

CITY OF SUNSET HILLS, MISSOURI

MEMORANDUM

To: Thomas Hrastich

From: Wes Searcy

Date: December 6, 2006

Re: Tapawingo Road Acceptance Study

I've looked into the subject of Tapawingo Road Acceptance by the City of Sunset Hills. I looked into what documentation the City has to either accept or deny requests to take over these streets. I can tell you that if these streets are made a part of our street network, we will need to look at increasing our street department operation as we are currently bulging at the seams in our current facility and stretched past our functional capacity in terms of manpower.

What's recorded in the record plats for all of the developments in Tapawingo?

I found files recorded dating back to 1991 that included floodplain studies, golf course grading plans, etc. Not much other than the development of the golf course seemed to occur until about 1995 or 1996 when record plats for the residential development were brought forward and subsequently denied due to the proposal of zero lot lines and numbers of parcels that differed from the original concept of this planned development. Also, the development of the golf course only included trailers for a clubhouse, which would later become a sticking point for the Board of Aldermen toward further approvals that were eventually granted for residential development.

In 1997, an agreement was reached and a record plat for Tapawingo Place was recorded with Gary Player Drive and Tapawingo Place streets included. Text in the record plat clearly indicates the intent of a private road and states that all maintenance to be on the part of the property owners.

Subsequent record plats for:

- Tapawingo Plat One (10/01) – part of Caddyshack Circle, Marchem Circle and Pagada Parkway;
- Tapawingo Plat Two (6/02) - part of Caddyshack Circle;
- Tapawingo Plat Three (12/02) - part of Caddyshack Circle, part of Maple Lane and Sunny Dawn Court;
- Tapawingo Plat Four (7/03) – part of Maple Lane, Kahalia Way, part of Caddyshack Circle; all indicate this same intent of private streets with maintenance of the same to be by the Trustees of these subdivisions.

In 2005, Tapawingo on the Green's record plat that was recorded in January and the text here was clearly different from all of the earlier plats. It indicated "All easements and Private Streets" being dedicated to the City of Sunset Hills, but it did not ascribe the eventual maintenance of the same to anyone.

It appears that prior to 2005, the City was accepting the development stages and thus the approvals of Tapawingo with the clear understanding that the streets were to remain private.

What is the construction of the Streets of Tapawingo and are they built to City Standards?

Since the discussion of the plan for Tapawingo started in 1991, I was concerned that the streets may not have been built to code. I thought that the subdivision regulations were upgraded in 1992. According to Appendix A of the code, Ordinance 974 dated, December 4, 1990 was the last update. This update brought concrete pavement thickness up to 8" for primary streets and 7" for secondary streets. This criterion adopted in 1990 also required 1" diameter doll rods on the centerline and at all lateral joints in the pavement. The streets would also have to have under drains tied into the storm sewers and 4" of Type 1 aggregate base under the pavement.

I found improvement plans for all of the roads except Gary Player and Tapawingo Place. All of the other streets in the development according to the improvement plans accepted by the City indicate they meet the criteria of the 1990 Subdivision Regulations.

I did not inspect these streets during construction. I think we can determine some of the items like looking in the storm sewers to see if under drains have been placed. We might also see if the Parks Department has a metal detector to determine if there is metal to be found at the joints. The thickness of the pavement and base rock might be found out once a slab is replaced.

Tapawingo is not home free regarding meeting our subdivision regulations. I could not find improvement plans to show me how Gary Player and Tapawingo Place were constructed.

The largest issue I've found is the grading of the streets. According to the improvement plans, there are numerous locations where the street grade exceeds the range of 1% minimum to 7% maximum street grade. I found routine grades of 8, 10 and even up to 11.74% pavement grades. According to the Subdivision Regulations, pavement grade can be proposed to go as high as 10% if 2/3 of the Planning & Zoning Commission approves the relaxation of this requirement. The problem for Tapawingo, a relaxation of this requirement was never requested. The vote to approve the improvement plans was unanimous, but again, grade was never discussed nor proposed for approval or acceptance by the City.

