

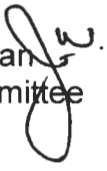


Interoffice Memorandum

AGENDA ITEM

September 18, 2020

TO: Mayor Jerry L. Demings
–AND–
Board of County Commissioners

FROM: Jon V. Weiss P.E., Chairman 
Roadway Agreement Committee
407.836.5393

SUBJECT: October 27, 2020 – Consent Item
Adequate Public Facilities Agreement
Horizon West - Village I Karr PD
(Related to LUP-18-11-375)

The Roadway Agreement Committee has reviewed an Adequate Public Facilities Agreement for Horizon West – Village I Karr PD ("APF Agreement") by and among SP Commercial investors, LLC; Thomas J. Karr Jr. and Tami G. Karr; Donald R. Allen, Jr. and Patricia A. Allen; (collectively "Owners") and Orange County for the dedication of right-of-way for Avalon Road and Hartzog Road. Under the terms of the APF Agreement, the Owners shall convey to Orange County a total of 0.27 acres of Right-of-Way for Avalon Road/C.R. 545, 4.14 acres for New Hartzog Road, and 3.16 acres of Internal APF ROW. In addition, 1.76 acres for stormwater treatment and attenuation will be dedicated. The dedication of right-of-way shall serve to partially satisfy the Adequate Public Facilities requirement under the APF/TDR Ordinance which requires 9.94 acres of public facilities lands to be provided. This creates an APF deficit of 0.61 acres. The deficit shall be satisfied by either acquiring 0.61 acres of APF credit from another owner in Village I or paying the current APF fee per acre to the County. The Owner will receive \$22,500 per acre for the conveyance of 0.27 acres of right-of-way for Avalon Road and 4.14 acres for New Hartzog Road for a total of \$99,225 in transportation impact fee credits.

The Roadway Agreement Committee recommended approval of the APF Agreement on April 23, 2020. The Specific Project Expenditure Report and Relationship Disclosure Forms are on file with the Transportation Planning Division.

ACTION REQUESTED: Approval and execution of Adequate Public Facilities Agreement For Horizon West - Village I Karr PD by and among SP Commercial Investors, LLC; Thomas J. Karr Jr. and Tami G. Karr; Donald R. Allen, Jr. and Patricia A. Allen; and Orange County conveying 9.33 acres of APF Land and providing \$99,225 in Transportation Impact Fee Credits. District 1

JVW|HEGB
Attachments

Adequate Public Facilities Agreement for Horizon West - Village I Karr PD
SP Commercial Investors, LLC; Thomas K. Karr, Jr. and Tami G. Karr;
Donald R. Allen, Jr. and Patricia A. Allen, 2020

BCC Mtg. Date: October 27, 2020

This instrument prepared by
and after recording return to:

Juli Simas James, Esq.
Shutts & Bowen LLP
300 S. Orange Avenue, Suite 1600
Orlando, Florida 32801

Tax Parcel I.D. Numbers: 29-24-27-0000-00-002
 30-24-27-0000-00-012
 30-24-27-0000-00-021

ADEQUATE PUBLIC FACILITIES AGREEMENT FOR
HORIZON WEST – VILLAGE I
KARR PD

THIS ADEQUATE PUBLIC FACILITIES AGREEMENT FOR HORIZON WEST – VILLAGE I KARR PD (this “**Agreement**”), effective as of the date of execution by the last party to execute this Agreement (the “**Effective Date**”), is made and entered into by and among **SP COMMERCIAL INVESTORS, LLC**, a Florida limited liability company, with its principal place of business at P.O. Box 135, Windermere, Florida 34786 (“**SP Commercial**”); **THOMAS J. KARR, JR. AND TAMI G. KARR**, husband and wife, whose address is 527 Main Street, Windermere, Florida 34786, as to a fifty percent (50%) undivided interest (“**Karr**”), and **DONALD R. ALLEN, JR. AND PATRICIA A. ALLEN**, husband and wife, whose address is 960 Civitas Way, Winter Garden, Florida 34787, as to a fifty percent (50%) undivided interest (“**Allen**”) (SP Commercial, Karr and Allen are referred to collectively herein as the “**Owners**”); and **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida, whose address is P.O. Box 1393, Orlando, Florida 32802-1393 (“**County**”).

RECITALS:

A. SP Commercial is the fee simple owner of certain real property located in Orange County, Florida, having Parcel Identification Numbers 30-24-27-0000-00-012 and 30-24-27-0000-00-021 (“**SP Commercial Property**”).

B. Karr and Allen, each as to a fifty percent (50%) undivided interest, are the fee simple owners of certain real property located in Orange County, Florida, having Parcel Identification Number 29-24-27-0000-00-002 (“**Karr & Allen Property**”) (the SP Commercial Property and the Karr & Allen Property, collectively, the “**PD Property**”).

C. The PD Property is generally depicted in **Exhibit “A”** and is more particularly described in **Exhibit “B”**, both of which exhibits are attached hereto and made a part hereof by this reference.

