



COUNTY ATTORNEY'S OFFICE  
MEMORANDUM

TO: Board of County Commissioners

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

FROM: Lynn Vouis, Assistant County Attorney *[Signature]*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*  
 Kathleen Myer, Principal Engineer/Major Projects *[Signature]*

DATE: February 2, 2005

SUBJECT: Litigation Settlement Authorization  
 Owners: James F. Outlaw and Sandra K. Outlaw (Parcel 115A)  
 John T. Cathcart (Parcel 115B)  
 Lake Drive Road Improvement Project

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 115. The parcel is required for the Lake Drive road improvement project. The recommended settlement amount is \$79,010.00, inclusive of all fees and costs incurred.

**I THE PROPERTY**

**A. Location Data**

The property is located on the north side of Lake Drive, approximately ¼ mile west of Tuskawilla Road, within unincorporated Seminole County, Florida.

1. Location Map (Exhibit A); and
2. Sketch (Exhibit B)

**B. Address**

N/A (unimproved property)

### **C. Description**

The parent tract for Parcel 115 was originally 4.6 acres owned by Alex Abrams. The property was subdivided and eventually sold to the two present owners. The parcel owned by the James F. Outlaw and Sandra K. Outlaw 115(A) was 1.4 acres in size prior to the County's acquisition and is unimproved except for horse stables and a stone wall that extends the length of the entire property. The parent tract of Parcel 115(B), owned by John T. Cathcart, was approximately 2.8 acres in size prior to the County's acquisition. A single family residence is currently being constructed on the Cathcart property.

### **II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2004-R-75 on April 13, 2004, authorizing the acquisition of the referenced property, and finding that the construction of the Lake Drive road improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County. The Order of Take hearing occurred on January 13, 2005, with title vesting in Seminole County on January 20, 2005, the date of the good faith deposit in the amount of \$46,400.00.

### **III ACQUISITION/REMAINDER**

Parcel 115(A) contains a total of 1,170 square feet of land area, and Parcel 115(B) contains 400 square feet. The parcel is a strip take located along the East Lake Drive frontage.

### **IV APPRAISED VALUE**

The County's initial appraisal, dated March 5, 2004, was for \$12,900.00. The appraisal was for the original Parcel No. 115, which included parts A & B under one ownership. The County's updated appraised value amounts, as of December 13, 2004 were \$31,000.00 for Parcel No. 115(A), and \$15,400.00 for Parcel No. 115(B). The increase in value was because of a change in the parent tract, as is explained further in Section VI. The County's appraisals were prepared by Clayton, Roper & Marshall, P.A., and were approved by the County's MAI designated staff appraiser.

### **V BINDING OFFER/NEGOTIATIONS**

On June 8, 2004, the BCC authorized a binding written offer in the amount of \$18,000.00 for the original parcel 115. The owner of record, Alex Abrams, denied he owned the property and would not accept the offer. In order to negotiate settlement for the acquisition, County staff and owner's representatives had to resolve numerous title issues with Mr. Abrams and all subsequent property owners.

## VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The County originally was to acquire the total Parcel 115, which consisted of 1570 square feet, from Mr. Abrams. Mr. Abrams subdivided his property and sold part to James and Sandra Outlaw and part to John T. Cathcart. However, he retained ownership of Parcel 115, the frontage strip to be acquired by the County. When the parcel was appraised, it was still owned by Mr. Abrams and was appraised as a stand-alone remnant parcel, which resulted in the lower appraised value amount of \$12,900.00. Mr. Abrams thereafter quit-claimed Parcel 115 to James and Sandra Outlaw.

James and Sandra Outlaw agreed to settle the portion of Parcel 115 in front of their property for \$26,500.00, and a purchase agreement for this amount was approved by the Board and signed by the Chairman on August 24, 2004. However, the County's title company refused to insure title for the parcel because the property had not been properly transferred to the Outlaws. Mr. Abrams had quit-claimed the *entire* Parcel 115 to James and Sandra Outlaw, including the portion of the property in front of Mr. Cathcart's lot. The Outlaws attempted to correct the situation by quit-claiming Mr. Cathcart's frontage back to him, but once again the deeds were incorrect, giving the Outlaws the property in front of Mr. Cathcart, and Mr. Cathcart the property in front of the Outlaws. Finally, with the assistance of an attorney and other experts, the ownership issues were properly resolved. By this time, the County was proceeding to litigation in order to obtain clear title to the property.

