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COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Lynn Vous, 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 17, 2005

SUBJECT: Purchase Agreement Authorization
 Owners: Stephen J. and Stephanie M. Yost
 Parcel Nos. 102/102A
 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 Nos. 102/102A. These parcels are required for the Eden Park Avenue road improvement project. The purchase price is \$22,850.00, with no fees or costs incurred by the property owners.

I THE PROPERTY

A. Location Data

The property is located at the northwest corner of Eden Park Avenue and the CSX Railroad 50' right-of-way, within unincorporated Seminole County, Florida.

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

B. Address

9694 Eden Park Avenue
Altamonte Springs, Florida 32714

C. Description

The property contains 2,793 sf (0.838 acres) of gross land area. The property is improved with a single-family residence constructed in 1990.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-73 on April 13, 2004 and First Amended and First Supplemental Resolution No. 2005-R-69 on April 12, 2005, 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 2,714 square feet (0.062 acres) with two separate parcels. Parcel 102 consists of 2,536 square foot strip of land along the portion of the Bunnell Road and Eden Park Avenue frontage. Parcel No. 102A consists of the entire 178 square foot portion of the subject site that lies south of the CSX Railroad right-of-way. The remainder is 0.776 acres.

IV APPRAISED VALUE

The County's appraised value amount is \$17,900.00 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 22, 5005, the BCC authorized a binding written offer in the amount of \$17,900.00. Thereafter, County staff negotiated this proposed settlement agreement with the property owners in the amount of \$22,850.00.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The Yosts have asked for an additional \$4,950.00 to the County's binding written offer amount of \$17,900.00, for a total of \$22,850.00. The justification is the loss of the privacy sound barrier provided by a thick stand of nature vegetation being acquired and removed by the County. In exhibit "B" to the purchase agreement, the Yosts quite clearly explain the impact to them based on the loss of the buffer in words and photographs. The County's appraisal compensates the Yosts for the vegetation acquired, but does not replace it. The Yosts obtained an estimate for establishing a new buffer from a tree farm in the amount of \$4,950.00, not including labor to install or entrepreneurial profit. Also, the County has agreed to provide a drop curve on the south side of the property at the existing gate, to allow the Yosts rear neighbor access, as required by Seminole County Development Review.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$22,850.00, with no fees or expenses incurred by the property owners.

