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29



**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]*
 David V. Nichols, P.E., Principal Engineer/Major Projects *[Signature]*

DATE: May 3, 2005

SUBJECT: Purchase Agreement Authorization
 Owners: Randall and Norma Jean DeMott
 Parcel No. 103
 Eden Park Avenue road improvement project

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for Parcel No. 103. The parcel is required for the Eden Park Avenue road improvement project. The purchase price is \$32,000.00, inclusive of fees and costs incurred by the property owners.

I THE PROPERTY

A. Location Data

The property is located along the west side of Eden Park Avenue, approximately 218.04 feet south of Cub Lake Drive, within unincorporated Seminole County, Florida.

1. Location Map (Exhibit A);
2. Sketch (Exhibit B); and
3. Purchase Agreement (Exhibit C)

B. Address

9750 Eden Park Avenue
 Altamonte Springs, Florida 32714

C. Description

The property contains 0.997 acres of gross land area. The property is improved with a 1,622 square feet, concrete block, single family residence constructed in 1974.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-73 on April 13, 2004, authorizing the acquisition of the referenced property, and finding that the construction of the Eden Park Avenue road improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The proposed acquisition is a rectangular shaped strip of land traversing the eastern boundary of the subject property abutting Eden Park Avenue. The taking contains 4,878 square feet (0.112 acres), leaving a remainder of 0.885 acres.

IV APPRAISED VALUE

The County's appraised value amount is \$15,800.00. The County's appraisal was prepared by Clayton, Roper & Marshall, P.A., and was approved by the County's MAI designated staff appraiser.

V BINDING OFFER/NEGOTIATIONS

On March 8, 2005, the BCC authorized a binding written offer in the amount of \$15,800.00. Thereafter, County staff negotiated this proposed settlement agreement with the property owners and their attorney in the amount of \$32,000.00.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The proposed settlement amount is reasonable under the circumstances inherent in the condemnation process. The main rationale for approval of this settlement is cost avoidance. The owners believed it was necessary to hire an attorney and appraiser to assist them in evaluating the County's binding written offer. Florida law gives them the right to hire such experts at the County's expense. The \$16,200.00 in excess of the appraised value of the acquisition will allow the owners to obtain a slightly higher amount of compensation for their property. In addition, it will pay all attorney's fees and expert costs. If the acquisition must proceed to condemnation, litigation costs and costs to update appraisals on both sides will have to be paid by the County. The costs would easily exceed the \$16,200.00 in additional settlement funds proposed to be paid.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$32,000.00, inclusive of fees and expenses incurred by the property owners.

