



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 *David G. Shields*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David Nichols, Principal Engineer/Engineering Division *DWN 2-7-07*

DATE: February 6, 2007

RE: Settlement Authorization
East Lake Mary Boulevard Phase IIB
Parcel Nos. 203A/203B/803
Seminole County v. Nordman, et al.
Case No. 04-CA-223-13-W

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 203A/203B/803. The proposed mediated settlement at the total recommended sum of \$643,125.00 is inclusive of all land value, severance damage, statutory interest, and statutory attorney's fees. Cost reimbursements are still in dispute but should not exceed \$38,600.00 as claimed by the owners. The total settlement authorization is allocated as follows:

\$525,000.00	land value, severance damage, and statutory interest
\$118,125.00	statutory attorney's fee; and
<u>\$ 38,600.00</u>	cost reimbursements
<u>\$681,725.00</u>	Total

I. THE PROPERTY:

A. Location Data

The subject parcels are located along the south side of Kentucky Avenue (a 60 foot unpaved road) 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, and Resolution No. 2003-R-216 on December 9, 2003, authorizing the acquisition of Parcel Nos. 203A/203B/803. 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 January 27, 2004 for Parcel No. 803 and May 24, 2004, for Parcel Nos. 203A/203B. Seminole County acquired the right to permanently use Parcel No. 803 on February 5, 2004 and obtained title to Parcel Nos. 203A/203B on June 2, 2004, respectively, the dates of deposit of the good faith amount for the Parcels. The date of deposit for all parcels as agreed to by the parties is June 2, 2004.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel Nos. 203A/203B totals 6.2257 acres in fee simple from a parent tract of 53.69 acres with a remainder of 47.46 acres. Parcel No. 803 is a permanent drainage easement that totals 14,587 square feet.

IV APPRAISED VALUES

The County's original report dated December 5, 2003, was prepared by The Spivey Group, Inc., and reported full compensation to be \$152,000.00, allocated \$145,500.00 for Parcel Nos. 203A/203B and \$6,500.00 for Parcel No. 803. An additional report updated to the date of deposit opines the value to be \$301,700.00 for Parcel Nos. 203A/203B and \$11,300.00 for Parcel No. 803.

On May 10, 2006, the County received the owners' appraisal report which opines full compensation for all parcels at \$760,700.00.

V BINDING OFFER/NEGOTIATION/ISSUES

The County's initial written offer was \$175,000.00. An Offer of Judgment of \$360,000.00 was issued to the property owners which they did not accept.

This settlement was arrived at a mediation held on December 19, 2005. The trial was set for March 5, 2007, but was cancelled when the owners' compensation was settled at mediation.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$118,125.00. The sum is statutorily computed based upon a settlement sum of \$525,000.00 less a first written offer of \$132,500.00 to produce a benefit of \$392,500.00. In 2004, the owners' attorney also received \$18,490.00 for attorney fees and \$3,602.00 for costs associated with defeating the first attempt to obtain an order of taking for Parcel Nos. 203A/203B.

The owners' expert costs are still in dispute. The owners have claimed a total of \$38,600.00. The County is attempting to negotiate or, if necessary, litigate for a lower amount. The ultimate resolution of costs has no bearing on the compensation to the owners or the attorney fees that have already been settled. The claimed costs break down is as follows:

(1)	Appraisal	\$35,000.00
(2)	Planners	\$ 3,600.00
	Total	<u>\$38,600.00</u>

VII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation, except for the owners' costs which have been asserted to be \$38,600.00.

VII RECOMMENDATION

County staff recommends that the BCC approve this mediated settlement at \$643,125.00 that includes land value, severance damage, statutory interest, and statutory attorney's fees. County staff also requests authorization to settle costs reimbursements for an amount not to exceed \$38,600.00, for a total authorization of \$681,725.00.

