

ST. TAMMANY PARISH COUNCIL
ORDINANCE

ORDINANCE CALENDAR NO. 2944

COUNCIL ORDINANCE SERIES NO. _____

COUNCIL SPONSOR MR. GOULD

PROVIDED BY: COUNCIL OFFICE

INTRODUCED BY MR. STEFANCIK

SECONDED BY MR. GOULD

ON THE 7TH DAY OF OCTOBER 2004

ORDINANCE TO ADOPT A VOLUNTARY DEVELOPMENTAL AGREEMENT BETWEEN THE PARISH OF ST. TAMMANY AND FAIRWAY GARDENHOMES, L.L.C., THE DEVELOPER OF LOT 11B OF SUBURBAN ESTATES SUBDIVISION, LOCATED IN WARD 4, DISTRICT 5

WHEREAS, Fairway Gardenhomes, L.L.C., developer of Lot 11B of Suburban Estates Subdivision, has agreed in principle to enter into a voluntary developmental agreement with the Parish of St. Tammany; and

WHEREAS, this voluntary developmental agreement does not require St. Tammany Parish Planning Commission review and the Parish Council has held a public hearing concerning said agreement and does hereby conclude that said agreement is mutually acceptable, binding on all parties, and shall derive benefits for the development and to the Parish.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS: that it hereby accepts and enters into said voluntary developmental agreement with the developer of Lot 11B of Suburban Estates Subdivision, as well as any other boards, commissions, organizations or districts duly created or endorsed by the Parish Council that may be a party hereto.

BE IT FURTHER ORDAINED, that this agreement shall be recorded within the records of the St. Tammany Parish Clerk of Courts Office, if applicable, and this ordinance shall serve as an attachment thereto.

REPEAL: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance is held to be invalid, such invalidity shall not affect other parts or provisions which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY _____, SECONDED BY _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE _____ DAY OF _____, 2004; AND BECOMES COUNCIL ORDINANCE SERIES NO. _____.

PATRICIA BRISTER, COUNCIL CHAIRMAN

ATTEST:

DIANE HUESCHEN, COUNCIL CLERK

KEVIN C. DAVIS, PARISH PRESIDENT

Published introduction September 30, 2004
Published adoption _____, 2004

Delivered to the Parish President on _____, 2004 @ _____
Returned to the Council Clerk on _____, 2004 @ _____

DEVELOPMENTAL AGREEMENT

This Agreement is made and entered into this ____ day of _____, 2004, pursuant to L.S.A. - R.S. 33:4780.21 through 33:4780.33 relative to local zoning and planning, and authorizing Parishes or municipalities to enter into developmental agreements with private developers, and any other constitutional and statutory authority, by and among the following parties:

THE PARISH OF ST. TAMMANY, a political subdivision created, organized and existing under the laws of the State of Louisiana, herein represented and appearing the Honorable **KEVIN DAVIS**, the President of St. Tammany Parish, duly authorized pursuant to the Parish charter to sign and enter into this agreement on behalf of the Parish;

AND

FAIRWAY GARDENHOMES, L.L.C., a company organized and legally operating in the State of Louisiana and owner of "Lot 11B of Suburban Estates", herein represented by its duly authorized representative, Mr. Leroy J. Laporte, Jr., whose mailing address is 452 Iris Avenue, Jefferson, Louisiana 70121.

The above captioned parties hereinafter may be collectively referred to as "**Parties**", the Parish of St. Tammany may be hereinafter referred to as "**Parish**", and the individual, corporation, company or partnership may be hereinafter referred to as the "**Developer**".

WITNESSETH

WHEREAS, the St. Tammany Parish Police Jury enacted Ordinance No. 92-1655 which authorizes the Parish of St. Tammany to enter into Developmental Agreements with developers of land; and to provide for the contents, periodic review, enforcement and applicability of said agreements; for amendment, cancellation, modification and/or suspension; and

WHEREAS, the lack of certainty and the approval of development projects can result in a waste of resources, escalate the cost of development to the consumer, and discourage investment and commitment to comprehensive planning. However, assurances made by the Parish to the Developer that he may proceed with the project in accordance with existing policy, rules, and regulations, will facilitate the public planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development; and

WHEREAS, it is the intent of the parties to enter into an Agreement which specifies the duration of the agreement, the permitted uses of the property, the density and intensity of use, and any other such

provisions deemed appropriate by the parties; and

WHEREAS, said contract may include terms, restrictions and requirements for subsequent discretionary actions by the Parish, provided that said actions shall not prevent the development of the land for the user and to the density or intensity of use as may be set forth within this Agreement.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained within this Agreement, the parties hereby and henceforth agree to bind themselves as follows:

ARTICLE I. ASSESSMENT & COLLECTION

The parties hereby covenant and agree that the Parish shall collect, and the Developer shall pay through voluntary assessment, a developmental impact fee in the amount of Seven Hundred Fifty Dollars (\$750.00) per condominium unit, which shall be due and payable when the Developer first sells and/or leases (procures a certificate of occupancy), whichever occurs first, a unit to a third party within "**Lot 11B of Suburban Estates**". No impact fees shall be due upon the subsequent sale or lease of units.

