

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20051436

1. ACTION REQUESTED/PURPOSE:

Approve Purchase Agreement for acquisition of Parcel 83, Gladiolus Drive Widening Project, No. 4083 in the amount of \$7,000; authorize the payment of costs to close and the Division of County Lands to handle all documentation necessary to complete transaction.

2. WHAT ACTION ACCOMPLISHES: Acquires property necessary for the widening of Gladiolus Drive and avoids condemnation proceedings.

3. MANAGEMENT RECOMMENDATION: Management recommends the Board approve the requested motion.

4. Departmental Category: 6

C6B

5. Meeting Date:

10-25-2005

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose: (specify)

- Statute **125**
- Ordinance
- Admin. Code
- Other

8. Request Initiated:

Commissioner _____
 Department _____ Independent
 Division _____ County Lands **10-5-05**
 By: Karen L.W. Forsyth, Director **KLF**

9. Background:

Negotiated for: Department of Transportation

Interest to Acquire: Fee Simple interest in 112.5 square feet of vacant land.

Property Details:

Owner: Avalon Office Park Developers LLC
Address: 8700 Gladiolus Drive, Fort Myers
STRAP No.: 34-45-24-00-00001.0060

Purchase Details:

Purchase Price: \$7,000
 Costs to Close: \$500

Appraisal Information:

An appraisal has not been obtained for this property.

Account: 20408318824, 506110

Staff Recommendation: Staff is of the opinion that the purchase price can be justified based upon the anticipated cost, estimated between \$7,700 and \$9,700, for appraisals and the cost associated with condemnation proceedings, potential land value increases and attorney's fees.

Attachments: Justification Sheet, Purchase Agreement, Affidavit of Beneficial Interest; Location Map; In-House Title Report; 5-Year Sales History

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>KLF</i>			<i>J...</i>	<i>J...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>HS 10/13/05</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

REC'D
 by CO. ATTY:
1130 AM
10/17/05
 CO. ATTY.
 FORWARDED TO:

RECEIVED BY
 COUNTY ADMIN: **EW**
10-20-05
2:45
 COUNTY ADMIN
 FORWARDED TO:
10/13/05 M.F.
1205

Justification Sheet for Purchase Agreement

Potential Costs

	<u>County</u>	<u>Owner</u>
Appraiser	\$2,500 - \$3,000	\$3,000 - \$4,000
Land Value	\$1,200 - \$1,700	
Attorney Fees		\$1,000
TOTALS	\$3,700 - \$4,700	\$4,000 - \$5,000

This document prepared by

Lee County
County Lands Division
Project: Gladiolus Drive Widening Project
Parcel: 83
STRAP No.: Part of 33-45-24-00-00001.0060

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY
AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE
IN LIEU OF CONDEMNATION PROCEEDINGS

THIS AGREEMENT for purchase and sale of real property is made this ___ day of
, 2005 by and between **Avalon Office Park Developers, L.L.C. a Florida Limited Liability
Company**, hereinafter referred to as **SELLER**, whose address is 8750 Gladiolus Drive, Fort
Myers, FL 33908, and **Lee County**, a political subdivision of the State of Florida,
hereinafter referred to as **BUYER**.

WITNESSETH:

1. **AGREEMENT TO PURCHASE AND TO SELL:** SELLER agrees to sell and BUYER agrees to purchase, subject to the terms and conditions set forth below, a parcel of land consisting of 112.5 square feet more or less, and located on 8700 Gladiolus Drive, Fort Myers, FL and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property." This property will be acquired for the Gladiolus Drive Widening Project, hereinafter called "the Project."
2. **PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be Seven Thousand and no/100 dollars (\$7,000.00), payable at closing by County Warrant.
3. **EVIDENCE OF TITLE:** BUYER will obtain at BUYER'S expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of \$7,000.00, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the Property and, except as is otherwise provided herein, accepts the Property in the condition inspected. Any loss and/or damage to the Property occurring between the date of this offer and the date of closing or date of possession by BUYER, whichever occurs first, will be at SELLER's sole risk and expense. However, BUYER may accept the damaged property and deduct from the purchase price any expenses required to repair the damage, or BUYER may cancel this Agreement without obligation.