It is worth noting here that the Subdivision Regulations also require that some pavement standards be met even though they are proposed to be private streets for perpetuity. Appendix A, Section 2.1, subsection L states, "Private streets, including multiple family access streets shall have pavement thickness constructed to city standards. Maintenance of these streets shall be the sole responsibility of the property owners or trustees of the subdivision." In the case of Tapawingo, it was understood by the developer (and those who bought homes in the development) that the City

would require that the pavement standards be met even though the street network was dedicated for private maintenance for perpetuity.

What have City meeting minutes recorded on the subject of Tapawingo Street Acceptance?

Planning & Zoning Minutes from April 4, 2001 indicate that there was interest in dedicating right of way to the City by the developers. An attorney for Tapawingo Partners expressed opposition to layout and liability concerns of the project. Concern over cart crossings of streets was discussed too. Planning & Zoning's recommendation to the Board of Aldermen was unanimous, but conditional. They required an answer by the developer as to the City's potential liability if the roads eventually become public due to the cart path crossings.

To my knowledge, there are four cart path crossings in Tapawingo. There are actually five if you consider the two that are commonly used close to the club house. The clubhouse area will routinely have carts using Gary Player Drive for several hundred feet to go from one end of the parking lot to the other. The actual marked crossing is on the northeast end of the parking lot. There is one on Gary Player close to West Watson. There is one close to the southwest end of Caddyshack Circle. Then there is the crossing that involves the approach to a golf course hole on top of the hill on Maple Drive.

At the Board of Aldermen approval on May 8, 2001, the developer answered the liability question definitively by stating at the outset of his presentation to the Board that, "the roadways will now be private streets, not city streets as approved with the Preliminary Plan. Mr. Williams noted that the Record Plat notes roads are private roadways." With this intent in mind, the Board of Alderman codified this by approving Bill #3, which became Ordinance No. 1445.

There is text in Ordinance No. 1445 that says, "... the question of liability of the City of Sunset Hills for the public roadways that will be dedicated to the City and requested to be accepted by the City relative to the golf cart crossing(s) and errant golf balls, be examined and answered to the satisfaction of the Board of aldermen." As I understand the process, that answer was achieved in the response by the developer in the associated Public Hearing where he declared, "... the roadways will now be private streets, not city streets as approved with the Preliminary Plan."

Apparently there is recent discussion regarding this topic. Former Alderman and resident of Tapawingo, Bob Meiners has contacted me about inspecting the street network in the development with the intent of telling them what they need to do to bring the streets up to an acceptable quality for the City.

Running a scan of Public Works Committee Minutes on the topic of Tapawingo, I found one hit regarding the acceptance of private streets by the City that spoke about Tapawingo. From the minutes of June 14, 2005 of the Public Works Committee, "Mr. Williams commented that he has a meeting set up regarding the streets in Tapawingo. He stated that the storm sewers in this area are also considered private by MSD. Mr. Williams expressed concern over the cart path crossings. He said that a larger problem is up on Tapawingo Place where the 5th fairway crosses the street."

In Summary:

1. We are not sure, but might be able to verify that some of the streets were constructed to City Code with respect to their cross section, reinforcement requirements and under drains.
2. All streets were required to be built to City Standards even with the understanding that they were to remain private.
3. There are numerous sections of roadway that are steeper than what is allowed in the Subdivision Regulations.
4. There is one section of road that is steeper than what could be allowed via variance by Planning & Zoning.
5. At no point did the developers ask for a street grade variance as they held the intent for this development to remain private.
6. The presentation of this development from the petitioners from the very beginning through 2001 was to have a private road network of streets.
7. Several Record Plats codified by Ordinance clearly state that rights of way or common ground are for the maintenance by the owners or trustee associations created by those subdivisions.
8. The developer did eventually look into the prospect of seeing if the City could/would take over the streets, but opted to keep them private as cart path crossings presented too difficult a challenge to an approval of his improvement plans he was seeking. It might have been his concealed intent to allow the eventual political power that would form with the eventual development of 152 residences within one ward.
9. The development should have been sold to all residents who bought homes as being a private development, with private streets requiring their eventual maintenance as indicated on the record plats.
10. It is worth noting that since 2004, the City provides snow removal service to this network of streets via Indemnification Agreements from the subdivision trustee associations. This is a routine service we provide to private streets that are kept up to a certain level of maintenance. It is not used by all private subdivisions in the City as some choose to have their own private contractor provide this service and thus is not considered a requirement to be provided to everyone.

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