

23



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 *[Signature]* HMB
Ext. 5736

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

DATE: February 11, 2004

SUBJECT: Settlement Authorization
East Lake Mary Boulevard, Segment I Project
Parcel Nos. 105, 705 and 805
Owner: Humphrey Realty Corporation.
Seminole County v American Bronze, et al.
Case No.: 2000-CA-1910-13-L

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 105, 705 and 805 on the East Lake Mary Boulevard, Segment I Project. The recommended settlement is at the total sum of \$297,500.00 inclusive of all land value, severance damage, and statutory interest, attorney's fees, and costs. The settlement includes performance of several punchlist construction items and an amended legal description.

I PROPERTY

A. Location Data

Parcel No. 105, 705, and 805 were acquired from the Humphrey Realty property. The property is located at the intersection of East Lake Mary Boulevard and Mellonville Road.

A location map is attached as Exhibit A.

B. Street Address

The street address is 1201 Cornwall Road, Sanford, Florida.

A parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 96-R-187 on September 10, 1996, authorizing the acquisition of Parcel Nos. 105, 705, and 805, and finding that the East Lake Mary Boulevard Project was necessary and served a public purpose and was in the best interest of the citizens of Seminole County.

III ACQUISITIONS AND REMAINDER

Parcel No. 105 was a fee simple acquisition of 21,345 square feet. Parcel No. 105 is a strip take of a depth of 30 feet off the East Lake Mary Boulevard and Mellonville Road frontages. Parcel No. 705 is a temporary construction easement of 4,100 square feet along the East Lake Mary Boulevard frontage. Parcel No. 805 is a permanent easement of 26,135 square feet utilized to construct a retention pond and a drive entrance off Mellonville Road.

Under this settlement if approved, the retention pond area of Parcel No. 805 which is presently a permanent easement will be changed to a fee ownership in the County.

IV APPRAISED VALUES

A. County Appraisal Report

The County's appraisal report was preformed by Clayton, Roper , and Marshall and opined full compensation to be \$121,000.00, allocated:

(1)	Parcel No. 105	\$48,800.00
(2)	Parcel No. 705	\$ 2,100.00
(3)	Parcel No. 805	\$21,000.00
(4)	Severance Damages	\$49,100.00
	TOTAL	\$121,000.00

B. Owner's Appraisal Report

The Owner's appraisal report was performed by Calhoun, Dreggors, and Associates and opined full compensation to be \$503,400.00, allocated:

(1)	Parcel No. 105	\$99,700.00
(2)	Parcel No. 705	\$ 3,400.00
(3)	Parcel No. 805	\$62,300.00
(4)	Severance Damages	<u>\$338,000.00</u>
	TOTAL	\$503,400.00

Severance damages were based on a loss of land, twenty-six (26) parking spaces, and one drive aisle in the parking lot. The owner's total claim inclusive of all attorney's fees and costs was \$728,574.74.

V ATTORNEY FEES AND COST CLAIM

At mediation, the attorney's fees and costs were included in the negotiation. The attorney's fee claim was asserted at \$117,653.25, the statutory rate based on the owners claim of \$503,400.00 and the County's offer of \$146,875.00.

The owner's cost claim was asserted at \$107,521.49. Expert invoices were provided with an allocation as follows:

(1)	Surveying Costs	\$ 8,790.00
(2)	Appraisal Costs	\$52,844.00
(3)	Aerial Photography	\$ 319.98
(4)	Planners	\$ 2,190.00
(5)	Engineering Costs	<u>\$43,377.51</u>
	TOTAL	\$107,521.49

VI ROADWAY DESIGN

The County's roadway design considered the fact that the Humphrey property was industrial with a significant number of truck bays. The plans widened two drive entrances with radii for large trucks. The plans also provided for an additional truck access off Mellonville Road. The truck facility was benefited with the additional access drive.

The design plans were excellent and resulted in this favorable settlement in what would otherwise have been a difficult case with potentially significant severance damage and cost exposures.

VII NEGOTIATIONS

The fine engineering plans led the way to a very favorable result. The owner's assertion of significant severance damages was met with the prospect of the County's favorable plans being placed before the jury.

The settlement includes a couple of requested punchlist items and a changed legal description.

VIII PUNCHLIST ITEMS

The owners requested and County staff agreed to the performance of punchlist construction items. The new driveway on Mellonville crosses a piped ditch to the retention pond. The ditch is armored with rip rap which is presently (80% construction) rather rough with the rip rap uneven and in places extending above the asphalt level. Some scouring in the ditch has occurred during construction.

