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SEMINOLE COUNTY
FLORIDA'S NATURAL CHOICE

COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Henry M. Brown, Assistant County Attorney
Ext. 5736

CONCUR: Kathleen Myer, Principal Engineer/Engineering Division
Pam Hastings, Administrative Manager/Public Works Department

DATE: March 29, 2004

SUBJECT: Settlement Authorization
Lake Drive, Phase I
Parcel No. 776
Seminole County v. Louise B. Elliott., et al
Case No.: 2004-CA-561-13-W
Owners: STE Properties, Inc.

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for the owner's interest in Parcel No. 776. The recommended settlement is at the total sum of $4,000.00 with no attorney fees or costs incurred.

I PROPERTY

A. Location Data

Parcel No. 776 is a temporary construction easement of 818 s.f. at the driveway to the property.

B. Street Address

The street address 1488 Seminola Boulevard, Casselberry, Florida 32707. A parcel sketch is attached as Exhibit A and location map as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2003-R-133 on August 26, 2003, authorizing the acquisition of Parcel No. 776, and finding that the Lake Drive project was necessary and served a public purpose and was in the best interest of the citizens of Seminole County.

III ACQUISITION AND REMAINDER

The temporary construction easement consists of 818 s.f. ± across the drive entrance to the property. The easement extends 31' ± into the property to allow transition of the drive entrance as a result of a change in grade on the new roadway.

IV APPRAISED VALUES

The County's appraisal report was prepared by Clayton, Roper, and Marshall and reported full compensation to be $2,000.00.

The owners did not have an appraisal report prepared.

V NEGOTIATIONS

The settlement at $4,000.00 was negotiated by the County's acquisition agents with the owner executing a purchase agreement for the owner's interest. The settlement sum is double the County's appraised value; however, it is a good settlement from a cost avoidance analysis because all owner appraisal costs and attorney fees are avoided. The appraisal cost alone would exceed $2,000.00. However, the purchase agreement did not include tenants.

VI ATTORNEYS FEES

The settlement for the owner's interest at $4,000.00 avoids all attorney fees and costs.

VII COST AVOIDANCE

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

A. A potential jury verdict at a greater amount;
B. All potential owner's attorney fees and costs;
C. All potential owner costs to proceed further.

VIII ANALYSIS

The purchase agreement was negotiated and executed for the owner's interest after the condemnation case was filed. The property is improved with a building originally constructed as a single family residence that has been converted to an office building. The office building is occupied by the owner and two office tenants.

Usually, after a case is filed, the settlement with an owner is resolved subject to apportionment with the tenants. Also, a potential exists for business damage claims if the tenants can qualify. To date, no tenant has requested plans or other documents as normally occurs with business damage claims.

Because the tenants appear to be office tenants and it appears that little business is actually conducted and that the temporary construction easement would not deny the conduct of business that may be occurring, the risk of settling separately is minimal while the cost avoidance as to avoiding appraisal and attorney fees is far greater than the risk.

IX RECOMMENDATION

County staff recommends that the BCC approve this settlement for the owner's interest at $4,000.00 with no owner attorney fees and costs incurred.

