



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Robert A. McMillan, County Attorney *[Signature]*

FROM: David G. Shields, Assistant County Attorney *[Signature]*
Ext. 5736 *[Signature]*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*
David Nichols, Principal Engineer/Engineering Division *[Signature]* 1-22-07

DATE: January 22, 2007

RE: Authorization to issue Offer of Judgment
Eden Park Avenue
Parcel No. 106; Levine
Seminole County v. Novoa, et al.
Case No. 2005-CA-1237-13-G

This Memorandum requests authorization by the Board of County Commissioners (BCC) to issue an Offer of Judgment on Parcel No. 106 at \$21,000.00.

I. THE PROPERTY:

A. Location Data

The subject property is located along the west side of Eden Park Avenue, approximately 80.06 feet north of Cub Lake Drive, within unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

B. Property Address

The street address is 632 Eden Park Avenue, Altamonte Springs, Florida 32714. A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2004-R-73 on April 13, 2004, authorizing the acquisition of Parcel No. 106. The Eden Park Avenue improvement 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 August 31, 2005 for Parcel No. 106. Seminole County obtained title to Parcel No. 106 on September 7, 2005, the date of deposit of the good faith amount for Parcel No. 106.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel No. 106 is 3,407 square feet in fee simple from a parent tract of 16,816 square feet with a remainder of 13,409 square feet.

IV APPRAISED VALUES

The County's original report dated January 20, 2005, was prepared by Clayton, Roper & Marshall, Inc., and reported full compensation to be \$14,150.00. An additional report updated for the order of take hearing dated July 21, 2005, opines the value to be \$15,350.00 for Parcel No. 106.

The owners have not provided an appraisal and apparently have not had an appraisal performed at this time.

V BINDING OFFER/STATUS OF THE CASE

The County's initial written offer was \$14,150.00.

VI ANALYSIS

An offer of judgment is a procedural device that is intended to impose a monetary risk on a party which refuses to accept a reasonable settlement offer. An offer of judgment, when made and accepted, settles the owners' compensation, damages, and statutory attorney's fees; however, it leaves the costs outstanding. Costs would then either be settled or determined by the Court.

If the owners reject the offer of judgment, it has no impact on settlement or statutory attorney's fees. However, it impacts the property owners' expert costs in two (2) ways:

(1) Expert costs are not reimbursed for time expended *after the date* of the rejection of the offer of judgment if a verdict or subsequent settlement is less than the offer of judgment amount, and

(2) The owners' experts have their compensation for trial preparation

at risk; as a result, the experts may slack off on preparation and be more motivated to control their expenditure of time in trial preparation.

If an offer of judgment is not made, then the owners' experts may be encouraged to run up a tremendous number of hours and prepare hard for trial because reimbursement of costs by the County is limited only by what the court deems reasonable or unreasonable.

The recommended amount of the offer, \$21,000.00, is intended to cover the County's appraisal amount, plus an additional sum representing what the owners might reasonably anticipate obtaining by going to trial.

VII RECOMMENDATION

County staff recommends that the BCC authorize the issuance of an Offer of Judgment at the amount to be determined by the County Attorney's Office, not to exceed \$21,000.00.

DGS/dre

Two (2) Attachments:

Exhibit A - Location Map

Exhibit B - Sketch

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EXHIBIT A

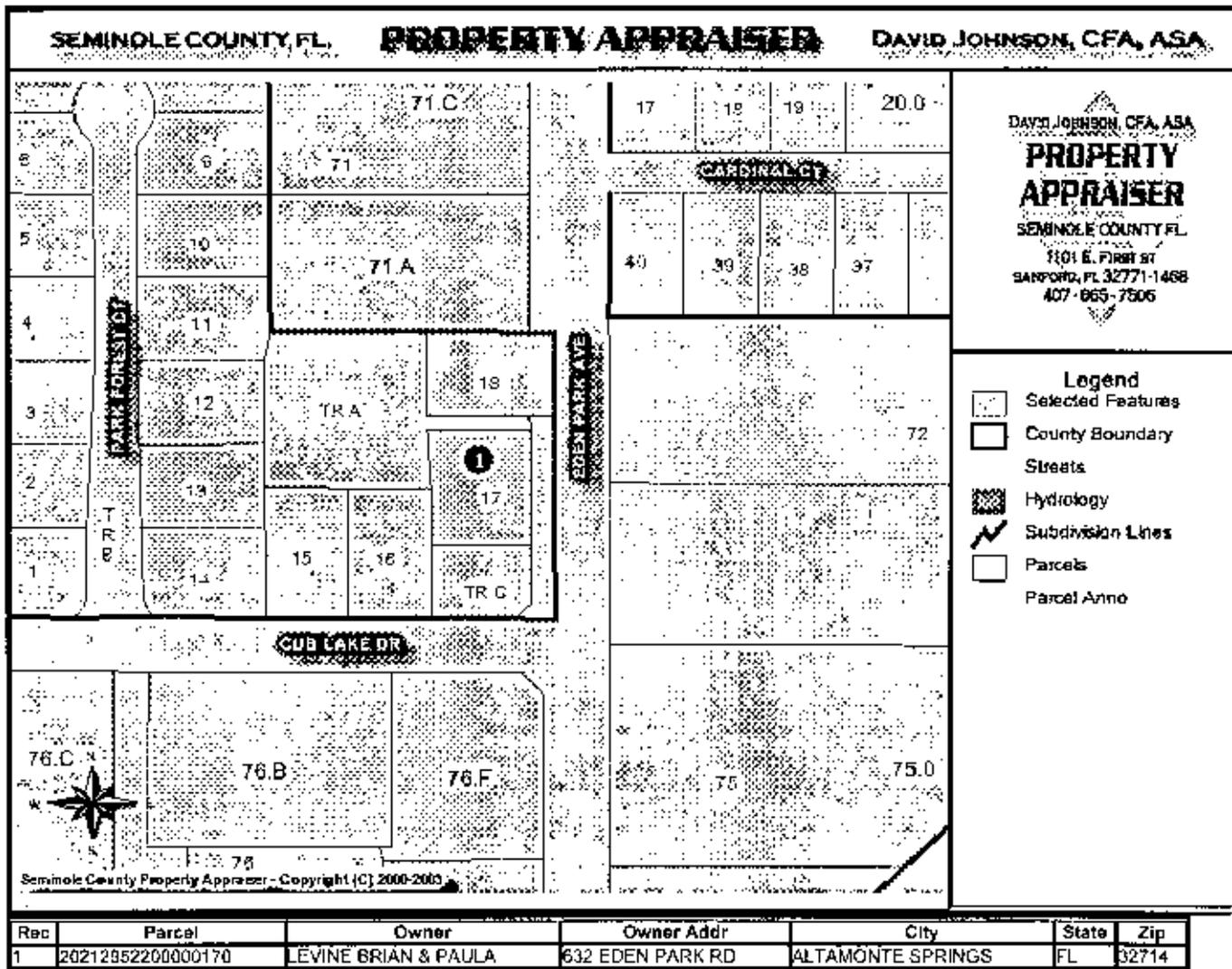
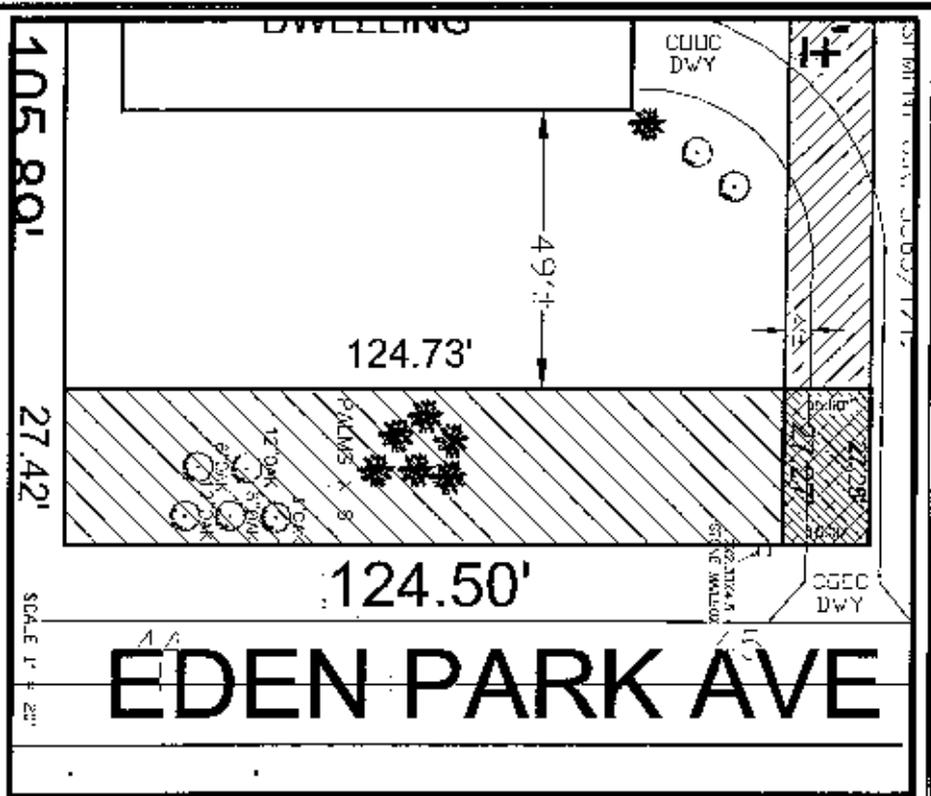
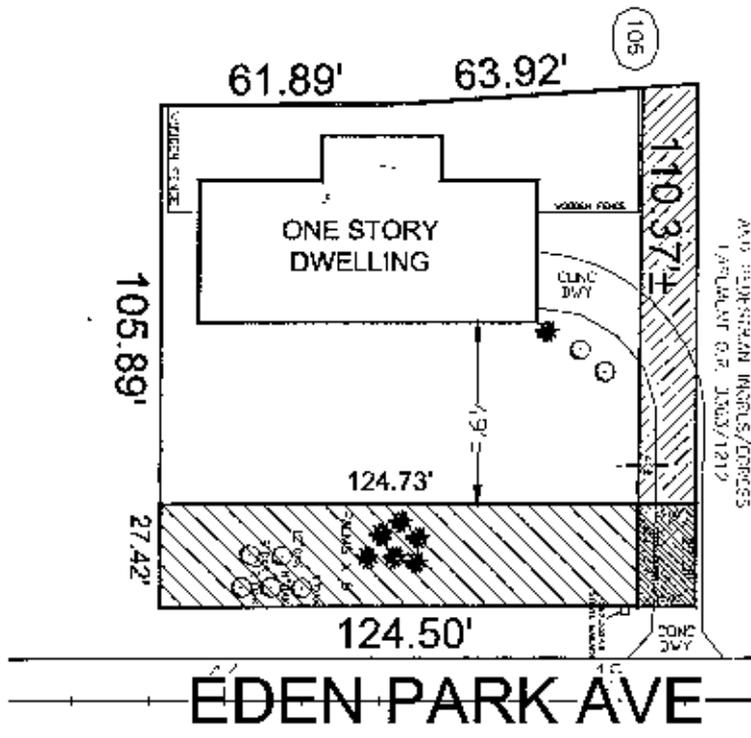


EXHIBIT B

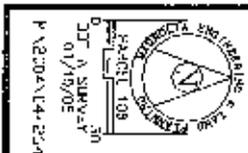
PROPERTY SKETCH - TAKING



BEFORE TAKING: 16,816 SF±
 AREA TAKEN: 3,407 SF±



NO. 4 EXCLUSIVE VEGETATION
 AND UNDERSTAND MAPS/DEEDS
 PARCEL 106-264-264



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 DCT A SURV. 1
 01/15/05
 P:\2004\14-264 Eden Park\106\Parcel 106.dwg

MAGNOLIA ENGINEERING & LAND PLANNING, INC.
 2701 N. WINDYBROOK BLVD., SUITE 100
 FORT WORTH, TEXAS 76106-3111
 TEL: 817-335-1111
 FAX: 817-335-1111

04-264 EDEN PARK AVENUE
 PARCEL 106 - AREA TAKEN
 SINGLE EXHIBIT

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