

POLK COUNTY ORDINANCE NO. 2006-052

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA; ESTABLISHING THE POINCIANA WEST COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES (2005); PROVIDING A TITLE; PROVIDING FINDINGS; CREATING AND NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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FILED

WHEREAS, Avatar Properties, Inc. ("Petitioner"), has consented to the establishment of and petitioned the Board of County Commissioners of Polk County (the "County") to adopt an ordinance establishing the Poinciana West Community Development District (the "District") pursuant to Chapter 190, Florida Statutes (2005); and

WHEREAS, Petitioner is a corporation authorized to conduct business in the state of Florida whose address is 201 Alhambra Circle, Coral Gables, Florida 33134; and

WHEREAS, the owners of one hundred percent (100%) of the real property to be included in the District have consented to the establishment of the Poinciana West Community Development District; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the petition at a duly noticed public hearing conducted by the County on September 27, 2006; and

WHEREAS, upon consideration of the record established at that duly noticed hearing, the County finds as follows:

- (1) The statements within the petition were true and correct; and
- (2) The petition is complete in that it meets the requirements of Section 190.005(1)(a), Florida Statutes (2005); and

(3) The appropriate County staff have reviewed the petition for establishment of the District on the proposed land and have advised the Board of County Commissioners that said petition is complete and sufficient; and

(4) Establishment of the District by this Ordinance is subject to and not inconsistent with the Polk County Comprehensive Plan and the state comprehensive plan; and,

(5) The area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as one functional, interrelated community; and

(6) The District is the best alternative available for delivering community development services and facilities to the area that will be served by the District; and

(7) The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

(8) The area that will be served by the District is amenable to separate special-district government; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the petition; and

WHEREAS, the establishment of the District shall not act to amend any land development approvals governing the land area to be included within the District; and

WHEREAS, the Petitioner has not requested the County for consent to exercise one or more of the special powers granted by Section 190.012(2), Florida Statutes; and,

WHEREAS, upon the effective date of this establishing Ordinance, the Poinciana West Community Development District, as created by general law, will be duly and legally authorized to exist on the proposed property and to exercise all of its general and special powers as limited by law.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:

SECTION 1. TITLE. This Ordinance shall be known and may be cited as the “Poinciana West Community Development District Establishment Ordinance.”

SECTION 2. BOARD FINDINGS. The Board findings set forth in the recitals to this Ordinance are hereby incorporated in this Ordinance.

SECTION 3. AUTHORITY. This Ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes.

SECTION 4. CREATION OF DISTRICT; DISTRICT NAME. The petition filed to create the Poinciana West Community Development District is hereby granted and there is hereby created a community development district situated entirely within unincorporated Polk County, Florida, which District shall be known as the “Poinciana West Community Development District” and shall operate in accordance with the Uniform Community Development District Act as set forth in Chapter 190, Florida Statutes.

SECTION 5. EXTERNAL BOUNDARIES OF THE DISTRICT. Encompassing approximately 949.96 acres, the external boundaries of the District are described in Exhibit A attached hereto.

SECTION 6. FUNCTIONS AND POWERS. The District is limited to the performance of those powers and functions as described in Chapter 190, Florida Statutes with the exception of the special powers contained set forth in Section 190.012(2), Florida Statutes. In the exercise of its powers, the District shall comply with all applicable governmental laws, rules, regulations and policies including, but not limited to, all Polk County ordinances and policies governing land planning and permitting of the development to be served by the District. The District shall not have any zoning or permitting powers governing land development or the use of land. No debt or obligation of the District shall constitute a burden on any local general purpose government.

SECTION 7. BOARD OF SUPERVISORS. The five persons designated to serve as initial members of the District's Board of Supervisors are as follows: Dennis J. Getman, 201