HMB/sb
Attachment:
Exhibit A Sketch
Exhibit B Location Map

P:\USERS\SBERRIE\MY DOCUMENTS\MEM\AGENDA ITEM ELLIOTT 776 STE PROPERTIES LAKE DRIVE I.DOC

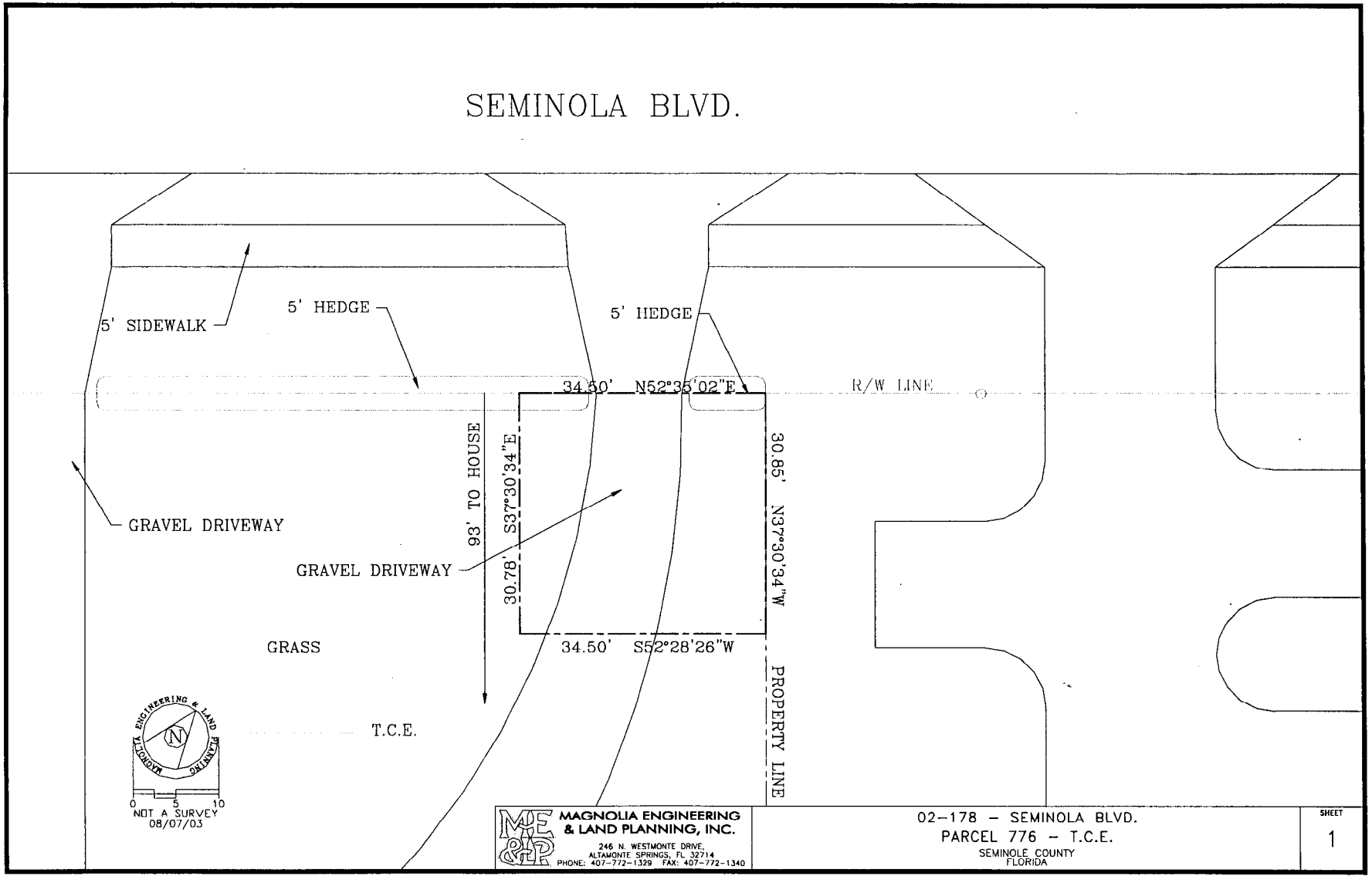
SEMINOLA BLVD.
5' SIDEWALK
5' HEDGE
5' HEDGE
34.50' N52°35'02"E
R/W LINE
93' TO HOUSE
30.78' S37°30'34"E
30.85' N37°30'34"W
PROPERTY LINE
GRAVEL DRIVEWAY
GRAVEL DRIVEWAY
GRASS
34.50' S52°28'26"W
T.C.E.
NOT A SURVEY
08/07/03
MAGNOLIA ENGINEERING & LAND PLANNING, INC.
246 N. WESTMONTE DRIVE,
ALTAMONTE SPRINGS, FL 32714
PHONE: 407-772-1329 FAX: 407-772-1340
02-178 - SEMINOLA BLVD.
PARCEL 776 - T.C.E.
SEMINOLE COUNTY
FLORIDA
SHEET
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EXHIBIT A