Since Parcel 115 was now owned by two separate parties, it would have to be appraised in two parts. The updated appraised values prepared for the Order of Take hearing were \$31,000.00 for the Outlaw's portion of Parcel 115, and \$15,400.00 for the Cathcart portion, for a total of \$46,400.00. The total value was significantly higher than the original appraised value of \$12,900.00. No damages or costs to cure had been found in the original appraisal, because these items can only apply when a remainder property has been impacted. The original Parcel 115 was a whole take, and therefore improvements did not have to be rebuilt on the remainder property, because there was no remainder. The damages caused by removal of the stone wall and other improvements and the subsequent cure costs to restore them were significant in the updated appraisals. The original appraised value was technically correct but did not account for the complicated title issues which were eventually resolved. The later appraisals reflect an accurate good faith estimate of value which was required for the County to obtain title to the property at the Order of Taking hearing. The property vested in the County on January 20<sup>th</sup>, 2005.

County staff proceeded to negotiate with the Outlaws and Mr. Cathcart in order to settle all valuation issues. Although the Outlaw's had previously signed a purchase agreement with the County for \$26,500.00, they were no longer willing to settle for that amount, since they were aware of the updated appraised value of \$31,000.00 for Parcel 115(A). They also had retained an appraiser, who opined that the value of Parcel 115(A) was \$46,000.00. It is extremely doubtful that the County could enforce the

earlier Purchase Agreement since it is in effect lower than the County's own appraised value. Eventually County staff reached an agreement, contingent on Board approval, to pay the Outlaws \$40,000.00 for the value of their land and all damages and cure costs. The Outlaws would be paid an additional \$11,660 for statutory attorney's fees and expert costs, for a total of \$51,660.00.

The attorney for the Outlaws was also hired by Mr. Cathcart to represent him. The appraiser hired by Mr. Cathcart estimated the value of the acquisition to be \$24,400.00. Mr. Cathcart agreed to settle all claims for \$27,350.00, inclusive of all fees and costs. The value of the land, improvements and cost to cure in the amount of \$20,000.00 would be paid to Mr. Cathcart directly. An additional \$7,350.00 would pay for statutory attorney's fees, appraisal fees, engineering expert fees, and miscellaneous costs.

The proposed settlement for both owners and all fees and costs is \$79,010.00. This settlement makes sense because the owners have agreed to accept only \$18,100.00 more than the County's appraised value, and \$10,400.00 less than their own appraised value. The costs are not unreasonable, and would be much greater if this matter proceeded to mediation and then trial.