Also, the new Mellonville driveway butt joint is quite rough where it adjoins the owner's property. However, the final layer of blacktop has not been placed.

The County in this settlement agrees that during construction or as punchlist items to:

(1) repair the scouring and level the rip rap at the piped ditch to provide a more aesthetic appearance; and,

(2) re-cut the asphalt butt joint to FDOT index standards to assure a smooth, aesthetic asphalt joint on the owners property at Mellonville Avenue.

The above items are construction punchlist items and consist of construction inspection to assure quality construction. These add no additional cost to the construction contract.

IX LEGAL DESCRIPTION CHANGES

At order of take, the County acquired the retention pond and new driveway parcel (Parcel No. 805) as a permanent stormwater and access easement. The owners requested and County staff has agreed to amend the legal description to change the stormwater portion of Parcel No. 805 so that the County obtains a fee simple interest in the pond portion of Parcel No. 805. The owners wanted the pond to be under County ownership in fee to assure County liability for pond maintenance. Additionally, the owner was concerned about impacts to his premises liability insurance costs if the pond remained as an easement.

The changed legal description (easement to fee) affects the County in no way. The legal description change area is depicted as Parcel No. 105A on the attached Exhibit C. This legal description change will be performed by the County's in-house surveyors. Costs consist of in-house personnel time and work effort.

X ANALYSIS

The taking was significant both in size and impact on the warehouse/trucking facility. However, the fine engineering design controlled the negotiation. With the owner's total claim at \$728,574.74, the settlement at \$297,500.00 inclusive plus punchlist items and legal description changes is a fine result controlled by the County's design.

XI COST AVOIDANCE

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

- A. potential jury verdict in excess of the settlement sum;
- B. all statutory interest;
- C. attorney's fees and costs that would increase if the matter proceeds further; and,
- D. costs for supplemental proceedings.

XII RECOMMENDATION

County staff recommends that the BCC approve this settlement in the amount of \$297,500.00, with punchlist items, and the legal description change. The settlement is inclusive of all land value, severance damage, attorney fees, and cost reimbursements.

HMB/sb

Attachments:

