



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

To: Board of County Commissioners

Through: Matthew G. Minter, Deputy County Attorney *Matthew Minter*

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

Concur: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division *DVN 1-23-07*

Date: January 23, 2007

Subject: Settlement Authorization
Lake Emma Road
Parcel No. 104A
Owner: Danbury Mill Homeowners Association, Inc.
Seminole County v. Danbury Mill Homeowners Association, Inc.
Case No.: 2003-CA-326-13-K

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 104A on the Lake Emma Road project. The proposed negotiated settlement is \$58,000.00 inclusive of all land value, improvements, cost to cure, severance damage, statutory interest, total attorney's fees, expert fees and cost reimbursements.

I PROPERTY

A. Location Data. Parcel No. 104A is part of the common area to the "Danbury Mill" subdivision located along the west side of Lake Emma Road. A location map depicting the location of the parcel is attached as Exhibit A.

B. Physical Address. The physical address is Tract B, Danbury Mill Unit 1. A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2002-R-56 on August 13, 2002. The Lake Emma Road project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. The Order of Take occurred on June

12, 2003, with title vesting in Seminole County on June 24, 2003, the date of the good faith deposit for Parcel No. 104A.

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 104A totaled 7,620 square feet from a parent tract of 38.249 acres leaving a remainder of 38.074 acres.

IV APPRAISED VALUES

A. County Report. The County received two appraisal reports regarding 104A. One report dated May 30, 2001 was prepared by The Spivey Group, Inc., which opined an aggregate value of \$30,900.00 for property described as three parcels: 104A, 104B, and 104C. The County subsequently received a report that was prepared by The Spivey Group, Inc. that opined full compensation as of May 1, 2003 at \$17,100.00 for Parcel No. 104A *only*.

B. Owner's Report. The owner did not have an appraisal report prepared but had experts perform a cost estimation analysis and an engineering report.

V BINDING OFFERS/NEGOTIATION

The Board approved an aggregate written offer of \$37,080.00 based on the initial appraisal report. A revised written offer was not submitted after the property described as Parcel Nos. 104B and 104C in the report were dropped from the project. The property owner secured representation and experts which discussed the issue regarding the volume of water that would be discharged into their pond adjacent to the project. The County Engineer's office is currently in discussion and negotiation with Danbury Mill to resolve the retention pond discharge issue.

On July 18, 2006, the property owner entered a reverse offer of judgment against the County in the amount of \$42,500.00 excluding attorney's fees and expert fees and costs. The attorney subsequently provided expert fees and cost invoices in the amount of \$2,700.00 for cost estimation analysis and \$12,479.25 for engineering. The total amount of expert fees to date of \$15,179.25 did not include an amount for an appraisal as one was not yet performed nor did it include attorney's fees. Through negotiations, the parties agreed to compensation of \$58,000.00 for all land value, severance damages, cost to cure, total attorney's fees, *statutory interest, experts' fees and costs.*

VI ATTORNEY'S FEES AND COSTS

The settlement is inclusive with the property owner paying for attorney's fees and costs from the proceeds.

VII COST AVOIDANCE

A reverse offer of judgment was entered in this case in the amount of \$42,500.00. Therefore, if this case were to proceed to trial and the jury came back at a value at or above the reverse offer of judgment, attorney's fees would be based on the attorney's hourly rate instead of 33% of the benefit. By this settlement, the County avoids all potential additional costs of litigation including attorney's fees based on an hourly rate as well as the cost of a full appraisal and interest associated with this case which began in June of 2003.

VIII RECOMMENDATION

County staff recommends that the BCC approve this negotiated settlement in the total sum of \$58,000.00 inclusive of land value, improvements, cost to cure, severance damage, statutory interest, total attorney's fees, expert fees and cost reimbursements.

