



Interoffice Memorandum

SEE MINUTES FOR MOTION

BCC Mtg. Date: Feb. 9, 2016

January 25, 2016

AGENDA ITEM

TO: Mayor Teresa Jacobs
 -AND-
 Board of County Commissioners

FROM: James E. Harrison, Esq., P.E., Chairman
 Roadway Agreement Committee
 Assistant County Administrator's Office
 407.836.5313

SUBJECT: February 9, 2016 – Consent Item
 Transportation Impact Fee Agreement Lake Avalon PD
 Avalon Road (County Road 545)

The Roadway Agreement Committee has reviewed a Transportation Impact Fee Agreement ("Agreement") between Savi Investments, LLC ("Owner") and Orange County for the dedication of right-of-way for Avalon Road (County Road 545). Within 120 days of the effective date of this Agreement, the Owner shall convey to Orange County a total of 0.38 acres of right-of-way for Avalon Road (County Road 545) by warranty deed or by plat. The value of the right-of-way has been established at \$62,000 per acre and the Owner will receive \$23,560 in transportation impact fee credits for the 0.38 acres to be dedicated.

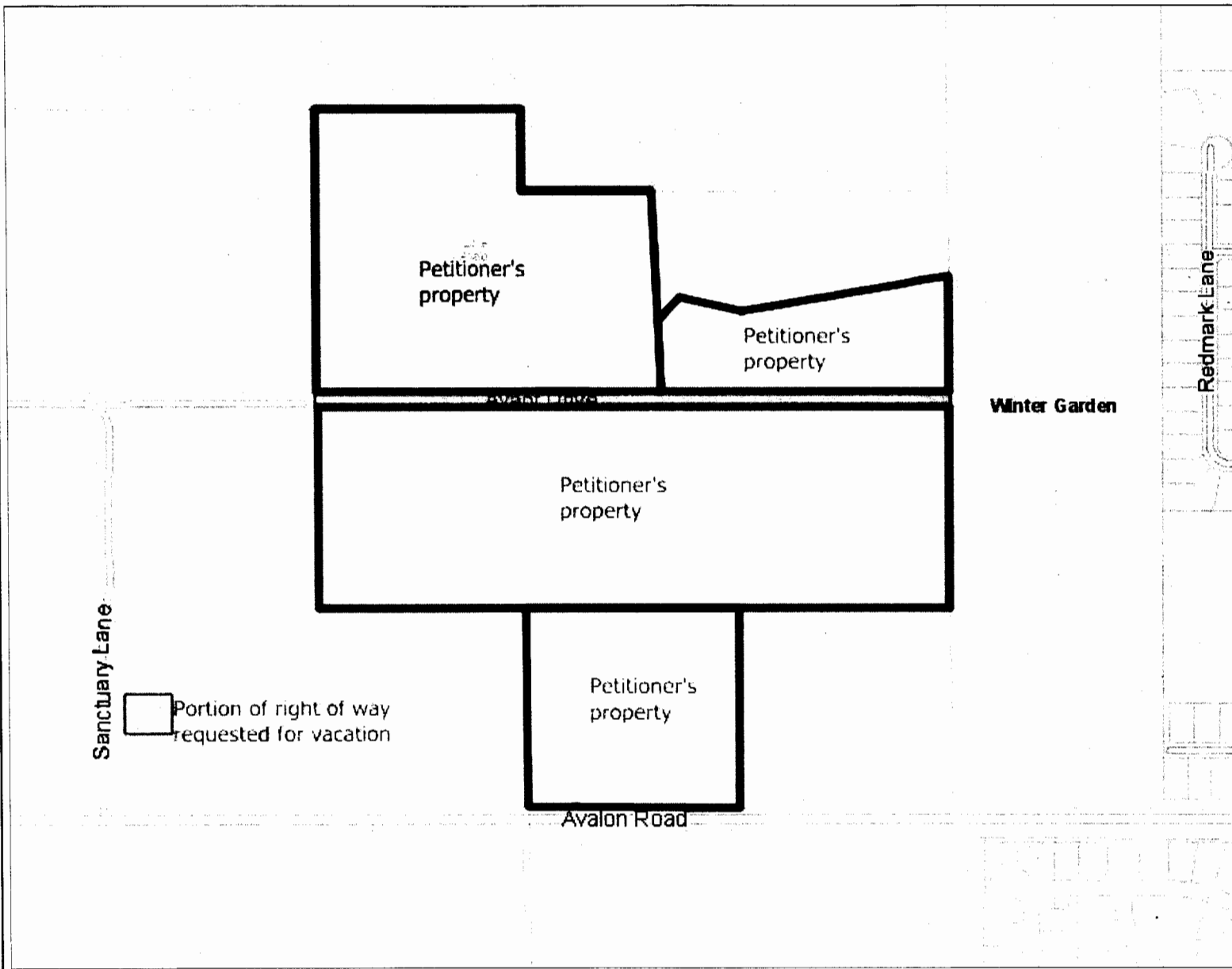
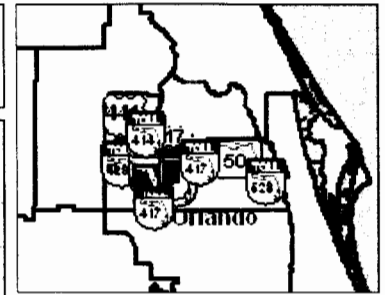
Please note that there is an unrelated Petition to Vacate (PTV) for this property pending County review and approval (PTV 14-06-011). The PTV is for a portion of an unopened and unimproved 50-foot-wide right-of-way known as Avant Drive. The area requested to be vacated, and the land to be conveyed for impact fee credits along the Avalon Road frontage, are shown in the following attachment. It is anticipated the PTV would come to the Board at the same time as the right-of-way conveyance documents within the 120-day schedule as above.

