

01



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

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

FROM: Henry M. Brown, Assistant County Attorney *HMB*

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

DATE: July 16, 2004

RE: Eminent Domain Litigation for the Road Improvement Projects
 Airport Boulevard, Phase III, Parcel Nos. 174 and 175, and
 County Road 46A, Phase III, Parcel No. 119
 Owners: A.K. Shoemaker Family Limited Partnership and
 Shoemaker Construction Co., Inc.
Seminole County v. 7-Eleven, Inc., et al.
 Case No. 02-CA-1200-13-B

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for costs in the amount of \$80,416.71.

I THE PROPERTY

A. Location Data

Parcel Nos. 174 and 175 are located along the southwest corner of the intersection of Airport Boulevard and County Road 46A. Parcel 119 is located on the southwest corner of County Road 46A and Old Lake Mary Road. A location map is attached at Exhibit A; and parcel sketches as Exhibit B-1 and Exhibit B-2.

B. Addresses

Parcels 174 and 175 are located at 2701 West 25th Street, Sanford. Parcel No. 119 is vacant and has no address.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 98-R-77 on April 14, 1998, for the Airport Boulevard Phase III road improvement project, authorizing the acquisition of Parcel Nos. 174 and 175, and finding that the construction of the Airport Boulevard Phase III road improvement project is necessary, serves a county and public purpose and is in

the best interests of the citizens of Seminole County. The BCC adopted Resolution No. 2001-R-30 on February 13, 2001, for the County Road 46A Phase III road improvement project, authorizing the acquisition of Parcel No. 119, and finding that the construction of the County Road 46A Phase III road improvement project is necessary, serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III BACKGROUND

In February, 2004, the BCC approved a negotiated settlement in the amount of \$1,900,000.00, exclusive of cost reimbursements. Costs are significant because the case was resolved on the eve of trial.

IV COST CLAIM

The owners claimed costs totaling \$96,194.33 allocated as follows:

COST ITEM	CLAIM
1. Miller, Appraisal	\$26,271.75
2. Matonis, Appraisal	\$21,657.50
3. CPH, Engineering	\$ 7,364.92
4. Andreyer, Engineering	\$ 1,000.00
5. Roberts, Engineering	\$ 3,894.36
6. Williams, Planning	\$ 5,390.00
7. Swisher, Architect	\$ 4,569.38
8. Storm Richards	\$ 250.00
9. James Burt	\$ 1,750.00
10. Nicholas Rubino, Esq.	\$ 2,888.15
11. Ron Fleming	\$ 338.78
12. Omni Reporting	\$ 325.00
13. Central Florida Reporters	\$ 411.64
14. BBM Clearing	\$ 1,920.00
15. All Points Moving	\$ 1,690.00
16. Vincent Howard, Esq.	\$ 1,450.00
17. Andrew DeWitt, P.E.	\$ 1,245.00
18. Gary Elwer, P.E.	\$ 1,225.00
19 Webb, Wells & Williams, P.A.	<u>\$12,552.85</u>
TOTAL:	<u>\$96,194.33</u>

V NEGOTIATION

In negotiation, several non-reimbursable office overhead costs were taken out, hourly rates reduced, and non-compensable items removed.

Negotiations resulted in a reduction of 17.5% from \$96,194.33 down to \$80,416.71. The proposed settlement sum is not allocated.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

If this cost matter were taken to hearing, it would be difficult to argue that the costs were unnecessary because the case settled on the eve of trial. The number of cost items would be problematic at hearing. The County would need to employ at least seven experts in different fields of expertise to review the claimed costs and testify as to their reasonableness. Not only would these seven plus experts need to be paid, we cannot say with certainty that their testimony would be at substantially lower numbers. Under the circumstances, it is not expected that a hearing would reduce costs any greater than the negotiated 17.5% reduction.

VII RECOMMENDATION

This Office recommends settlement of cost reimbursements at \$80,416.71.

