

007102



**COUNTY ATTORNEY'S OFFICE  
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Henry M. Brown, Assistant County Attorney *HMB*  
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*  
Kathleen Myer, Principal Engineer/Engineering Division *KM*

DATE: February 3, 2003

SUBJECT: Settlement Authorization  
Dodd Road Project  
Parcel Nos.: 134, 734, and 834  
Owner(s): Floyd Trust Property  
*Seminole County vs. Scott, et al.*  
Case No.: 01-CA-1901-13-W

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 134, 734, and 834 on the Dodd Road Project. The acquisitions were for 0.90 acres in fee simple, and smaller permanent and temporary easements. The recommended settlement is at the total sum of SEVENTY TWO THOUSAND FIVE HUNDRED DOLLARS (\$72,500.00) inclusive of all land value, severance damage, and statutory interest. The settlement is exclusive of attorney's fees and costs.

**I PROPERTY**

Parcel No. 134 is a fee simple acquisition consisting of 0.90 acres, Parcel No. 734 is a temporary construction easement of 0.320 acres, and Parcel No. 834 is a permanent easement of 2,222 s.f. at a box culvert under the new Dodd Road.

A sketch depicting the parent tract, Parcel Nos. 134, 734, and 834 is attached as Exhibit A. The street address is 1491 Dodd Road, Winter Park, Florida 32793.

## **II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 95-R-230, on September 26, 1995, authorizing the acquisition of Parcel Nos. 134, 734, and 834 finding that Dodd Road was necessary and served a public purpose and was in the best interest of the citizens of Seminole County. However, the Order of Take for Parcel No 834 (0.734 acres) was defeated in November, 2001. A new Parcel No. 834 at the present 2,222 s.f. was approved by the Court and is the subject of this acquisition.

## **III ACQUISITIONS AND REMAINDER**

The Floyd property consists of 28.443 acres with a large portion consisting of lake bottom under Bear Gully Lake and wetlands. An upland developable area of 2.91 acres fronting Dodd Road was impacted.

The property is located on the east side of Dodd Road directly at the 90 degree turn just north of Howell Branch Road.

## **IV APPRAISED VALUES**

The County's appraisal report was prepared by Diversified Property Specialists, Inc. The appraised value was \$46,500.00 inclusive of all three parcels.

The Floyd's appraisal report was prepared by Calhoun, Dreggors and Associates, Inc. The reported value for all three parcels was \$107,000.00.

## **V OTHER VALUES**

In addition to the appraised value, the owners submitted additional opinions of damages totaling \$45,000.00. Thus, the total claim of the owners was \$152,000.00 plus statutory interest resulting in a claim of \$157,000.00.

### **1) County Policy Delays**

The Dodd Road plans are over eleven years old and the owners along the roadway were first contacted about the widening project more than thirteen years ago.

The BCC has delayed the Dodd Road project several times due to priorities of other projects. Additional delays were due to design errors:

Because of the various delays the owners claimed additional "holding period" damages of \$5,000.00. This new form of damages has been asserted on Dodd Road due to the delays, the developmental potential of the 2.71 acres fronting on Dodd Road, and the jury sympathy for the owners caused by the delays.

## **VI NEGOTIATION**

The positions at mediation were the County's position at \$46,500.00 excluding statutory interest. The owner's position was \$152,000.00 plus \$5,000.00 estimated statutory interest for a total claim of \$157,000.00 including interest. Normally, statutory interest is not a factor discussed in mediation; however, the owners made it part of these negotiations because of the project delays and the failed order of take.

The Floyd family would make excellent witnesses. The property has been the family homestead since 1938.

The proposed mediated settlement at \$72,500.00 is \$84,500.00 below the owner's position of \$157,000.00 and \$26,000.00 above the County's position.

## **VII COST AVOIDANCE**

By this settlement, the County avoids the following additional costs beyond those for which it is already liable by law:

- a. A potential jury verdict in excess of the settlement sum of \$72,500.00;
- b. Statutory interest applicable to a larger jury verdict; and,
- c. Attorneys fees and costs to proceed further.

The proposed mediated settlement is exclusive of attorney fees and costs. Costs will be significant as a result of the delays. The project was stopped twice and later restarted twice. Each time, including the original start of the project the owners incurred appraisal costs, all of which will be claimed for reimbursement.

Attorney's fees, as a result of the proposed settlement, will be limited to the statutory percentage. Here, the percentage fee will be capped at \$3,267.00. If the case is not settled, a reverse offer of judgment will be made exposing the County to greater attorneys fees computed based on hours rather than the fixed percentage.

