



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

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

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

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David Nichols, Principal Engineer/Engineering Division *DNL 1-29-07*

DATE: January 24, 2007

RE: Authorization to issue Offer of Judgment
East Lake Mary Boulevard Phase IIB
Parcel Nos. 125/725/825; King
Seminole County v. Nordman, et al.
Case No. 03-CA-2121-13-L

This Memorandum requests authorization by the Board of County Commissioners (BCC) to issue an Offer of Judgment on Parcel Nos. 125/725/825 at \$55,000.00.

I. THE PROPERTY:

A. Location Data

The subject parcels are located along the east side of Cameron Avenue, north of Moores Station Road and south of State Road 46 in unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

B. Property Address

The property is vacant and, therefore does not have an assigned address. A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2003-R-47 on February 11, 2003, authorizing the acquisition of Parcel Nos. 125/725/825. The East Lake Mary Boulevard Phase IIB 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 November 14, 2003 for the referenced parcels. Seminole County acquired title to Parcel No. 125, the right to temporary use of Parcel No. 725 and the right to permanent use of Parcel No. 825 on February 5, 2004, the dates of deposit of the good faith amount for the Parcels.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel No. 125 totals 1.0247 acres in fee simple from a parent tract of 19.8748 acres with a remainder of 18.8501 acres. Parcel No. 725 is a temporary construction easement containing 1,000 square feet and Parcel No. 825 is a permanent drainage easement that totals 1,712 square feet.

The fee taking will sever the remainder in two pieces one on the left and one on the right. However, this leaves the owner in the after with road front property on Cameron Avenue and East Lake Mary Boulevard.

IV APPRAISED VALUES

The County's original report dated January 16, 2003, was prepared by The Spivey Group, Inc., and reported full compensation to be \$38,800.00 allocated \$37,700.00 for Parcel No. 125, \$300.00 for Parcel No. 725 and \$800.00 for Parcel No. 825. An additional report updated to the date of deposit opines the value to be \$41,800.00 for Parcel Nos. 125, \$300.00 for Parcel No. 725 and \$900.00 for Parcel No. 825 for a total of \$43,000.00.

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 \$42,700.00.

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, \$55,000.00, is intended to cover the County's appraisal amount and accrued interest, 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 \$55,000.00. This amount is reasonable, given the County's appraisal and other considerations.