The Roadway Agreement Committee approved the Right-of-Way Agreement on December 9, 2015. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

ACTION REQUESTED: Approval and Execution of Transportation Impact Fee Agreement Lake Avalon PD Avalon Road (County Road 545) by and between Savi Investments, LLC and Orange County, for the conveyance of 0.38 acres of right-of-way for Avalon Road (CR 545) for \$23,560 in transportation impact fee credits. District 1.

JEH|HEGB:rep

Attachments



Legend

Route Shields for Primary Road

- I-4
- SR 50
- TOLL 408
- TOLL 414
- TOLL 417
- TOLL 429
- TOLL 528
- TURNPIKE
- US 17-92
- US 441

Limited Access Roads

- Tolled Facility
- I-4

Major Streets

Streets (1 - 32,000)

- Limited Access
- Major
- Minor
- No Access

Parcels

Water Bodies

Major Water Bodies

Cities

- Apopka
- Bay Lake
- Belle Isle
- Eatonville
- Edgewood
- Lake Buena Vista
- Maitland
- Oakland
- Ocoee

1: 5,515



0.2 0 0.09 0.2 Miles



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Enter Map Description

BCC Mtg. Date: Feb. 9, 2016

This Instrument Prepared By
And Return To:

Jonathan P. Huels, Esquire
Lowndes, Drosdick, Doster,
Kantor & Reed, P.A.
215 North Eola Drive
P.O. Box 2809
Orlando, Florida 32802
(407) 843-4600

Tax Parcel I.D. No.:
06-23-27-4284-00-010
06-23-27-4284-03-521
06-23-27-4284-03-610
06-23-27-4284-03-510

**TRANSPORTATION IMPACT FEE
AGREEMENT**

LAKE AVALON PD

AVALON ROAD (COUNTY ROAD 545)

This Transportation Impact Fee Agreement (the “Agreement”), effective as of the latest date of execution (the “Effective Date”), is made and entered into by and between **SAVI INVESTMENTS, LLC, a Florida limited liability company** (“Owner”), whose mailing address is 5200 Vineland Road, Suite 250, Orlando, Florida, 32811, and Orange County, a charter county and political subdivision of the State of Florida (“County”), whose mailing address is c/o Orange County Administrator, Post Office Box 1393, Orlando, Florida 32802-1393.

WITNESSETH:

WHEREAS, Owner is the owner of fee simple title to certain real property, as shown in the project location map identified as Exhibit “A”, and as more particularly described on

“Exhibit B” (legal description and sketch of description), both of which are attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, Owner is developing the Property as a single family home residential community (the “Project”); and

WHEREAS, Owner is willing to convey to County certain portions of the Property in return for credits against transportation impact fees to be paid in the future in connection with the Project; and

WHEREAS, the Orange County Engineer has declared Avalon Road to be impact fee eligible; and

WHEREAS, County and Owner desire to set forth certain terms, conditions, and agreements between the parties as to the conveyance of such land to County.