## **VII RECOMMENDATION**

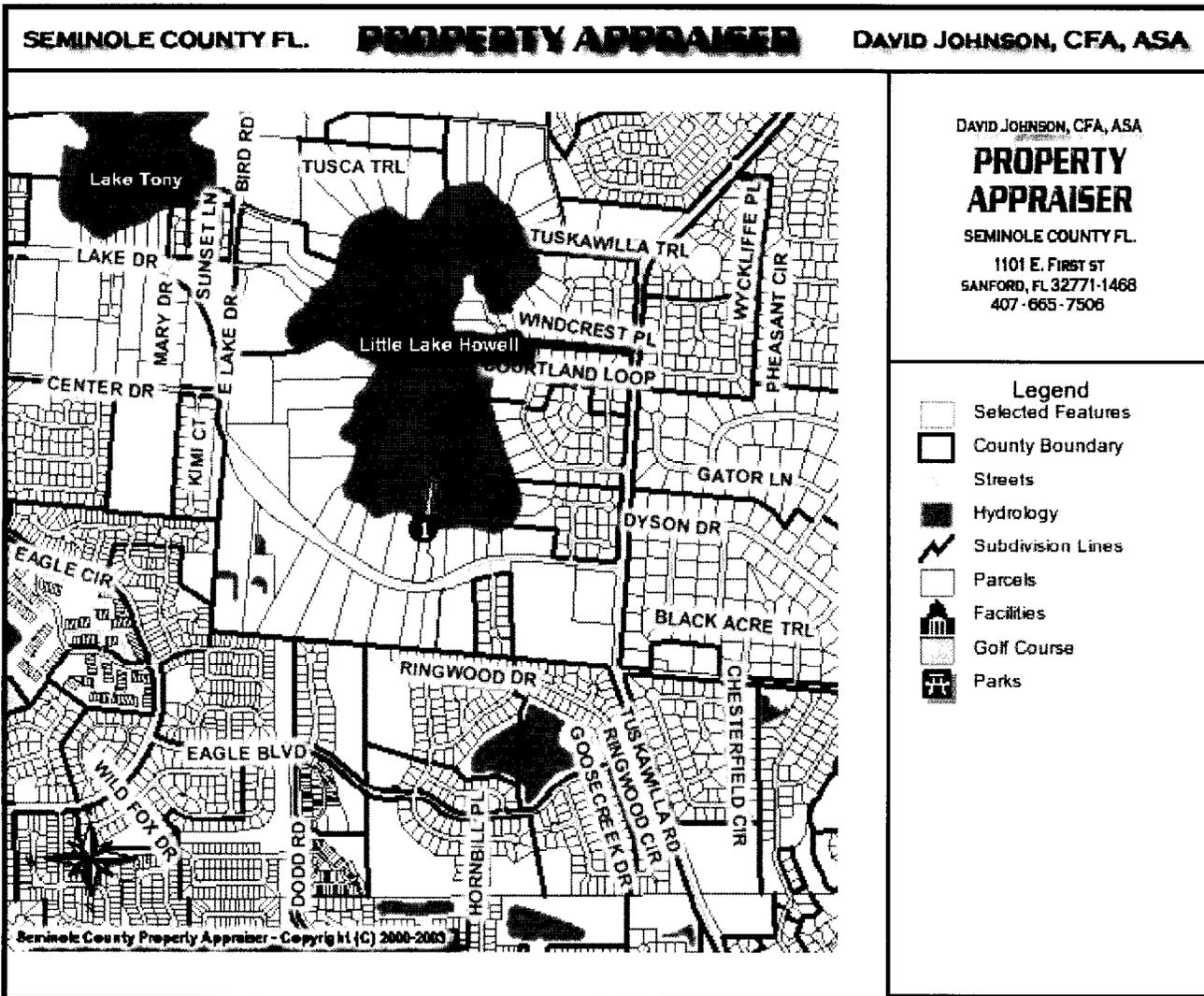
County staff recommends that the BCC authorize settlement in the amount of \$79,010.00, inclusive of all fees and costs.

LV/kc

Attachments:

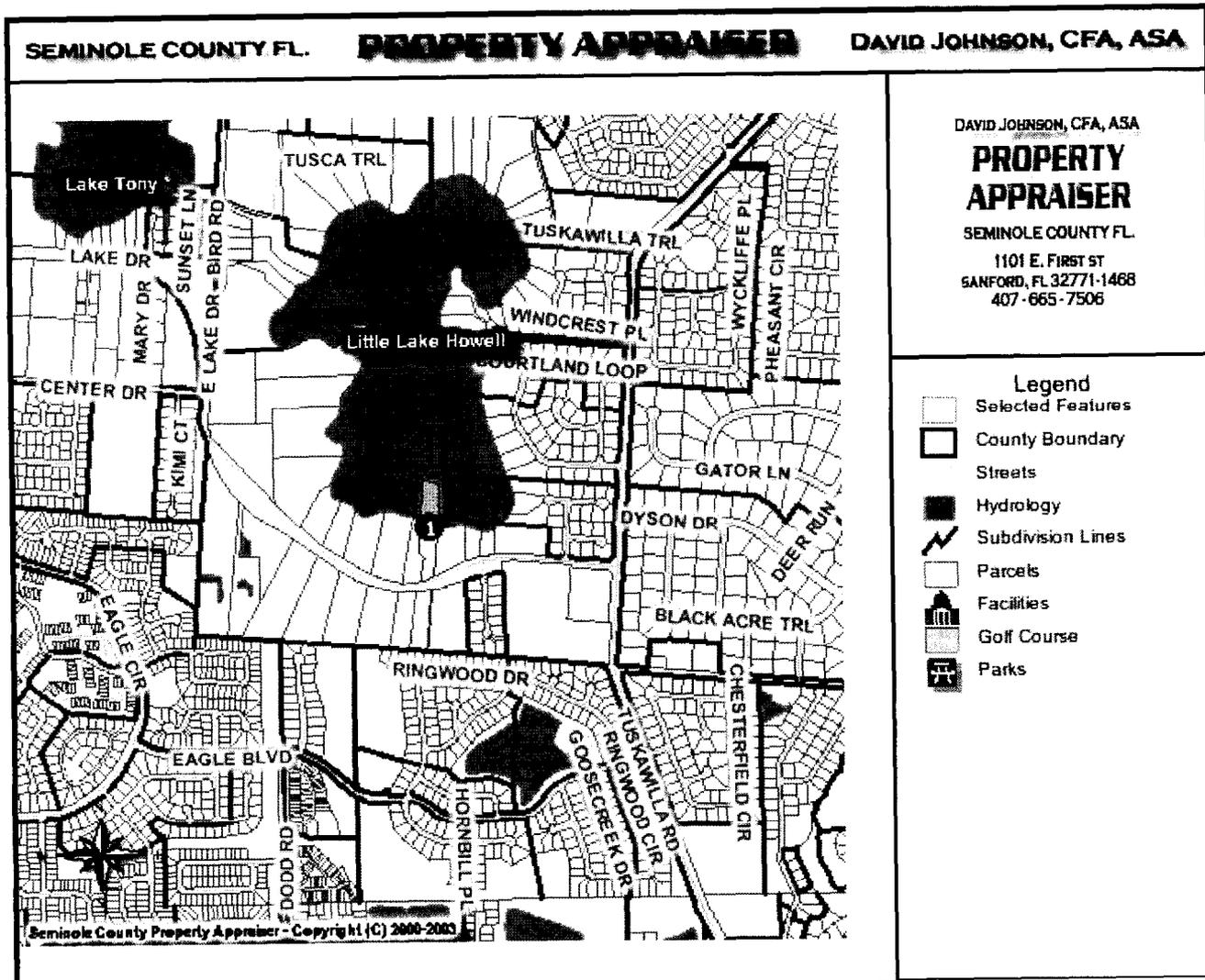
Location Map (Exhibit A)

Sketch (Exhibit B)



Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	142130300005D0000	OUTLAW JAMES F & SANDRA K	2395 LAFAYETTE AVE	WINTER PARK	FL	32789

**EXHIBIT A**



Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	14213030000500000	CATHCART JOHN T	PO BOX 195788	WINTER SPRINGS	FL	32719