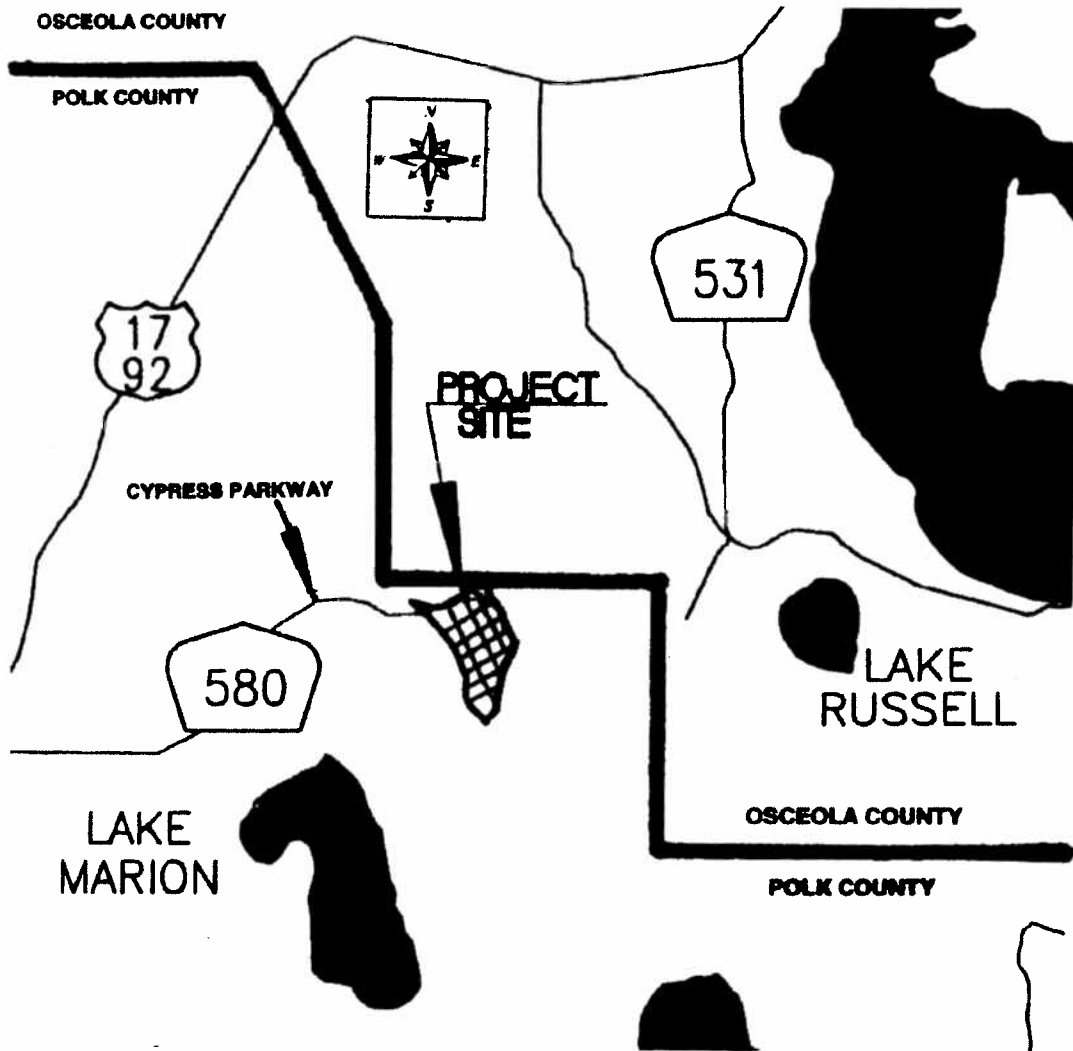
Alhambra Circle, Coral Gables, Florida 33134; Johns Corners, 395 Village Drive, Poinciana, Florida 34759; Jeffery Mitchem, 900 Towne Center Drive, Poinciana, Florida 34759; Charles L. McNairy, 201 Alhambra Circle, Coral Gables, Florida 33134; and Tony Iorio, 900 Towne Center Drive, Poinciana, Florida 34759. All of the above-listed persons are residents of the state of Florida and citizens of the United States of America.

SECTION 8. SEVERABILITY. If any provision of this Ordinance, or the application thereof, is finally determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable, such provision shall be deemed severable and the remaining provisions shall continue remain in full force and effect provided that the invalid, illegal or unenforceable provision is not material to the logical and intended interpretation of this Ordinance.

SECTION 9. EFFECTIVE DATE. This Ordinance shall be effective immediately upon receipt of acknowledgement that a copy of this Ordinance has been filed with the Secretary of State.

DULY ADOPTED by the Board of County Commissioners this 27th day of September, 2006.

Exhibit A



STATE OF FLORIDA,)

COUNTY OF POLK)

I Richard M. Weiss, Clerk of the Board of County Commissioners of Polk County, Florida hereby certify that the foregoing is a true and correct copy of Ordinance No. 06-052, "Establishing the Poinciana West Community Development" which was adopted by the Board on September 27, 2006.

WITNESS my hand and official seal of said Board this 5th day of October 2006.

Richard M. Weiss
Clerk to the Board

By Kathryn Courtney
Kathryn Courtney
Deputy Clerk



STATE OF FLORIDA DEPARTMENT OF STATE

Division of Library and Information Services

I, Sue M. Cobb, Secretary of State of the State of Florida, do hereby certify that the above and foregoing is a true and correct copy of Polk County Ordinance No. 2006-052, which was filed in this office on October 6, 2006, pursuant to the provisions of Section 125.66, Florida Statutes, as shown by the records of this office.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
9th day of October, A.D., 2006.



Sue M. Cobb

Secretary of State

DSDE 99 (3/03)