LAND SALES LOCATION MAP

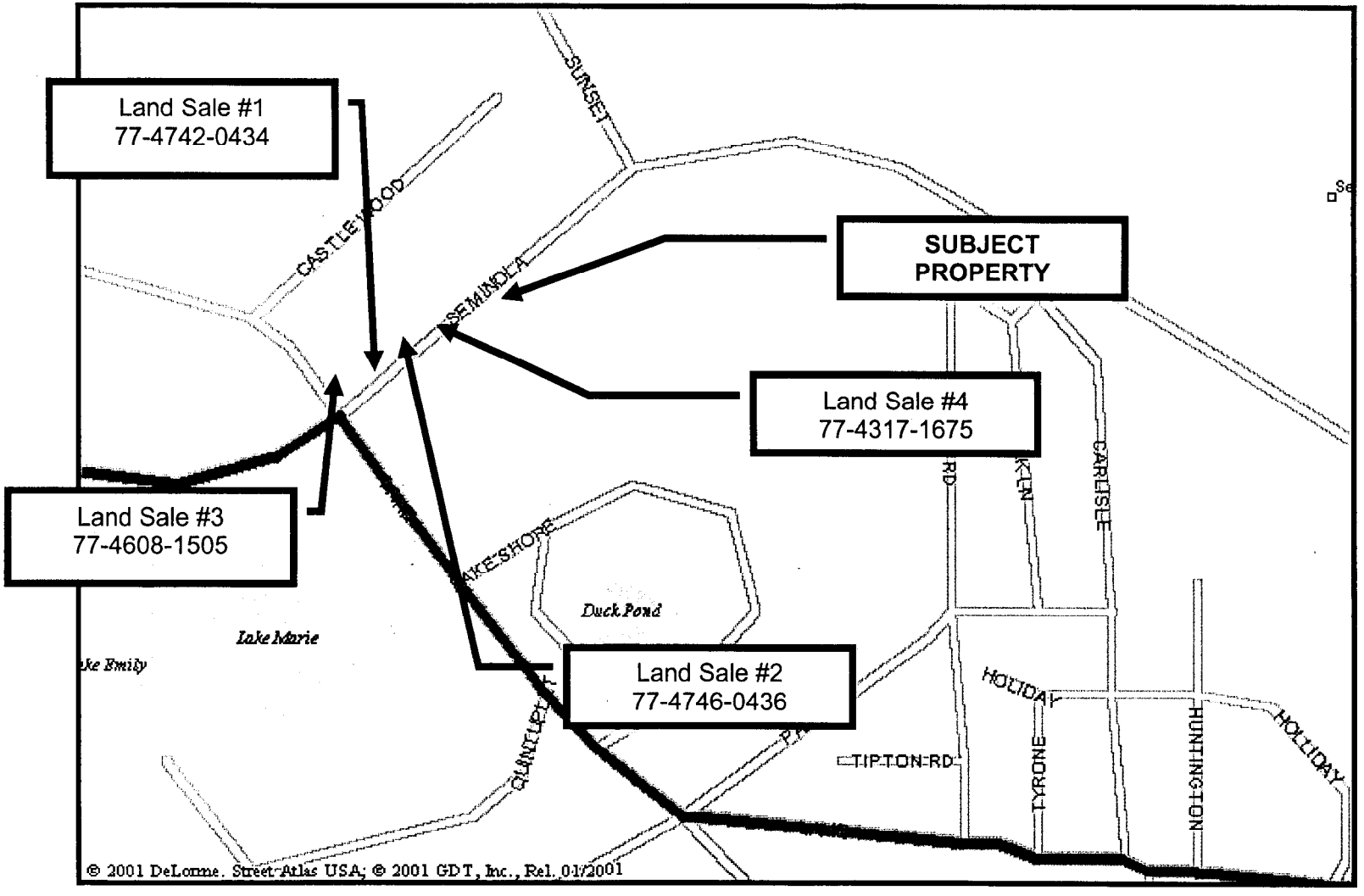

EXHIBIT B

CRM File No. 02-178. 776