



COUNTY ATTORNEY'S OFFICE  
MEMORANDUM

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: David G. Shields, Assistant County Attorney Ext. 5736 *DGS*

Concur: Pam Hastings, Administrative Manager/Public Works Department  
David V. Nichols, P.E., Principal Engineer/Engineering Division *DVN 4/19/06*

Date: April 18, 2006

Subject: Settlement Authorization  
Bunnell Road  
Parcel No. 114  
Owner: Mark Sanville  
*Seminole County v. Garcia, et al*  
Case No. 2005-CA-1123-13-G

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 114 on the Bunnell Road project. The proposed negotiated settlement is \$63,076.00. The total sum is allocated as follows:

\$43,000.00	land value, severance damage, and statutory interest
\$ 9,504.00	statutory attorney's fee; and
\$10,572.00	experts' fee and cost reimbursements

**I PROPERTY**

A. Location Data. Parcel No. 114 is located on the north side of Bunnell Road approximately 293.82 feet west of First Avenue in unincorporated Seminole County. A location map depicting the location of the parcel is attached as Exhibit A.

B. Street Address. The street address of the property is 1185 Bunnell Road, Altamonte Springs, Florida. A Parcel sketch is attached as Exhibit B.

## **II AUTHORITY TO ACQUIRE.**

The BCC adopted Resolution No. 2004-R-72 on April 13, 2004, authorizing the acquisition of Parcel No. 114. The Bunnell 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 August 4, 2005, with title vesting in Seminole County on August 15, 2005, the date of the good faith deposit.

## **III ACQUISITIONS AND REMAINDER**

The fee acquisition of Parcel No. 114 totaled 2,910 square feet from a parent tract of 63,602 square feet leaving a remainder of 60,692 square feet.

## **IV APPRAISED VALUES**

A. County Reports. Clayton, Roper and Marshall, Inc., performed the County reports.

Parcel No. 114. The initial appraisal reported full compensation as of October 20, 2004, at \$14,200.00. The update appraisal opined the value as of June 24, 2005, to be \$15,550.00. An appraisal for trial purposes was not prepared.

B. Owner's Report. The owner's report was prepared by Calhoun, Dreggors & Associates, Inc., as of August 19, 2005, and reported full compensation at \$50,500.00.

## **V BINDING OFFERS/NEGOTIATION**

The Board approved a first written offer of \$14,200.00. As stated previously, the owner's appraised value was \$50,500.00 and the County's appraisal updated appraised value was \$15,550.00.

Through negotiations, the parties agreed to compensation of \$43,000.00 for all land value, severance damages, and statutory interest. Settlement was in part driven by the property owner's offer of judgment for \$45,000.00, exclusive of attorney fees and costs. Pursuant to the Florida Statutes, if the offer of judgment had been rejected and the jury returned a verdict greater than or equal to \$45,000.00, then the owner's attorney fee would have been based on actual time and hourly rates and likely would have been substantially higher than the statutory formula amount.

The difference between the County's \$15,550.00 appraisal value and the owner's \$50,500.00 appraisal value is \$34,950.00. Both appraisals appear to represent good faith efforts to arrive at a fair valuation. When faced with two "reasonable," but differing appraisals, juries tend to return a verdict around midpoint. The midpoint of the two appraisals is \$33,025.00. A settlement at \$43,000.00 is above midpoint but reasonable

under the circumstances of the case given the property owner's offer of judgment as explained above.

## **VI ATTORNEY'S FEES AND COSTS**

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$9,504.00. The sum is statutorily computed based upon a settlement sum of \$43,000.00 less the written offer of \$14,200.00 to produce a benefit of \$28,800.00.

B. Cost Reimbursements. The owner's cost claim, after negotiation, of \$10,572.00 for experts' fees and costs is reasonable.

## **VII COST AVOIDANCE**

By this settlement, the County avoids all additional costs associated with litigation.

## **VIII RECOMMENDATION**

County staff recommends that the BCC approve this negotiated settlement in the total sum of \$63,076.00 inclusive of land value, improvements, cost to cure, severance damage, statutory interest, and total statutory attorney's fees and expert fees and cost reimbursements.

