



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

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

FROM: Al Schwarz, Assistant County Attorney *Al Schwarz*
Ext. 5736

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

DATE: February 6, 2007

SUBJECT: Settlement Authorization
Lake Drive road improvement project
Parcel Nos. 121/721; Suero
Seminole County v. Suero, et al.
Case No. 04-CA-2045-13-G

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 121/721 on the Lake Drive road improvement project. The recommended settlement is at the total sum of \$133,769.87 inclusive of all compensation to the owners, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay in the referenced case allocated as follows:

- \$93,500.00 land value
- \$12,705.00 statutory attorney's fees; and
- \$27,564.87 costs

I PROPERTY

A. Location Data

Parcel Nos. 121/721 are located on northeast side of Lake Drive, approximately .1 mile south of Center Drive, Seminole County, Florida. The ownership tract consists of 5.134 acres. A location map is attached as Exhibit A.

B. Property Address

The property address is 4550 East Lake Drive, Winter Springs, Florida.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolutions No. 2002-R-70 and 2004-R-75 on April 23, 2002 and April 13, 2004, respectively, authorizing the acquisition of Parcel Nos. 121/721. The Lake Drive (from Seminola Boulevard to Tuskawilla Road) 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 December 8, 2004, with title vesting in Seminole County on December 17, 2004, the date of the good faith deposit in the amount of \$33,800.00.

III ACQUISITIONS AND REMAINDER

The acquisition totals 1,179 square feet in fee simple with a 331 square foot temporary construction easement (TCE) to construct a driveway that will provide an acceptable transition from the existing driveway to the realigned Lake Drive. A parcel sketch is attached as Exhibit B.

IV APPRAISED VALUES

The County's original report dated April 20, 2004, was prepared by Clayton, Roper, and Marshall, and reported full compensation for Parcel Nos. 121/721 to be \$32,300.00, with an update dated November 15, 2004 opining the value of the taking at \$33,800.00. A report updated to the date of deposit, dated, November 18, 2005, found the value of the taking to be \$34,750.00.

On December 6, 2005, the County received the owners' appraisal report which opined full compensation of \$200,200.00 for Parcel Nos. 121 and 721. Previous to that, the owners also submitted two engineering reports, with the most recent dated May 11, 2005, which demonstrated a proposed ultimate cost to cure approximating \$145,977.00 and a replacement cost of the items in the amount of \$30,822.00.

V BINDING OFFER/STATUS OF THE CASE

The County's initial written offer was \$55,000.00 and prior staff had discussed and proposed to the property owners to obtain an estimate of cost for the payment of a proposed ultimate cost to cure which ended up approximating \$145,977.00.

Mediation was held on February 26, 2006, and an impasse resulted. After the Court granted the owners a continuance, the trial for Parcel Nos. 121/721 was scheduled to proceed in February.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$12,705.00. The sum is statutorily computed based upon a settlement sum of \$93,500.00 less the written offer of \$55,000.00 to produce a benefit of \$38,500.00.

B. Cost Reimbursements. The owners claimed costs totaling \$31,850.28. The owners' cost claim, after negotiation, of \$27,564.87 for experts' fees and costs is reasonable. This negotiation results in a reduction of approximately 13% from \$31,850.28 to \$27,564.87.

VII RATIONALE AND COST CONTROL

The main issues in this case are the difference in the cost to cure, improvements and damages. As to Parcel No. 121, the County prepared an appraisal report that provides for a total value of \$33,600.00, allocating \$4,200.00 for the land, \$15,500.00 for the cost to cure and \$13,900.00 for improvements. As to Parcel No. 721, the County's appraiser has opined a value of \$1,150.00, of which \$500.00 is allocated to the land and \$650.00 is allocated to the improvements. The owners submitted an appraisal report opining \$200,000.00 for parcel 121, claiming \$2,000.00 for the land taken, \$15,100.00 for the improvements taken and \$182,900.00 for damages, while placing a value of \$200.00 for parcel 721. As part of their analysis in determining the amount of damages, the property owners' appraisal recognized damage to the parcel as a whole as a result of the alignment of the road. The engineer also disputed the County's ultimate cure of the property's entryway as a result of the widening of Lake Drive in providing maneuverability for vehicular access.

Through negotiation, the parties agreed to a value of \$93,500.00 for Parcel Nos. 121 and 721 as well as to provide a driveway apron from the newly aligned road to the subject's property line. The agreed upon amount of \$93,500.00 is \$106,700.00 less than the property owners' appraised amount which represents about a 53% reduction in the value opined by the property owners' appraisal. This also represents approximately only 35% of the difference between the appraised amounts of the County and the property owners.

VIII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation. This also closes out the last two parcels currently in condemnation litigation as a result of the Lake Drive project.