NOW, THEREFORE, Owner and County (the “Parties”) agree as follows:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Conveyance of Land to County by Owner.

(a) ***Conveyed Lands.*** Within one hundred twenty (120) days from the Effective Date, Owner shall convey to County marketable fee title to those lands described in the legal description and sketch of description attached hereto as Exhibit “C” and incorporated by this reference (the “Conveyed Lands”). In the event conveyance does not occur within the aforesaid 120 days, the Director of the Administrative Services Department, or a designee, may grant an extension of up to 120 days for the conveyance to take place.

(b) *Procedure.* The conveyance of the Conveyed Lands shall be by plat dedication or general warranty deed, free and clear of all liens and encumbrances, except for easements of record acceptable to County, if any. If by plat dedication, the rest of this paragraph and the following paragraphs (c), (e), and (f) will not apply. Owner shall pay all costs associated with the conveyance of the Conveyed Lands, including all recording fees and documentary stamps related to such conveyance. Ad valorem taxes in connection with the conveyance of the Conveyed Lands shall be prorated as of the date of transfer of title and said prorated amount shall be paid by Owner to the Orange County Tax Collector, in escrow, pursuant to Section 196.295, Florida Statutes, unless the conveyance occurs between November 1 and December 31 of the year of conveyance, in which case ad valorem taxes shall be paid in full by Owner for the year of conveyance.

(c) *Title Policy.* No less than thirty (30) days prior to conveyance of the Conveyed Lands, Owner shall deliver to County, at Owner's sole cost and expense, a commitment to issue an Owner's Policy of Title Insurance naming County as the insured (the "Title Commitment"). The original Owner's Policy of Title Insurance (the "Title Policy") shall be delivered to County within thirty (30) days of the conveyance of the Conveyed Lands.

(d) *Value of Conveyed Lands.* The value of the land to be conveyed by Owner to County has been determined in accordance with Section 23-95, Orange County Code, as may be amended from time to time. The Parties hereby agree that the value of the Conveyed Lands to be conveyed by Owner to County, in return for credits against transportation impact fees to be paid in the future in connection with the Project, is \$23,560.00. This total results from an agreed-

upon fair market value of \$ 62,000.00 per acre, or fraction thereof, and a total acreage of .38 acre(s).

(e) *Environmental Audit.* No less than thirty (30) days prior to conveyance, Owner shall submit to County a current (within 6 months of conveyance to County) Phase I environmental audit of the areas encompassed by the Conveyed Lands. The Phase I environmental audit shall be conducted in accordance with the requirements of the All Appropriate Inquiries Final Rule, or with the standards set forth in the American Society for Testing and Materials (ASTM) E-1527-13. In the event the Phase I environmental audit presents a matter of concern, as determined by County, then prior to the conveyance, Owner shall submit to County a Phase II environmental audit. If the Phase II environmental audit is performed and reveals the need for remediation to the Conveyed Lands, one of the following events shall occur: (i) Owner shall remediate the Conveyed Lands to County's satisfaction prior to the conveyance; or (ii) Owner and County shall negotiate and enter into a separate agreement whereby Owner shall pay the full cost of remediation; or (iii) County may terminate this Agreement at its option.

(f) *Compliance with Section 286.23, Florida Statutes.* Owner shall execute and deliver to County the "Disclosure of Beneficial Interests" required pursuant to section 286.23, Florida Statutes.

Section 3. Transportation Impact Fee Credits. Promptly upon County's approval of any Environmental Assessments and Title Commitment required under Section 2, and upon approval and acceptance of general warranty deed or in the case of conveyance by plat dedication, County's acceptance of the plat dedication, County shall credit on its books to the

account of Owner, for purposes of Article IV of Chapter 23 of the Orange County Code and any successor code provisions (the "Impact Fee Ordinance"), the aforementioned amount of transportation impact fee credits to which Owner is entitled under the Impact Fee Ordinance. Such transportation impact fee credits may only be used in transportation impact fee zone four (4). Thereafter, as impact fees become payable from time to time in connection with the Project, and if so instructed by Owner, County shall deduct such amounts payable from Owner's account.