## **VIII ANALYSIS**

See, above.

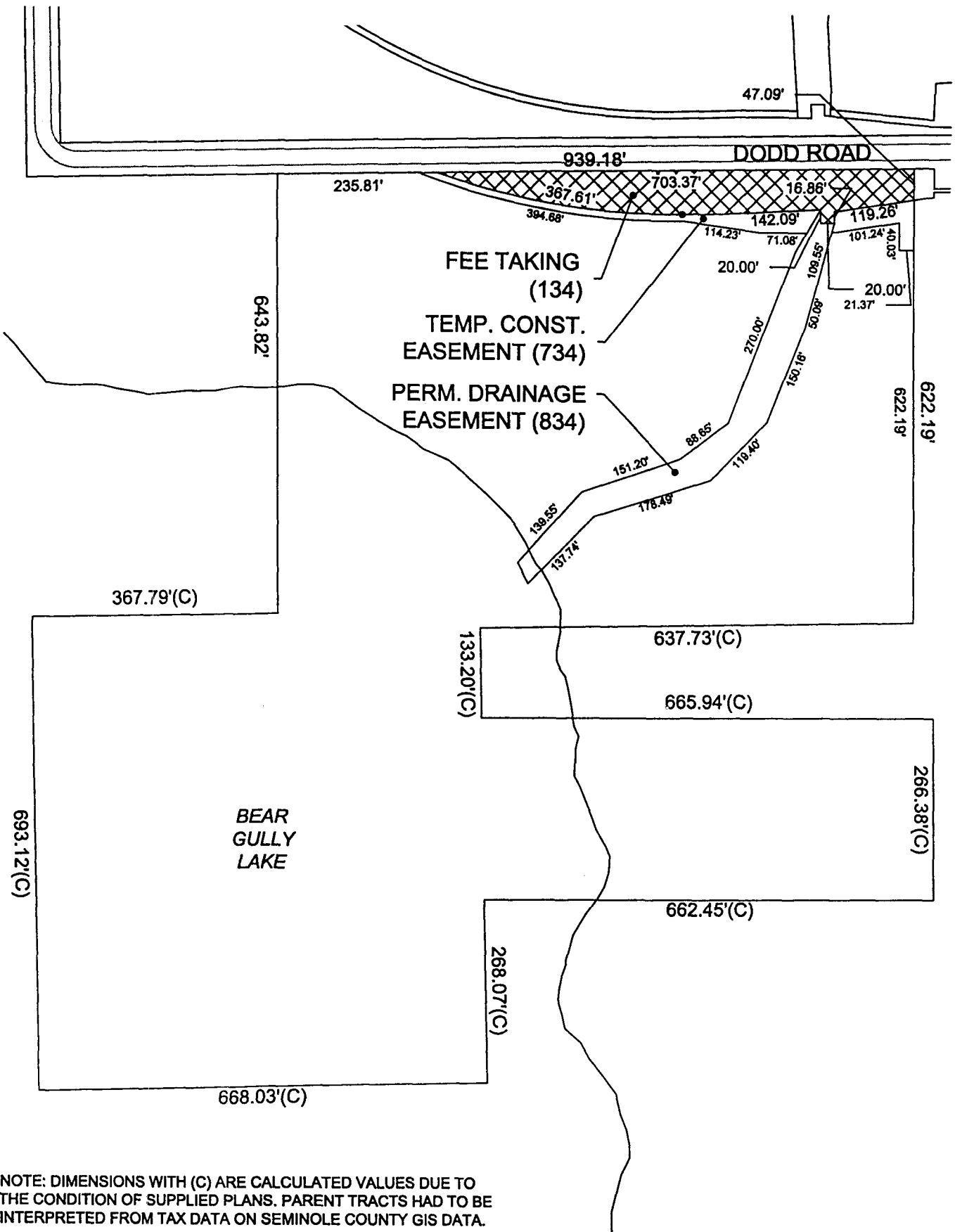
## **IX RECOMMENDATION**

This Office recommends that the BCC approve this proposed mediated settlement in the amount of \$72,500.00 inclusive of land value, severance damage, and statutory interest.