DGS/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

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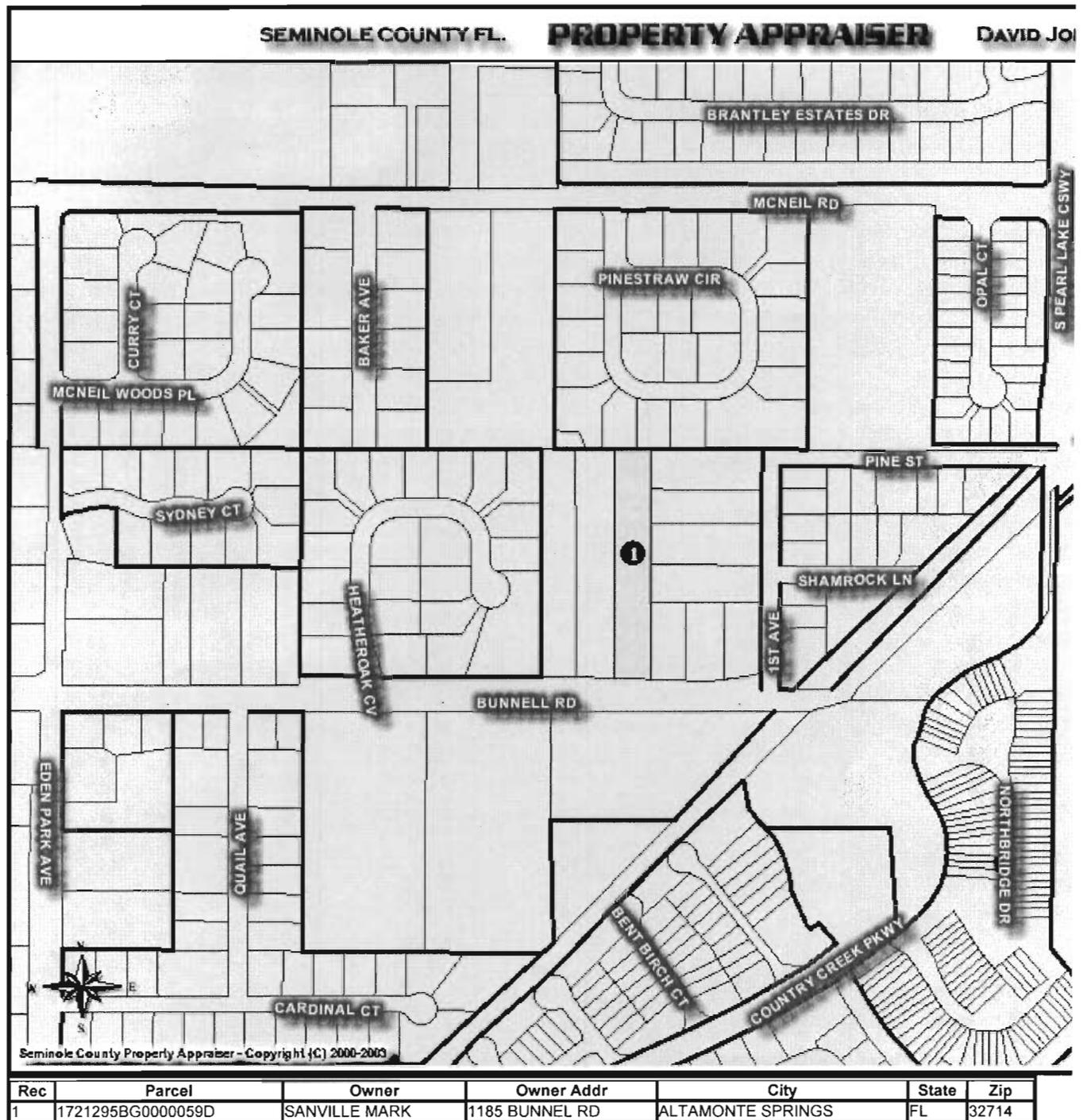


