



MEMORANDUM

Date: November 25, 2014

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **County Response to Star Valley Subdivision Assurance Compliance by USH/SVA
Star Valley, Inc. and Developers Messrs. Alan Jones and Joseph Cesare**

The County has been in negotiations with Messrs. Jones and Cesare regarding development of property in Star Valley. We have made significant progress in a number of areas; however, there are areas that could derail these positive negotiations.

Our latest response to the offer of the developers is attached for your review. We have been more than reasonable in the attempts to resolve this matter. If resolution is not achieved by December 8, 2014, I will recommend the Board proceed with abandonment of the subdivided properties pursuant to our assurance agreements with the owners and developers.

CHH/anc

Attachment

c: John Bernal, Deputy County Administrator for Public Works
Leslie Lukach, Deputy County Attorney
Carmine DeBonis Jr., Director, Development Services



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317
(520) 724-8661 FAX (520) 724-8171

C.H. HUCKELBERRY
County Administrator

November 21, 2014

Mr. Alan M. Jones
Division President, Lennar
1725 W: Greentree Drive, Suite 114
Tempe, Arizona 85284

Joseph R. Cesare, Vice President
SVA Corporation
4855 E. Broadway Boulevard, Suite 103
Tucson, Arizona 85711

Re: USH/SVA Star Valley, LLC November 13, 2014 Response Settlement Terms

Dear Messrs. Jones and Cesare:

The County has reviewed your November 13, 2014 response to the settlement terms outlined in my October 31, 2014 correspondence. Below is the County's response on each of the settlement items where conceptual agreement has not been reached through previous correspondence (Pima County letters dated October 6, 2014 and October 31, 2014; UHS/SVE Star Valley LLC letters dated October 15, 2014 and November 13, 2014).

2. *Camino Verde (#6). Camino Verde will be constructed as a two-lane roadway from Wade Road/Los Reales to the development plan boundary in years 2002-2003.*

Pima County October 6, 2014 Summary: This improvement has been completed.

USH/SVA October 15, 2014 Response: No response necessary.

Pima County October 31, 2014 Response: Parties are in agreement that the two-lane construction of Camino Verde has been completed from Wade Road/Los Reales to the development boundary. The Specific Plan Circulation Concept Plan (Pages 77 through 83) requires Type I roadways Wade/Los Reales and Camino Verde/Yedra to be constructed as

four-lane roadways with a center median and sidewalks. Per the Implementation Program, Section VII of the Specific Plan, Section E (Page 115) indicates the primary and secondary developers are responsible for construction of the Type I roadways as depicted in Exhibit 21. Widening of Wade Road between Valencia and Dove Wood Way was identified in the 2006 Traffic Impact Addendum to occur when traffic volumes approach 17,000 vehicles per day, which was anticipated to take place after completion of 2,100 Star Valley units. To date approximately 1,280 units have been permitted. Blocks 4, 7 and 8 include a combined 1,079 units; which would bring the total, once these are constructed, to over 2,100 units. . The developer obligation to widen the Type I roadways remains. The settlement agreement shall include USH/SVA Star Valley, LLC acknowledgement and acceptance of this obligation with the development of Blocks 4, 7 and 8, along with all other obligations depicted in the approved Specific Plan, Master Block Plat, subsequent plats and all associated studies provided as required to obtain County approval.

USH/SVA November 13, 2014 Response: The 2006 TIA referenced above does not require the extension of Camino Verde from the project boundary to Valencia Road. The County is currently constructing this extension. USH/SVA Star Valley, LLC will agree to widen the Spine Roads within the Star Valley boundary at the time that a revised Traffic Impact Analysis requires the widening based solely on the traffic impacts related to Star Valley.

Pima County Response: Pima County agrees the widening of Wade Road as depicted in the Specific Plan for Type I roadways can occur when shown to be warranted by Traffic Impact Study provided an updated Traffic Impact Study is submitted with each plat or commercial development plan for the undeveloped blocks within Star Valley (excluding Blocks 4, 7 and 8), and subject to the establishment of a timeline acceptable to Pima County for the installation of sidewalks as depicted in the Type I roadway detail. As noted in the County's October 31, 2014 response, the final settlement agreement shall include USH/SVA Star Valley, LLC acknowledgement and acceptance of all other obligations depicted in the approved Specific Plan, Master Block Plat, subsequent plats and all associated studies provided as required to obtain County approval.

4. Camino Verde/Valencia Road Intersection (#8). This intersection will be signalized, as warranted, between years 2005 and 2010. Pima County and Star Valley will share in the funding of this improvement.

Pima County October 6, 2014 Summary: Pima County will pay for the traffic signal installation at this location.

USH/SVA October 15, 2014 Response: No response necessary.