D. The PD Property, also known as the Karr PD (the “**Karr PD**”), is identified in the Orange County Comprehensive Plan 2010-2030 (the “**Comprehensive Plan**”) Future Land Use Map with the “Village” land use designation and constitutes a portion of Village I, in Horizon

West, as same is described and depicted in the Village I Specific Area Plan approved by the Board of County Commissioners of Orange County, Florida (the "BCC") on June 10, 2008, as may be amended from time to time (the "Village I SAP").

E. The PD Property is included in the Horizon West Village Land Use Classification Area. The BCC adopted the Horizon West Village Land Use Classification Comprehensive Policy Plan ("CPP") amendment on June 5, 1995. The Horizon West Village Land Use Classification was the result of a public-private partnership between the BCC and Horizon West, Inc. The partnership conducted an extensive visioning and community consensus building process that was summarized in the Horizon West Study Report issued February 7, 1995.

F. The Karr PD has relied on the prior approvals of the Horizon West Study and the Village I SAP, and studies included in the SAP.

G. The Village I SAP contemplates a mix of nonresidential and residential uses within the PD Property.

H. Owners desire to develop the PD Property in accordance with the Karr PD LUP submitted by Owners to County, and with the Karr PD zoning application on file with County (the "Project").

I. The Goals, Objectives, and Policies contained in the Future Land Use Element of the Comprehensive Plan have been implemented through Chapter 30, Article XIV of the Orange County Code ("APF/TDR Ordinance") adopted by the BCC on May 20, 1997, as amended.

J. Division 2 of the APF/TDR Ordinance requires, in Section 30-712(b) that Owners enter into a developer's agreement identifying required adequate public facilities within the development and addressing the conveyance to the County of adequate public facilities lands prior to or in conjunction with PD approval, unless otherwise addressed in such agreement pursuant to Section 30-714(c).

K. The parties have agreed that this Agreement constitutes the aforementioned developer's agreement referenced in Division 2 of the APF/TDR Ordinance.

L. If Owners are unable to convey sufficient adequate public facilities lands to County, the APF/TDR Ordinance, at Sections 30-712(b) and 30-714(d), states that Owners may make payment of an adequate public facility lands fee to County. Additionally, the APF/TDR Ordinance, at Section 30-714(g), allows for application of APF acreage credits to satisfy an APF deficit.

M. It is the intent of the parties that County will consider approval of the Karr PD LUP with its consideration of this Agreement.

N. The PD Property contains approximately 72.05 acres of **net** developable land, and both the Village I SAP and Section 30-714 of the APF/TDR Ordinance require 1 acre of public facilities acreage for every 7.25 acres of net developable land (the "APF Ratio").

O. When applied to the PD Property, the APF Ratio equals approximately 9.94 acres of public facilities lands.

P. As shown on the Karr PD LUP, and as described in this Agreement, Owners are providing 9.33 acres of adequate public facilities lands (the “**APF Lands**”) to County, thereby creating an APF deficit of 0.61 acres.

Q. The PD Property is also subject to and benefitted by that certain Hartzog Road Right-of-Way Agreement recorded June 16, 2008 in Official Records Book 9712, Page 4850, as amended by that certain First Amendment to Agreement Concerning Hartzog Road Right-of-Way Agreement recorded December 2, 2015 in Official Records Book 11021, Page 4154, all in the Official Records of Orange County, Florida (collectively, the “**Hartzog Road Agreement**”), which agreement governs the conveyance to and acceptance by the County of New Hartzog Road (as identified in Section 2(a) below) and the County Stormwater Easement (as identified in Section 2(b) and Section 5(b) below) and, as such, Owners’ entitlement to transportation impact fee credits and APF credits for New Hartzog Road and the County Stormwater Easement shall be determined in accordance with and pursuant to the Hartzog Road Agreement.

R. County and Owners desire to set forth certain terms, conditions and agreements among the parties as to the conveyance of such APF Lands to County.

NOW, THEREFORE, for and in consideration of the above premises, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. **Recitals.** The above recitals are true and correct and are hereby incorporated as material provisions of this Agreement by this reference.

2. **Conveyance of APF Lands by Owners.** Owners shall convey APF Lands as follows:

(a) **APF Right(s)-of-Way.** Rights-of-way for the following transportation improvements/roads (depicted as APF ROW on the Karr PD LUP):

<u>APF LAND TYPE</u>	<u>ACREAGE</u>
Avalon Road (C.R. 545)	Approximately 0.27 acres
New Hartzog Road	Approximately 4.14 acres
Internal APF ROW	Approximately 3.16 acres

It is contemplated by the parties that wider right(s)-of-way than depicted on the Karr PD LUP may be required in some locations, such as at intersections, to facilitate traffic movement.