LV/krc

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

P:\USERS\LV\VOUIS\SETTLEMENT MEMOS\EDEN PARK AVENUE\AGENDA ITEM EDEN PARK AVE 103 DEMOTT.DOC

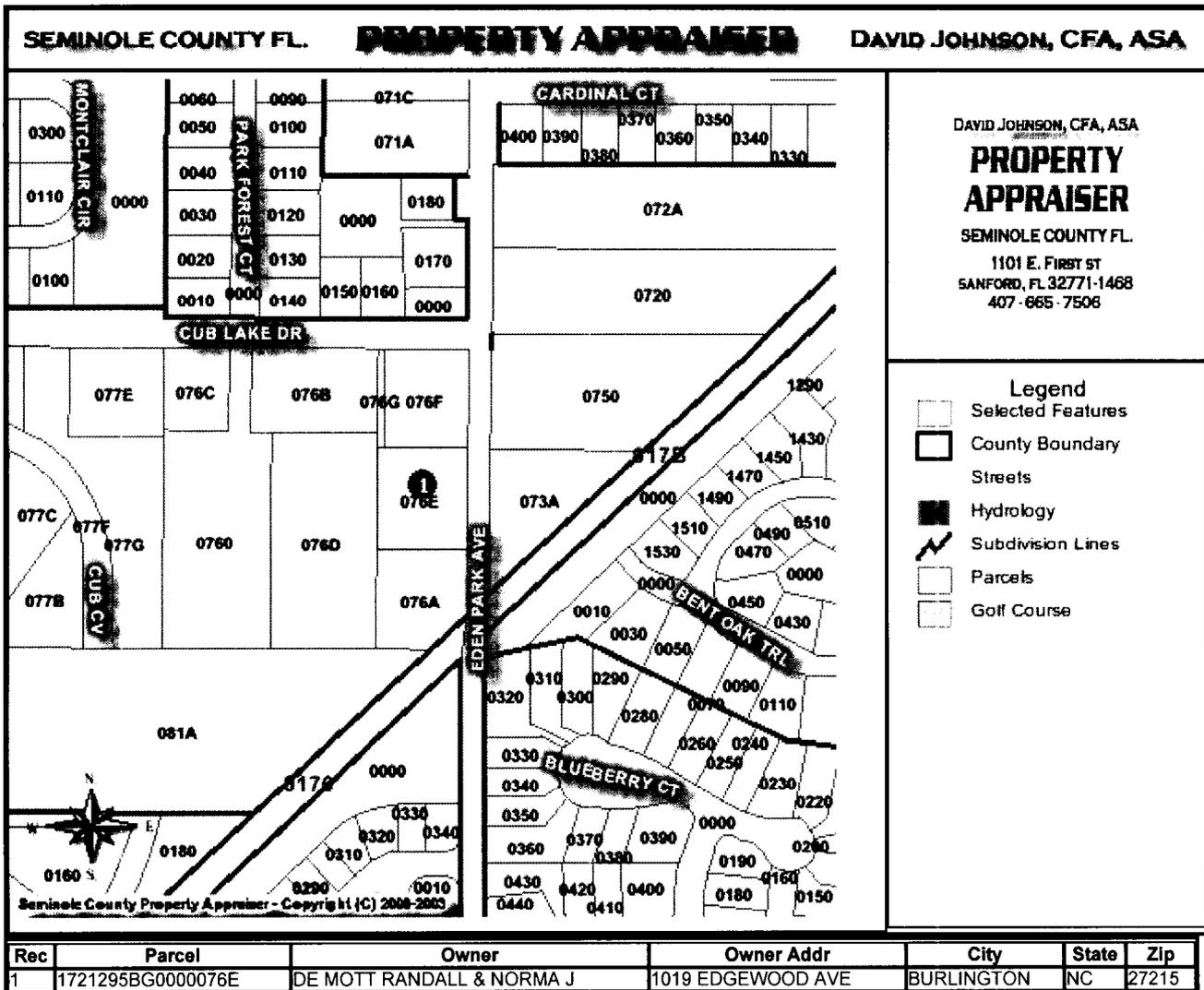
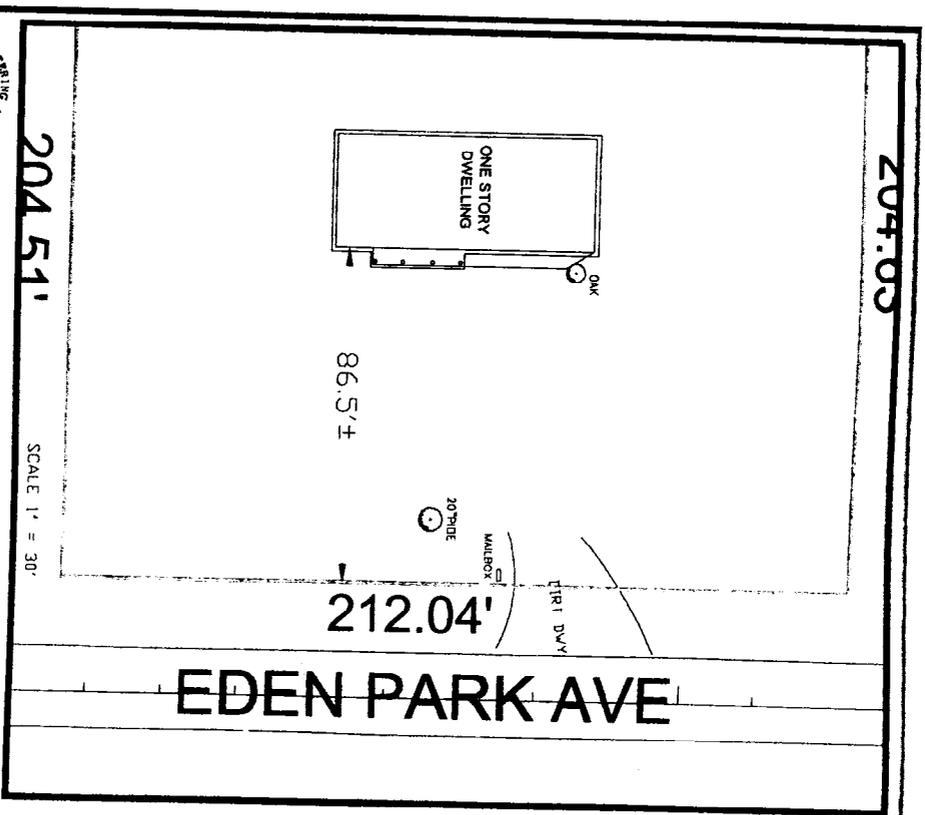