DGS/dre

Two (2) Attachments:

Exhibit A - Location Map

Exhibit B - Sketch

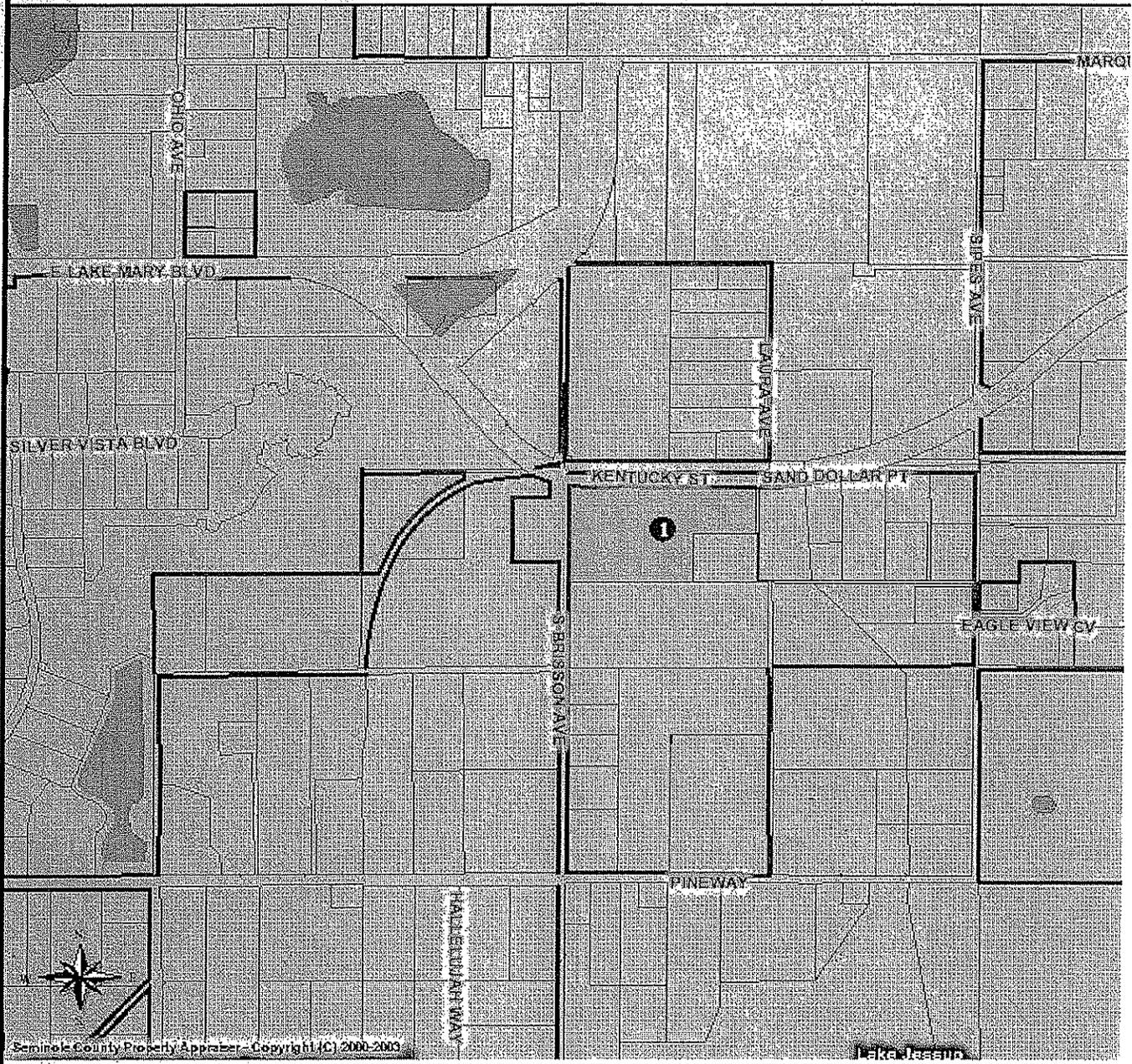
P:\Users\dedge\My Documents\MEMOAGENDA ITEM NORDMAN 203AB803 SETTLEMENT.DOC