LV/krc

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

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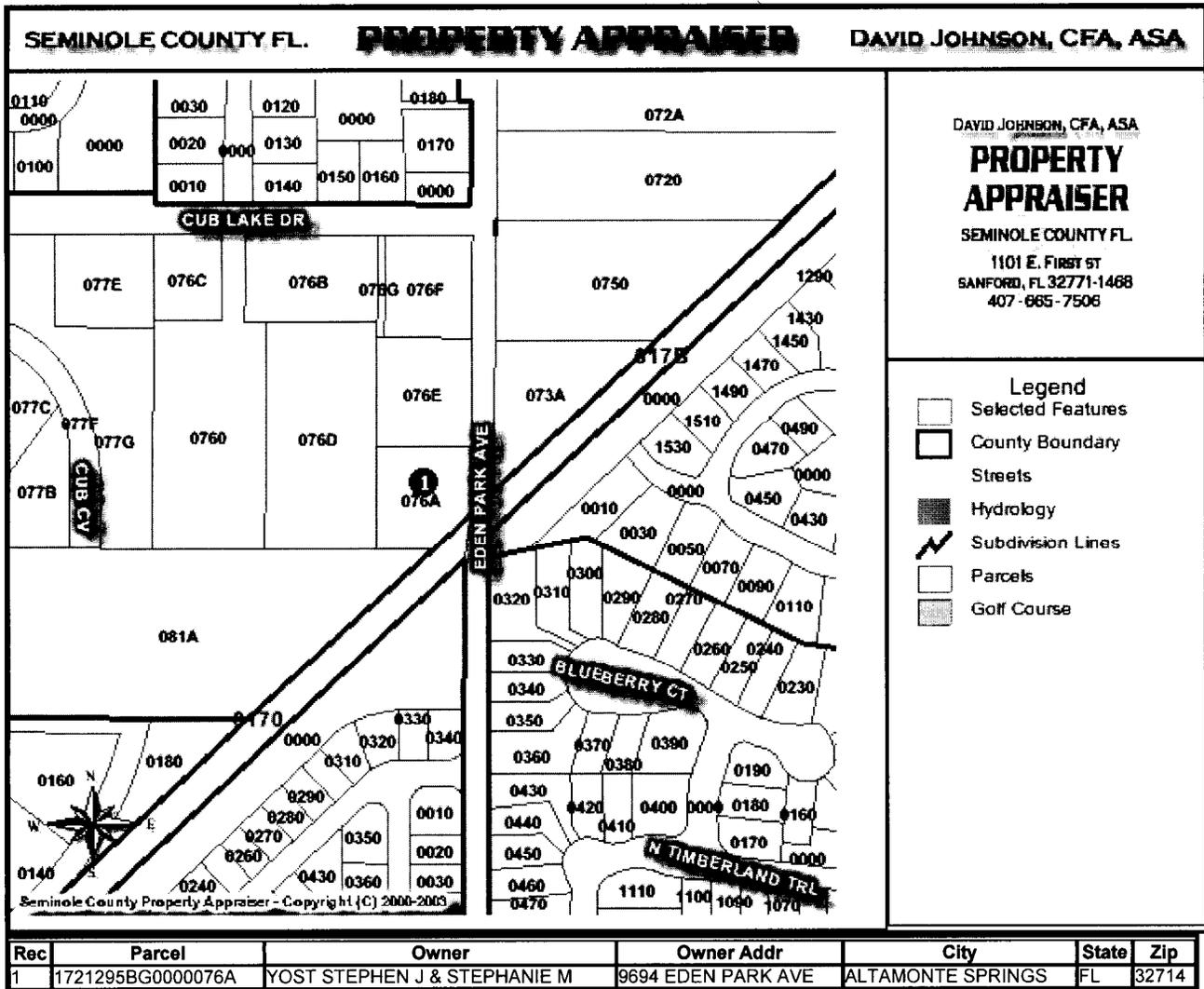
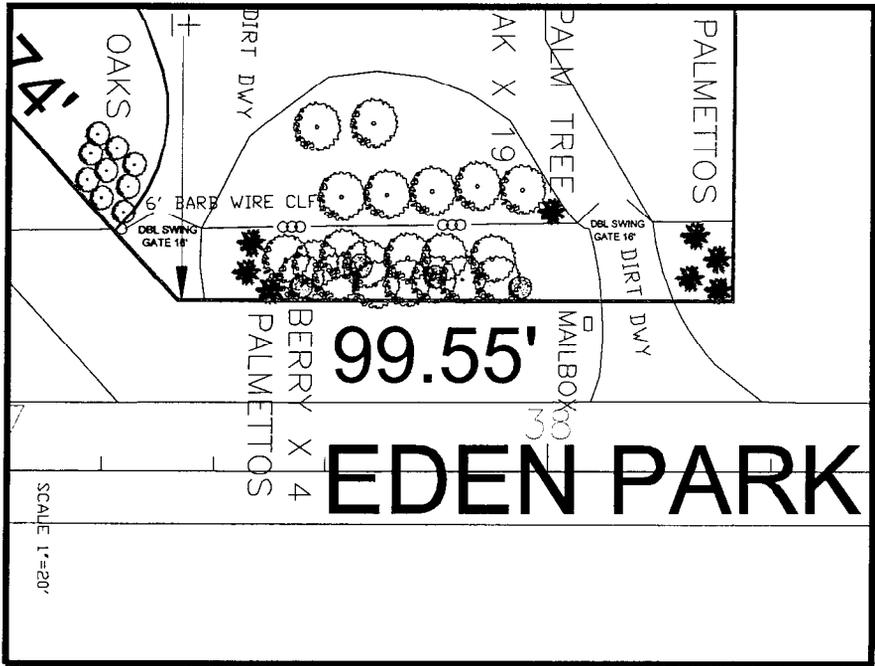


EXHIBIT A

PROPERTY SKETCH



AREA OF THE WHOLE: 0.838 AC±

MAGNOLIA ENGINEERING & LAND PLANNING, INC.
 DDT, A SURVEY
 01/24/05
 M:\2004\04-264 Eden Park\102\parcel 102.dwg