EXHIBIT A

PROPERTY SKETCH



BEFORE TAKING: 0.997 AC±

0 DOT A SURVEY 40
01/10/05
PARCEL 103
M:\2004\04-264 Eden Park\103\parcel 103.dwg

MAGNOLOIA ENGINEERING & LAND PLANNING, INC.

04-264 EDEN PARK AVENUE
PARCEL 103- BEFORE TAKING
SEMIWOLE COUNTY
FLORIDA

SHEET 1

EXHIBIT B

**PURCHASE AGREEMENT
FEE SIMPLE**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 26th day of April, 2004, by and between RANDALL DEMOTT and NORMA J. DEMOTT, husband and wife, whose address is 1019 Edgewood Avenue, Burlington, NC 27215, hereinafter referred to as "OWNER," and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the COUNTY requires the hereinafter described property for a road project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, OWNER hereby agrees to sell and COUNTY hereby agrees to buy the following property upon the following terms and conditions:

I. LEGAL DESCRIPTION

**Eden Park Avenue
FEE SIMPLE
PARCEL NO.: 103**

See Attached Exhibit "A"

Parcel I. D. Number: 17-21-29-5BG-0000-076E

II. PURCHASE PRICE

(a) OWNER agrees to sell and convey the above described property of the above referenced project by Warranty Deed, free of liens and encumbrances, unto COUNTY for the sum of THIRTY TWO THOUSAND AND NO/100 DOLLARS (\$32,000.00). Except as otherwise specifically provided herein, the above amount includes all compensation due as a result of this acquisition to the OWNER including all attorney's fees, expert fees and costs.

(b) COUNTY shall be responsible for all closing costs, including but not limited to, recording fees for Warranty Deed and Title Insurance Policy issued to the COUNTY by a title insurance company of the COUNTY's choice.

EXHIBIT C

(c) OWNER shall be responsible for OWNERS' share of the pro-rata property taxes outstanding, up to and including the date of closing. The before mentioned pro-rata real estate taxes shall be withheld by the COUNTY's closing agent from the proceeds of this sale and paid to the proper authority on behalf of the OWNER.

(d) COUNTY agrees to construct its Eden Park Avenue Project in substantial conformance with its construction plans Project No. PS-569-00/BJC dated January 7, 2004 including, but not limited to, its plan and profile sheet No. 19 attached hereto as Exhibit "B". However as part of the construction of the project for which COUNTY is acquiring Parcel No. 103, COUNTY shall reconstruct OWNERS' driveway connection to the new right-of-way line to be a twenty four (24) foot wide driveway with ten (10) foot wide flares and a maximum grade of 7.9%. Said driveway shall be located and centered on the existing driveway location.