EXHIBIT A

SEMINOLE COUNTY FL

PROPERTY APPRAISER

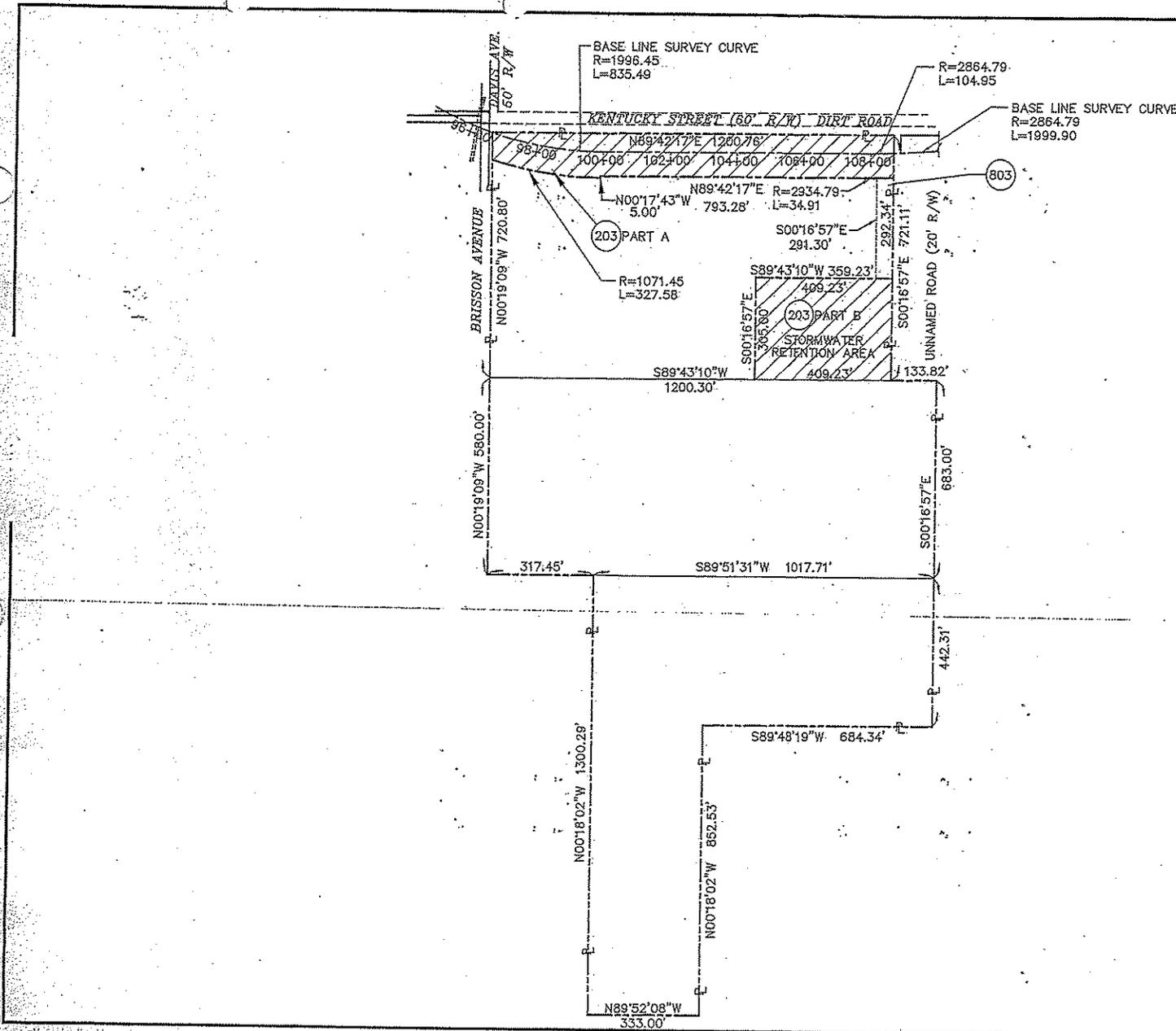
DAVID JOI



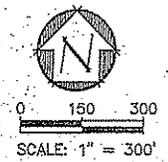
Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	17203150100000010	BRISSON INV LLC	27 N SUMMERLIN AVE	ORLANDO	FL	32801

EXHIBIT B

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NOTES:
1. THIS DRAWING IS BASED UPON SITE SKETCH INFORMATION PREPARED BY CORNERSTONE LAND SURVEYING, INC.



AREA SUMMARY

AREA OF PARENT TRACT	53.89 AC
AREA OF TAKING (203A)	3.36 AC
AREA OF TAKING (203B)	2.87 AC
AREA OF EASEMENT (803)	14,587 SF
AREA OF REMAINDER	47.46 AC

KCG KELLY, COLLINS & GENTRY, INC.
ENGINEERING / PLANNING

PARENT TRACT & AREA OF TAKING

**PARCELS 203A & 203B
VACANT/UNDEVELOPED**

Prepared for: **THE SPIVEY GROUP, INC.**

PROJECT: EAST LAKE MARY BOULEVARD EXT.
COUNTY: SEMINOLE COUNTY
COUNTY PROJ. NO.: PS-0317
WPI NO.: N/A
DRAWN BY: RMS CHECKED BY: HHC DATE: 8/4/06