



COUNTY ATTORNEY'S OFFICE  
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Robert McMillan, County Attorney

FROM: Al Schwarz, Assistant County Attorney Ext. 5736 *AS*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department  
David Nichols, Principal Engineer/Engineering Division *DN*

DATE: December 20, 2005

SUBJECT: Settlement Authorization  
Eden Park Avenue road improvement project  
Parcel Nos. 109; James and Anna Kligopoulos  
*Seminole County v. Novoa, et al.*  
Case No. 05-CA-1237-13-G

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This Memorandum requests authorization by the Board of County Commissioners (BCC) to accept the Owners' Offer of Judgment on Parcel No. 109 at \$75,000.00. Acceptance of the Owners' offer would settle the case as to land value, severance damage, and statutory interest. Acceptance of the Owner's offer is exclusive of reimbursable attorney fees and expert costs.

**I PROPERTY**

**A. Location Data**

Parcel No. 109 is located along the west side of Eden Park Avenue, 110 +/- feet north of Cub Lake Road, in unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

**B. Property Address**

The property address is 624 Eden Park Avenue, Altamonte Springs, Florida.

## **II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2004-R-73 on April 13, 2004, authorizing the acquisition of Parcel No. 109. The Eden Park Avenue road improvement project was found to be necessary and serves a public purpose and is in the best interests of the citizens of Seminole County. The Order of Take occurred on August 31, 2005, with title vesting in Seminole County on September, 7, 2005, the date of the good faith deposit in the amount of \$60,800.00.

## **III ACQUISITIONS AND REMAINDER**

The acquisition totals 4,059 square feet in fee simple. A parcel sketch is attached as Exhibit B.

## **IV APPRAISED VALUES**

The County's original report dated January 20, 2005, was prepared by Clayton, Roper, and Marshall, and reported full compensation to be \$57,800.00. An updated appraisal report dated July 19, 2005, reported full compensation at \$60,800.00 with \$12,800.00 as the value for the land, \$31,800.00 for the improvements taken, and \$16,200.00 as the cost to cure.

The owners' appraisal report, with a subsequent update for the date of deposit, opines full compensation of \$92,200.00 with \$20,300.00 as the value for land, \$60,700.00 for the improvements taken, and \$11,200.00 for damages.

## **V BINDING OFFER/STATUS OF THE CASE**

The County's initial written offer was \$57,800.00.

A mediation conference was scheduled for January 20, 2005. This case has not yet been set for trial.

## **VI ANALYSIS**

The main issue in this case is the difference in the estimate for the cost of improvements taken. The County's appraisal report provides a total value of \$31,800.00 for improvements taken whereas the property owners' appraisal opines \$60,700.00 for the improvements taken. The reason for this difference stems mainly from differing cost estimates from each appraiser.

The Offer of Judgment when made and accepted settles the case as to land value, severance damage, and statutory interest and sets the amount of statutory attorney's fees at 33% of the benefit; however, it leaves costs outstanding. If rejected by the County, this Offer of Judgment, could impact attorney's fees. Specifically, if a potential verdict reached by the jury is more than the amount of the offer of judgment,

which in this case is \$75,000.00, the attorney fees would be based on the number of hours expended, not on the statutory amount of 33% of the benefit. At this time, attorney's fees based on 33% of the benefit in this case would be approximately \$5,676.00. If we were to reject the Offer of Judgment, the County would likely incur the expense of an additional appraisal report updated to the actual date of deposit as well as run the risk of attorney's fees based on actual hours spent and increased cost exposure for experts in proceeding to trial.

The authorization to accept the Owners' offer of judgment of \$75,000.00 acknowledges the additional risk and costs of litigation without giving up too much additional ground from the pre-mediation offer in the case.

## **VII RECOMMENDATION**

County staff recommends that the BCC accept the Owner's Offer of Judgment in the amount of \$75,000.00.