III. CONDITIONS

(a) COUNTY shall pay to the OWNER the sum as described in Item II., above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the designated closing agent. The OWNER agrees to close within seven (7) days of notice by the COUNTY or the COUNTY's closing agent that a closing is ready to occur.

(b) OWNER agrees to vacate and surrender possession of the property upon the date of delivery of the instruments and closing of this Agreement. COUNTY may, but is not obligated to, extend possession of the property by OWNER; provided, however, that such approval will be evidenced by a written document. During the period from the date of the execution of this Agreement by both parties and the closing, OWNER agrees to exercise diligent care in protecting the property from theft and vandalism. All windows, doors, bathroom fixtures, electrical outlets, heaters and other similar items included in the purchase price, as well as the land itself, shall be preserved in normal conditions and turned over to the COUNTY by the OWNER, intact, if applicable.

(c) Any and all encroachments existing upon the property, other than those improvements included in the purchase price, are to be removed by the OWNER at the expense of the OWNER prior to closing.

(d) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a warranty deed, also include the covenant of further assurances.

(e) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a warranty deed, also include the covenant of further assurances.

(f) The OWNER shall fully comply with *Section 286.23, Florida Statutes*, to the extent that said statute is applicable

(g) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(h) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY; this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described except for reasonable attorney's fees for OWNER'S legal counsel to review all necessary papers and pleadings in order to preserve OWNER'S rights hereunder. The OWNER agrees that, in accordance with any request made by the COUNTY, the OWNER shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNER agrees not to oppose the COUNTY'S condemnation proceedings in any way. The OWNER, may however, assert OWNER'S rights against other claimants in apportionment proceedings and OWNER'S rights to supplemental attorney's fees under § 73.092(2), Florida Statutes and under the terms of this Agreement.

(i) As part of the consideration for this Purchase Agreement, OWNER hereby grants to COUNTY, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon and to have exclusive possession of the property described in paragraph I of this Agreement. The right of entry shall commence ninety (90) days after the execution of this Agreement by COUNTY, and shall continue until closing occurs, or if closing cannot occur, until the condemnation proceedings to acquire the property have been completed. Aside from this Agreement, no further notification of COUNTY'S intent to enter the property is required. This right of entry is for the purpose of construction of the Lake Drive road improvement project and so that the COUNTY'S construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. OWNER will not receive from COUNTY any additional compensation beyond that set forth in this Purchase Agreement during the period of time the COUNTY occupies the above described property for the purpose set forth above for the right to enter and possess the property before conveyance of title.

(j) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

(k) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER'S obligations under this Agreement with the COUNTY which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes*, relating to ethics in government.

(l) This agreement is executed in recognition of COUNTY'S power of eminent domain and constitutes a settlement entered in lieu of condemnation proceedings.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names on the date first above written.

WITNESSES:

Denise McGahan
SIGNATURE
Denise McGahan
PRINT NAME

Hope Drake
SIGNATURE
Hope Drake
PRINT NAME

Denise McGahan
SIGNATURE
Denise McGahan
PRINT NAME

Hope Drake
SIGNATURE
Hope Drake
PRINT NAME

PROPERTY OWNER:

Randall DeMott
RANDALL DEMOTT

ADDRESS: 1019 Edgewood Avenue
Burlington, NC 27215

Norma J. DeMott
NORMA J. DEMOTT

ADDRESS: 1019 Edgewood Avenue
Burlington, NC 27215

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board of
County Commissioners at its _____,
2005, regular meeting.