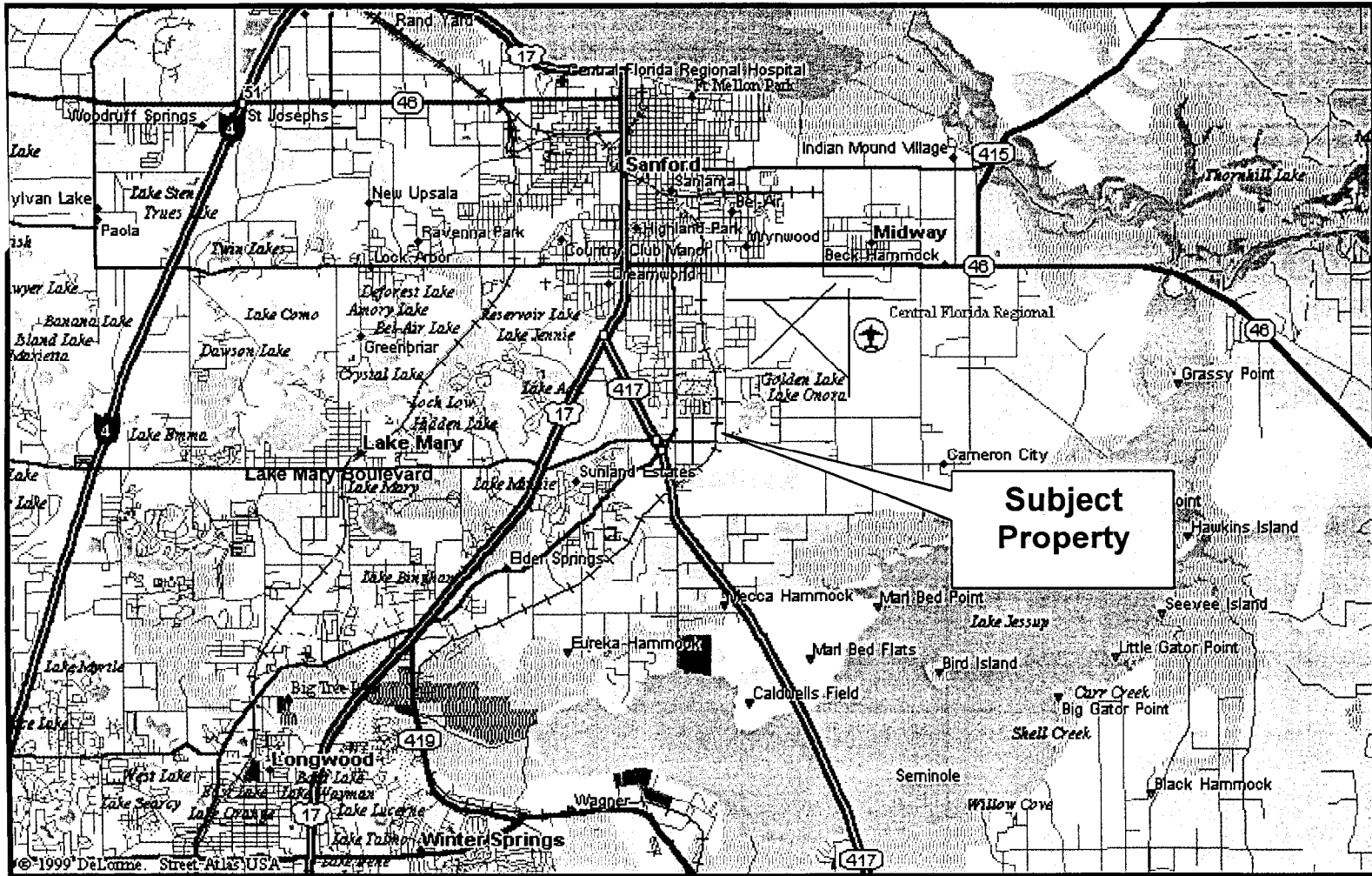
- Exhibit A
- Exhibit B
- Exhibit C

P:\USERS\CASB01\MY DOCUMENTS\MEMOAGENDA ITEM AMER BRONZE HUMPHREY REALTY 105 705 805.DOC

NEIGHBORHOOD AREA MAP

EXHIBIT A

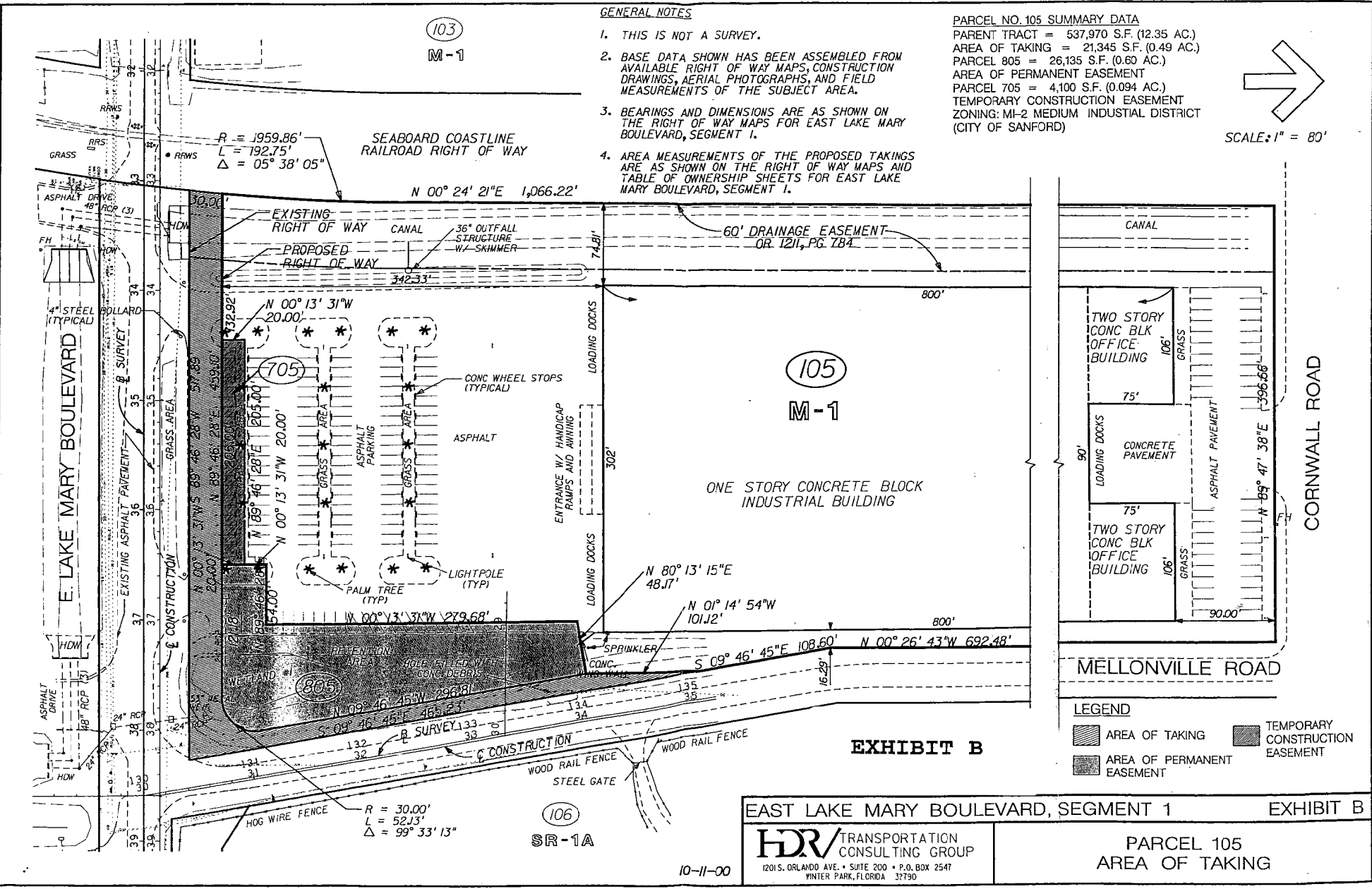
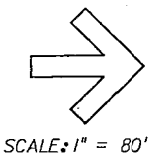
CLAYTON, ROPER & MARSHALL