5. **SELLER'S INSTRUMENTS AND EXPENSES:** SELLER will pay for and provide:

- (a) A statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;
- (b) utility services up to, but not including the date of closing;
- (c) taxes or assessments for which a bill has been rendered on or before the date of closing;
- (d) SELLER's attorney fees, if any.

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed;
- (b) survey, (if desired by BUYER);
- (c) payment of partial release of mortgage fees, if any.

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing. This voluntary sale and purchase is considered by Florida law to be exempt from the payment of Documentary Stamp Taxes because this transaction was made under the threat of an eminent domain proceeding by the BUYER.

8. **DEFECTS IN TITLE AND LEGAL ACCESS:** Prior to closing, BUYER will have a reasonable time to examine the title and documents establishing legal access to the property. If title or legal access is found to be defective, BUYER will notify SELLER in writing of the defects and SELLER will make a prompt and diligent effort to correct such defects. If SELLER fails to make corrections within 60 days after notice, BUYER may elect to accept the Property in its existing condition with an appropriate reduction to the purchase price, or may terminate this Agreement without obligation.



9. **SURVEY:** BUYER may order the Property surveyed at BUYER's expense. SELLER agrees to provide access to the Property for the survey to be performed. If the survey shows a discrepancy in the size or dimensions of the Property, or shows encroachments onto the Property or that improvements located on the Property encroach onto adjacent lands, or if the survey identifies violations of recorded covenants or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat those discrepancies, violations or encroachments as a title defect.

10. **ENVIRONMENTAL AUDIT:** BUYER may perform or have performed, at BUYER's expense, an environmental audit of the Property. If the audit identifies environmental problems unacceptable to the BUYER, BUYER may elect to accept the Property in its existing condition with an appropriate abatement to the purchase price or BUYER may terminate this Agreement without obligation.

11. **ABSENCE OF ENVIRONMENTAL LIABILITIES:** The SELLER hereby warrants and represents that the Property is free from hazardous materials and does not constitute an environmental hazard under any federal, state or local law or regulation. No hazardous, toxic or polluting substances have been released or disposed of on the Property in violation of any applicable law or regulation. The SELLER further warrants that there is no evidence that hazardous, toxic or polluting substances are contained on or emitting from the property in violation of applicable law or regulation. There are no surface impoundments, waste piles, land fills, injection wells, underground storage areas, or other man-made facilities that have or may have accommodated hazardous materials. There is no proceeding or inquiry by any governmental agency with respect to production, disposal or storage on the property of any hazardous materials, or of any activity that could have produced hazardous materials or toxic effects on humans, flora or fauna. There are no buried, partially buried, or above-ground tanks, storage vessels, drums or containers located on the Property. There is no evidence of release of hazardous materials onto or into the Property.

The SELLER also warrants that there have been no requests from any governmental authority or other party for information, notices of claim, demand letters or other notification that there is any potential for responsibility with respect to any investigation or clean-up of hazardous substance releases on the property. All warranties described herein will survive the closing of this transaction.

In the event the SELLER breaches the warranties as to environmental liability, SELLER agrees to indemnify and hold the BUYER harmless from all fines, penalties, assessments, costs and reasonable attorneys' fees resulting from contamination and remediation of the property.



12. **TIME AND BINDING AGREEMENT:** Time is of the essence for closing this transaction. The BUYER's written acceptance of this offer will constitute an Agreement for the purchase and sale of the Property and will bind the parties, their successors and assigns. In the event the BUYER abandons this project after execution of this Agreement, but before closing, BUYER may terminate this Agreement without obligation.