IX RECOMMENDATION

County staff recommends that the BCC approve this negotiated settlement at \$133,769.87, inclusive of all compensation to the owner, attorney fees of any kind, all

costs, interest and any other matter for which Seminole County might be obligated to pay in the relating to the referenced parcels.

AHS/dre

Attachments:

Exhibit A - Location Map

Exhibit B - Sketch

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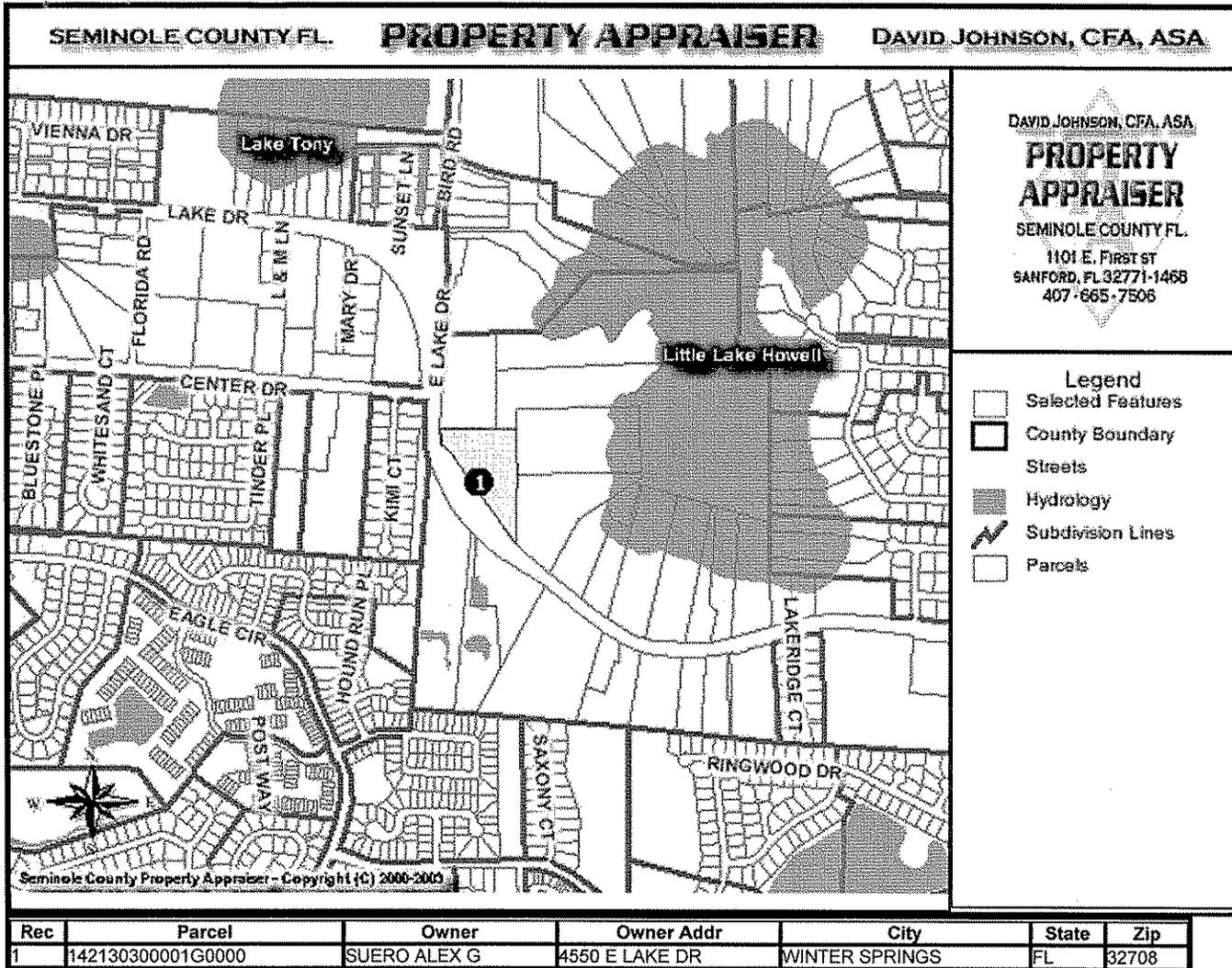