(b) **Stormwater Area.** Pursuant to the Hartzog Road Agreement and Section 5(b) below, Owners shall convey to County a permanent non-exclusive easement for stormwater

drainage of the New Hartzog Road APF ROW (onsite and offsite), Internal APF ROW, and Avalon Road:

<u>APF LAND TYPE</u>	<u>ACREAGE</u>
Stormwater Treatment and Attenuation Easement	Approximately 1.76 acres

The APF Lands identified in clauses (a) and (b) above are referred to herein as the “**Road Right-of-Way**” and the “**Stormwater Area**,” respectively. Owners and County acknowledge and agree that the County Stormwater Easement will be granted over the entirety of the existing borrow pit located on the Karr & Allen Property, which is approximately 6.51 acres, of which 1.76 acres is necessary for stormwater drainage of the New Hartzog Road ROW (onsite and offsite), Internal APF ROW, and Avalon Road.

3. **APF Deficit.** The Village I Ratio requires Owners to convey approximately 9.94 acres of APF Lands. This Agreement provides for conveyance of approximately 9.33 acres of APF Lands, thereby creating a 0.61 acre APF deficit.

4. **Satisfaction of APF Deficit.** Owners shall satisfy the APF deficit of 0.61 acres by (i) acquiring 0.61 acres of APF credits from an APF surplus owner in the Village I SAP or (ii) paying to County the then current APF fee per acre, for the 0.61 acre deficit, representing Owner’s full and final APF contribution for the PD Property (the “**APF Fee**”). If APF credits are acquired from an APF surplus owner in the Village I SAP, the acquired credits shall be delivered to County for cancellation on the appropriate records of County as a condition of the platting of the PD Property. If payment is made to the County for the APF deficit, Owner understands and agrees that payment of the APF Fee shall occur as a condition of the platting of the PD Property.

5. **Conveyance Procedure.**

(a) *Road Right-of-Way.* The conveyance of the Road Right-of-Way shall be as follows: (i) with respect to the Avalon Road (C.R. 545) Right-of-Way, conveyance shall be as provided in the Village I Horizon West Road Network Agreement recorded February 20, 2020 as Document # 20200109451 in the Official Records of Orange County, Florida (the “**Village I Road Agreement**”); and (ii) with respect to the New Hartzog Road Right-of-Way, conveyance shall be as provided in the Hartzog Road Agreement. Conveyance of the Internal APF Right-of-Way 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), (d), and (e) of this Section shall not apply. Owners shall pay all costs associated with the conveyance of the Road Right-of-Way, including all recording fees and documentary stamps related to such conveyance. Ad valorem taxes in connection with the conveyance of the Road Right-of-Way shall be prorated as of the date of transfer of title and said prorated amount shall be paid by Owners to Orange County, 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 Owners for the year of conveyance.

(b) *Stormwater Area.* In addition to conveying the Road Right-of-Way, Owners shall convey to County a permanent non-exclusive easement over the entirety of the existing borrow pit located on the Karr & Allen Property, which is approximately 6.51 acres, of which 1.76 acres is necessary for stormwater drainage sufficient to serve the New Hartzog Road ROW (onsite and offsite), Internal APF ROW, and Avalon Road (the “**County Stormwater Easement**”) per the terms of the Hartzog Road Agreement, as well as the projects developed on the PD Property.

(c) *Title Policy.* No less than ninety (90) days prior to any conveyance, the applicable Owner shall deliver to County, at such Owner’s sole cost and expense, an updated 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 after the conveyance of the APF Lands.

(d) *Environmental Audit.* No less than sixty (60) days prior to conveyance, Owners shall submit to County a current (within 6 months of conveyance to County) Phase I environmental audit of the areas encompassed by the APF Lands. The Phase I environmental audit shall be conducted in accordance with the requirements of the All Appropriate Inquiries Final Rule (AAIFR), or with the standards set forth in the most current version of the American Society for Testing and Materials (ASTM) E-1527. In the event the Phase I environmental audit presents a matter of concern, as determined by County, then prior to the conveyance, Owners shall submit to County a Phase II environmental audit. The Phase II environmental audit shall be conducted in accordance with the AAIFR or with the standards set forth in the most current version of the ASTM E-1903. If the Phase II environmental audit is performed and reveals the need for remediation to the APF Lands, one of the following events shall occur: (i) Owners shall remediate the APF Lands to County’s satisfaction prior to the conveyance; or (ii) Owners and County shall negotiate and enter into a separate agreement whereby Owners shall pay the full cost of remediation; or (iii) County may terminate this Agreement at its option.

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

(f) *Value of APF Lands and Entitlement to Impact Fee Credits.* The APF/TDR Ordinance contemplates the Owners’ entitlement to obtain impact fee credits for certain APF Land conveyances, in accordance with Chapter 23 of the Orange County Code (the “**Impact Fee Ordinance**”) and as further described in Section 8.