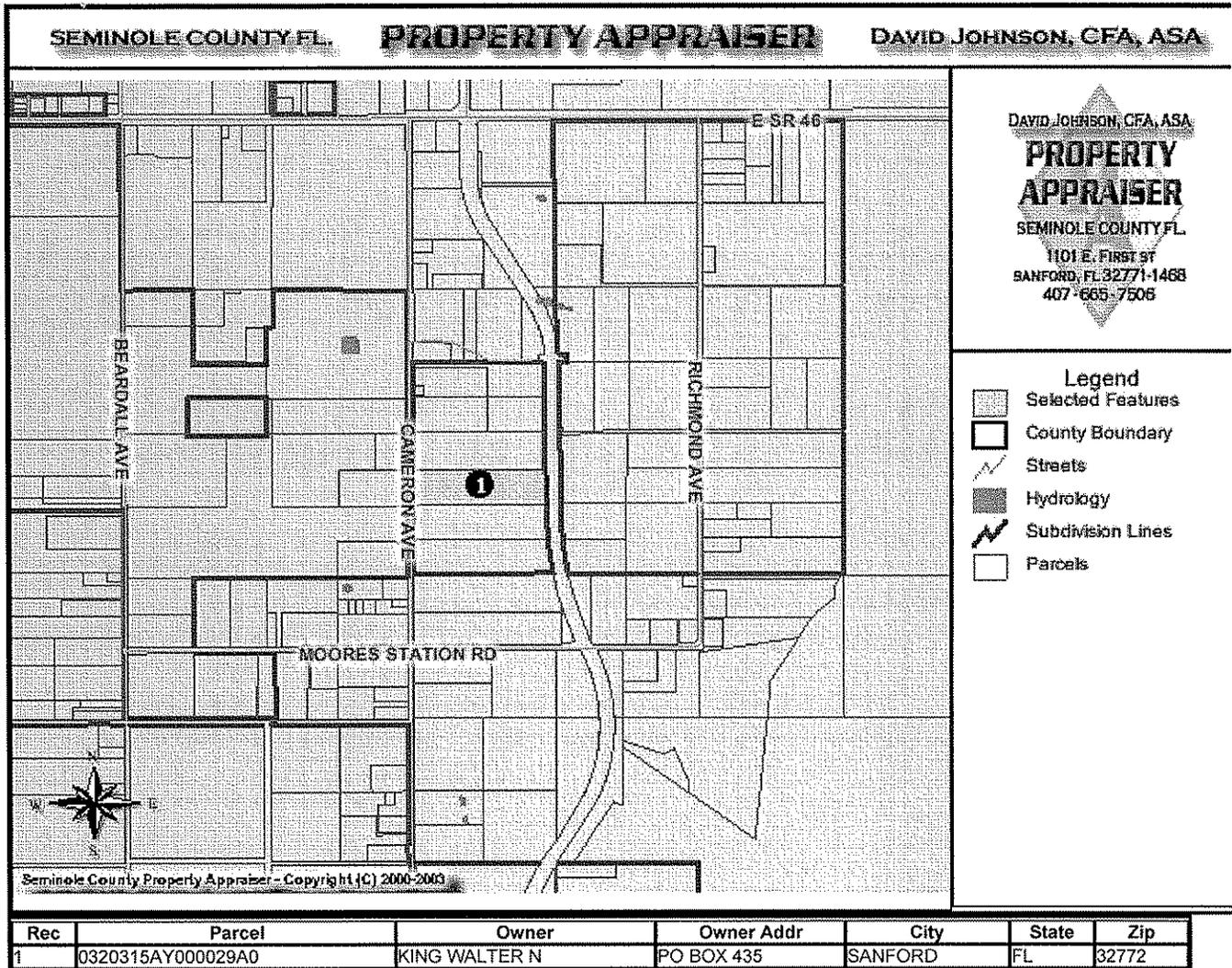
DGS/dre

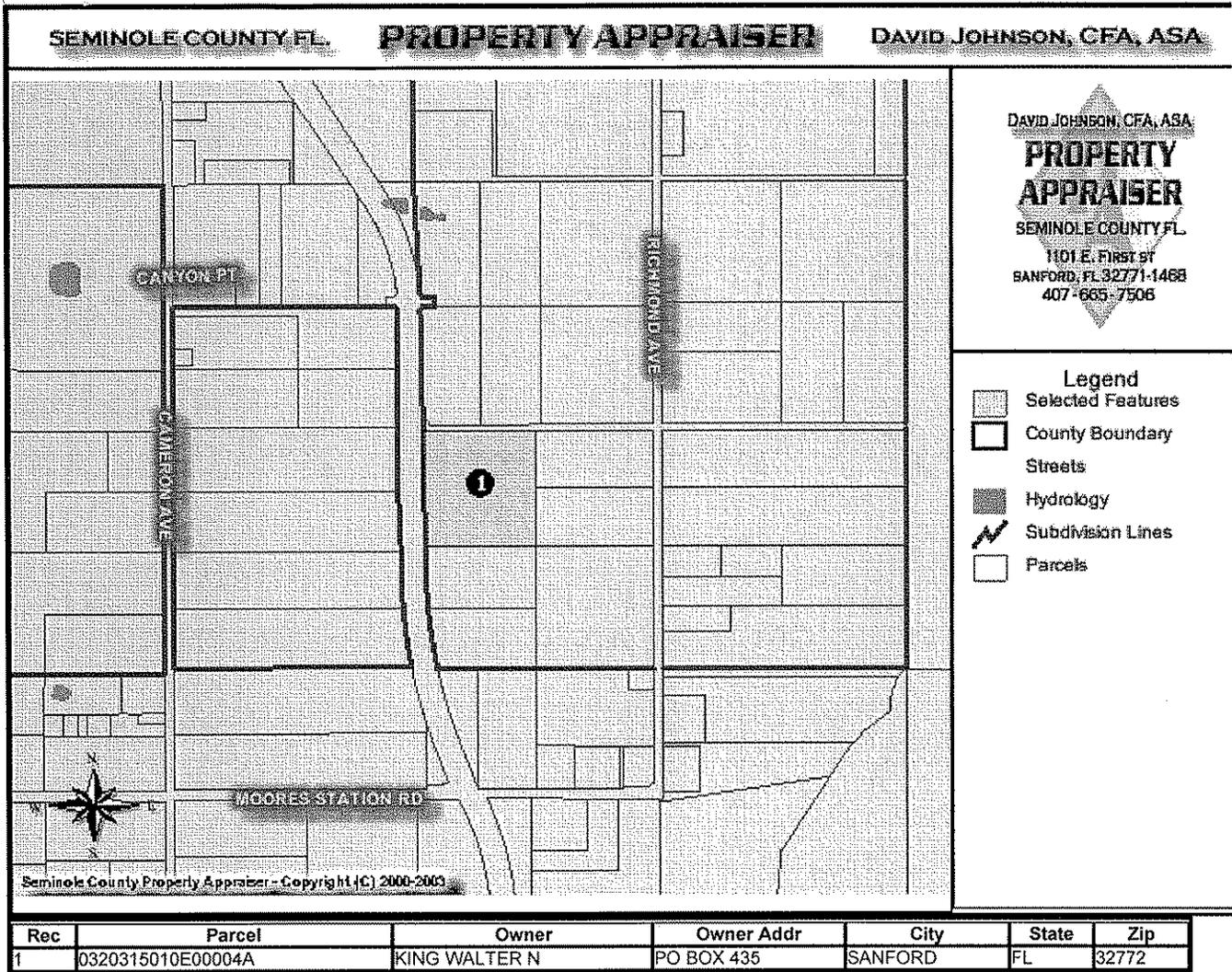
Two (2) Attachments:

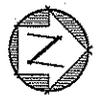