For purposes of the foregoing, County shall make deductions from Owner's account from time to time only upon receipt of written direction from Owner (or from such person or entity to whom Owner expressly may assign this authority, in writing, in the future) to effect the particular deduction.

Nothing herein shall prevent Owner from assigning transportation impact fee credits as provided for in Section 23-95(e) of the Orange County Code, as may be amended from time to time.

Section 4. Utilities. This agreement does not address utility requirements. Owner shall coordinate with the Orange County Utilities Director, or a designee, with respect to any utility easements necessary to accommodate appropriately-sized wastewater sewer mains or lines, potable water mains or lines, and/or reclaimed water mains or lines.

Section 5. Notice. Any notice delivered with respect to this Agreement shall be in writing and shall be deemed to be delivered (whether or not actually received) (i) when hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address set forth opposite the party's name below, or to such other address or to such other

person as the party shall have specified by written notice to the other party delivered in accordance herewith.

As to Owner: Savi Investments, LLC
5200 Vineland Road, Suite 250
Orlando, Florida 32811
Attention: Suresh Gupta

With a copy to: Jonathan P. Huels, Esquire
Lowndes, Drosdick, Doster,
Kantor & Reed, P.A.
215 North Eola Avenue
Orlando, Florida 32801

As to County: Orange County Administrator
P.O. Box 1393
201 S. Rosalind Ave
Orlando, FL 32802-1393

With a copy to: Orange County Community, Environmental,
and Development Services Department
Manager, Transportation Planning Division
Orange County Public Works Complex
4200 S. John Young Parkway
Orlando, Florida 32839-9205

Section 6. Covenants Running with the Land. This Agreement shall run with the Property and shall be binding upon and shall inure to the benefit and burden of the heirs, legal representatives, successors, and assigns of Owner and any person, firm, corporation, or other entity that may become a successor in interest to the Property. Notwithstanding the foregoing, however, the authority under Section 3 to instruct County to make deductions from Owner's transportation impact fee account shall remain with Owner unless expressly assigned in writing to another by Owner.

Section 7. Recordation of Agreement. An executed original of this Agreement shall be recorded, at Owner's expense, in the Public Records of Orange County, Florida within thirty (30) days of the Effective Date.

Section 8. Applicable Law. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

Section 9. Time is of the Essence. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

Section 10. Further Documentation. The Parties agree that at any time following a request therefor by the other party, each shall execute and deliver to the other party such further documents and instruments reasonably necessary to confirm and/or effectuate the obligations of either party hereunder and the consummation of the transactions contemplated hereby.

Section 11. Limitation of Remedies. County and Owner expressly agree that the consideration, in part, for each of them entering into this Agreement is the willingness of the other to limit the remedies for all actions arising out of or in connection with this Agreement.

(a) *Limitations on County's remedies.* Upon any failure by Owner to perform its obligations under this Agreement, County shall be limited strictly to only the following remedies:

- (i) action for specific performance or injunction; or
- (ii) the right to set off, against the amounts of impact fees to be credited in favor of Owner under this Agreement, (A) any amounts due to County from Owner under this Agreement but remaining unpaid and (B) the cost to County of performing any action or

actions required to be done under this Agreement by Owner, but which Owner has failed or refused to do when required; or

(iii) the withholding of development permits and other approvals or permits in connection with the Project and/or the Property; or

(iv) any combination of the foregoing.

In addition to the foregoing, nothing in this Agreement prohibits or estops County from exercising its power of eminent domain with respect to the Conveyed Lands or any other portion of the Property as County may lawfully elect.

(b) *Limitations on Owner's remedies.* Upon any failure by County to perform its obligations under this Agreement, Owner shall be limited strictly to only the following remedies:

(i) action for specific performance; or

(ii) action for injunction; or

(iii) action for declaratory judgment regarding the rights and obligations of Owner; or

(iv) any combination of the foregoing.

Both parties expressly waive their respective rights to sue for damages of any type for breach of, or default under, this Agreement by the other. Both parties expressly agree that each party shall bear the cost of its own attorney fees for any action arising out of or in connection with this Agreement. Venue for any actions initiated under or in connection with this Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.

Section 12. Amendment. This Agreement may be amended only in writing, formally executed in the same manner as this Agreement.