6. **Refinement of Size and Location of APF Lands.** The size and location of all APF Lands as depicted on the Karr PD is approximate; although the final size and location shall be substantially similar to that shown on the Karr PD. The dimensions and location(s) for a particular component of the APF Lands shall be finalized by County and Owners prior to County approval of the Preliminary Subdivision Plan or Development Plan (“**PSP/DP**”) that includes the particular APF Land, and shall be in full compliance with this Agreement. County and Owners agree that the legal descriptions used to convey the APF Lands may be revised based upon final engineering.

7. **Option on Conveyance.** As an alternative to conveyance prior to or in connection with Karr PD LUP approval, Owners have elected to convey at a later time, as contemplated by Sec. 30-714 of the APF/TDR Ordinance, as more particularly set forth below. Conveyance shall be defined as submittal of all conveyance documents, approval by the BCC, and recordation of the deed(s) or plat(s).

(a) With respect to the Avalon Road (C.R. 545) Right-of-Way, conveyance to and acceptance by the County shall occur as provided in the Village I Road Agreement. With respect to the New Hartzog Road Right-of-Way, conveyance to and acceptance by the County shall be as provided in the Hartzog Road Agreement. With respect to the Road Right-of-Way for the Internal APF Road, the conveyance to and acceptance by the County shall occur (i) in conjunction with the recording of the deed or plat that contains such Internal APF Road Right-of-Way, or (ii) no later than one hundred twenty (120) days following the delivery by County and receipt by the applicable Owner of written notice that County desires the consummation of such conveyance, whichever occurs first.

(b) With respect to the County Stormwater Easement, conveyance to and acceptance by the County shall occur pursuant to the Hartzog Road Agreement.

As contemplated by the Karr PD, development within the PD Property is permitted to proceed beyond the 5% development cap set forth in Section 30-714(c) of the Orange County Code, provided that prior to development proceeding beyond 5% of the approved entitlements for the Karr PD:

(y) Owners have conveyed the Road Right-of-Way to the County, or: (i) placed a deed for the Avalon Road (CR 545) Right-of-Way into escrow with the Village Escrow Agent (as defined in the Village I Road Agreement) pursuant to the Village I Road Agreement; (ii) placed a deed for the New Hartzog Road Right-of-Way in escrow with the Escrow Agent (as defined in the Hartzog Road Agreement) pursuant to the Hartzog Road Agreement; and/or (iii) placed a deed for the Internal APF Road Right-of-Way into escrow with County, pursuant to an escrow agreement acceptable to the County; and

(z) Owners have conveyed the County Stormwater Easement to the County or placed the County Stormwater Easement into escrow with the Escrow Agent pursuant to the Hartzog Road Agreement.

The parties agree that, prior to conveyance to County, the Owner of the APF Lands may continue to use the APF Lands in a manner not inconsistent with the County's intended use, including, but not limited to, the right to grade and to import or export fill material upon the APF Lands, subject to and in accordance with an approved grading permit and/or excavation fill permit. Further, Owners agree to relinquish control of the APF Lands, and convey such APF Lands to County, within one hundred twenty (120) days of demand by County. If a conveyance does not occur within such one hundred twenty (120) day period, the Manager of County's Real Estate Division may grant one extension of up to one hundred twenty (120) days to complete the conveyance.

With respect to the APF Lands, Owners shall continue to be responsible for any and all risk of injury and property damage attributable to the acts or omissions of its officers and employees and agrees to defend, indemnify, and hold harmless County and its officers, employees, and agents from and against all claims, actions, losses, judgments, fines, liabilities, costs, and expenses in connection therewith. More specifically, to the extent permitted by law, Owners shall indemnify and hold harmless County, its officers, agents, and employees from and against any all claims, liability, demands, damages, surcharges, expenses, fees, fines, penalties, suits, proceedings, and actions (including, without limitation, reasonable paralegal, attorney, and other legal fees and expenses, whether in court, out of court, in administrative proceedings, or on appeal), including damage to property or property rights that may arise and which are proximately caused by the acts, errors, or omissions of Owners, their agents, and/or representatives, arising out of its activities related to the APF Lands. In addition, without limiting the foregoing, in the event that any act or omission of Owners, their agents, and/or representatives, arising from or related to this Agreement, results in any spill or release of hazardous materials or other pollutants, as those terms are defined in federal and state environmental laws and regulations including, without limitation, any petroleum-based substances, then, to the extent permitted by law, Owners shall indemnify and hold harmless County, its officers, agents, and employees from and against any and all claims, liability, demands, damages, surcharges, expenses, fees, fines, penalties, suits, proceedings, and actions, including, without limitation, all reasonable actual cleanup and/or remediation costs and expenses expended by County at the direction of any federal or state agency having jurisdiction, and further including, without limitation, reasonable paralegal, attorney, and other legal fees and expenses, whether in court, out of court, in administrative proceedings, or on appeal. Owners shall be responsible for the immediate notification to County of any environmental condition, spill, or release, or any other condition or occurrence of which it becomes aware that may result in a claim for damages, or that occurs as a result of Owners' activities related to the APF Lands.