13. **DATE AND LOCATION OF CLOSING:** The closing of this transaction will be held at the office of the insuring title company on or before 90 days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties.

14. **ATTORNEYS' FEES:** The prevailing party in any litigation concerning this Agreement will be entitled to recover reasonable attorneys' fees and costs.

15. **REAL ESTATE BROKERS:** SELLER hereby agrees to indemnify and hold the BUYER harmless from and against any claims by a real estate broker claiming by or through SELLER.

16. **POSSESSION:** SELLER warrants that there are no parties in possession other than SELLER unless otherwise stated herein. SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein.

17. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

18. **SPECIAL CONDITIONS:** Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

WITNESSES:

SELLER:

Avalon Office Park Developers, L.L.C. a
Florida Limited Liability Company




_____ Haim Zukerman, Manager

CHARLIE GREEN, CLERK

BUYER:
LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

BY: _____
DEPUTY CLERK (DATE)

BY: _____
CHAIRMAN OR VICE CHAIRMAN

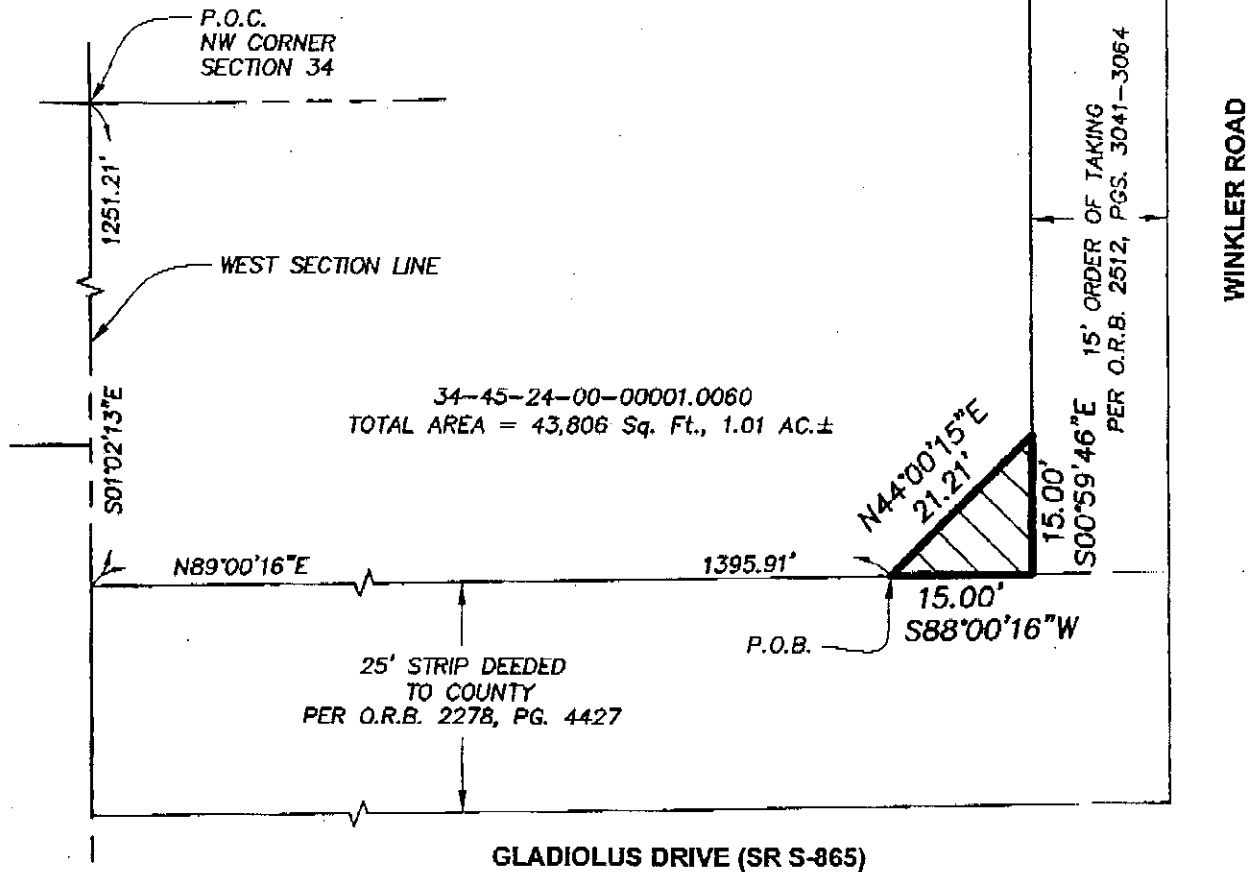
APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