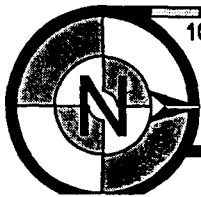
HMB/sb  
Attachment  
Exhibit A

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# EXHIBIT A



NOTE: DIMENSIONS WITH (C) ARE CALCULATED VALUES DUE TO THE CONDITION OF SUPPLIED PLANS. PARENT TRACTS HAD TO BE INTERPRETED FROM TAX DATA ON SEMINOLE COUNTY GIS DATA.

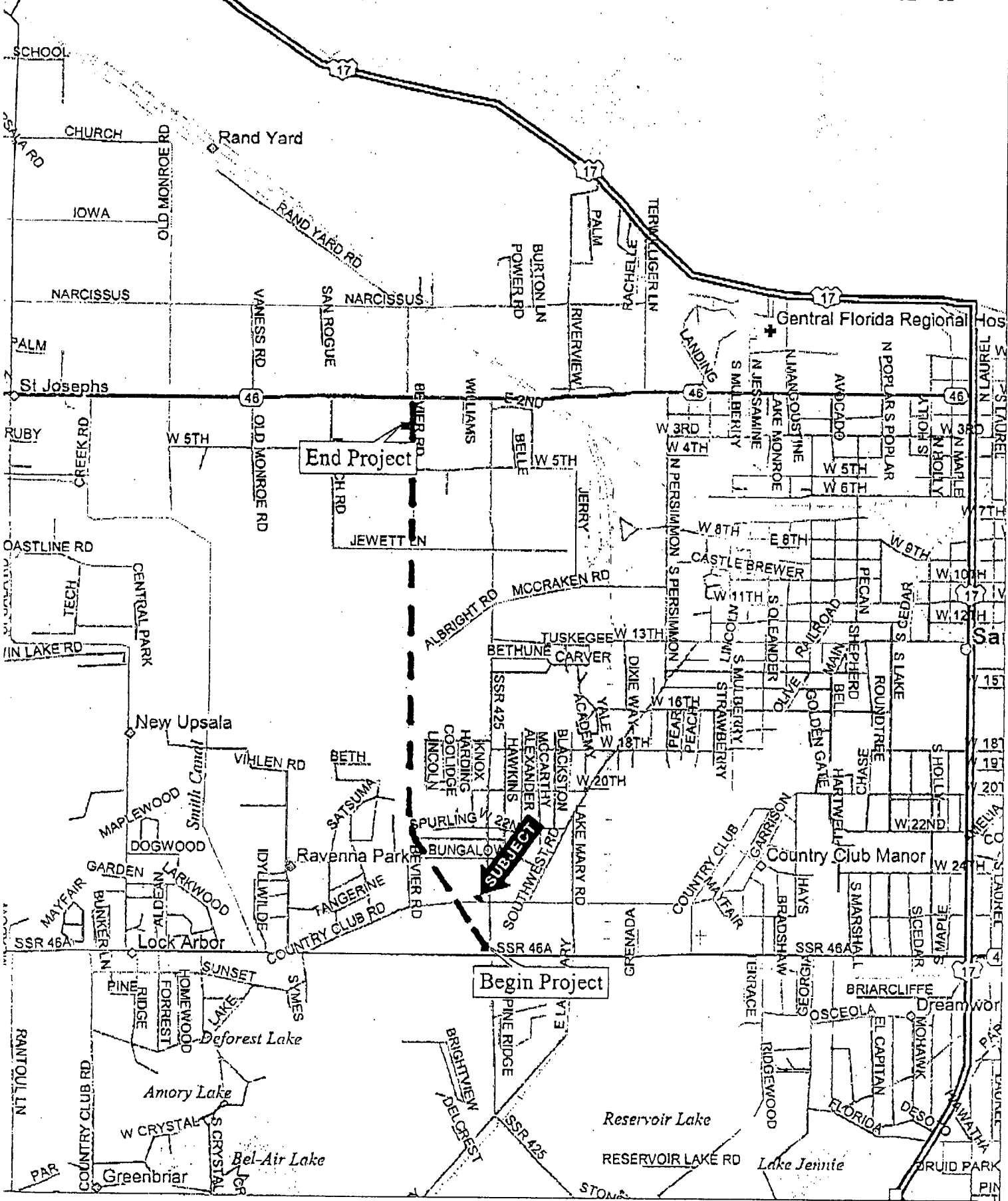


100' 0 200'

SCALE  
1"=200'

NOT A SURVEY

DODD ROAD EXPANSION PROJECT  
PARCEL 134 - PROPOSED ACQUISITION



# LOCATION MAP