In the event that any of the above occurs, County may refuse to accept conveyance of the APF Lands to be conveyed to County, and County may require that Owners (i) pay an APF Fee in lieu of conveyance and/or (ii) convey alternative adequate public facilities land(s) acceptable to County. Notwithstanding anything seemingly or actually to the contrary above, the parties acknowledge and agree that satisfaction of Owners' APF obligations must take place prior to County approval of the initial plat for the PD Property.

8. **Impact Fee Credits.** This Agreement does not award or otherwise determine entitlement to transportation impact fee credits.

(a) Owners' entitlement to transportation impact fee credits for the dedication of the APF ROW and Internal APF ROW, if any, shall be determined by and pursuant to the Village I Road Agreement.

(b) Pursuant to the Hartzog Road Agreement, Owners shall not be entitled to transportation impact fee credits for dedication of the Hartzog Road ROW or the County Stormwater Easement. Owner's entitlement to transportation impact fee credits for the design, permitting, and construction of New Hartzog Road, if any, shall be determined by and pursuant to the Hartzog Road Agreement.

(c) To the extent Owners obtain transportation impact fee credits pursuant to the Village I Road Agreement for any dedication of APF Lands required hereunder or pursuant to the Hartzog Road Agreement for the design, permitting, and construction of New Hartzog Road, such transportation impact fee credits may only be used in transportation impact fee Zone 4. Nothing herein shall prevent the Owners from assigning impact fee credits as provided for in the Orange County Code or in the Village I Road Agreement. Notwithstanding anything in the foregoing seemingly to the contrary, to the extent that the Owners pay impact fees pursuant to the Village I Road Agreement in connection with the development of the Karr PD and there is thereafter an impact fee credit balance created in favor of the Owners, any refund of such balance to the Owners (or to such person or entity to whom the Owners expressly may assign the right to receive such refund) shall be determined by and pursuant to the Village I Road Agreement.

9. **Recording.** Within thirty (30) days after the Effective Date, this Agreement shall be recorded in the Public Records of Orange County, Florida, at Owners' expense.

10. **Limitation of Remedies.** County and Owners 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 Owners to perform its obligations under this Agreement, County shall be limited strictly to only the following remedies:

- (i) action for specific performance; or
- (ii) action for injunction; or
- (iii) the withholding of development permits and other approvals and/or permits in connection with the Project and/or the PD 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 APF Lands or any other portion of the PD Property as County may lawfully elect.

(b) **Limitations on Owners' Remedies.** Upon any failure by County to perform its obligations under this Agreement, Owners 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 Owners; 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. 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.

11. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit and burden of the parties hereto and their respective heirs, successors, and assigns and shall run with title to the PD Property and be binding upon any person, firm, corporation, or other entity acquiring any interest in all or any portion of the PD Property.

12. **Severability.** If any provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by either party hereunder or substantially increase the burden of either party hereunder, shall be held to be invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

13. **Notices.** Any notice required or allowed to be delivered hereunder 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:

County: Orange County, Florida
c/o County Administrator
Post Office Box 1393
Orlando, Florida 32802-1393

With a copy to: Orange County Planning, Environmental
And Development Services Department
Manager, Planning Division
Post Office Box 1393
Orlando, Florida 32802-1393

Orange County Planning, Environmental
and Development Services Department
Manager, Transportation Planning Division
Orange County Public Works Complex
4200 S. John Young Parkway
Orlando, Florida 32839-8070

Owners: SP Commercial Investors, LLC
Attn: Thomas J. Karr, Jr.
P.O. Box 135
Windermere, Florida 34786

Thomas J. Karr, Jr. and Tami G. Karr
527 Main Street
Windermere, Florida 34786

Donald R. Allen, Jr. and Patricia A. Allen
960 Civitas Way
Winter Garden, Florida 34787

With a copy to: Fishback Dominick
Attn: A. Kurt Ardaman, Esq.
1947 Lee Road
Winter Park, Florida 32789

14. **Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the formal parties hereto and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the parties hereto and their respective representatives, heirs, successors, and assigns.

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

16. **Interpretation.** This Agreement shall not be construed more strictly against one party than against any other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all parties have contributed substantially and materially to the preparation hereof. Captions and section headings in this Agreement are provided for convenience only and shall not be deemed to explain, modify, amplify or aid in the interpretation, construction or meaning of this Agreement.

17. **Attorneys' Fees.** Each party to this Agreement agrees to bear its own attorneys' fees and costs in connection with all actions to be undertaken in compliance with, and enforcement of, this Agreement.

18. **Survival.** The obligations of this Agreement shall survive the conveyance of the APF Lands to County.

19. **Amendments.** No amendment, modification or other change to this Agreement shall be binding upon the parties unless in writing and formally executed in the same manner as this Agreement.