Exhibit A - Location Map

Exhibit B - Sketch

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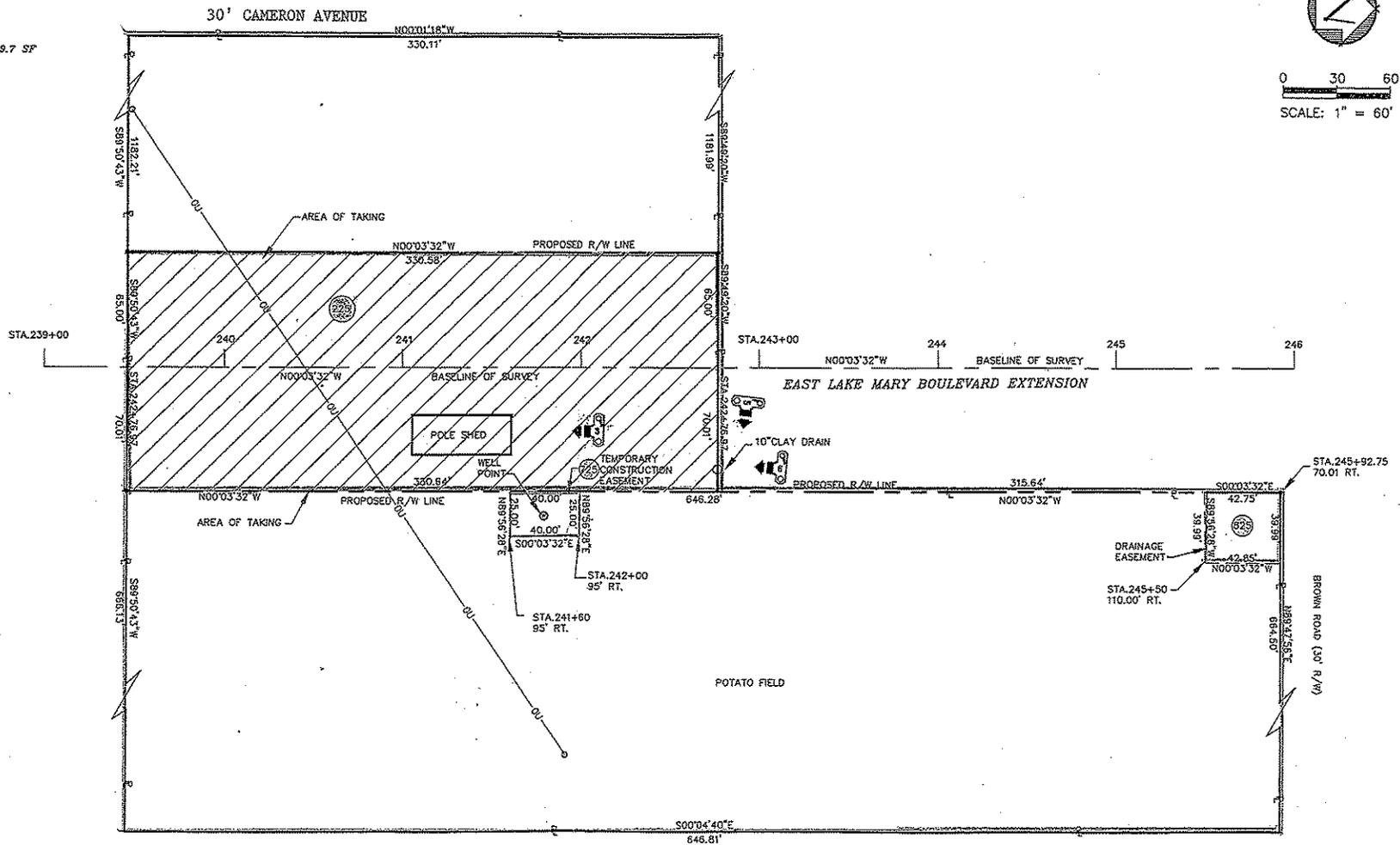






