

RESOLUTION NO. 2004-21

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING THE REGIONAL ROAD CONCURRENCY AGREEMENT BETWEEN BROWARD COUNTY, THE TOWN OF SOUTHWEST RANCHES, AND CHURCH OF CHRIST GRIFFIN ROAD, INC.; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR AND TOWN ATTORNEY TO EXECUTE SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

WHEREAS, on June 24, 2002, the Town Council approved Resolution No. 2002-55, approving the Church of Christ Griffin Road First Addition Plat; and

WHEREAS, as part of the plat approval the Town required that there must be sufficient capacity of the regional roadway network as determined by Broward County; and

WHEREAS, in the event that sufficient capacity cannot be met, then the plat will be deemed denied by the Town; and

WHEREAS, after reviewing the capacity of the regional roadway network, Broward County has determined that sufficient capacity of the regional roadway network can only be met if all vehicular traffic is prohibited from entering or exiting the site between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m., Monday through Friday, except for any incidental trips not related to any scheduled services or events; and

WHEREAS, to effectuate Broward County's findings, Broward County has required that the County, the Town, and the Church of Christ Griffin Road, Inc., enter into a Regional Road Concurrency Agreement ("Agreement"), to establish the time restrictions; and

WHEREAS, without the execution of this Agreement, the plat would fail to meet sufficient capacity of the regional roadway network and would be deemed denied by the Town.

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: The foregoing "WHEREAS" clauses are true and correct and are hereby ratified and confirmed by the Town Council. All exhibits referenced herein and attached hereto are hereby incorporated herein.

Return recorded document to:

Development Management Division
115 S. Andrews Avenue, A240
Fort Lauderdale, FL 33301

Form prepared by: Broward County Attorney's office
Document prepared by:

This instrument was prepared by:
L. Michael Osman, Esquire
1474-A West 84 Street
Hialeah, Florida 33014

NOTICE: PURCHASERS, GRANTEEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY.

**CONCURRENCY AGREEMENT
LIMITATION OF HOURS OF USE OF FACILITIES**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

AND

TOWN OF SOUTHWEST RANCHES, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "TOWN,"

AND

CHURCH OF CHRIST GRIFFIN ROAD, INC., its successors and assigns, hereinafter referred to as DEVELOPER,

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the Regional Transportation Network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, more specifically requires that an application for a development permit satisfy concurrency requirements for impact areas; and

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WHEREAS, DEVELOPER has applied for approval of or an amendment to the Church of Christ Griffin Road First Addition Plat, hereinafter referred to as "PLAT," more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, on MARCH 11, 2003, the Broward County Development Management Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of or amendment to the PLAT does not satisfy the impact area concurrency standards for the regional road network as stated in the Broward County Land Development Code ("CODE"); and

WHEREAS, the DEVELOPER seeks to satisfy this requirement with respect to the proposed development of the PLAT which falls within a impact area, by entering into this Regional Road Concurrency Agreement for the limitation of the hours of use of the facilities to be located within the PLAT, NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, the parties agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. DEVELOPER agrees to restrict the use of the facilities located within the area covered by the PLAT in accordance with Exhibit "B".
3. DEVELOPER agrees to provide the COUNTY and the TOWN, prior to October 1 of each year, with a written affidavit certifying that the restrictions contained in Exhibit "B" continue to be met.
4. DEVELOPER agrees that employees or agents of COUNTY and the TOWN may observe activity within the PLAT, from time to time, without notice to DEVELOPER, in order to verify compliance with this Agreement.
5. COUNTY finds that execution of and adherence to this Agreement on the part of DEVELOPER satisfies the requirement of Chapter 5, Article IX, Broward County Code of Ordinances, that plats of land shall be designed to provide for the adequacy of the regional road network, at the adopted levels of service, concurrent with the impact of the development. Nothing in this Agreement shall be construed as constituting a waiver or an exemption from road impact fees authorized to be assessed by COUNTY to DEVELOPER under the provisions of Chapter 5, Article IX, Broward County Code of Ordinances.
6. This Agreement shall continue to be in full force and effect and may be enforced against the DEVELOPER or its successors or assigns by the COUNTY and the TOWN through a Court of competent jurisdiction should the DEVELOPER or its successors or assigns fail to restrict the facilities in accordance with Exhibit "B."