20. **Entire Agreement.** This Agreement embodies and constitutes the entire understanding of the parties with respect to the subject matter addressed herein, and all prior or contemporaneous agreement, understandings, representations and statements, oral or written, are merged into this Agreement. Notwithstanding the foregoing, this Agreement shall not be deemed to modify any of the terms and conditions of the Village I Road Agreement or the Hartzog Road Agreement, including but not limited to any of Owners' obligations therein, or their respective rights or entitlement to transportation impact fee credits or concurrency vesting set forth in the Village I Road Agreement or the Hartzog Road Agreement.

21. **Counterparts.** This Agreement may be executed in up to two (2) counterparts, both of which taken together shall constitute one and the same instrument and any party or signatory hereto may execute this Agreement by signing either such counterpart.

22. **Authority to Contract.** The execution of this Agreement has been duly authorized by the appropriate body or official of each party hereto.

23. **Termination; Effect of Annexation.** This Agreement shall remain in effect so long as the PD Property remains in unincorporated Orange County, Florida, unless the Parties terminate it, in writing, with the same formality as its execution. If any portion of the PD Property is proposed to be annexed into a neighboring municipality, County may, in its sole discretion, terminate this Agreement upon notice to Owners.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

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.

“COUNTY”

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

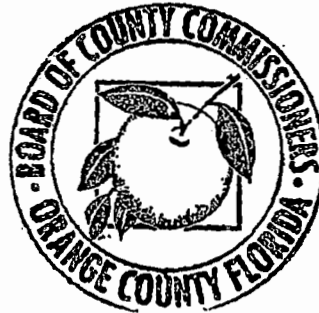
By: Jerry L. Demings
for Jerry L. Demings
Orange County Mayor

Date: OCT 27 2020

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: Katie Smith
Deputy Clerk

Print Name: Katie Smith



Signed, sealed, and delivered
in the presence of:

“OWNER”

SP COMMERCIAL INVESTORS, LLC, a
Florida limited liability company

By: *Thomas J. Karr, Jr.*
Thomas J. Karr, Jr., Manager

Date: 9/16/2020

WITNESSES:

Chs Barman

Print Name: Chis Barman

Jean E Hobson

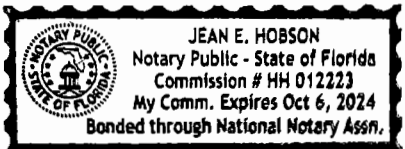
Print Name: Jean E Hobson

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence
or online notarization, this 16 day of September, 2020, by Thomas J. Karr, Jr., as
Manager of SP COMMERCIAL INVESTORS, LLC, a Florida limited liability company, on
behalf of such company, who is personally known to me or has produced
as identification.

(Notary Stamp)

Jean E Hobson
Signature of Notary Public
Print Name: Jean E Hobson
Notary Public, State of _____
Commission Expires: _____



Signed, sealed, and delivered
in the presence of:

“OWNER”

By: *Thomas J. Karr, Jr.*
Thomas J. Karr, Jr.

Date: 9/16/2020

WITNESSES

Chris Bowman

Print Name: Chris Bowman

Jean E. Hobson

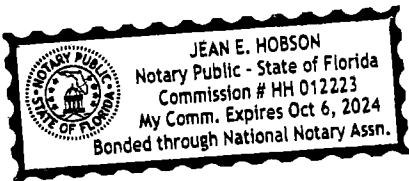
Print Name: Jean E. Hobson

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence
or online notarization, this 16 day of September, 2020, by Thomas J. Karr, Jr.,
individually, as to their interest in an undivided fifty percent (50%) interest, who is
personally known to me or has produced _____ as
identification.

(Notary Stamp)

Jean E. Hobson
Signature of Notary Public
Print Name: Jean E. Hobson
Notary Public, State of _____
Commission Expires: _____



Signed, sealed, and delivered
in the presence of:

“OWNER”

By: Tami G. Karr
Tami G. Karr

WITNESSES:

Date: 9.16.2020

Chris Bowman

Print Name: Chris Bowman

Jean E Hobson

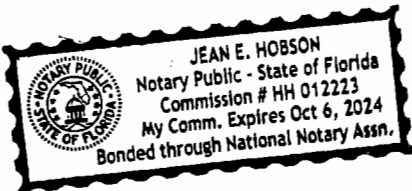
Print Name: Jean E Hobson

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence
or online notarization, this 16 day of September, 2020, by Tami G. Karr,
individually, as to their interest in an undivided fifty percent (50%) interest, who is
personally known to me or has produced _____ as
identification.