EXHIBIT A

PROPERTY SKETCH - TAKING

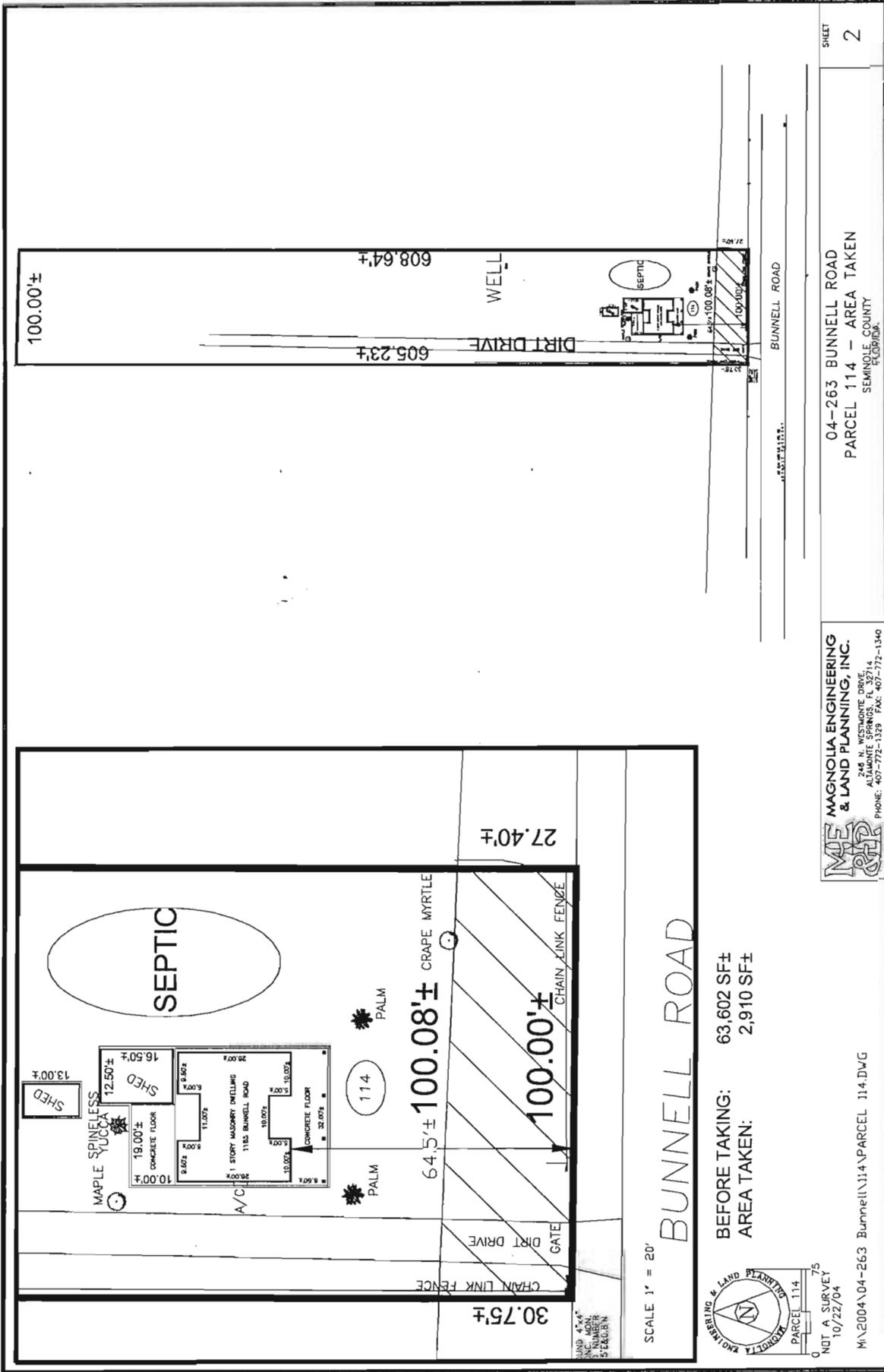


EXHIBIT B