

05

58



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *NDB For SL*

FROM: Lynn Vouis, Assistant County Attorney *[Signature]*

CONCUR: Pam Hastings, *[Signature]* Administrative Manager/Public Works Department
 Kathleen Myer, Principal Engineer/Major Projects *[Signature]*

DATE: June 21, 2004

SUBJECT: Purchase Agreement Authorization
 Owner: Nova Doris Thompson
 Parcel No 149
 Lake Drive 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. 149. The parcel is required for the Lake Drive road improvement project. The purchase price is \$25,000.00, inclusive of attorney fees and expert costs incurred by the property owner.

I THE PROPERTY

A. Location Data

The property is located on the east side of Azalea Avenue, approximately 377 feet north of Lake Drive, in unincorporated Seminole County, Florida.

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

B. Address

None-vacant property

C. Description

The property contains 16,699 ± square feet of vacant property zoned R-1/Low Density Residential.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2002-R-70, authorizing the acquisition of the referenced property, and finding that the construction of the Lake Drive road improvement project is necessary and serves a county and public purpose and is in the best interest of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The proposed acquisition (Parcel No. 149) is a corner clip consisting of 418 square feet. The remainder is 16,281 square feet.

IV APPRAISED VALUE

The County's appraised value amount, as of the date of value of January 10, 2004, was \$6,000.00. 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 April 13, 2004, the BCC authorized a binding written offer in the amount of \$7,500.00. Thereafter, County staff negotiated this proposed inclusive settlement agreement with the owner and her attorney in the amount of \$25,000.00.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The property owner employed an engineer to review the County's plans relative to the impact to the property. Prior to the taking, the property was platted into two residential lots, both with ingress and egress over Azalea Avenue. After the construction project is completed, Azalea Avenue will have been realigned, effectively cutting off access to these lots. Access will still be possible for one lot directly on the new Lake Drive. However, the configuration will necessitate an access easement across the first lot to get to the second. This, according to the property owner's engineer, will make both lots less desirable, causing damages. In addition, the orientation of any homes built on the lots would also be less desirable, since they would no longer face Azalea Avenue and back up to Lake Azalea.

The County's experts agree that some damages will be caused by the road construction. At this point, it would not be cost effective to litigate this parcel to determine whether the amount of damages is or is not greater than the approximately \$5,000.00 allocated by the County's experts. Not much time has yet been expended by the owner's experts. Overall, this settlement proposal is reasonable.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$25,000.00, inclusive of attorney's fees and expert's costs incurred.

LV/kc

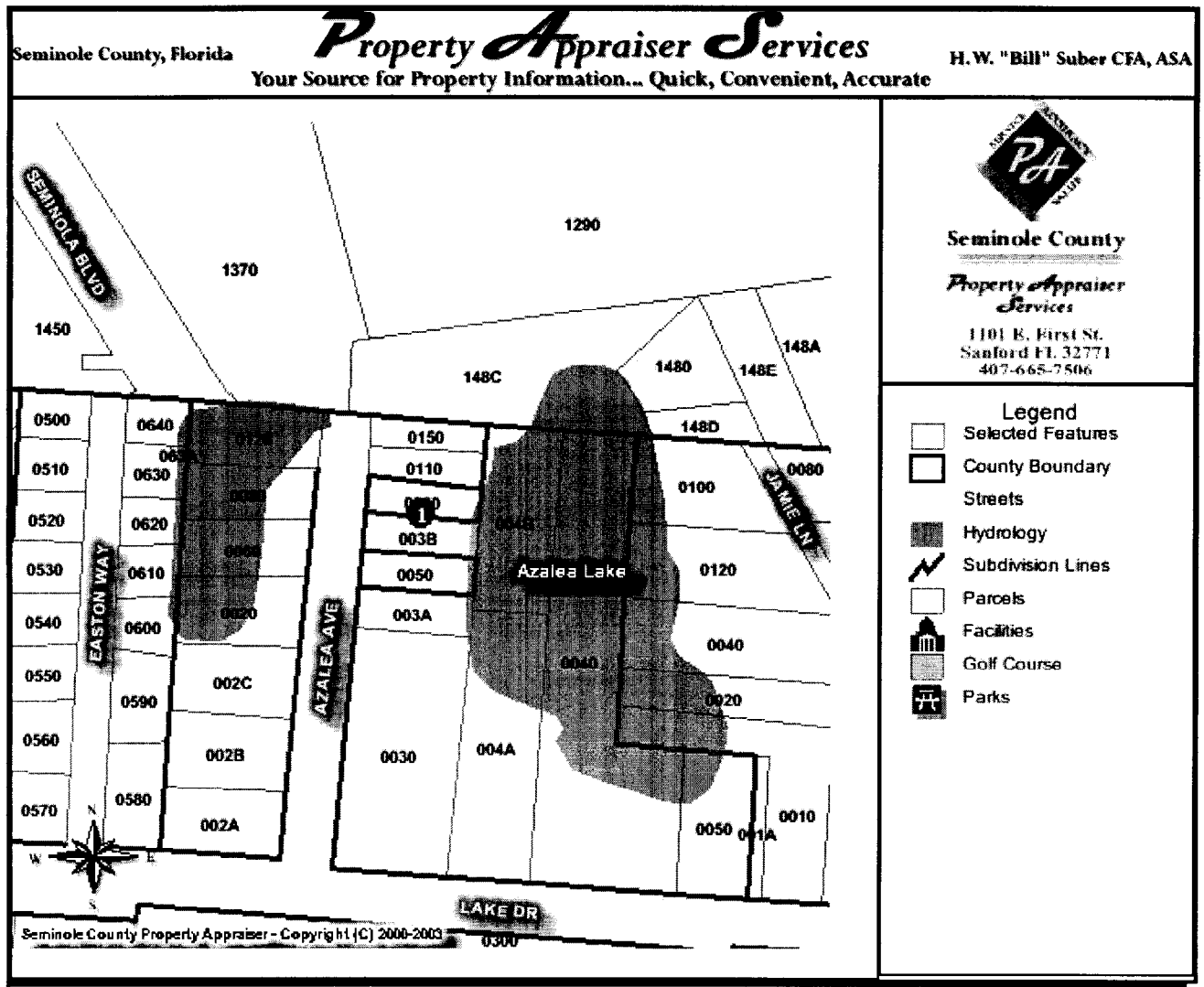
Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