The closing attorney, in the event of a cash sale, or the Developer, in the event of a lease, shall be responsible for withholding impact fees owed to the Parish and shall remit said fees no later than thirty (30) days from the date of the initial sale and/or lease of a unit, but in any case not prior to the recordation of the act of sale and/or lease of any unit.

Furthermore, Developer shall provide a set of all drainage plans and specifications (previously approved by the St. Tammany Parish Department of Engineering) to St. Tammany Parish Gravity Drainage District No. 5 for review by its engineer, and Developer shall pay a one-time review fee (not to exceed \$500) to St. Tammany Parish Gravity Drainage District No. 5 in connection therewith.

ARTICLE II. ACCOUNTING & DISBURSEMENT

The developmental impact fees collected shall be remitted to the St. Tammany Parish Department of Finance, P.O. Box 628, Covington, LA 70434 by the Developer or the closing attorney. Impact fees shall be paid by check and made payable to "St. Tammany Parish". Said fees shall be drawn on a local bank and deposited into an escrow account established in the name of Fairway Gardenhomes, L.L.C.

The funds within the escrow account shall be controlled and regulated by the St. Tammany Parish Department of Finance. Escrow funds shall be made available for disbursement, when a project meeting the requirements herein has been presented to, reviewed, and recommended by the St. Tammany Parish Gravity Drainage District No. 5.

ARTICLE III. EXPENDITURE CRITERIA

In consideration of the Developer paying voluntary developmental impact fees as cited in Article I. herein, St. Tammany Parish hereby covenants and agrees that said developmental impact fees shall be

expended for any public drainage infrastructure improvements, within St. Tammany Parish Gravity Drainage District No. 5, and any associated costs and reimbursable expenses of the St. Tammany Parish Gravity Drainage District No. 5 in connection therewith.

ARTICLE IV. ENFORCEMENT

The parties hereto pledge their mutual cooperation in complying with the terms and conditions of this Agreement. However, should the Developer, its successors or assigns, fail to remit impact fees in a timely manner when due, the Parish shall reserve the right to refuse to issue building permits and/or certificates of occupancy, stay the construction of existing units or sites, or restrict any other activities relative to the Developer's project until said payments are made, and/or any and all other remedies available to the Parish in law or equity.

ARTICLE V. TERMINATION & BINDING NATURE

This agreement shall be binding upon the parties hereto for a period until the last unit within the project has been sold and/or leased by the Developer to a first purchaser and/or lessee thereof, or all impact fees have been paid. Additionally, this Agreement, unless otherwise specified herein, shall be binding upon any and all subsequent phases or additions to the project thereof.

This Agreement may be amended from time to time by mutual consent of all parties made a part hereof, and shall be binding upon and shall inure to the benefit of the parties hereto, and its successors and/or assigns.

ARTICLE VI. RECORDATION

This Agreement shall be approved by ordinance by the Parish governing authority and shall be recorded in the mortgage records of the St. Tammany Parish Clerk of Court, if applicable, no later than ten (10) working days after all signatures have been obtained. Said Agreement shall be considered a covenant running with the land and shall be binding upon the Developer and his successors and or assigns in title thereto.

ARTICLE VII. CANCELLATION OF DEVELOPER'S OBLIGATIONS

This Agreement in effect constitutes a lien against the Developer and his property and obligates the Developer and or his attorney to collect the assessments due to St. Tammany Parish arising from said Agreement. At the request of the attorney closing the sale and/or lease of a unit and conveying title to a first purchaser or occupancy to a first lessee other than the Developer, the Parish shall release from lien the unit being conveyed and/or leased by said attorney, in order to afford clear title.

The Director of Finance or his or her designee shall act as agent for the Parish and have the authority to sign off on any partial releases provided by the closing attorney, when and if requested, for units where

impact fees have been paid.

Upon the final payment of all developmental impact fees due to the Parish, the Parish, through the Director of Finance or his or her designee, shall cancel the Developmental Agreement from the mortgage records recorded in the St. Tammany Parish Clerk of Courts Office.

ARTICLE VIII. CONTRACTUAL VALIDITY

In the event that any one or more provisions of this Agreement is for any reason held to be illegal or invalid, the parties shall attempt in good faith, to amend the defective provision in order to carry out the original intent of this Agreement. Furthermore, all parties shall agree to negotiate in good faith, refrain from challenging the validity or legality of this Contract, and join in the defense of any legal challenge to this Contract. Any legal expenses incurred as a result of any challenge to the legality of the Agreement by a third party shall be equally shared by the parties made a part hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in multiple originals by the hereunder signed officers, each in the presence of the undersigned two (2) competent witnesses in St. Tammany Parish, State of Louisiana, as of the date first herein above set forth, after diligent reading of the whole, in various counterparts.

WITNESSES:

Honorable Kevin Davis, President
St. Tammany Parish

Fairway Gardenhomes, L.L.C.
By Leroy J. Laporte, Jr.