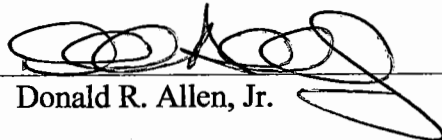
(Notary Stamp)

Jean E Hobson
Signature of Notary Public
Print Name: Jean E Hobson
Notary Public, State of _____
Commission Expires: _____



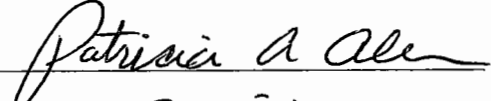
Signed, sealed, and delivered
in the presence of:

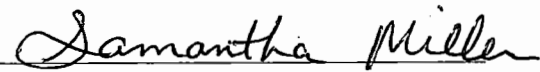
“OWNER”

By: 
Donald R. Allen, Jr.

WITNESSES:

Date: 9/15/2020

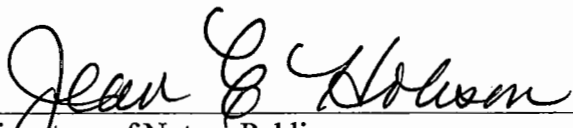

Print Name: Patricia A. Allen

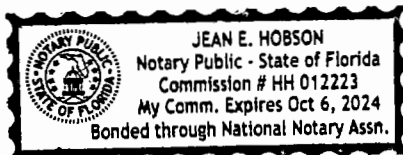

Print Name: Samantha Miller

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence
or online notarization, this 15 day of September, 2020, by Donald R. Allen,
Jr., individually, as to their interest in an undivided fifty percent (50%) interest, who is
personally known to me or has produced _____ as
identification.

(Notary Stamp)


Signature of Notary Public
Print Name: Jean E. Hobson
Notary Public, State of _____
Commission Expires: _____



Signed, sealed, and delivered
in the presence of:

“OWNER”

By: Patricia A. Allen
Patricia A. Allen

WITNESSES:

Date: 9/15/2020

[Signature]

Print Name: Donald Allen, Jr

Patricia B. Allen

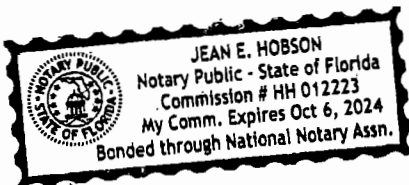
Print Name: Patricia B Allen

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of physical presence
or online notarization, this 15th day of September, 2020, by Patricia A. Allen,
individually, as to their interest in an undivided fifty percent (50%) interest, who is
personally known to me or has produced _____ as
identification.

(Notary Stamp)

Jean E. Hobson
Signature of Notary Public
Print Name: Jean E Hobson
Notary Public, State of _____
Commission Expires: _____

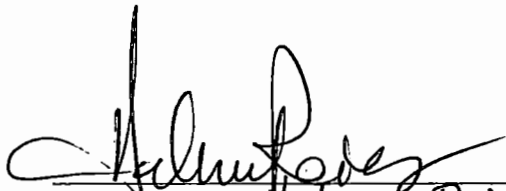


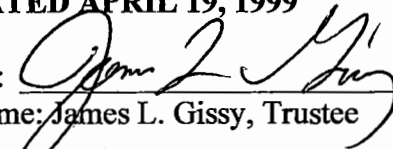
JOINDER AND CONSENT

The undersigned, James L. Gissy, as Trustee of the James L. Gissy Revocable Trust dated April 19, 1999, hereby joins in and consents to this Agreement as owner and holder of that certain Mortgage recorded July 30, 2010 in Book 10082, Page 8411, as modified by that certain Mortgage Modification Agreement recorded November 27, 2019 as Instrument No. 20190748643, Public Records of Orange County, Florida (collectively, the "Mortgage"), for the sole and limited purpose subordinating the Mortgage to the terms of this Agreement.

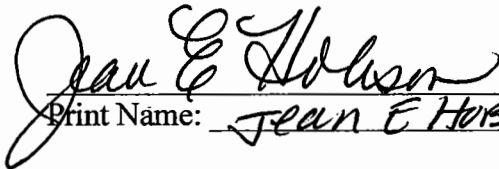
WITNESSES:

**JAMES L. GISSY, AS TRUSTEE OF THE
JAMES L. GISSY REVOCABLE TRUST
DATED APRIL 19, 1999**


Print Name: Helene Reiver

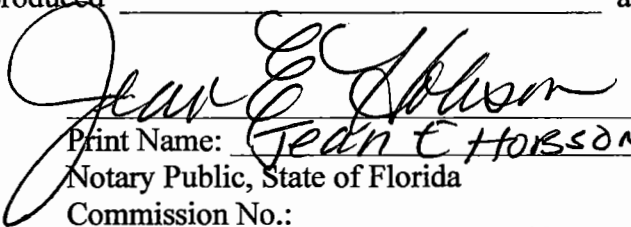
By: 
Name: James L. Gissy, Trustee

Date: 9/15/2020


Print Name: Jean E. Hobson

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 15 day of September, 2020 by James L. Gissy, as Trustee of the James L. Gissy Revocable Trust dated April 19, 1999, on behalf of the Trust. He is personally known to me or has produced _____ as identification.