COUNTY ATTORNEY (DATE)

Exhibit "A"

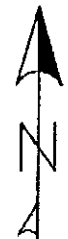
SKETCH OF DESCRIPTION

OF A PARCEL LYING IN THE NE 1/4 OF THE NW 1/4 OF SECTION 34, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA



PARCEL NO. _____
 PROPERTY OWNER: AVALON OFFICE PARK DEVELOPERS

REFERENCE: O.R.B. 4481, PG. 564
 STRAP NO.: 34-45-24-00-00001.0060
 AREA OF TAKE: 112.50 SQ. FT.
 AREA OF REMAINDER: 43,893.50 SQ. FT., 1.003 AC.±



KEY:
 AC. - ACRES
 P.O.B. - POINT OF BEGINNING
 P.O.C. - POINT OF COMMENCEMENT
 O.R.B. - OFFICIAL RECORDS BOOK
 SQ. FT. - SQUARE FEET

NOTE:
 SEE SHEET 2 OF 2
 FOR DESCRIPTION

James N. Wilkison
 JAMES N. WILKISON (FOR THE FIRM LB6773)
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA LICENSE NO. LS 4876
 THIS 15TH DAY OF *June* 2005.

THIS IS NOT A SURVEY

JEFFREY C. COONER AND ASSOCIATES, INC.

SURVEYING AND MAPPING
 3900 COLONIAL BLVD., SUITE 4, FORT MYERS, FLORIDA 33912
 PHONE: (239)277-0722 FAX: (239)277-7179 EMAIL: SURVEYING@COONER.COM

CLIENT: LEE COUNTY D.O.T. ENGINEERING	DRAWN BY: JRF	CHECKED BY: J.N.W.
PARCEL DESCRIPTION: TAKE PARCEL IN THE NE 1/4 OF THE NW 1/4 OF SEC 34-45-24	DATE: 1/14/05	SCALE: 1"=20'
	PROJECT No: 020504	DWG No: 01_0060SKD SHEET: 1 OF 2

Exhibit "A"**SKETCH OF DESCRIPTION**

OF A PARCEL LYING IN THE NE 1/4 OF THE NW 1/4 OF
SECTION 34, TWP 45 S, RGE 24 E, LEE COUNTY, FLORIDA

DESCRIPTION:

A PARCEL OF LAND SITUATED IN SECTION 34, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, ALSO BEING A PART OF A PARCEL OF LAND RECORDED IN OFFICIAL RECORDS BOOK 4481, PAGE 564, AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 34, THENCE RUN S01°02'13"E, A DISTANCE OF 1,251.21 FEET ALONG THE WEST LINE OF SECTION 34 TO THE NORTH LINE OF A 25-FOOT STRIP OF LAND DEEDED TO LEE COUNTY PER OFFICIAL RECORDS BOOK 2278, PAGE 4427; THENCE RUN N89°00'16"E, A DISTANCE OF 1,395.91 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING; THENCE RUN N44°00'15"E, A DISTANCE OF 21.21 FEET TO THE WEST LINE OF A 15-FOOT STRIP OF LAND AS DESCRIBED IN AN ORDER OF TAKING (AND REFERED TO AS PARCEL 24) RECORDED IN OFFICIAL RECORDS BOOK 2512, PAGE 3041-3064; THENCE RUN S00°59'46"E, A DISTANCE OF 15.00 FEET ALONG SAID WEST LINE TO AFOREMENTIONED NORTH LINE OF A 25-FOOT STRIP; THENCE RUN S89°00'16"W, A DISTANCE OF 15.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

CONTAINING 112.50 SQUARE FEET, MORE OR LESS.