P:\Users\lvouis\SETTLEMENT MEMOS\LAKE DRIVE\AGENDA ITEM LAKE DRIVE 149 Nova Thompson.doc



Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	1021305BQ0000003B	THOMPSON NOVA	PO BOX 300102	FERN PARK	FL	32730

EXHIBIT "A"

ACQUISITION SKETCH

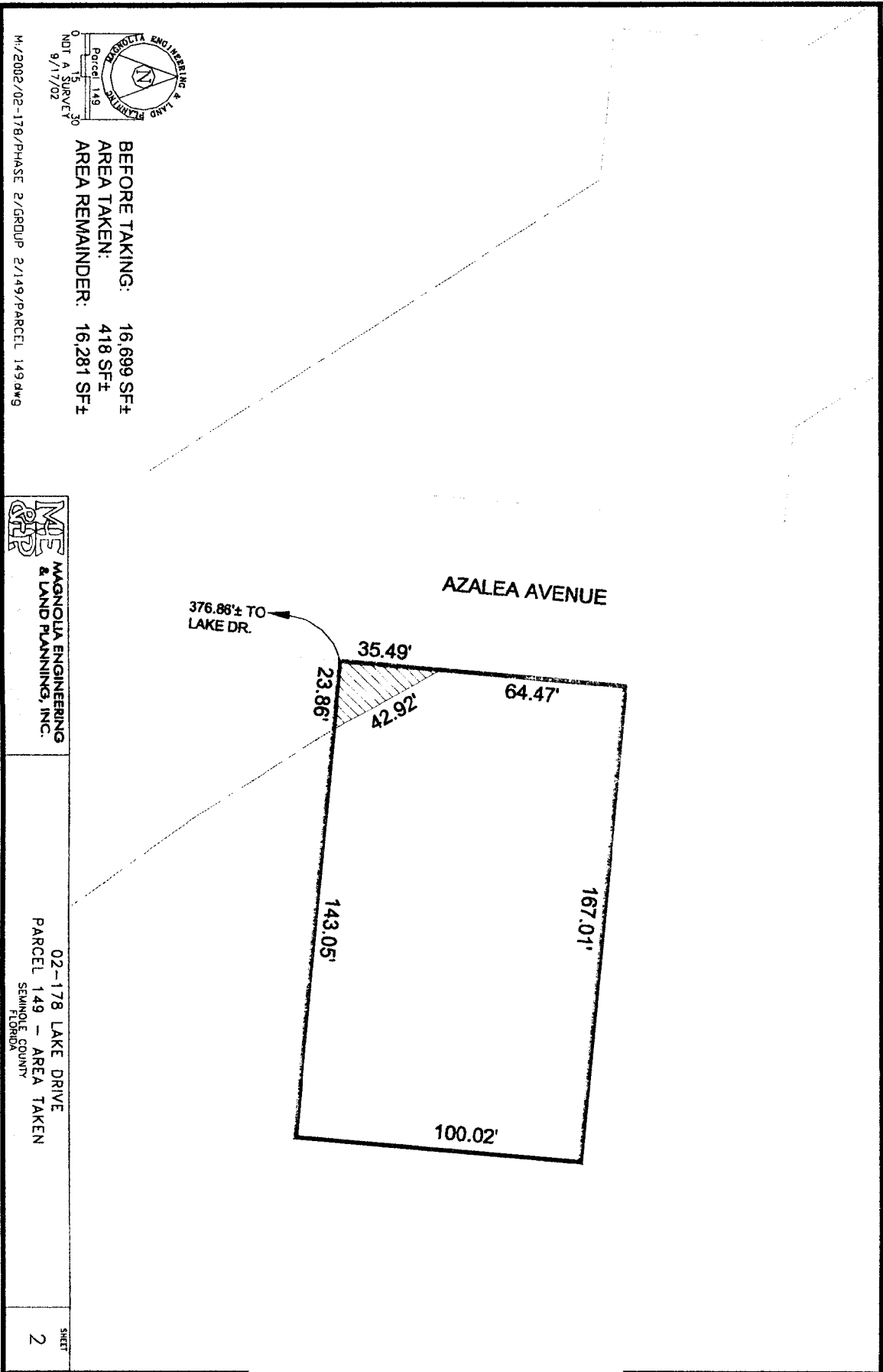


EXHIBIT "B"

**PURCHASE AGREEMENT
FEE SIMPLE**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this _____ day of _____, 2004, by and between Nova Thompson, whose address is P. O. Box 300102, Fern Park, FL 32730, 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

RIGHT-OF-WAY FEE SIMPLE

PROJECT: Lake Drive
R/W PARCEL NO.: 149

A part of Lots 5 and 7, Block "3", Button's Subdivision, according to the plat thereof recorded in Plat Book 8, page 44 and a part of that parcel of land described in Official Record Book 580, page 621 as recorded in the Public Records of Seminole County, Florida being that portion of Section 10, Township 21 South, Range 30 East of Seminole County, Florida,

described as follows:

Begin at the Southwest corner of Lot 5, Block 3 of Button's Subdivision, according to the Plat thereof, as recorded in Plat Book 8, page 44, Public Records of Seminole County, Florida; thence N05°04'20"E along the West line of said Lot 5, also being the East Right of Way line of Azalea Avenue, as shown in Button's Subdivision, according to the Plat thereof, as recorded in Plat Book 8, page 44, Public records of Seminole County, Florida, also being shown in Amended Plat of Button's Subdivision, according to the Plat thereof, as recorded in Plat Book 9, page 25, Public Records of Seminole

County, Florida, a distance of 35.49 feet to a point on a non-tangent curve concave Northeasterly and having a radius of 894.93 feet; thence, leaving said Right of Way line, from a chord bearing of S28°51'55"E, run along said curve an arc length of 42.93 feet through a central angle of 02°44'54" to a point on the South line of said Lot 5; thence N84°38'16"W along said South line a distance of 23.96 feet to the Point of Beginning.

Containing 418 square feet, more or less.

Parcel I. D. Number: 10-21-30-5BQ-0000-003B

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 TWENTY-FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$25,000.00). The above amount includes all compensation due as a result of this acquisition to the OWNER 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) OWNER shall be responsible for OWNER's 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 OWNER's 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 OWNER.

(d) OWNER covenants 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 OWNER.

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 of equal dignity herewith. 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) OWNER warrants that there are no facts known to OWNER 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 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. 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.

(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 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 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 OWNER 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. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

(l) 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.

executed in their respective names on the date first above written.

WITNESSES:

PROPERTY OWNER:

Virginia E Hamlin
SIGNATURE

Nova Thompson
NOVA THOMPSON

VIRGINIA E. HAMLIN
PRINT NAME

Mich Jahl
SIGNATURE

ADDRESS: P. O. Box 300102
Fern Park, FL 32730

Michael Jaskolka
PRINT NAME

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

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

By: _____
DARYL G. McLAIN, 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
of County Commissioners at its _____,
2004, regular meeting.

[Signature]
County Attorney

LV/sb
06/02/04