EXHIBIT A

Zone	STANDARD	PROPOSED
Zone 1	RESIDENTIAL	RESIDENTIAL
Zone 2	RESIDENTIAL	RESIDENTIAL
Zone 3	RESIDENTIAL	RESIDENTIAL
Zone 4	RESIDENTIAL	RESIDENTIAL
Zone 5	RESIDENTIAL	RESIDENTIAL
Zone 6	RESIDENTIAL	RESIDENTIAL
Zone 7	RESIDENTIAL	RESIDENTIAL
Zone 8	RESIDENTIAL	RESIDENTIAL
Zone 9	RESIDENTIAL	RESIDENTIAL
Zone 10	RESIDENTIAL	RESIDENTIAL
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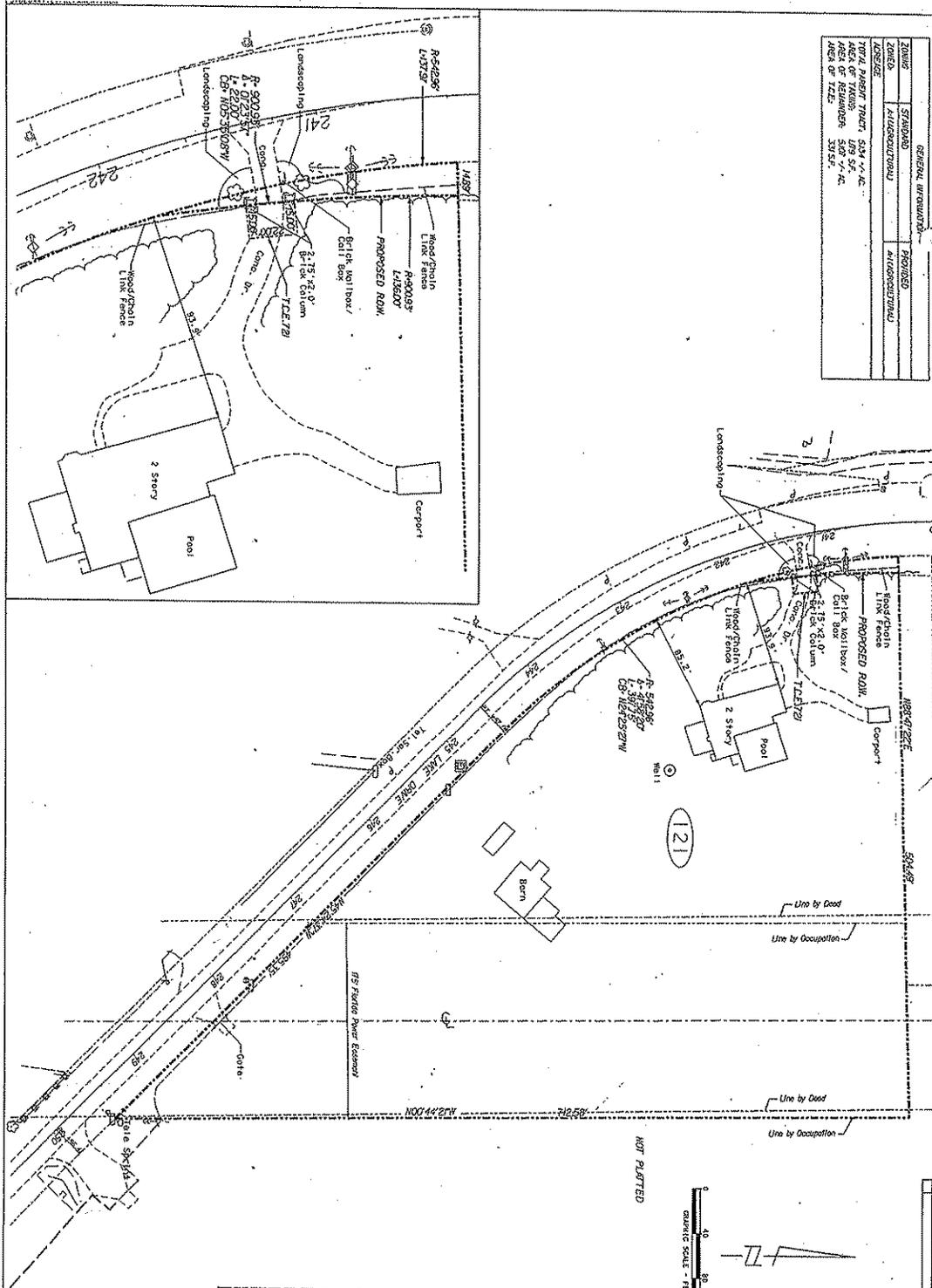


EXHIBIT B

SHEET 2 OF 4	LOCHRANE ENGINEERS • SURVEYORS	PARCEL 121	LAKE DRIVE SEMINOLE COUNTY FLORIDA	PROJECT NUMBER: 02044
		T.C.E. 721		DATE: MAY, 2002
		WITH TAKING		SCALE: AS SHOWN
				DESIGNED: W.E.W. CHECKED: T.C.
				APPROVED: [Signature]