Section 13. Counterparts. This Agreement and any amendment(s) may be executed in up to three (3) counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed
by their respective duly authorized representatives on the dates set forth below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Teri D. Anderson*

TJ Teresa Jacobs,
Orange County Mayor

Date: 2.12.16

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Craig A. Stopyra*
for Deputy Clerk

Print name: Craig A. Stopyra

WITNESSES:

SAVI INVESTMENTS, LLC, a Florida
limited liability company

Carolyn Jhurilal
Print Name: CAROLYN JHURILAL

By: [Signature]
Name: Suresh K. Gupta
Title: Manager

[Signature]
Print Name: Meera Bhutta

Date: Jan 8 2016

Carolyn Jhurilal
Print Name: CAROLYN JHURILAL

By: [Signature]
Name: Rohini Gupta
Title: Manager

[Signature]
Print Name: Meera Bhutta

Date: Jan 8 2016

STATE OF FLORIDA
COUNTY OF ORANGE

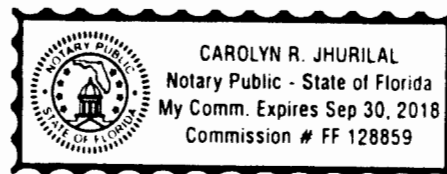
The foregoing instrument was acknowledged before me by Suresh K. Gupta, Manager of Savi Investments, LLC, who is known by me to be the person described herein and who executed the foregoing, this 8th day of January, 2016. They are personally known to me or have produced _____ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 8th day of January, 2016.

Carolyn R. Jhurilal
Notary Public

Print Name: CAROLYN R. JHURILAL

My Commission Expires: _____



STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by Rohini Gupta, Manager of Savi Investments, LLC, who is known by me to be the person described herein and who executed the foregoing, this 8th day of January, 2016. They are personally known to me or have produced _____ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 8th day of January, 2016.