GENERAL NOTES

1. THIS IS NOT A SURVEY.
2. BASE DATA SHOWN HAS BEEN ASSEMBLED FROM AVAILABLE RIGHT OF WAY MAPS, CONSTRUCTION DRAWINGS, AERIAL PHOTOGRAPHS, AND FIELD MEASUREMENTS OF THE SUBJECT AREA.
3. BEARINGS AND DIMENSIONS ARE AS SHOWN ON THE RIGHT OF WAY MAPS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.
4. AREA MEASUREMENTS OF THE PROPOSED TAKINGS ARE AS SHOWN ON THE RIGHT OF WAY MAPS AND TABLE OF OWNERSHIP SHEETS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.

PARCEL NO. 105 SUMMARY DATA
PARENT TRACT = 537,970 S.F. (12.35 AC.)
AREA OF TAKING = 21,345 S.F. (0.49 AC.)
PARCEL 805 = 26,135 S.F. (0.60 AC.)
AREA OF PERMANENT EASEMENT
PARCEL 705 = 4,100 S.F. (0.094 AC.)
TEMPORARY CONSTRUCTION EASEMENT
ZONING: MI-2 MEDIUM INDUSTRIAL DISTRICT
(CITY OF SANFORD)



LEGEND

	AREA OF TAKING		TEMPORARY CONSTRUCTION EASEMENT
	AREA OF PERMANENT EASEMENT		

EXHIBIT B

EAST LAKE MARY BOULEVARD, SEGMENT 1 EXHIBIT B

HDR TRANSPORTATION CONSULTING GROUP
1201 S. ORLANDO AVE. • SUITE 200 • P.O. BOX 2547
WINTER PARK, FLORIDA 32790

PARCEL 105
AREA OF TAKING

10-11-00

Received Time Oct. 22. 12:44PM

EXHIBIT A

PARCEL NO. 105 SUMMARY DATA
 AREA OF REMAINDER = 516,820 S.F. (11.66 AC.)
 PARCEL 805 = 26,135 S.F. (0.60 AC.)
 AREA OF PERMANENT EASEMENT
 PARCEL 795 = 4,100 S.F. (0.094 AC.)
 TEMPORARY CONSTRUCTION EASEMENT
 ZONING: M-2 MEDIUM INDUSTRIAL DISTRICT
 (CITY OF SANFORD)

GENERAL NOTES

1. THIS IS NOT A SURVEY.
2. BASE DATA SHOWN HAS BEEN ASSEMBLED FROM AVAILABLE RIGHT-OF-WAY MAPS, AND CONSTRUCTION DRAWINGS OF THE SUBJECT AREA.
3. BEARINGS AND DIMENSIONS ARE AS SHOWN ON THE RIGHT OF WAY MAPS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.
4. AREA MEASUREMENTS OF THE PROPOSED TAKINGS ARE AS SHOWN ON THE RIGHT OF WAY MAPS AND TABLE OF OWNERSHIP SHEETS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.