**EXHIBIT A**

PROPERTY SKETCH PARENT TRACT – BEFORE TAKING

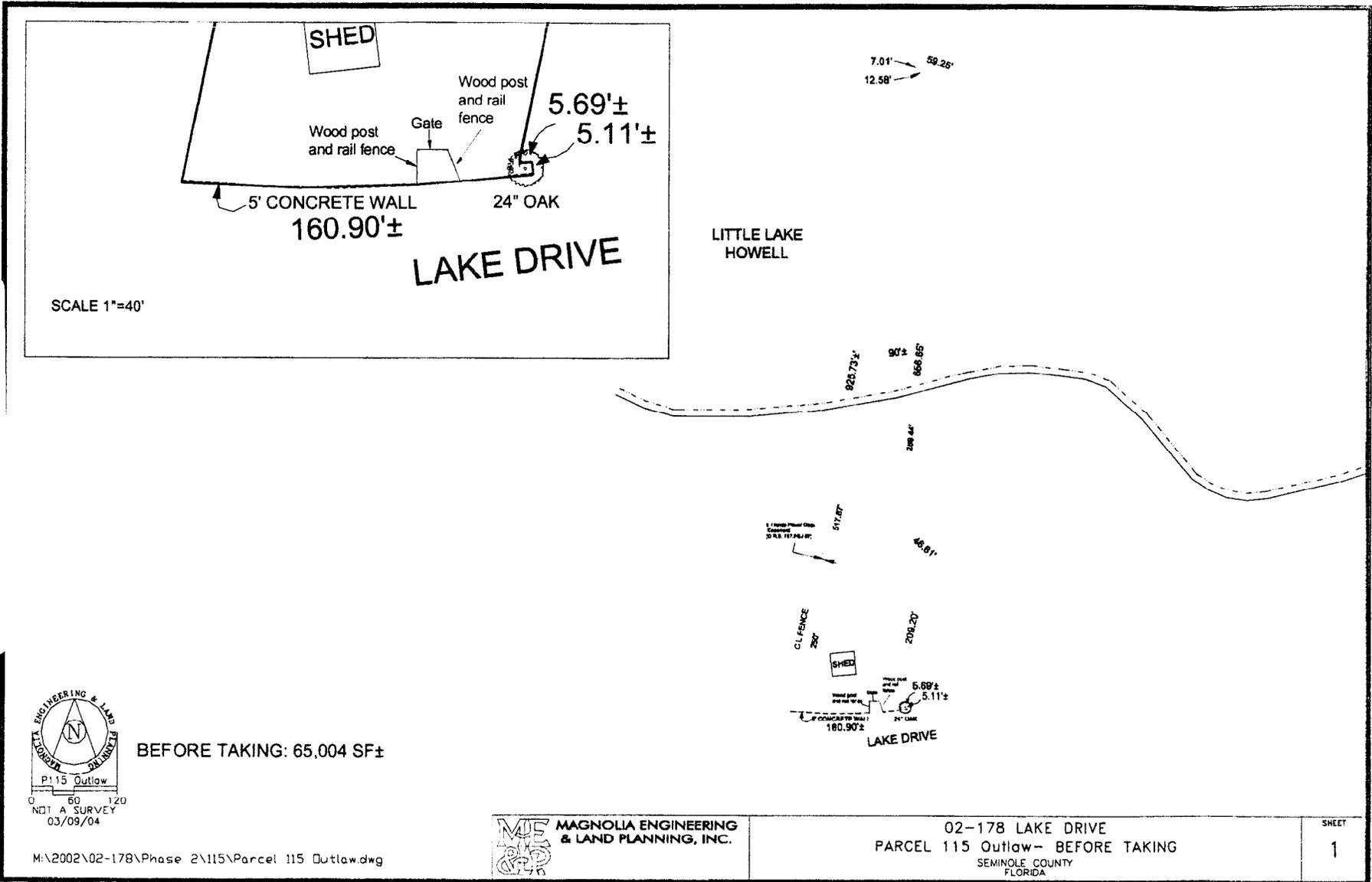
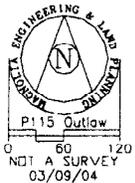


