



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 *PH*
David V. Nichols, P.E./Principal Engineer/Major Projects *DVN 5-22-06*

DATE: May 23, 2006

SUBJECT: Settlement Authorization
Bunnell Road improvement project
Parcel No.: 140
Owners: Loyless Dagg & Lisa Dagg Acton
Seminole County v. Moran, et al.
Case No.: 05-CA-1144-13-W

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 140 on the Bunnell Road improvement project. The recommended settlement is at the total sum of \$30,461.50. The total sum is allocated as follows:

\$20,000.00	Compensation for land value, severance damages and Statutory interest;
\$ 6,000.00	Appraisal fee;
\$ 3,399.00	Statutory attorney's fee; and
\$ 1,062.50	Tree expert fee

I PROPERTY

- A. Location Data. Parcel No. 140. The property is located along the west side of Eden Park Avenue, approximately 304.08 feet north of Bunnell Road, within unincorporated Seminole County, Florida. See Location Map attached as Exhibit A.
- B. Street Address. The property address is 524 Eden Park Avenue, Altamonte Springs, FL. See parcel sketch 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. 140 and finding that the Bunnell Road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

The Order of Take occurred on August 22, 2005, with title vesting in Seminole County on August 31, 2005, the date of the good faith deposit for this parcel in the amount of \$10,300.00.

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 140 totaled 645 square feet from a parent tract of 75,114 square feet leaving a remainder of 74,469 square feet.

IV APPRAISED VALUES

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

Parcel No. 140. The initial appraisal reported full compensation as of December 27, 2004, at \$9,700.00. The updated appraisal opined the value as of July 15, 2005, to be \$10,300.00. An appraisal for trial purposes was not prepared.

B. Owners' Report. The owners' report was prepared by Erickson Appraisers, Inc., as of August 31, 2005 (the date of the good faith deposit), and reported full compensation at \$36,500.00.

V BINDING OFFER/NEGOTIATION/ISSUES

On February 22, 2005, the BCC authorized a binding written offer in the amount of \$9,700.00. As stated previously, the owners' appraised value was \$36,500.00 and the County's updated appraised value was \$10,300.00.

The difference between the County's \$10,300.00 appraisal value and the owners' \$36,500.00 appraisal value is \$26,200.00. 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 \$23,400.00. The final negotiated compensation of \$20,000.00 is below midpoint and reasonable.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$3,399.00. The sum is statutorily computed based upon a settlement sum of \$20,000.00 less the written offer of \$9,700.00 to produce a benefit of \$10,300.00.

B. Cost Reimbursements. The owners' cost claim of \$6,000.00 for appraisal services and \$1,062.50 for a tree expert are 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 \$30,461.50 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:krc

Attachments:

- Exhibit A - Location Map
- Exhibit B - Parcel Sketch

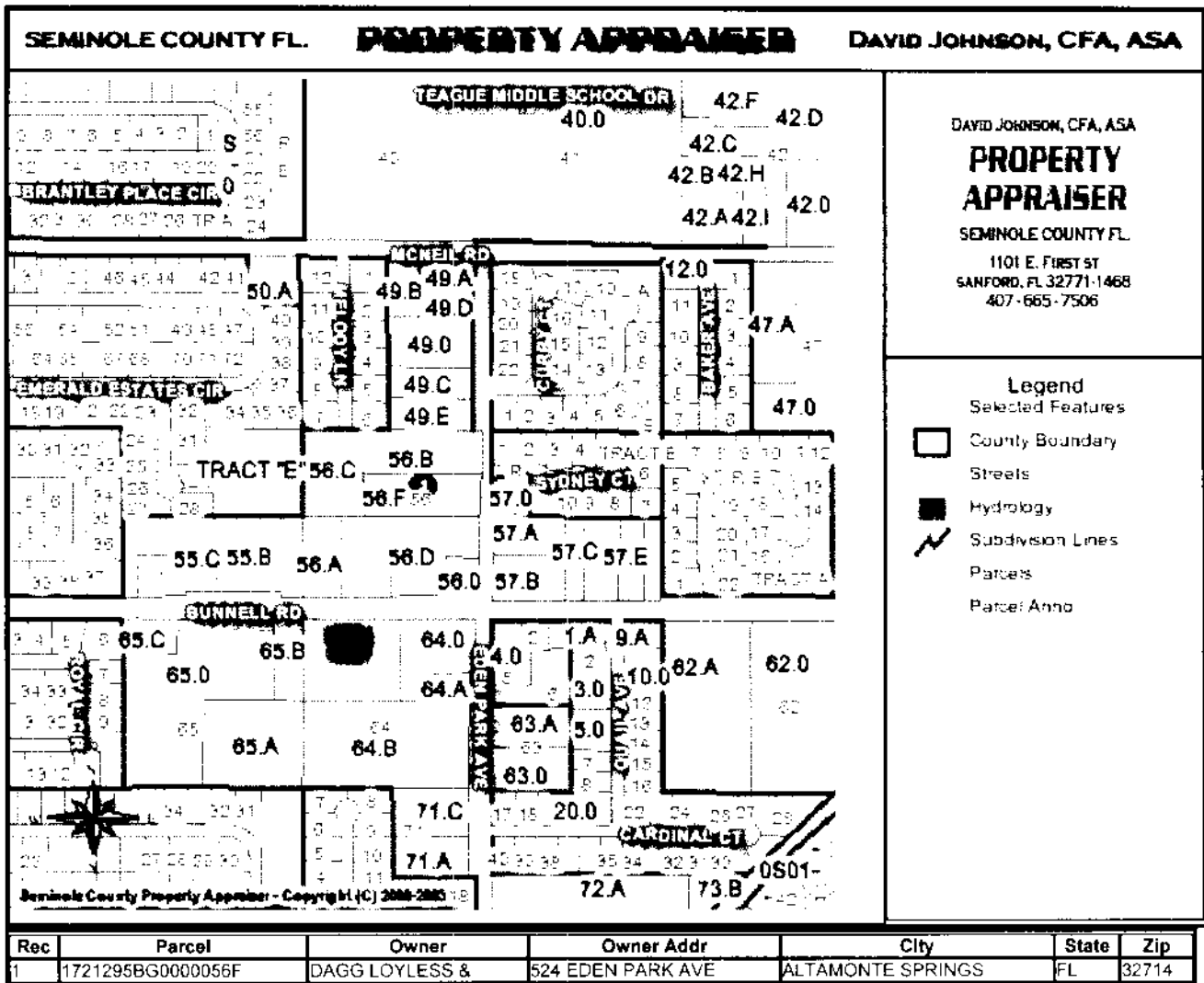


EXHIBIT A

PROPERTY SKETCH

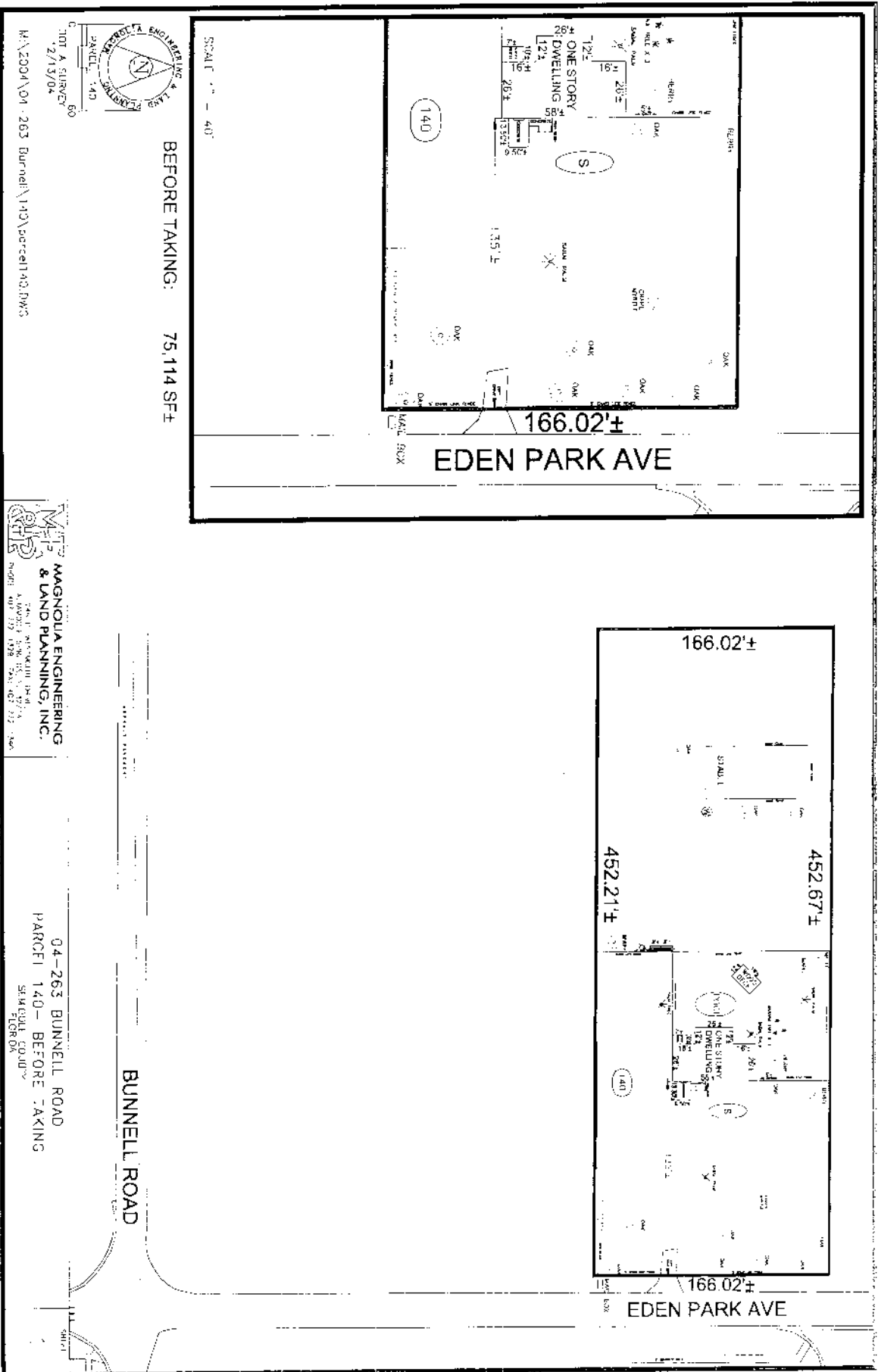


EXHIBIT B