) take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 21st day of July, 2014.

Madelyn Boelter
NOTARY PUBLIC

Print Name: _____
My Commission Expires: _____

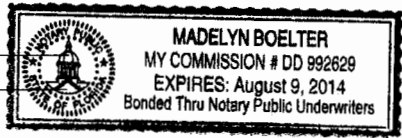


Exhibit "A"
Windermere Cay Phase 1B
02-24-27-7150-01-000

Legal Description and Sketch of Description for the Property:

Lot 1 of Sago Cay, as recorded in Plat Book 78, Pages 109 and 110, as recorded in the Public Records of Orange County, Florida