County Attorney
LV/kc

Eden Park Avenue
Right of Way Parcel number 103
Fee simple taking

ID# 17-21-29-5BG-0000-076E

That portion of:

the following described parcel as recorded in Official Records Book 996, page 1829, subject to Right of Way deeds and agreements as shown in the plat of MCNEIL'S ORANGE VILLA as recorded in Plat Book 2, Pages 99 through 101, as shown in the plat of BEAR LAKE ROADS as recorded in Plat Book 4, Page 12, and QuitClaim deed as recorded in Deed Book 46, Page 191 of the Public Records of Seminole County, Florida,
The South 212.045 feet of the North 430.09 feet of the East 203.71 feet of Lot 76, MCNEIL'S ORANGE VILLA, according to the plat thereof as recorded in Plat Book 2, Pages 99 through 101, Public Records of Seminole County, Florida.

Being more particularly described as follows:

Commence at the intersection of the south Right of Way line of Cub Lake Drive according to the plat of MCNEIL'S ORANGE VILLA as recorded in Plat Book 2, Pages 99 through 101, of the Public Records of Seminole County, Florida, with the west Right of Way line of Eden Park Avenue; thence run S 00°02'55" W, along said west Right of Way line for a distance of 218.04 feet to the POINT OF BEGINNING; Thence continue S 00°02'55" W, along said west Right of Way line for a distance of 212.045 feet to the north line of the south 208.71 Feet of Lot 76, said plat of MCNEIL'S ORANGE VILLA; thence run N 89°41'25" W along said north line for a distance of 23.00 feet; thence run N 00°02'55" E for a distance of 212.09 feet to the north line of that parcel described in Official Records Book 996, Page 1829 of said Public Records; thence run S 89°34'48" E, along said north line for a distance of 23.00 feet to the west Right of Way line of Eden Park Avenue and the POINT OF BEGINNING.
Containing 4878 square feet more or less.

The sketch for this description is shown on sheet 6 of 10 of the Seminole County, Eden Park Avenue Right of Way Map, work project number PS-569-00/BJC
THIS SKETCH IS NOT A SURVEY.

I hereby certify that this legal description is true, accurate and complete to the best of my knowledge and is in compliance with the minimum technical standards as set forth in chapter 61g17-6 of the Florida Administrative code.