7. If traffic capacity on the affected road segment(s) becomes available, so that such road segment(s) operate(s) at an acceptable level of service including the traffic generated by the PLAT, and the DEVELOPER is able to demonstrate such change in circumstances to the COUNTY and the TOWN, DEVELOPER may request an amendment to this agreement to eliminate those restrictions that are determined to no longer be necessary to mitigate the traffic impacts of the PLAT.
8. DEVELOPER agrees and acknowledges that without this Agreement, DEVELOPER would fail to satisfy the requirement of Chapter 5, Article IX, Broward County Code of Ordinances relating to Regional Roadway Concurrency and that the issuance of governmental approvals by the COUNTY and the TOWN, including but not limited to, plat approval, site plan approval, building permits and certificates of occupancy are based upon compliance with this Agreement. If the TOWN determines that the DEVELOPER is in breach of this Agreement, in addition to the remedies set forth in paragraph 6. above, the TOWN may give the DEVELOPER notice of the breach. Upon receipt of the notice of breach, DEVELOPER agrees to cease operation until such time as the TOWN can sufficiently determine, in the TOWN's sole discretion that the breach has been or can be cured. If the TOWN determines that the breach cannot be cured, DEVELOPER agrees to cease operation until such time as an alternate Regional Roadway Concurrency mitigation plan has been submitted to and approved by the COUNTY.
9. TOWN and DEVELOPER agree that a breach of this Agreement shall also constitute a violation of the TOWN's Code of Ordinances and in addition to any and all remedies contained herein, the provisions of this Agreement may be enforced, in the TOWN's sole discretion, as a code violation.
10. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director, Development Management Division of Broward County
115 South Andrews Avenue, Room A240
Fort Lauderdale, FL 33301

For the TOWN:

Keith Poliakoff, Deputy Town Attorney
3111 Stirling Road
Fort Lauderdale, FL 33312

For the DEVELOPER:

Church of Christ Griffin Road, Inc.

14550 Griffin Road
Sunshine Ranches, FL 33330

11. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County Florida, at the DEVELOPER'S expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
12. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.
13. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
14. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

15. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
16. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
17. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement and recorded in the public records of Broward County, Florida.
18. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the _____ day of _____, 20____, TOWN, signing by and through its MAYOR, duly authorized to execute same and DEVELOPER, signing by and through its PRESIDENT, duly authorized to execute same.

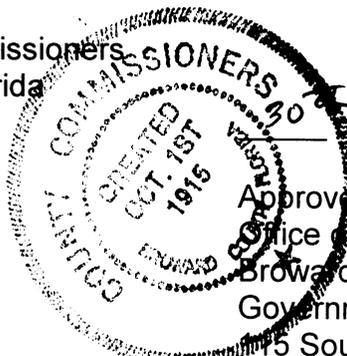
COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS


County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

By 
Mayor



_____ day of June, 2004.

Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
15 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By 
Assistant County Attorney

17th day of June, 2004.

TOWN

WITNESSES:

Emily M'ond

Patricia Canada

ATTEST:

Shari Canada
Shari Canada, Town Clerk

TOWN OF SOUTHWEST RANCHES

By Mecca Fink
Mecca Fink, Mayor

14 day of May, 2004.

By John Canada
John Canada, Town Administrator

14 day of May, 2004.

APPROVED AS TO FORM:

By Keith Poliakoff
Keith Poliakoff, Deputy Town Attorney

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1

The East 400 feet of Tract 44 of Section 27, Township 50 South, Range 40 East of Florida Fruit Land Company's Subdivision No. 1 as recorded in Plat Book 2, Page 17 of the Public Records of Miami-Dade County, Florida. Subject property lying and being in Broward County, Florida. Containing ± 3.03 acres.

Legal Description

Parcel 2

Tract A of "Church of Christ Griffin Road" according to the Plat thereof as recorded in Plat Book 108, Page 46 of the Public Records of Broward County, Florida.

EXHIBIT "B"

RESTRICTIONS

PLEASE CHECK THE APPROPRIATE BOX OR BOXES.

- All vehicular traffic shall be prohibited from entering or exiting the site between 7:00a.m. and 9:00a.m. and 4:00p.m. and 6:00p.m., Monday through Friday, except for any incidental trips not related to any scheduled services or events.
- Other restrictions as set forth below: