



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

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

FROM: David G. Shields, Assistant County Attorney *DGS*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *Pam Hastings*
David Nichols, Principal Engineer/Engineering Division *DWN 1-23-07*

DATE: January 22, 2007

RE: Authorization to issue Offer of Judgment
Bunnell Drive
Parcel No. 116; Thornburg
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. 116 at \$18,000.00.

I. THE PROPERTY:

A. Location Data

The subject property is located on the north side of Bunnell Road approximately 493.82 feet west of First Avenue, within unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

B. Property Address

The street address is 1201 Bunnell Road, Altamonte Springs, Florida 32714. A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-72 on April 13, 2004, authorizing the acquisition of Parcel No. 116. The Bunnell Road 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. 116. Seminole County obtained title to Parcel No. 116 on September 7, 2005, the date of deposit of the good faith amount for Parcel No. 116.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel No. 116 is 3,396 square feet in fee simple from a parent tract of 62,808 square feet with a remainder of 59,412 square feet.

IV APPRAISED VALUES

The County's original report dated November 29, 2004, was prepared by Clayton, Roper & Marshall, Inc., and reported full compensation to be \$13,000.00. An additional report updated for the order of take hearing dated July 21, 2005, opines the value to be \$13,900.00 for Parcel No. 116.

The owner has not provided an appraisal and apparently has not had an appraisal performed at this time.

V BINDING OFFER/STATUS OF THE CASE

The County's initial written offer was \$13,000.00.

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 owner's 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 an owner rejects an offer of judgment, it has no impact on settlement or statutory attorney's fees. However, it impacts the property owner's 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 owner's 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 owner's 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, \$18,000.00, is intended to cover the County's appraisal amount, plus an additional sum representing what the owner 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 \$18,000.00.

DGS/dre

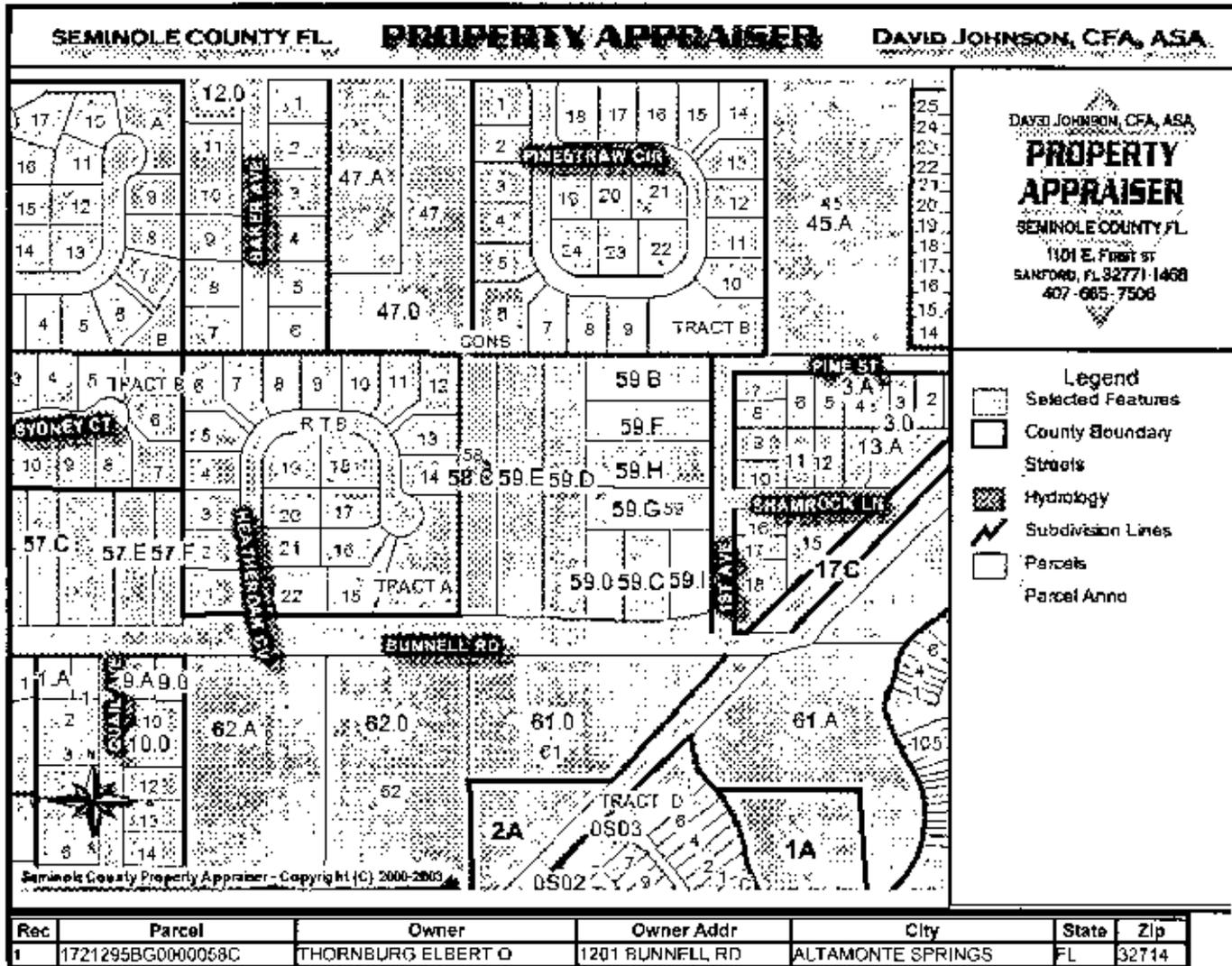
Two (2) Attachments:

