

BOARD OF COUNTY COMMISSIONERS



May 17, 2020

Mr. Patrick Marston
Optimal Outcomes, LLC
435 5th Avenue N, Suite 200
St. Petersburg, FL 33701

Via e-mail: pmarston@optimal-outcomes.com

Re: Vero Beach MOB, LLC Traffic Impact Fee Credit Appeal

Dear Mr. Marston:

On May 12, 2020, Vero Beach MOB, LLC submitted an appeal of Bill Schutt's letter to Aaron Bowles, MBV Engineering, Inc., dated April 24, 2020, which conveyed that the proposed improvements to Indian River Boulevard do not qualify for traffic impact fee credit. In his letter, Mr. Schutt stated that the application, which was received by Community Development staff on April 21, 2020, was reviewed for completeness and eligibility. He stated the application was found to be incomplete, but still staff proceeded with the review for eligibility in an effort to expedite the project. Community Development staff coordinated with Public Works, and determined that the proposed improvements did not qualify for traffic impact fee credits in accordance with Section 1010.04(6) of the Indian River County Code of Ordinances (the "Code"), which state that no credit shall be given for site-related improvements, including but not limited to:

- Access roads leading to and from the development;
- Acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways within the development; and
- Traffic control devices (including signs, marking, channelization and signals) for those roads and driveways within the development.

Pursuant to Sections 1000.14 and 100.06 of the Code, I have reviewed the appeal submitted on May 12, 2020, along with the supporting documentation. It should be noted that the appeal submittal raises several issues that are not directly related to the impact fee credit determination. This letter will only address the pertinent points that relate to the impact fee credit and the appeal at hand. Please be aware that silence on any other assertions does not imply agreement with those points. Based upon my review of the appeal, I concur with staff's determination that the improvements are not eligible for impact fee credits as they are not allowed per Section 1010.04(6).

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Furthermore, Section 1010.04(1) only allows for impact fee credits for "...improvement(s) listed on the 20-year Capital Improvement Plan of Indian River County..." The required improvements discussed in your appeal are not included in the County's Capital Improvement Plan. Section 1010.04(6)(C) also states, "No credit shall be given for improvements..." unless such improvements meet "an expansion need of the county's road network system...". Even if the improvements met all of the other requirements, which they do not, the improvements made are not an expansion of the County's road network system. Therefore, they are not eligible for impact fee credits per Section 1010.04.

The provisions of Section 1010.04(10), which limit the types of **non-site related** improvements eligible for impact fee credits, are also instructive in this case. This Section allows credit for the following improvements, among others:

- Construction of new turn lanes (**not related to the project site**) (*emphasis added*)
- Purchase and installation of traffic signalization, including new upgraded signalization and other traffic control devices (**not related to the project site**) (*emphasis added*)
- Construction of curbs, medians, and shoulders (**not related to the project site**) (*emphasis added*)

In summary, while Section 1010.04 allows impact fee credits for **non-site related improvements**, credits are excluded if those non-site related improvements are related to the project site. This further bolsters the point that the intention of Section 1010.04 is not to allow impact fee credits for **site related improvements** like those proposed for the Vero Beach MOB, LLC project.

In conclusion, I am denying the appeal. Pursuant to Section 100.06 of the Code, you have the right to appeal my decision to the Indian River County Board of County Commissioners within ten (10) working days of my decision.

Sincerely,



Jason E. Brown
County Administrator

cc: Dylan Reingold, County Attorney
Philip Matson, Community Development Director
Richard Szpyrka, Public Works Director
Bill Schutt, Chief, Long Range Planning

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