ALL RECORDING REFERENCES ARE FROM THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

NOTE:
SEE SHEET 1 OF 2
FOR SKETCH

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	PROJECT No: 020504	DWG No: 01_0060SKD SHEET: 2 OF 2

Parcel: 83

Project: Gladiolus Drive Widening, No. 4083

AFFIDAVIT OF INTEREST IN REAL PROPERTY

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered this 29 day of Sept, 2005 for the sole purpose of compliance with Section 286.23 of the Florida Statutes.

The undersigned hereby swears and affirms under oath, subject to the penalties prescribed for perjury, that the following is true:

The Name and Address of the Grantor is:

Avalon Office Park Developers, L.L.C. a Florida Limited Liability Company
8750 Gladiolus Drive, #12
Fort Myers, FL 33908

The name(s) and address(es) of every person having a beneficial interest in real property that will be conveyed to Lee County are:

- 1. Haim M. Zuckerman For Avalon Office Park Dev LLC.
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

The real property to be conveyed to Lee County is known as: See attached Exhibit A

FURTHER AFFIANT SAYETH NAUGHT.

Signed, sealed and delivered in our presences:

Witness Signature

Ron Zuckerman

Printed Name

George Zuckerman

Witness Signature

Mark Zuckerman

Printed Name

Signature of Affiant

Haim M. Zuckerman

Printed Name

Affidavit of Interest in Real Property

Parcel: 83

Project: Gladiolus Drive Widening, No. 4083

STATE OF Florida

COUNTY OF Lee

SWORN TO AND SUBSCRIBED before me this 29 day of September, 2005 by

HAIM LUKEEMAN
(name of person acknowledged)

Marjorie Zuspahn
(Notary Signature)

(SEAL)

MARJORIE ZUSPANN
(Print, type or stamp name of Notary)