Carolyn R. Jhurilal
Notary Public

Print Name: CAROLYN R. JHURILAL

My Commission Expires: _____



Exhibit "A"
Project Location Map

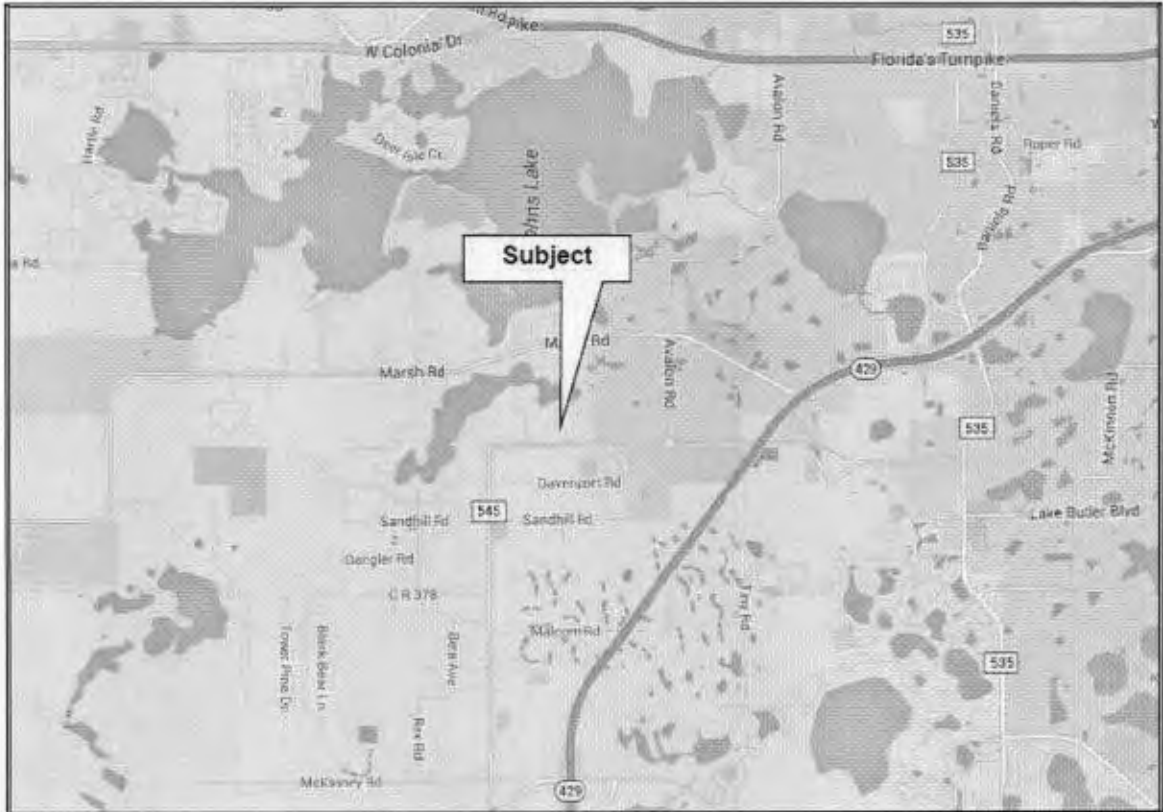


Exhibit "B"

Legal Description and Sketch of Description for Property

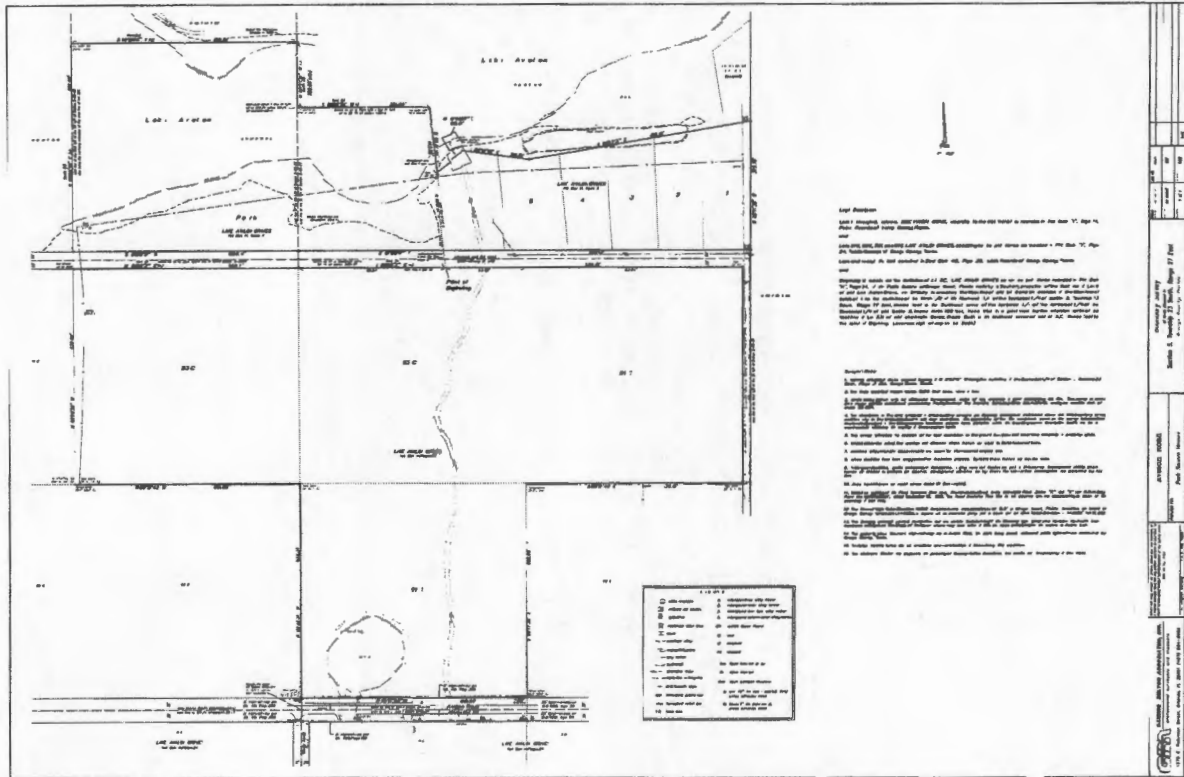
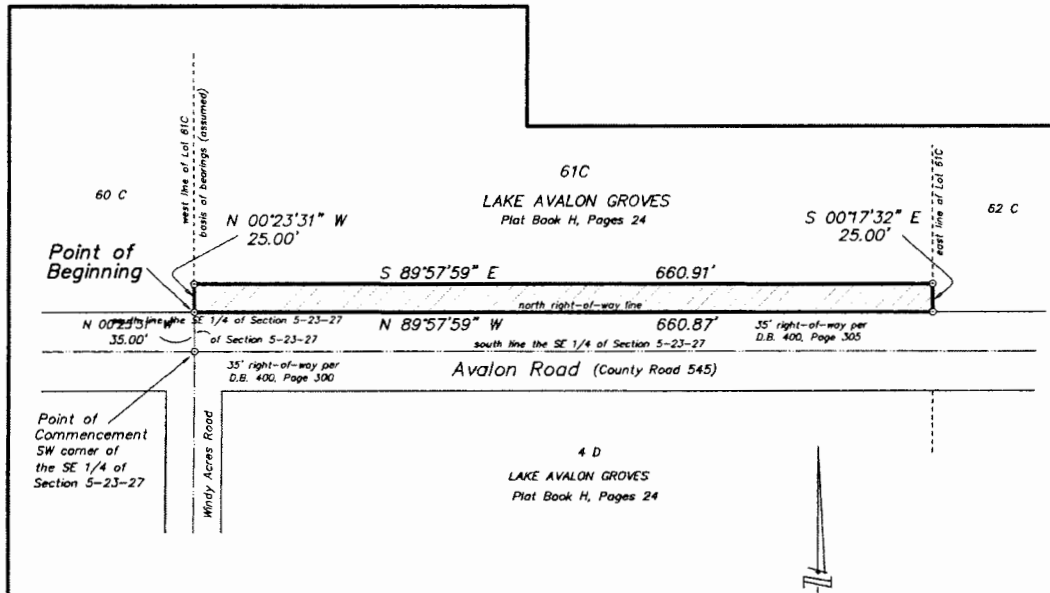