Pima County October 31, 2014 Response: Parties are in agreement. Pima County payment will be for the permanent traffic signal installation that occurs with the Valencia

Road improvements. A temporary signal will be installed with the Camino Verde roadway construction to allow the intersection to function until the Valencia Road improvements are completed. The temporary signal cost is included in the costs that will be reimbursed by USH/SVA Star Valley, LLC as agreed in Item 3 above.

USH/SVA November 13, 2014 Response: USH/SVA Star Valley, LLC is willing to reimburse Pima County for the temporary signal at Camino Verde Road as long as the cost does not raise our exposure from the agreed upon cap of \$1,501,811.00. USH/SVA Star Valley would like to Pima County to provide the costs related to this specific item.

Pima County Response: Parties are in agreement.

6. Los Reales Road (#12). Los Reales Road will be constructed as a two-lane roadway from Camino Verde to Viviana in the years 2002-2003.

Pima County October 6, 2014 Summary: UHS/SVA Star Valley, LLC will construct this improvement at the time of development of adjacent Blocks 21, 25 and 19. The improvements will be completed prior to release of these blocks from the assurance trust or any lots within or the provision of substitute assurances agreeable to Pima County.

USH/SVA October 15, 2014 Response: We agree with the above concept as long as it is understood that each Block will be able to have separate independent Assurance Agreements.

Pima County October 31, 2014 Response: Separate agreements are acceptable provided USH/SVA Star Valley, LLC is a party to each of the agreements.

USH/SVA November 13, 2014 Response: USH/SVA Star Valley, LLC agrees to be a party to these separate assurance agreements. We also will require that a separate assurance agreement be in place for the improvements related to the extension of Los Reales east of Block 18. The purpose of separating the spine road infrastructure is to allow USH/SVA Star Valley LLC to substitute out of the assurances related to any internal improvements within Blocks 19, 21 and 25 should those Blocks be sold to a Third Party.

Pima County Response: Parties are in agreement.

10. Yedra Road (#16). Yedra Road will be improved as a two-lane roadway from Camino Verde to Vahalla Road. The actual connection to Camino Verde shall not occur until this roadway is complete. This roadway would be constructed as an at-grade roadway. This project would be eligible for development impact fee credit. Pima County shall be responsible for right-of-way acquisition and clearance of encroachments. Pima County will exercise its power to require Utility Companies to relocate their facilities necessary for roadway construction.

Pima County October 6, 2014 Summary: This improvement has been completed to the west boundary of the Star Valley development. The remaining segment from the west project boundary to Vahalla will to be constructed by UHS/SVA Star Valley, LLC when determined necessary by an updated Traffic Impact Study. Construction of this segment is eligible for development impact fee credit.

USH/SVA October 15, 2014 Response: This is contrary to our understanding of the meeting discussion. USH/SVA Star Valley, LLC did not agree to this improvement. It was decided at the meeting that there was no benefit or need for this alignment to Star Valley. If this alignment is desired in the future, then that party who desires that alignment can construct the improvement.

Pima County October 31, 2014 Response: Pima County acknowledges that the USH/SVA Star Valley, LLC position during the meeting was that this roadway is not needed. Pima County has no basis to concur with this position at this time. The improvements are as required by the Specific Plan and the transportation financing and implementation plan. An updated Traffic Impact Study reviewed and approved by Pima County is necessary to confirm whether the roadway is needed as a result of Star Valley traffic. If the roadway improvements are not needed as evidenced by the updated Traffic Impact Study based on projected Star Valley build-out, the improvements will not be the responsibility of USH/SVA Star Valley, LLC.

USH/SVA November 13, 2014 Response: The parties are not in agreement. This is an offsite obligation that if needed is the responsibility of Pima County.

Pima County Response: Similar to Camino Verde, the Yedra extension is a developer obligation of the Specific Plan, original Traffic Impact Study and the transportation financing and implementation plan. Construction of this roadway segment is eligible for impact fee credit. Pima County is agreeable to relieving UHS/SVA Star Valley, LLC of this obligation if demonstrated by an updated Traffic Impact Study that the Yedra extension is not required at projected Star Valley build-out. Without an updated Traffic Impact Study, it is premature to eliminate this developer obligated improvement.

Settlement Terms and Claims Dismissal

Pima County October 6, 2014 Summary: The above represents our understanding of the general terms of settlement of the outstanding dispute between UHS/SVA Star Valley, LLC and Pima County. As part of settlement, all pending litigation and claims against the County, including those filed by Mr. Joseph R. Cesare in his personal capacity and in his capacity as shareholder, director and Vice President of SVA Corporation, will be dismissed. Pima County will likewise dismiss its counterclaim filed against USH/SVA Star Valley, LLC.

