



Office of

Attorney's Matters 12/12/2023

INDIAN RIVER COUNTY ATTORNEY

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MEMORANDUM

TO: Board of County Commissioners

THROUGH: John A. Titkanich, Jr., County Administrator

FROM: William K. DeBraal, County Attorney

DATE: December 4, 2023

SUBJECT: Developer's Agreement Between Mandala Village, LLC and Indian River County

On January 21, 2020, the Board of County Commissioners (Board) approved a request by Mandala Village, LLC, to rezone approximately 79.1 acres from A-1, Agricultural-1 (up to 1 unit/5 acres) and RS-3, Residential Single Family (up to 3 units/acre) to PDTND, Planned Development Traditional Neighborhood Design. The property is located on the north west corner of 58th Avenue and 53rd Street. Please see the attached aerial photo depicting the three parcels that make up the approved development. The mixed use project includes:

- ◆ 88 single-family units
- ◆ 111 multi-family units
- ◆ a 100-room hotel
- ◆ neighborhood commercial area
- ◆ a community center with recreational/common area amenities.

As part of the PDTND, Mandala was required to enter into a Developer's Agreement with the County to construct certain improvements. Those improvements are:

Dedication of 120 feet of Right-of-Way for 53rd Street: The County's Thoroughfare Plan classifies 53rd Street as an arterial roadway that will provide a 4-lane connection from Indian River Boulevard to 66th Avenue. Mandala (and the Providence Pointe project to the south of Mandala), have coordinated with Public Works to design a roadway that requires 150' of road ROW that will be a continuation of the current design and alignment of 53rd Street on the east side of 58th Avenue through the Waterway Village project. Currently, 30 feet of road ROW exists along Mandala's entire 53rd Street frontage. Therefore, the developer has agreed to dedicate an additional 120' of ROW for 53rd Street along the project's entire 53rd Street frontage. It should be noted that a 120' ROW dedication has already been completed for the eastern $\pm 1,290'$ of the project's 53rd Street frontage. That ROW dedication was coordinated between the current owner/developer, the previous owner, and the County, and was executed when the current owner/developer purchased the property. The ROW dedication for project's remaining $\pm 2,000'$ of 53rd Street frontage must be completed within 60 days of approval of this Agreement.

Roadway Paving for 53rd Street: Currently, 53rd Street is an unpaved dirt road west of 58th Avenue, except for a 300-foot section that was constructed when the County and DiVosta expanded 58th Avenue to its current four-lane condition between 49th and 57th Streets. In the January 2020 rezoning approval, Mandala was required to construct 53rd Street as a 4-lane road from 58th Avenue to the project's primary driveway connection on 53rd Street, and then transition down to a 2-lane road to the west end of the project site. Staff anticipated that Mandala and Providence Pointe would enter into a separate agreement to four-lane 53rd Street between the two developments. That agreement was never forth coming. The County and Providence Pointe had entered into a Developer's Agreement in 2014 that called for Providence Pointe to construct their section of 53rd Street as a two-lane section along their northern boundary. This put Mandala in the position of having to construct 100% of 53rd Street as a four-lane road and relieve Providence Pointe of constructing their 2 lanes of 53rd Street. To illustrate this point, Mandala did a side-by-side comparison of the developer agreements between the County and Providence Pointe and the County and Mandala. Please see the attached comparison. Staff agrees that the two projects should be treated similarly and Mandala should have to construct only two lanes of 53rd Street and receive impact fee credit for doing so, just like Providence Pointe. Public Works staff has reviewed Mandala's traffic study and concludes that 53rd Street in its two-lane configuration will adequately meet the traffic needs of Mandala's project.

Turn Lane Improvements for 53rd Street: The following turn lane improvements are required for 53rd Street prior to preliminary PD approval for Phase 1:

- Westbound right-turn lane at the project's full access connection to 53rd Street
- Eastbound left-turn lane at the project's full access connection to 53rd Street
- Westbound right-turn lane at the project's right-in/right-out connection to 53rd Street

Drainage for 53rd Street: The developer has coordinated with Public Works, and has agreed to accept stormwater runoff generated by the paving of 53rd Street. The stormwater design for 53rd Street will be reviewed via the Land Development Permit process for Phase 1.

Right-of-Way Dedication for 58th Avenue: The County completed construction of the widening of 58th Avenue between 49th Street and 57th Street. The developer has agreed to dedicate ROW for 58th Avenue in order to accommodate the final design of the 58th Avenue widening project. The 58th Avenue ROW dedication must be completed prior to the issuance of an LDP for Phase 1.

Funding: There is no impact to County funds at this time.

Recommendation: Staff recommends the Board approve the Developer's Agreement with Mandala Village LLC and authorize the Chairman to execute it on behalf of the Board.

Attachments: Aerial photo
Comparison of Developer's Agreements
Proposed Developer's Agreement with Mandala Village, LLC

Copies to: Mandala Village LLC
Peter Sweeney, Esq.
Community Developmental Services
Chris Mora, Interim County Engineer