EXHIBIT B



BEFORE TAKING: 65,004 SF±

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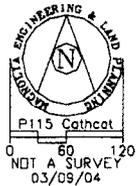
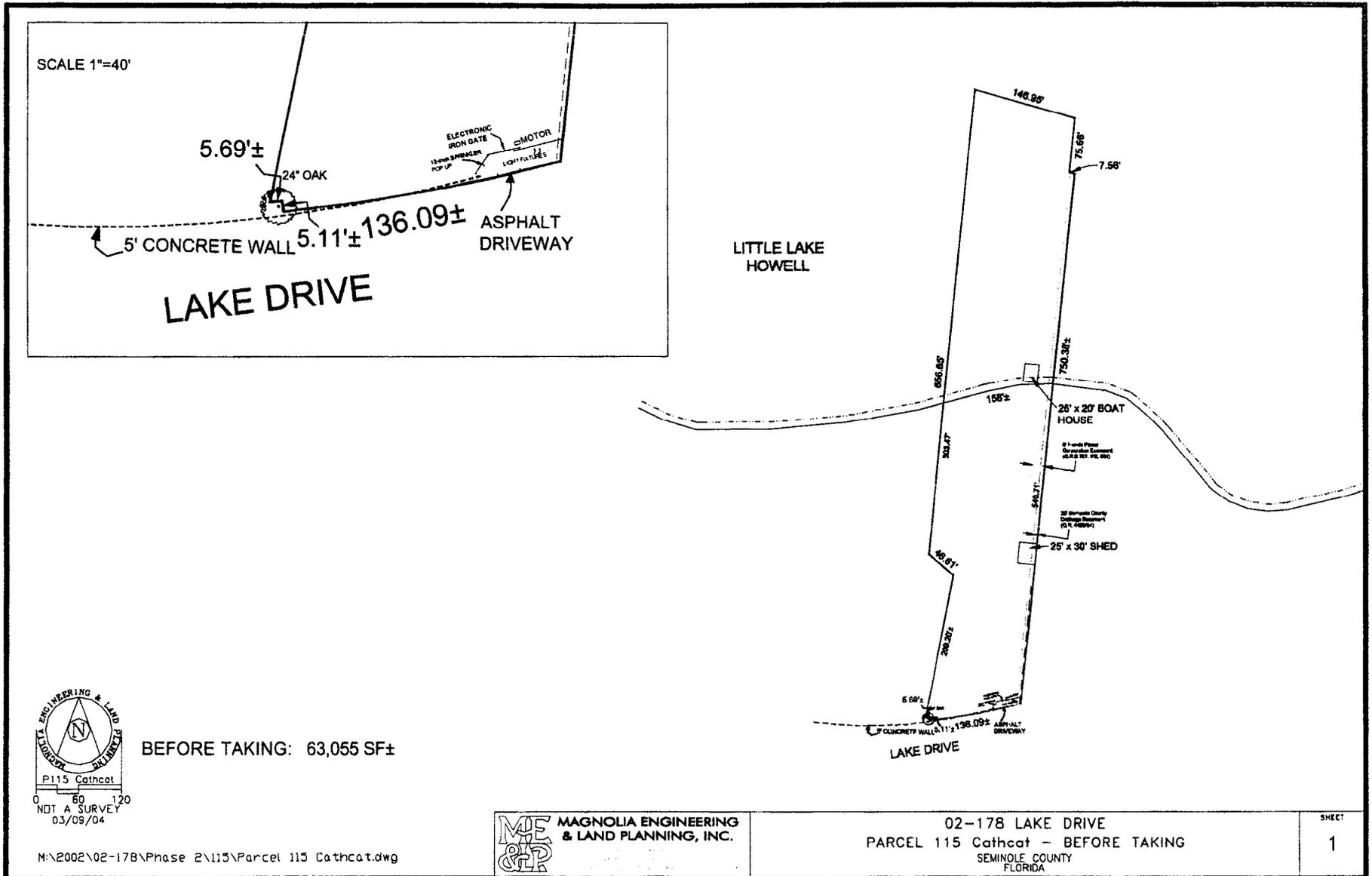


02-178 LAKE DRIVE  
 PARCEL 115 Outlaw – BEFORE TAKING  
 SEMINOLE COUNTY  
 FLORIDA

SHEET  
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PROPERTY SKETCH PARENT TRACT – BEFORE TAKING

EXHIBIT B



BEFORE TAKING: 63,055 SF±

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MAGNOLIA ENGINEERING & LAND PLANNING, INC.

02-178 LAKE DRIVE  
 PARCEL 115 Cathcart – BEFORE TAKING  
 SEMINOLE COUNTY  
 FLORIDA

SHEET  
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