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May 19, 2020

Commissioner Susan Adams
Commissioner Joseph E. Flescher
Commissioner Tim Zorc
Commissioner Peter D. O'Bryan
Commissioner Bob Solari
1801 27th St., Bldg A
Vero Beach, FL 32960**RE: Vero Beach MOB, LLC Appeal for Traffic Credit Impact Fee Application**

Dear County Commissioners:

Please accept this correspondence as a formal second Appeal of the County's decision to disallow Traffic Impact Fees Credit related to the Vero Beach MOB project being developed on the west side of Indian River Boulevard between 37th Street and 41st Street (the "Project"). The original application was submitted on April 15, 2020 with a subsequent Appeal submitted on May 12, 2020. Both the original application and the subsequent Appeal were denied and we are hereby reaching out to the Commission with a final attempt to garner support for the Traffic Impact Fee Credit.

Vero Beach MOB, LLC is a partnership between Optimal Outcomes, LLC and the partners of Vero Orthopaedic & Neurology ("VON") – a leading, well-respected provider of orthopaedic and related services. VON serves more than 100,000 residents of Indian River County and provides immeasurable charitable care to the community. The Project, anchored by VON, entails a new 66,000 sq. ft., two-story, Class-A medical office building and surgery center that will improve access and quality of service for thousands of Indian River County residents.

The previous Application and Appeal were denied largely on the basis of exclusions and exculpatory language within the Indian River County Code of Ordinance. We conversely have not attempted to rely upon entirely the IRC Code but rather more recent legislature, namely HB 7103. While not confirmed, we suspect the IRC Code has not been updated to incorporate this legislation but we believe State Law should supersede. That said, we also do not concur with the County's prior basis for denial and believe the interpretation of the County Code is subjective in many cases and therefore open to interpretation.

Seth Coren, M.D. | Erin Forest, M.D. | Barry Garcia, D.O. | Guy Hickman, Jr., M.D. | Aaron M. Howell, D.O.

William Kane, M.D. | Michele Ofner, M.D. | Joao (Joe) Panattoni M.D. | John Peden, M.D.

Craig A. Popp, M.D. | Kent Smillie, M.D. | Amber Morra, D.P.M. | Jason Stack, M.D.

By way of summary, during the extensive and time course of attempting to garner site approval for the proposed project we were notified on February 14, 2020 - more than 240 days after the initial meeting and multiple subsequent meetings, calls and submittals – that our plans needed to include multiple traffic improvements on Indian River Boulevard. While there was absolutely no previous reference to any of these required traffic improvements, we believe the costs thereof represent capital improvements that should be paid for with Traffic Impact Fees collected in the traditional manner.

We question the logic and, despite not being attorneys, the legality of assessing a project traffic related capital improvement (as well as the related costs) and then also assessing broad based Traffic Impact Fees according to the County's Traffic Impact Fee schedule without an offset.

- We believe this is duplicative and burdening the project with charges for the same intended use.
- We believe this process is not consistent with the intent of HB 7103 ratified in June 2019.
- We believe these improvements – all located on County owned land – are not exclusive to our project.
- We believe – and County staff has acknowledged – these last minute revisions were related to concerns over “capacity” and additional trips.
- We believe Traffic Impact Fees are collected to pay specifically for these types of capital traffic improvements so it seems inequitable that we would pay the costs and be assessed ordinary Traffic Impact Fees.

We are not seeking to avoid Traffic Impact Fees but rather to realize a credit for the costs of the traffic improvements required by the County that are being paid for by us. The amount of the credit requested in the application is significantly below the total actual costs of said improvements (\$213K versus actual cost approaching \$500K). We fully acknowledge and realize we will be paying Traffic Impact Fees – it's the cost of progress and the responsibility of enjoying and supporting necessary infrastructure. We simply do not believe it is equitable for us to be paying both without an offset.

The general question comes to mind is: If Traffic Impact Fees are *“one time charges applied to new development, providing revenue designed to accommodate capacity producing capital improvements to accommodate the demand for those improvements generated by new development in order to maintain adopted levels of service”* AND we are being required to pay directly for those capital improvements as determined by the County, where is the rest of the money going?

We respectfully ask that you review the documents accompanying this letter and reflect upon the intent of Traffic Impact Fees. Hopefully you will concur that the economic burden placed on our Project is not equitable or in line with the customary method or intent of assessing costs to a community development. We are looking forward to adding a wonderful project to Indian River County will further enhance healthcare services for the community at large.

We are pleased to answer any questions that you may have and look forward to the opportunity to discuss this matter with the Commission as soon as possible.

Thank you in advance for your time,



Patrick Marston
On Behalf of Vero Beach MOB, LLC



Seth Coren MD, President
Vero Orthopaedics & Neurology



Jennifer Davison, Chief Executive Officer
Vero Orthopaedics & Neurology