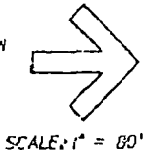
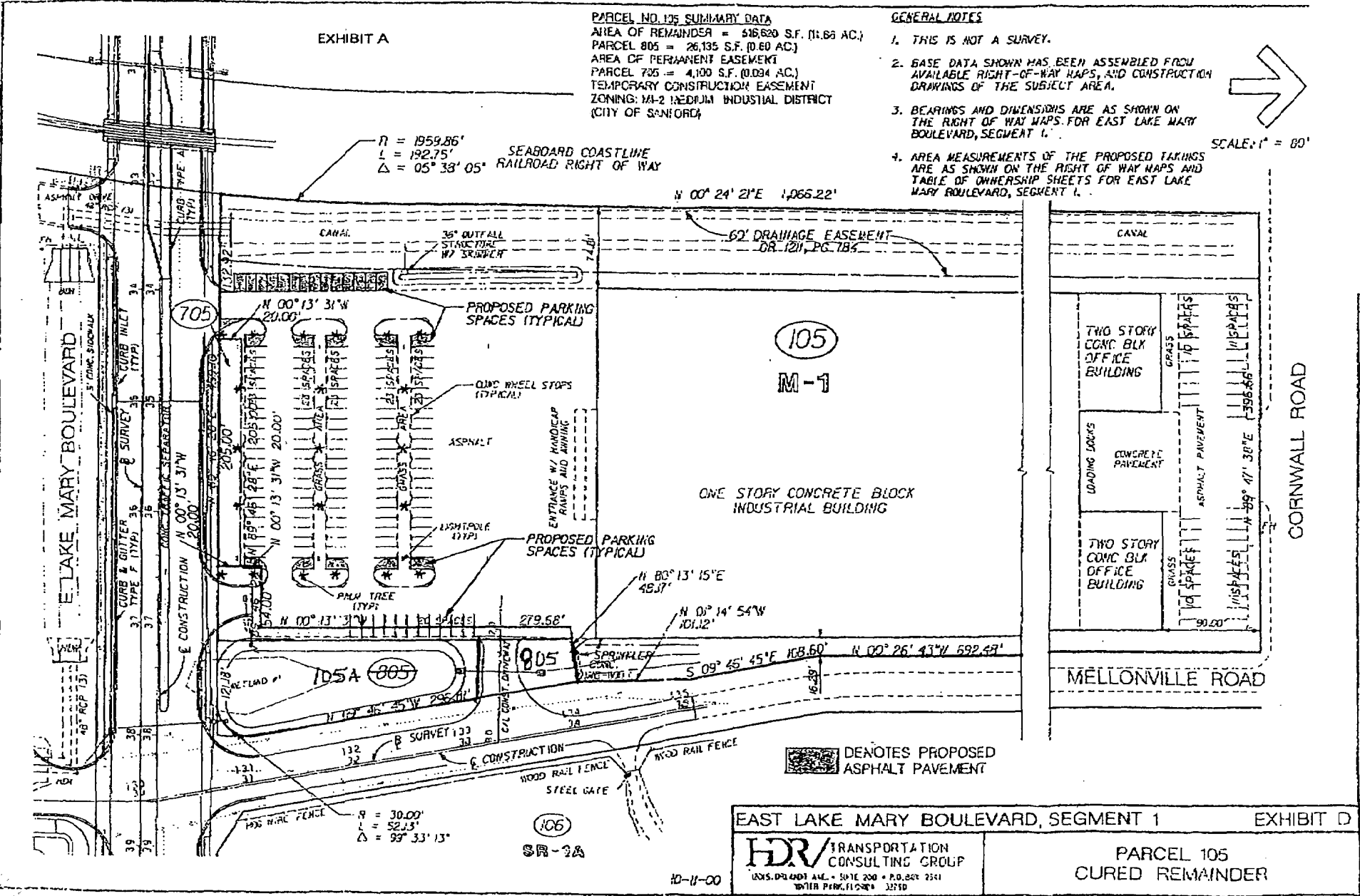


EXHIBIT C



DENOTES PROPOSED ASPHALT PAVEMENT

EAST LAKE MARY BOULEVARD, SEGMENT 1		EXHIBIT D
TRANSPORTATION CONSULTING GROUP 1005 DELAWARE AVE. • SUITE 200 • P.O. BOX 2541 WINTER PARK, FL 32789		PARCEL 105 CURED REMAINDER

FAX NO. 4074258316

P. 06