Print Name: Jean E. Hobson
Notary Public, State of Florida
Commission No.: _____
My commission expires: _____

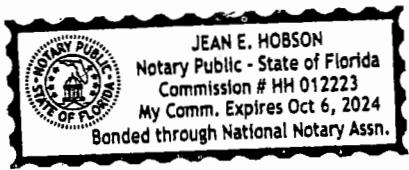
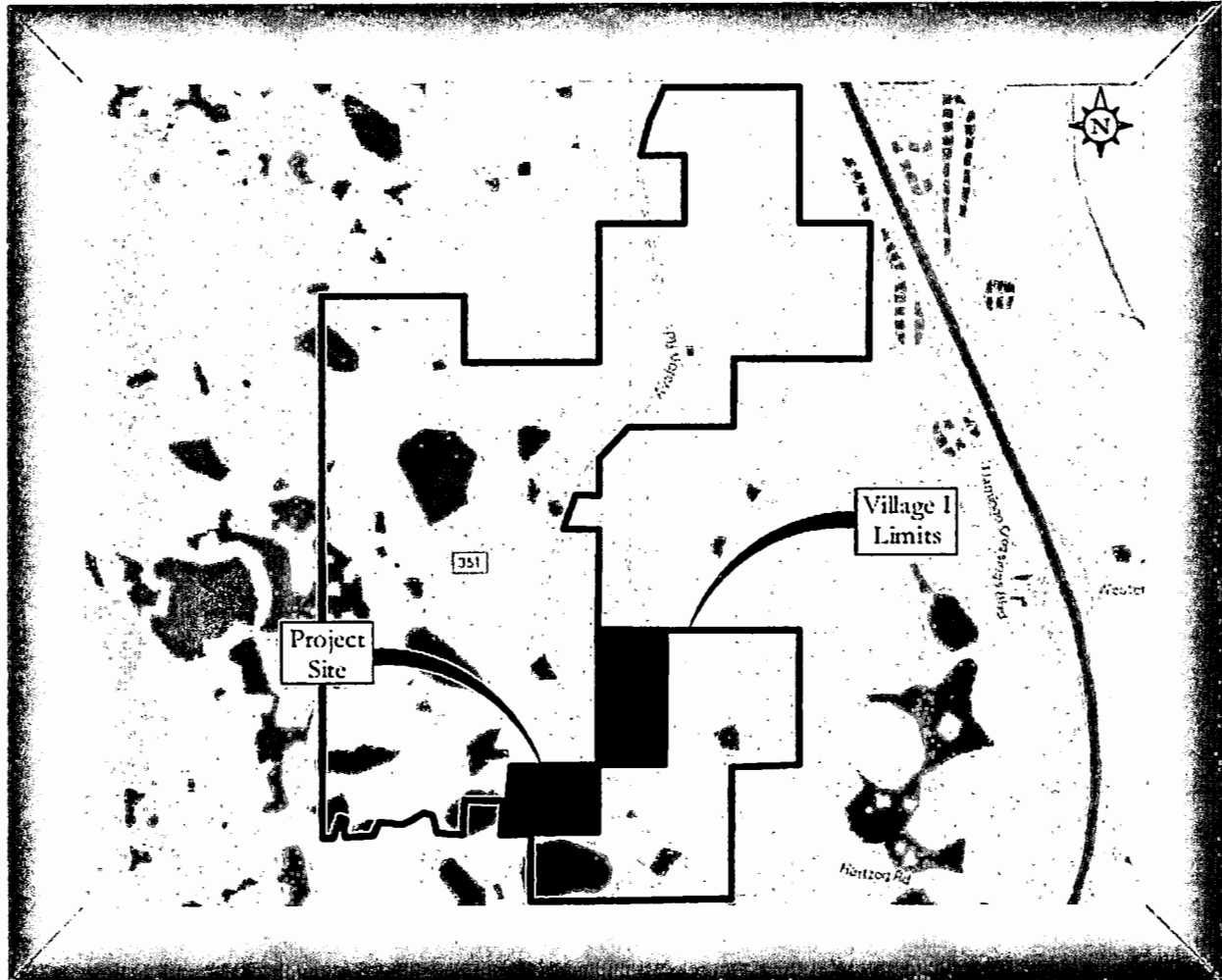


Exhibit "A"

DEPICTION OF PD PROPERTY



Vicinity Map

Scale: 1" = 3,000'

Exhibit "B"

LEGAL DESCRIPTION OF PD PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF ORANGE, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

AND

PARCEL 2:

THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

AND

PARCEL 3:

THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

AND THE NORTH 100 FEET OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, LYING TO THE EAST OF THE CENTERLINE OF AVALON ROAD (STATE ROAD 545), LESS AND EXCEPT THE WEST 33.0 FEET THEREOF.

AND

PARCEL 4:

THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 LYING EAST OF STATE ROAD NO. 75 OR NO. 545 OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, LESS THE NORTH 100 FEET THEREOF.

134.09 ACRES MORE OR LESS