Exhibit "C"

**Legal Description and Sketch of Description
 for Conveyed Lands**



Legal Description

A portion of Lot 61C, LAKE AVALON GROVES, according to the plat thereof, as recorded in Plat Book "H", Page 24, Public Records of Orange County, Florida, lying in Section 5, Township 23 South, Range 27 East, Orange County, Florida, being described as follows:

Commence at the southwest corner of the Southeast 1/4 of said Section 5; thence run N 00°23'31" W, along the west line of the Southeast 1/4 of said Section 5, a distance of 35.00 feet to a point on the north right-of-way line of Avalon Road (County Road No. 545) as described and recorded in Deed Book 400, Page 305, Public Records of Orange County, Florida; said point also being the west line of said Lot 61C and the POINT OF BEGINNING; thence continue N 00°23'31" W, along the west line of said Lot 61C, a distance of 25.00 feet; thence, departing the west line of said Lot 61C, run S 89°57'59" E, parallel with the north right-of-way line of Avalon Road, a distance of 660.91 feet to a point on the east line of said Lot 61C; thence run S 00°17'32" E, along said east line, a distance of 25.00 feet to a point on the aforesaid north right-of-way line of Avalon Road; thence run N 89°57'59" W, along said north right of way line, a distance of 660.87 feet to the POINT OF BEGINNING.

Containing 0.38 acres (16,522 square feet), more or less.

Not a Boundary Survey.
 The legal description was prepared by the Surveyor.

SKETCH OF DESCRIPTION ONLY - NOT A SURVEY

NO CORNERS WERE SET AND GANUNG-BELTON ASSOCIATES, INC. ASSUMES NO RESPONSIBILITY BEYOND ACCEPTED MATHEMATICAL CLOSURES. ALL BEARINGS AND DISTANCES SHOWN HEREON ARE SUBJECT TO FIELD VERIFICATION.

Sketch of Description
 of lands situated in

Section 5, Township 23 South, Range 27 East
 Orange County, Florida

PREPARED FOR: Park Square Homes	JOB NO. 1504.3	SKETCH OF DESCRIPTION NOT VALID WITHOUT THE ORIGINAL RAISED SEAL AND SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO THIS SKETCH OF DESCRIPTION BY SOMEONE OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY. GBA (L.B. No. 7174) R. CLAYTON GANUNG REG. P.L.S. NO. 4236
	SHEET 1 of 1	
professional surveyors and mappers 1275 E. Robinson Street, Orlando, FL 32801 (407) 894-6656	DATE 3/25/15	
	SCALE 1" = 120'	