USH/SVA October 15, 2014 Response: USH/SVA Star Valley, LLC will dismiss with prejudice its claims in Pima County Superior Court Case No. C2014 4304 and Pima County shall dismiss its Counter-claims with prejudice. The parties shall execute a mutually agreed upon mutual settlement agreement and release.

Pima County October 31, 2014 Response: The parties are not in agreement. In addition to dismissal with prejudice of the claims in Pima County Superior Court Case No. C20144304 and Pima County's Counterclaims, all other pending litigation and claims against the County, or its employees that have arisen or could arise out of the facts leading up to the settlement, including those filed by Mr. Joseph R. Cesare in his personal capacity and in his capacity as shareholder, director and Vice President of SVA Corporation, must either be dismissed with prejudice, if already filed, or released, if not yet filed. Dismissal or release shall include the August 13, 2014 Notice of Claim pursuant to ARS 12-821.01 submitted by Munger Chadwick, PLC, on behalf of Mr. Joseph R. Cesare in his personal capacity and in his capacity as the shareholder, director and Vice President of SVA Corporation, and Pima County Superior Court Case No. C20145528 filed on October 17, 2014 related to the Valencia Road improvement project that continues to make false and defamatory claims about the County's actions related to the Star Valley development.

USH/SVA November 13, 2014 Response: USH/SVA Star Valley, LLC is in good faith making the effort to resolve our issues. We feel that we are making great progress but feel that the request by Pima County to have other issues resolved in this settlement are inappropriate. Any issues related to SVA Corporation and Pima County need to be settled separately. USH (US Home) should not be held hostage by this unreasonable request.

Pima County Response: Pima County has likewise participated in good faith. Unfortunately, during our efforts to resolve issues, one of the members of the UHS/SVA Star Valley, LLC partnership, Mr. Joseph R. Cesare, filed a lawsuit against Pima County alleging the plaintiff is in a dispute with the County over infrastructure for Star Valley, that impact fee monies collected from Star Valley have not been applied to infrastructure improvements of benefit to Star Valley, that no contractual or regulatory obligation exists for the Star Valley developer to pay for offsite improvements, that the County is attempting to force additional payment for improvements by withholding building permits and de-platting portions of Star Valley, that the County has publically defamed the plaintiff and that the underlying cause of the County's actions is motivated by political retribution. Given the tactics of Mr. Cesare, whereby the alleged claims in his lawsuit are directly linked to the settlement terms being discussed, the County will not proceed with any settlement of the Star Valley issues without dismissal or release of the pending litigation and claims noted in my October 31, 2014 letter. We also understand a settlement offer has been made in the C2014 5528 case related to the median opening associated with the Valencia Road improvement project, and we are certainly willing to negotiate this issue separately.

Expedited Plan Approval

Pima County October 6, 2014 Summary: Not included.

USH/SVA October 15, 2014 Response: The County will agree to expedited reviews for the re-approval of the Improvement Plans for Blocks 4, 7 and 8. It is also agreed that for as long as the engineer of record confirms that the codes have not changed to warrant any modification for these plans, the County will re-approve these plans as originally drafted.

Pima County October 31, 2014 Response: Upon execution of a settlement agreement, Pima County will perform an expedited plan review for the Improvement Plans for Blocks 4, 7 and 8 and will re-approve plans as originally drafted provided that no codes have changed that warrant modification. Full plan review fees will be paid by USH/SVA Star Valley, LLC.

USH/SVA November 13, 2014 Response: Pima County agreed to an expedited review for the re-approval of Blocks 4, 7 and 8 and stated that the fee would be 50 percent of the standard fee as long as the plans did not require any modifications cause by code changes. USH/SVA Star Valley would like Pima County to consider this request. Pima County needs to reimburse USH/SVA Star Valley for fees paid on October 18, 2006 in the amount of \$22,837.06 related to Star Valley Block 4.

Pima County Response: Upon execution of a settlement agreement, Pima County will perform an expedited plan review for the Improvement Plans for Blocks 4, 7 and 8 and will re-approve plans as originally drafted provided that no codes have changed that warrant modification. Pima County agrees to charge 50 percent of the standard plan review fee for each review; however, previously paid fees will not be reimbursed.

A response is requested within 10 calendar days of the date of this letter. If the outstanding items are not resolved to the satisfaction of Pima County within this timeframe, the abandonment plats for Star Valley Blocks 4, 7 and 8 will be scheduled for Board of Supervisors consideration.

Sincerely,



C. H. Huckelberry
County Administrator

CHH/mjk

c: John Bernal, Deputy County Administrator for Public Works
Carmine DeBonis, Jr. Director, Development Services