AHS/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

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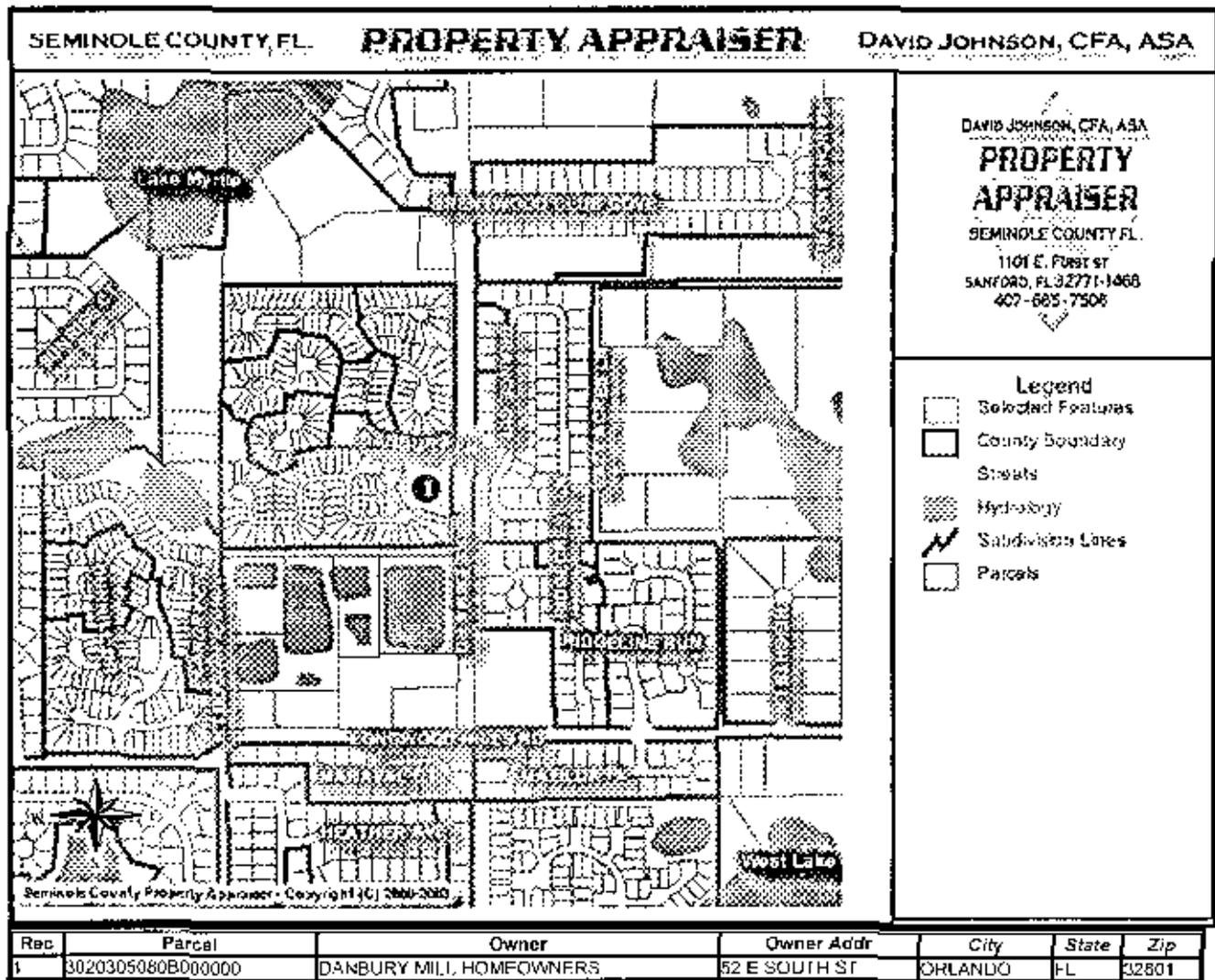
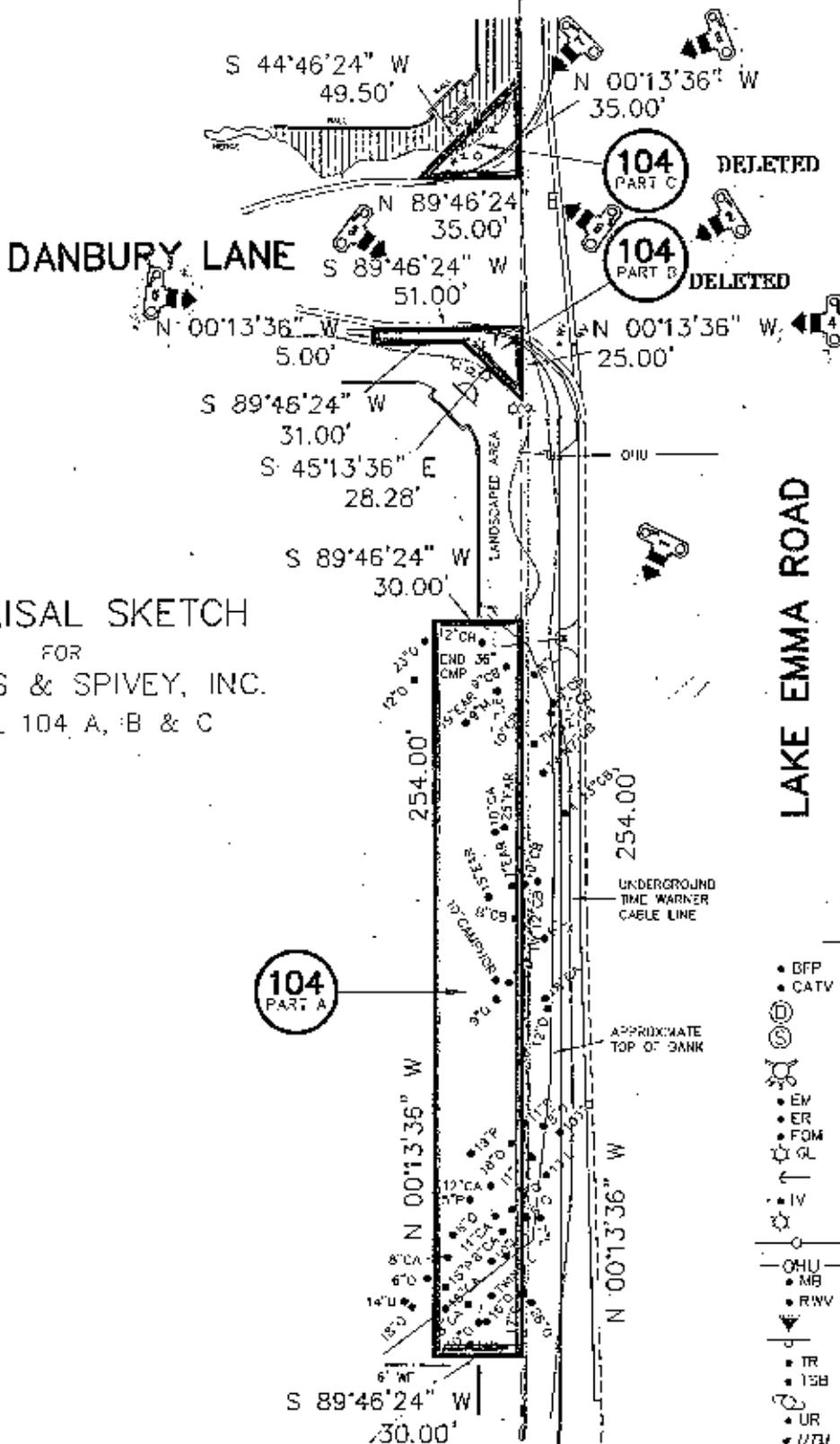
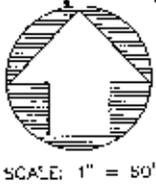


EXHIBIT B



APPRAISAL SKETCH
FOR
HASTINGS & SPIVEY, INC.
PARCEL 104 A, B & C

LAKE EMMA ROAD

LEGEND

- BFP BACKFLOW PREVENTOR
- CATV CABLE TV RISER
- ⊕ STORM MANHOLE
- ⊕ SANITARY MANHOLE
- ⊕ FIRE HYDRANT
- EM ELECTRIC METER
- ER ELECTRIC RISER
- FOM FIBER OPTIC MARKER
- ⊕ GL GROUND LIGHT
- ↑ GUY ANCHOR
- IV IRRIGATION VALVE
- ⊕ LIGHT POLE
- FENCE LINE
- OHU OVERHEAD UTILITY LINE
- MB MAILBOX
- R/WV RECLAIMED WATER VALVE
- ⊕ SPRINKLER HEAD
- ⊕ SIGN
- TR TELEPHONE RISER
- TSB TRAFFIC SIGNAL BOX
- ⊕ UTILITY POLE
- UR UTILITY RISER
- UTM UNDERGROUND TELEPHONE MARKER
- WM WATER METER
- WV WATER VALVE
- R/W RIGHT-OF-WAY
- S.F. SQUARE FEET
- CMP CORRUGATED METAL PIPE
- 10\"/>

THIS IS NOT A BOUNDARY SURVEY

SHEET 1 OF 1

DATE: 4/20/01
SCALE: 1\"/>

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