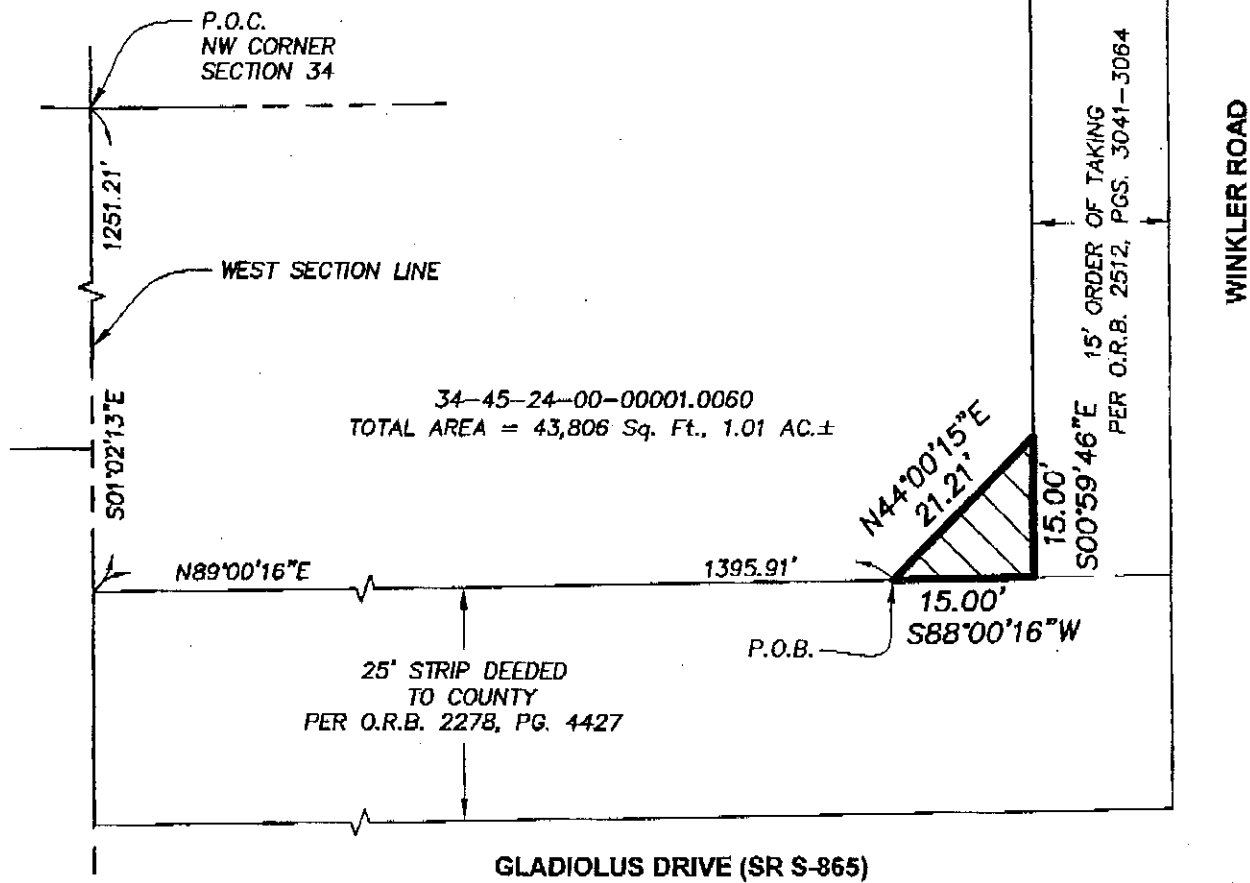


Personally known
 OR Produced Identification
Type of Identification

Exhibit "A"

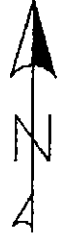
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REFERENCE: O.R.B. 4481, PG. 564
 STRAP NO.: 34-45-24-00-00001.0060
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 AREA OF REMAINDER: 43,693.50 SQ. FT., 1.003 AC.±



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 SEE SHEET 2 OF 2
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 JAMES N. WILKISON (FOR THE FIRM LB6773)
 PROFESSIONAL SURVEYOR AND MAPPER
 FLORIDA LICENSE NO. LS 4876
 THIS IS DAY OF June 2005.