MAGNOLIA ENGINEERING & LAND PLANNING, INC.
 246 D. WESTMONT DRIVE
 ALTAMONTE SPRINGS, FL 32714
 PHONE: 407-772-1329 FAX: 407-772-1340

04-264 EDEN PARK AVENUE
 PARCEL 102 - BEFORE TAKING
 SEMINOLE COUNTY
 FLORIDA

SHEET 1

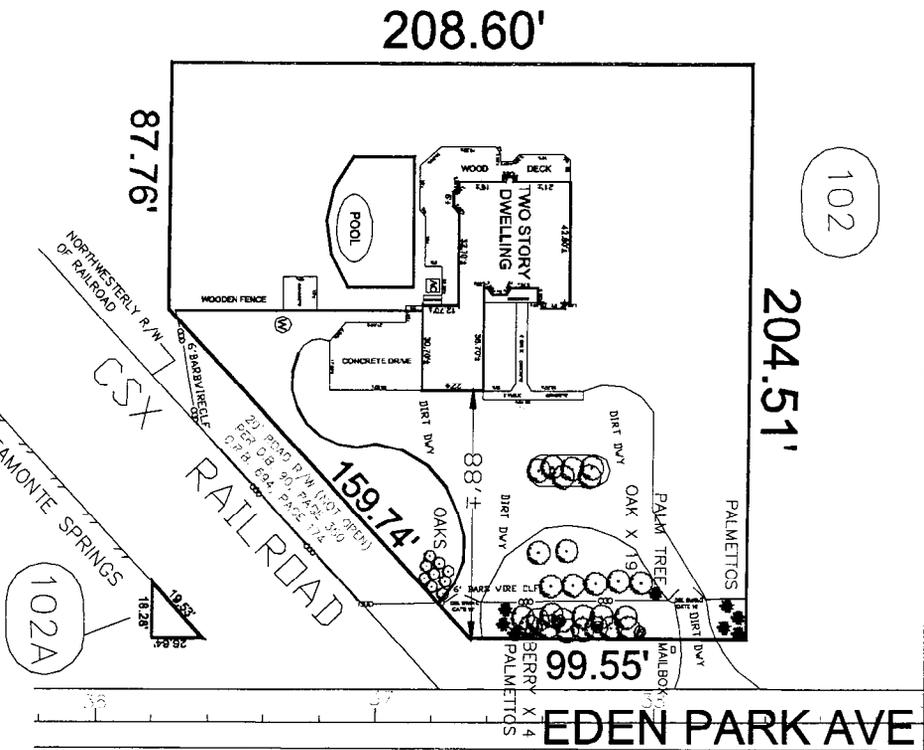


EXHIBIT B

**PURCHASE AGREEMENT
FEE SIMPLE**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 10th day of MAY, 2005, by and between STEPHEN J. YOST and STEPHANIE M. YOST, his wife, whose address is 9694 Eden Park Avenue, Altamonte Springs, Florida 32714, hereinafter referred to as "OWNERS," 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, OWNERS hereby agree 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. 102/102A

See attached Exhibit "A"

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

(Signature)
Owners
(Signature)
County

II. PURCHASE PRICE

22,850.⁰⁰ Twenty Two Thousand Eight Hundred Fifty Dollars.

(a) OWNERS agree 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 ~~SEVENTEEN THOUSAND NINE HUNDRED DOLLARS (\$17,900.00)~~. The above amount includes all compensation due as a result of this acquisition to the OWNERS for any reason and for any account whatsoever.

(b) COUNTY shall be responsible for the following closing costs: recording fees for Warranty Deed and Title Insurance Policy issued to the COUNTY by a title insurance company of the COUNTY's choice.

(c) OWNERS shall be responsible for OWNERS' own attorney's fees, cost to prepare and all expenses to record instruments necessary to provide title unto COUNTY, free and clear of all liens and encumbrances, and OWNERS' share of the pro-rata property taxes outstanding, up to and including the date of closing. The before mentioned closing costs and 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 OWNERS.

(d) OWNERS covenant that there are no real estate commissions due any licensed real estate broker and further agrees to defend against and pay any valid claims made in regard to this purchase relating to covenants made herein by the OWNERS.

III. CONDITIONS

(a) COUNTY shall pay to the OWNERS 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 OWNERS agree 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) OWNERS agree 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 OWNERS; provided, however, that such approval will be evidenced by a written document of equal dignity herewith. During the period from the date of the execution of this Agreement by both parties and the closing, OWNERS agree 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 OWNERS, 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 OWNERS at the expense of the OWNERS prior to closing.

(d) OWNERS warrant that there are no facts known to OWNERS materially affecting the value of the properties which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(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 OWNERS 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. The OWNERS agree that, in accordance with any request made by the COUNTY, the OWNERS shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNERS agree not to oppose the COUNTY's condemnation proceedings in any way. The OWNERS, may however, assert OWNERS' rights against other claimants in apportionment proceedings.

(i) As part of the consideration for this Purchase Agreement, OWNERS hereby grant 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 Exhibit A to 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 Eden Park Avenue Road Improvement Project and so that the COUNTY's construction schedule can be maintained notwithstanding issues which may delay closing in a timely manner. OWNERS 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 OWNERS shall indemnify and save the COUNTY harmless from and against all liability, claims for damages, and suits for any injury to any person or persons, or damages to any property of any kind whatsoever arising out of or in any way connected with this Agreement or in any act or omission in any manner related to said Agreement.~~

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

(l) The OWNERS state that the OWNERS have not engaged in any action that would create a conflict of interest in the performance of OWNERS' 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.

(m) County shall pay all closing costs including reasonable release fees/costs charged by Owner's mortgage lender. Owner's shall pay any proportionate pro-rate property taxes/assessments due at closing.

(N) Exhibit B is attached to and incorporated into this Agreement. County shall provide drop curb with improved driveway access as stated in item B - including access to property line.

(Signature)
Owner
(Signature)
County

(Signature)
Owner
(Signature)
County
(Signature)

EXHIBIT A

Eden Park Avenue
Right of Way Parcel number 102
Fee simple taking

ID# 17-21-29-SBG-0000-076A

That portion of:
the following described parcel as recorded in Official Records Book 1739, page 1402, 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 208.71 feet of the East 218.71 feet of Lot 76, MCNEILS ORANGE VILLA, according to the plat thereof as recorded in Plat Book 2, Pages 99 through 101, Public Records of Seminole County, Florida, Less the East 10 feet thereof for Public Right of Way, and Less Seaboard Coastline Railroad right of way, and Less Public Right of Way 20 feet wide and parallel to and adjoining the West side of said Railroad right of way in Section, 20, Township 21 South, Range 29 East.

Being more particularly described as follows:

Begin at the intersection of the northerly Right of Way line of a public Right of Way 20 feet wide and parallel to and adjoining the west side of the Seaboard Coastline railroad (now owned by CSX Railroad) with the west Right of Way line of Eden Park Avenue; thence run S 47°11'54" W, along said northerly Right of Way line for a distance of 31.37 feet; thence run N 00°02'55" E, for a distance of 121.00 feet to the north line of the south 208.71 feet of Lot 76, MCNEIL'S ORANGE VILLA, according to the plat thereof as recorded in Plat Book 2, Pages 99 through 101, of the public records of Seminole County, Florida; thence run S 89°41'25" E, along said north line for a distance of 23.00 feet to 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 99.55 feet to the Point of Beginning.

Containing 2536 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

Eden Park Avenue
Right of Way Parcel number 102-A
Fee simple taking

That portion of:

the following described parcel as recorded in Official Records Book 1739, page 1402, 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 208.71 feet of the East 218.71 feet of Lot 76, MCNEILS ORANGE VILLA, according to the plat thereof as recorded in Plat Book 2, Pages 99 through 101, Public Records of Seminole County, Florida, Less the East 10 feet thereof for Public Right of Way, and Less Seaboard Coastline Railroad right of way, and Less Public Right of Way 20 feet wide and parallel to and adjoining the West side of said Railroad right of way in Section, 20, Township 21 South, Range 29 East.

Being more particularly described as follows:

That portion of Lot 76, MCNEILS ORANGE VILLA, according to the plat thereof as recorded in Plat Book 2, Pages 99 through 101, Public Records of Seminole County, Florida, lying southeasterly of the Seaboard Coastline Railroad right of way.

Subject to the Florida Power Corporation power easement as recorded in Deed Book 157, Page 80, Public Records of Seminole County, Florida.

Containing 178 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 2-17-05
Daniel A. Groves signature date
Florida Professional Surveyor and Mapper no. 4625
METRIC ENGINEERING INC.
2269 Lee Road, Suite 101
Winter Park, Florida 32789

Below are two pictures of our home lot – the top picture is taken from the middle of the road where the road currently is located; the bottom picture is taken from the middle of the new road's estimated location. Please note the impact on our home, setting and privacy. In the top picture from the current road, the only thing on our property that is visible from the road are the trees. These trees provide privacy from both sight and sound. The trees block the vision lines (except for our driveway) and they deaden the sound of the traffic on the road.

The bottom picture is considerably different. The trees are gone. The privacy is gone. The sound deadening leaves are gone. We have lost a major portion of the value of our property – the only property like it on Eden Park Road – or for that matter almost anywhere in this area.



Exhibit "B"

EDEN PARK ROAD WIDENING PROJECT PROPERTY IMPACT EVIDENCE

Below are two pictures of our neighbor's home – the top picture is taken from the middle of the road where the road currently is located; the bottom picture is taken from an estimated location (middle of the proposed road). Please note the impact on their lot and setting. As is visible, the top picture and the bottom picture look virtually the same – the bottom picture being closer to their front door. The only impact is the decreased distance from the front of the house to the roadway.



EXHIBIT "B"

SETTLEMENT

The value of the land per square foot taken from our neighbor and the value of our land per square foot taken from us is NOT equal in any stretch of the imagination. The impact of the widening project destroys our privacy and a good share of our unique property value.

The only way to make things semi-equal would be to REPLACE the privacy/sound buffer. I contacted Cook Tree Farm / Nursery and they told me it would be impossible to duplicate the tree buffer. The closest thing would be to plant 15 foot tall live oak trees – spaced approximately 8-10 feet apart. Arrange them in two lines – with the second line staggered to assist in filling the gaps between each front-line tree. The trees will grow over time to provide something close to the natural privacy and sound barrier that was destroyed. Then plant two smaller 3-4 foot shrubs (Lagrstrom suggestion) between each tree in the front line. The shrubs between the trees would provide the additional sight and sound barrier at or near ground level.

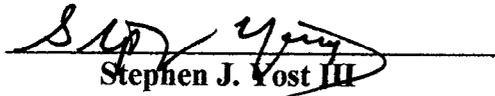
The trees would cost a minimum of \$150 per tree – depending upon the size available. The shrubs would cost a minimum of \$25 per shrub – again depending upon size available. One Palm tree would need to be moved at a cost of \$100. The total cost of the project considering the staggered tree line and shrubs for our frontage length and the transplant of one palm tree would be a minimum of \$4950.

Therefore, I request the following two modifications to the offer given to me by the county as a settlement for the property the county wishes to take:

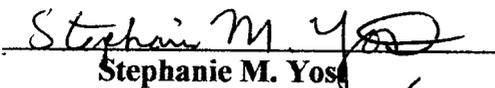
A – Add an additional \$4950 to the original offer of \$17,900 for a total settlement of \$22,850. This will attempt to restore my property to its original uniqueness and value.

B - I, as required by deed restrictions, must provide right of way to my neighbor's land behind my property. This right of way is to be on the south side of my property – parallel to the railroad right-of-way. Currently I have a gate located at this point and I ask that a drop curb be created to match the existing gate thus providing this access at the appropriate time.

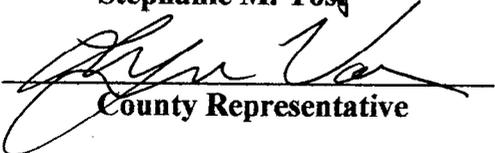
Signatures:


Stephen J. Yost III

Date: May 10, 2005


Stephanie M. Yost

Date: May 10, 2005


County Representative

Date: 5/12/05

21 Live Oaks - 4050

32 Logosaurus 800

100 Acorns

4950 + 17,900 = 22,850