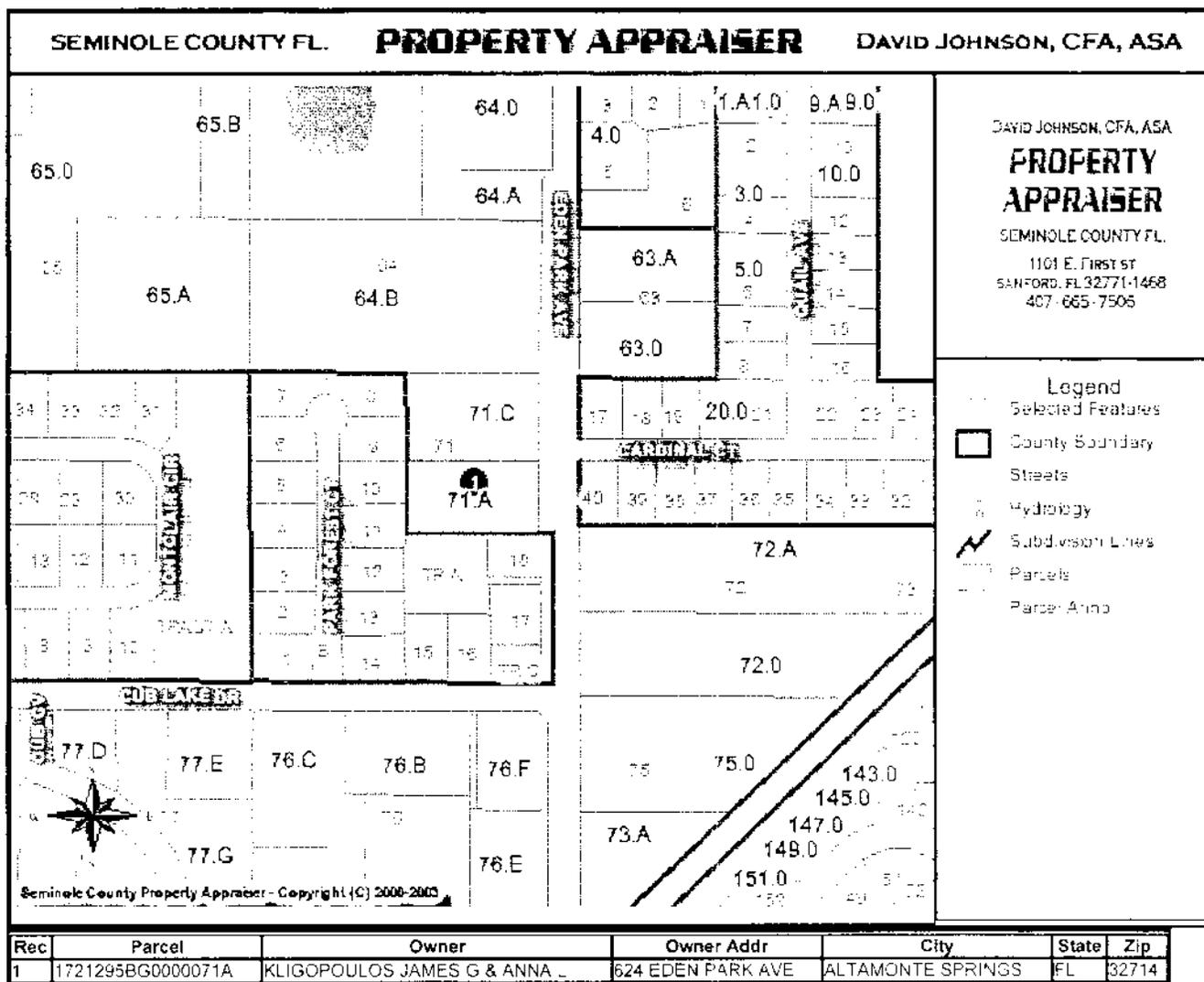
AHS/dre

Attachments:

Exhibit A - Location Map

Exhibit B - Sketch

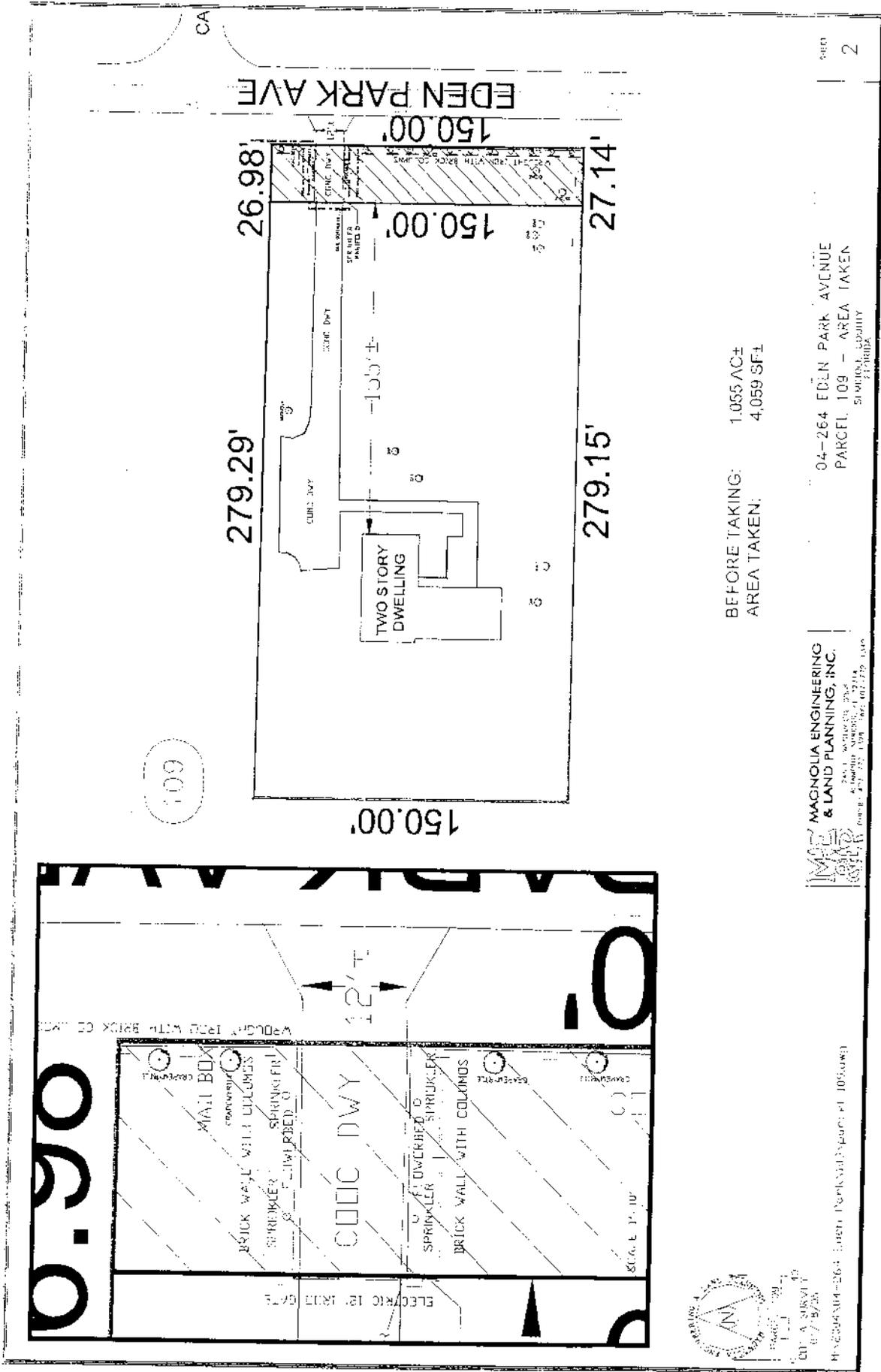
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Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	1721295BG0000071A	KLIGOPOULOS JAMES G & ANNA L	624 EDEN PARK AVE	ALTAMONTE SPRINGS	FL	32714

Exhibit A

PROPERTY SKETCH - TAKING



BEFORE TAKING: 1.055 AC±  
 AREA TAKEN: 4.059 SF±

**MAGNOLIA ENGINEERING & LAND PLANNING, INC.**  
 2501 Westpark Blvd  
 Atlanta, Georgia 30328  
 Phone: 404.252.1100 Fax: 404.252.1100

04-264 EDEN PARK AVENUE  
 PARCEL 109 - AREA TAKEN  
 50' WIDE, 4' DEPTH  
 21' WIDE

sheet 2

Exhibit B