Exhibit A - Location Map

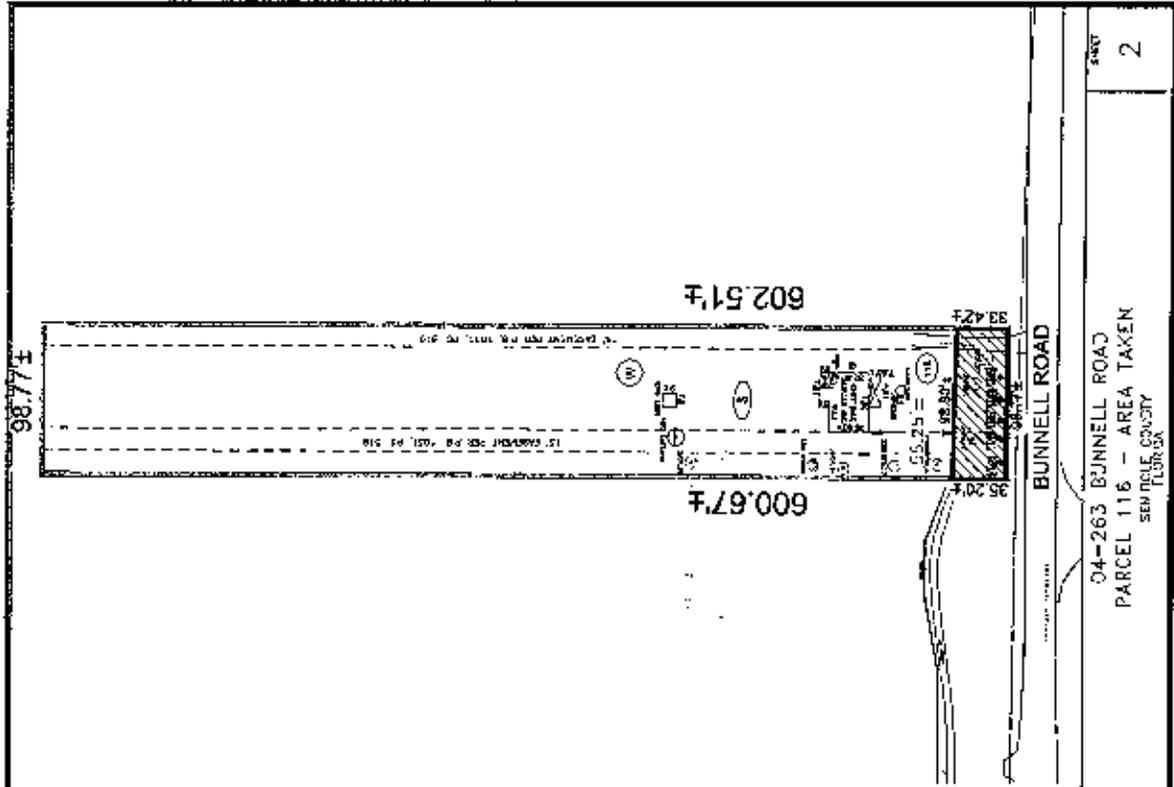
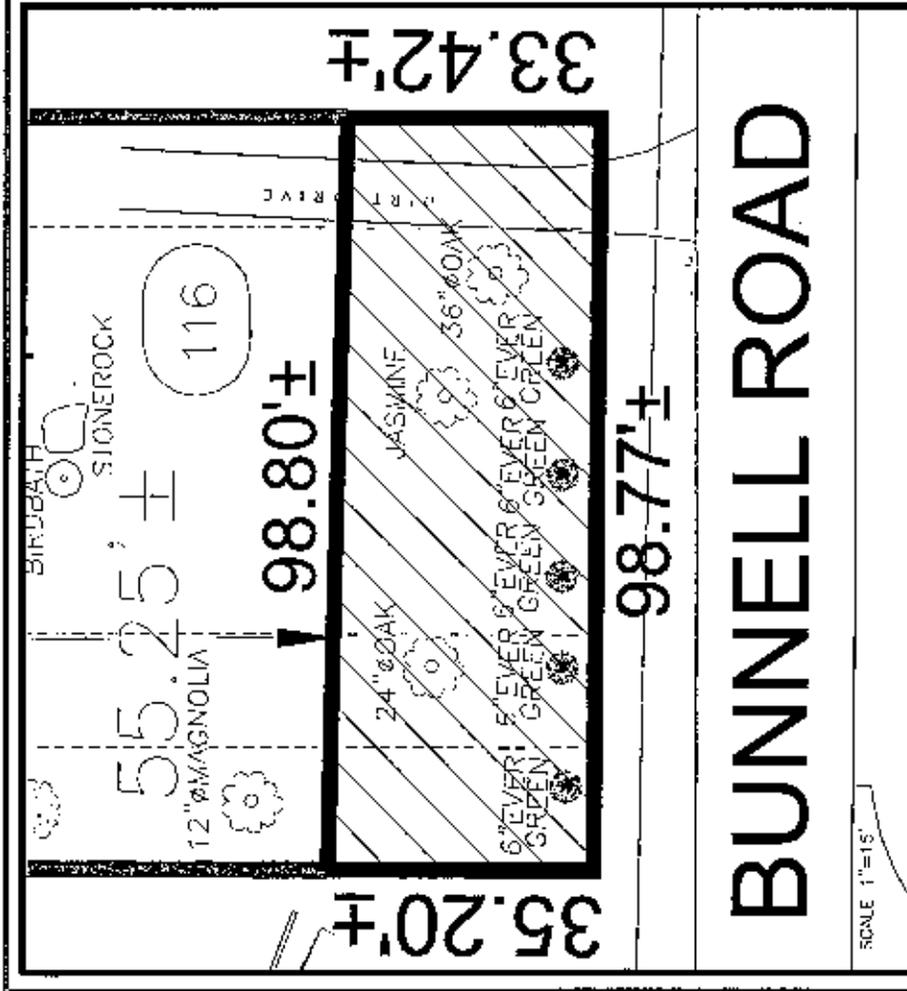
Exhibit B - Sketch

P:\USERS\DEGEMMY DOCUMENTS\MEMV\AGENDA ITEM NOVOA THORNBURG 116 BUNNELL AUTHORIZE OOJ.DOC

EXHIBIT A



SKETCH(S): PROPERTY SKETCH - TAKING



BEFORE TAKING: 62,808 SF±
 AREA TAKEN: 3,396 SF±

SCALE 1"=15'

LOT 1, SUENEY'S
 1/22/04
 PARCEL 115

ME:\2004\04-263 Bunnell\116\PARCEL 115.DWG

MAGNOLIA ENGINEERING & LAND PLANNING, INC.
 145 E. WESTGATE DR. #14
 TAMPA, FLORIDA 33614
 P-811 407-372-1320 FAX 407-372-1340

04-263 BUNNELL ROAD
 PARCEL 115 - AREA TAKEN
 SEMINOLE COUNTY
 FLORIDA

2