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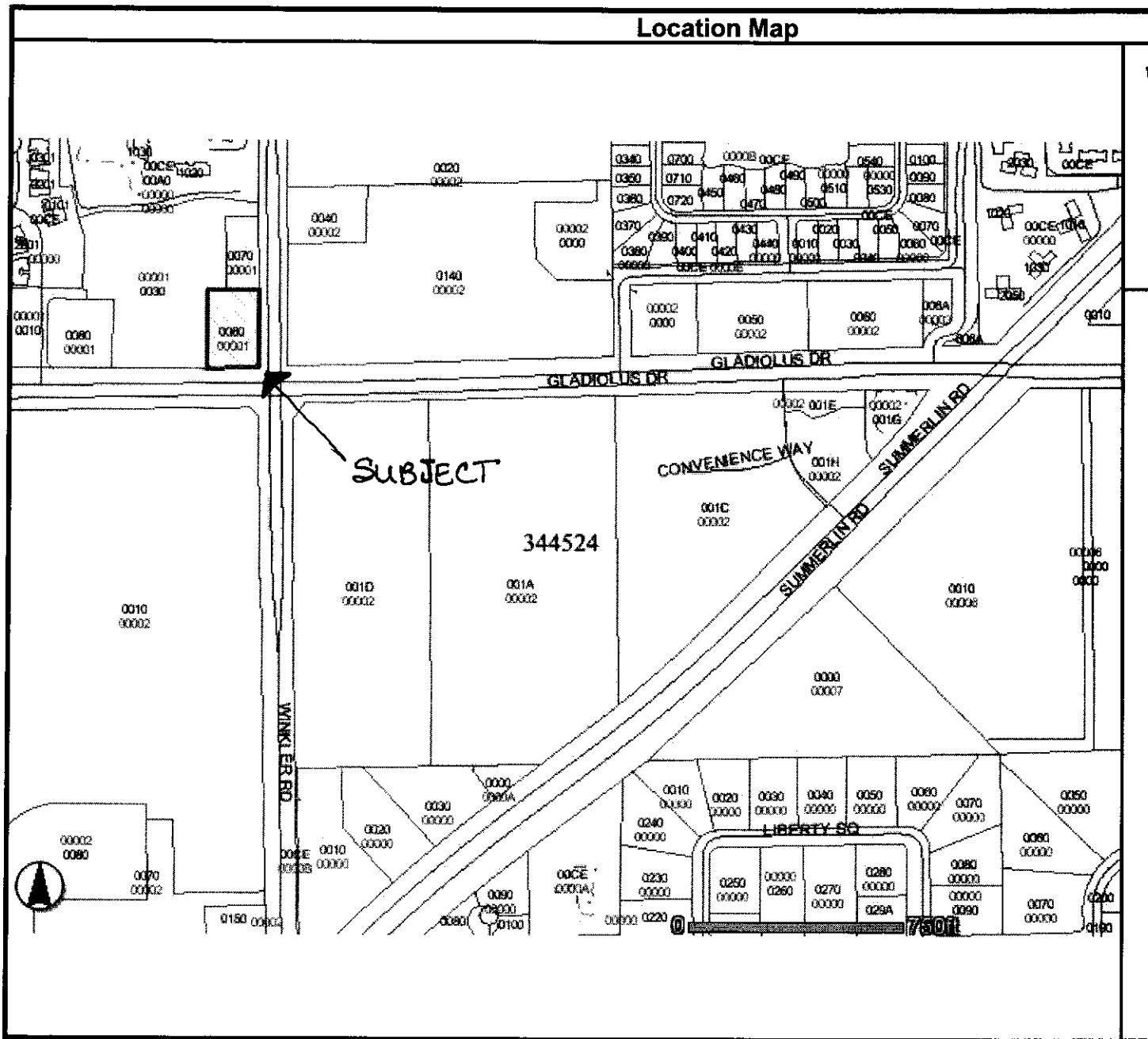
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Division of County Lands

Updated Ownership and Easement Search

Search No. 34-45-24-00-00001.0060

Date: February 15, 2005

Parcel: 96

Project: Gladiolus Drive Widening, Project #4083

To: Michele S. McNeill SR/WA
Property Acquisition Agent

From: Kenneth Pitt
Title Examiner



STRAP: 34-45-24-00-00001.0060

Effective Date: January 25, 2005, at 5:00 p.m.

Subject Property: See Attached Schedule

Title to the subject property is vested in the following:

Avalon Office Park Developers, L.L.C., (a Florida limited liability company)

by that certain instrument dated October 29, 2004, recorded November 2, 2004, in Official Record Book 4481, Page 564, Public Records of Lee County, Florida.