0 30 60
SCALE: 1" = 60'

EAST LAKE MARY BOULEVARD EXTENSION
SEMINOLE COUNTY, FLORIDA
PARCEL 225, 725 & 825 - SKETCH OF PARCELS
AREA OF PARENT TRACT = 19.8748 ACRES
AREA OF TAKING PARCEL 225 = 1.0247 ACRES
AREA OF REMAINDER = 18.8501 ACRES
AREA OF REMAINDER RIGHT = 9.8901 ACRES
AREA OF REMAINDER LEFT = 8.96 ACRES
TEMPORARY CONSTRUCTION EASEMENT (TCE#25) = 999.7 SF
AREA OF DRAINAGE EASEMENT 825 = 1712.0 SF



NOTES:
THIS IS A SKETCH ONLY, THIS IS NOT A BOUNDARY SURVEY
THE PURPOSE OF THIS SKETCH IS TO AID IN THE APPRAISAL OF THE SUBJECT PARCEL.
ALL BOUNDARY INFORMATION AND CALCULATIONS ARE BASED ON A SPECIFIC PURPOSE MAP AND CONTROL SURVEY, EAST LAKE MARY BOULEVARD EXTENSION, FROM OHIO AVENUE TO SILVER LAKE DRIVE, COUNTY PROJECT: PS-0137

| KEY | DATE | REVISIONS |
|-----|----------|-------------------------|
| | 12/19/02 | CHANGES PER BOB SIMMONS |
| | 10/28/02 | |

| | |
|--------------|------------------|
| SKETCH DATE: | FIELD BOOK/PAGE: |
| 10/28/02 | NA |

CORNERSTONE
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|-------------|--|
| PROJECT | EAST LAKE MARY BOULEVARD EXTENSION SEMINOLE COUNTY - PARCELS 225, 725 & 825 |
| SHEET TITLE | SKETCH OF PARCELS PARENT TRACT & AREA OF TAKING |

| | |
|-----------|------------------------|
| CLIENT | THE SPIVEY GROUP, INC. |
| JOB NO. | TSG02225 |
| SHEET NO. | 2 of 3 |