Daniel A. Groves

Daniel A. Groves

7.14.03

signature date

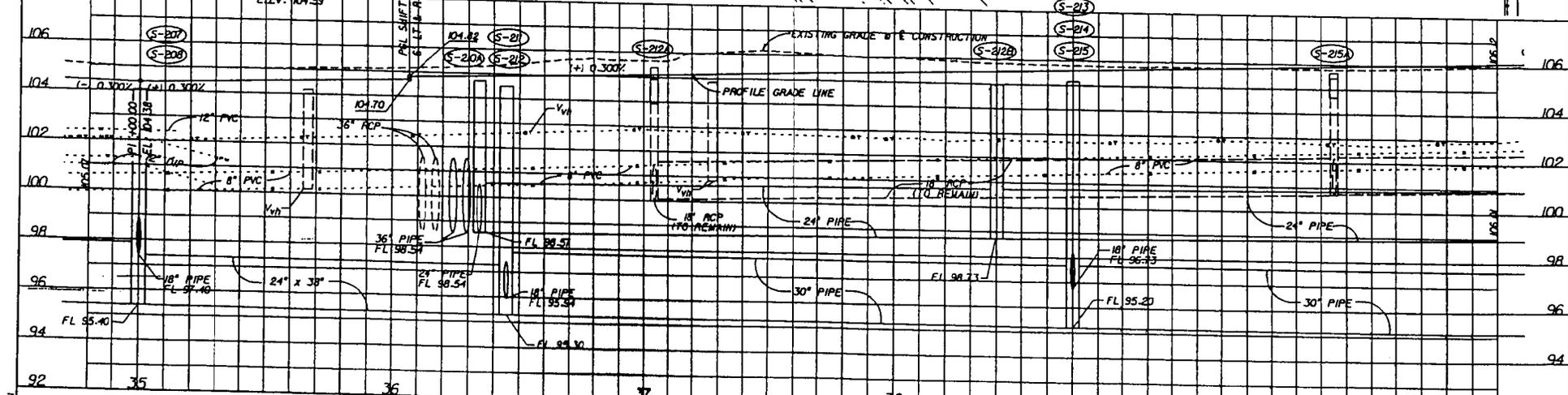
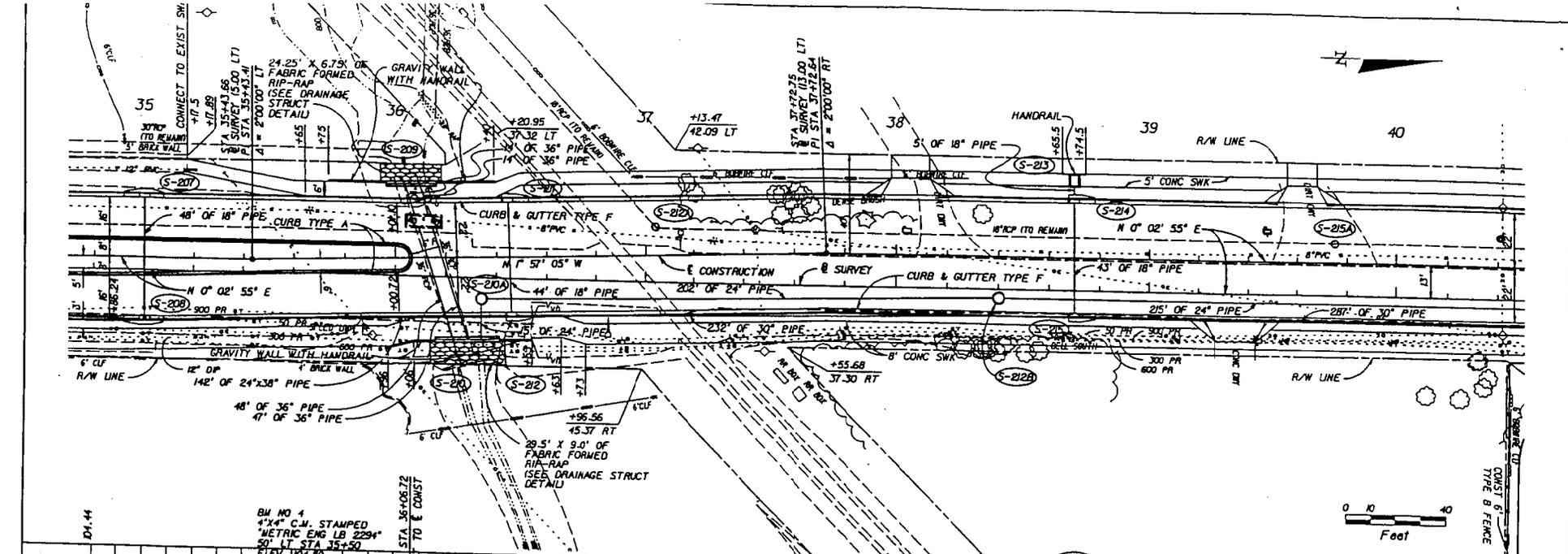
Florida Professional Surveyor and Mapper no. 4625

METRIC ENGINEERING INC.

2269 Lee Road, Suite 101

Winter Park, Florida 32789

EXHIBIT A



DATE	BY	DESCRIPTION

REVISIONS	DATE	BY	DESCRIPTION



METRIC ENGINEERING, INC.
 2780 LEE ROAD, SUITE 200
 WINTER PARK, FLORIDA 32780
 TEL. (407) 844-1808
 FAX. (407) 844-1921
 FLORIDA CERT. NO. EB-0002294

SEMINOLE COUNTY PUBLIC WORKS DEPARTMENT
 ENGINEERING DIVISION
 PROJECT NAME: EDEN PARK AVENUE
 PROJECT NO.: PS-569-00/BJC

PLAN & PROFILE

SHEET NO. 19

Exhibit B