Easements:

1. Exclusive and Perpetual Gravity Sewer Main Easement Grant to Florida Cities Water Company, recorded in Official Record Book 2268, Page 2498, Public Records of Lee County, Florida.
2. Exclusive and Perpetual Water Pipeline Easement Grant to Florida Cities Water Company, recorded in Official Record Book 2268, Page 2509, Public Records of Lee County, Florida.
3. Easement to Florida Power and Light Company, recorded in Official Record Book 2275, Page 3326, Public Records of Lee County, Florida.
4. Parcel reserved for right-of-way along the Southerly 25 feet, recorded in Official Record Book 2278, Page 4427, Public Records of Lee County, Florida.
5. Subject to an Order of Taking, recorded in Official Record Book 2512 Page 3041, Public Records of Lee County, Florida.
6. Stipulated Final Judgment, recorded in Official Record Book 2673, Page 294, as re-recorded in Official Record Book 2676, Page 3213, Public Records of Lee County, Florida.

Division of County Lands

Updated Ownership and Easement Search

Search No. 34-45-24-00-00001.0060

Date: February 15, 2005

Parcel: 96

Project: Gladiolus Drive Widening, Project
#4083

Tax Status: \$3,016.92 paid on 11/18/04 for Tax Year 2004.

(The end user of this report is responsible for verifying tax and/or assessment information.)

The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.

EXHIBIT "A"

A parcel of land lying in Section 34, Township 45 South, Range 24 East, Lee County, Florida; being more particularly described as follows:

Commence at the Northwest corner of Section 34, Township 45 South, Range 24 East; thence run South 00°11'00" East along the West line of said Section 34 for a distance of 113.65 feet; thence run North 89°53'34" East for a distance of 716.20 feet; thence South 00°06'26" East for a distance of 515.68 feet to a point on a circular curve to the left having as its elements a radius of 515.46 feet, a central angle of 04°30'06", a chord bearing of North 85°57'40" East and not radial to previously described line; thence run along said curve for an arc distance of 40.50 feet to a point on a circular curve concave to the Northeast having as its elements a radius of 896.72 feet, a central angle of 05°51'45" and a chord bearing of South 13°11'04" East and not radial to the previously described curve; thence run along said curve for an arc distance of 91.75 feet to the point of tangency; thence run South 16°06'56" East for a distance of 23.00 feet; thence run North 73°53'04" East for a distance of 53.00 feet to a point of curvature of a circular curve concave to the Southeast having for its elements a radius of 227.57, a central angle of 14°53'52" and a chord bearing of North 81°20'00" East, thence run along said curve for a distance of 59.17 feet to a point of tangency; thence run North 88°46'56" East for a distance of 124.39 feet to the point of curvature of a circular curve concave to the North, having for its elements a radius of 281.35 feet, a central angle of 20°50'52" and a chord bearing of North 78°21'30" East; thence run along said curve for an arc distance of 102.37 feet to a point of reverse curvature of a curve concave to the Southeast having for its elements a radius of 339.61 feet, a central angle of 33°06'39" and a chord bearing of North 84°29'24" East; thence run along said curve for an arc distance of 196.26 feet to a point of reverse curvature of a circular curve concave to the North having for its elements a radius of 604.46 feet, a central angle of 11°44'45" and a chord bearing of South 84°33'10" East; thence run along said curve for a distance of 118.11 feet to the point on the Westerly right-of-way line of Winkler Road; thence run South 00°09'02" East, radial to previously described curve and along said Right-of-way line for a distance of 49.10 feet; thence run South 00°09'02" East for a distance of 250.50 feet to the POINT OF BEGINNING; thence continue South 00°09'02" East for a distance of 265.50 feet; thence run South 89°51'20" West for a distance of 183.50 feet; thence run North 00°08'40" West for a distance of 265.50 feet thence run North 89°51'20" East for a distance of 183.48 feet to the POINT OF BEGINNING.

Herein described parcel contains 1.12 acres, more or less.

5-Year Sales History

Parcel No. 83

Gladiolus Drive Widening Project, No. 4083

Grantor	Grantee	Price	Date	Arms Length Y/N
Paddle Creek Joint Venture, a FL Gen. Ptrnshp.	Avalon Office Park Developers LLC	\$200,000	10/29/04	Y

NOTE: Sale(s) relate to "parent tract" of the subject parcel.