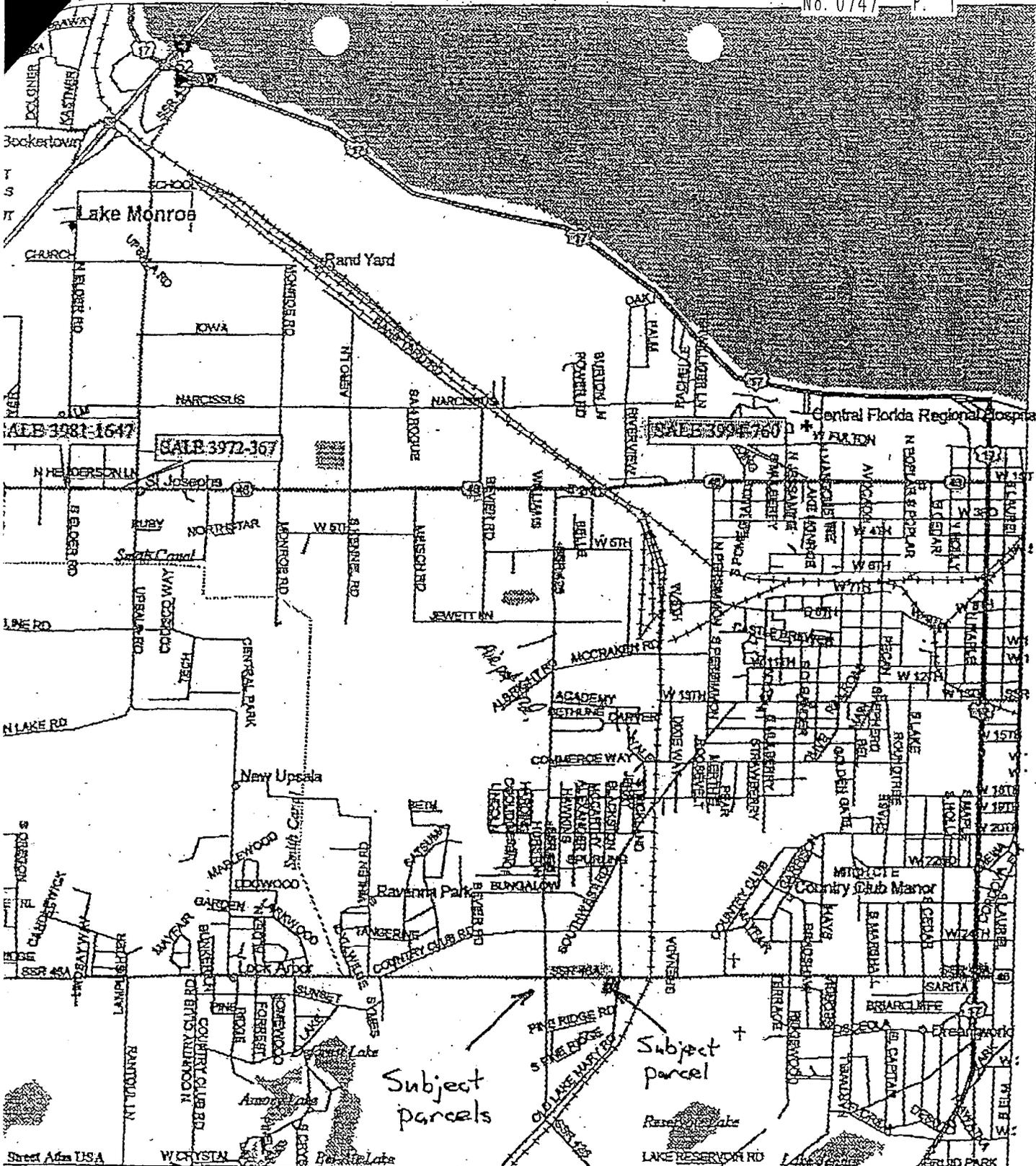
HMB:dre

Attachments

Exhibit A - Location Map

Exhibit B - Parcel Sketches

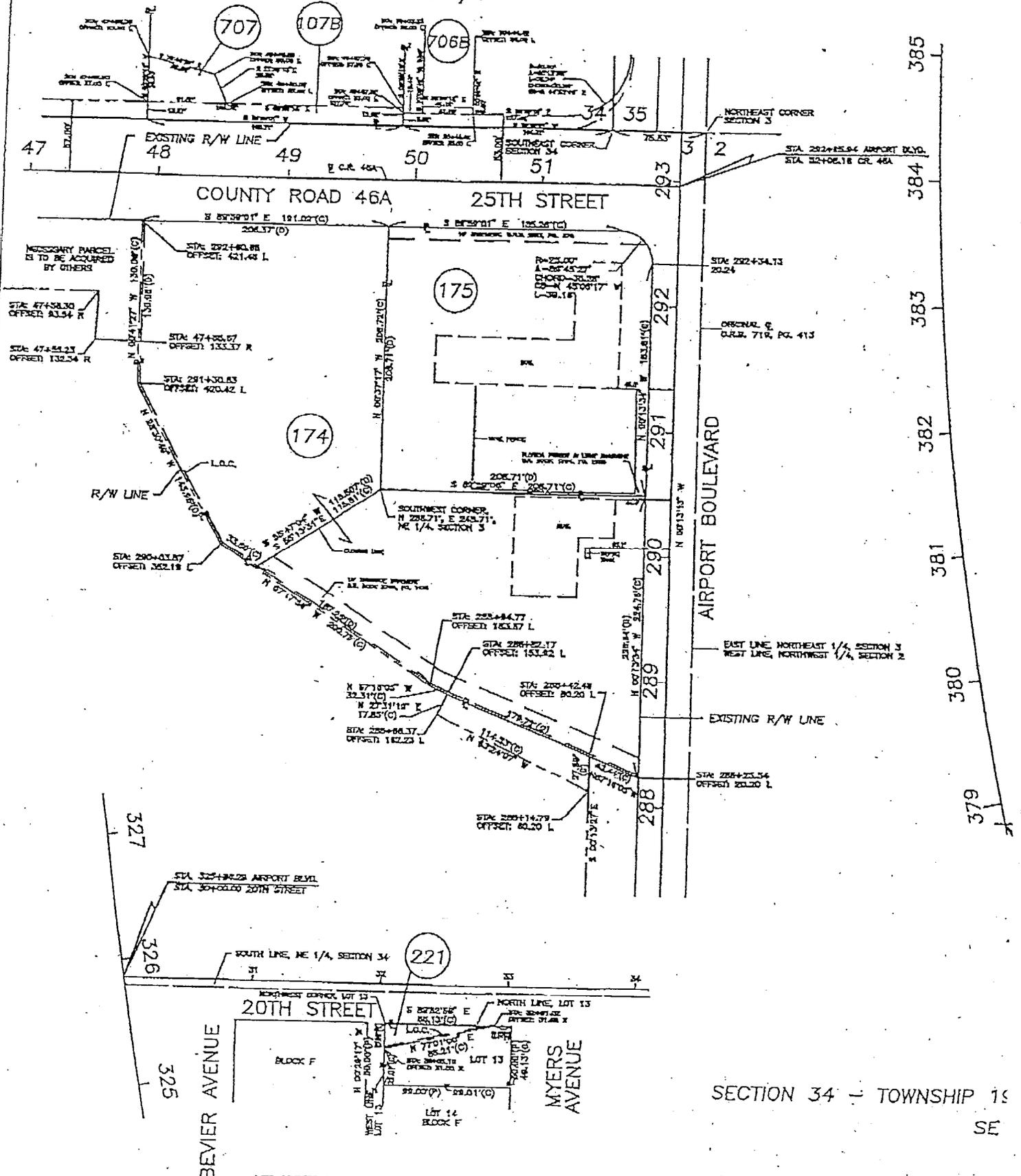
P:\USERS\EDGEMY DOCUMENTS\MEM\SHOEMAKER COSTS AGENDA ITEM.DOC



- 18 2001
(at center)
- Local Road
 - Exit/Gas
 - Exit/Food
 - US Highway
 - Interstate/Limited Access
 - Major Connector
 - State Route
 - Exit
 - Railroad
 - Small Town
 - Hospital
 - Exit/Other Services
 - Locals
 - Cemetery
 - County Boundary
 - Water

EXHIBIT A

SECTION 3 - TOWNSHIP 20 SOUTH - RANGE 30 EAST
NE 1/4



SECTION 34 - TOWNSHIP 19
SE

DETAIL SHEET

1ST ADDITION TO LOCKHART'S SUBMISSION
PLAT BOOK 4, PAGE 23

EXHIBIT B-1

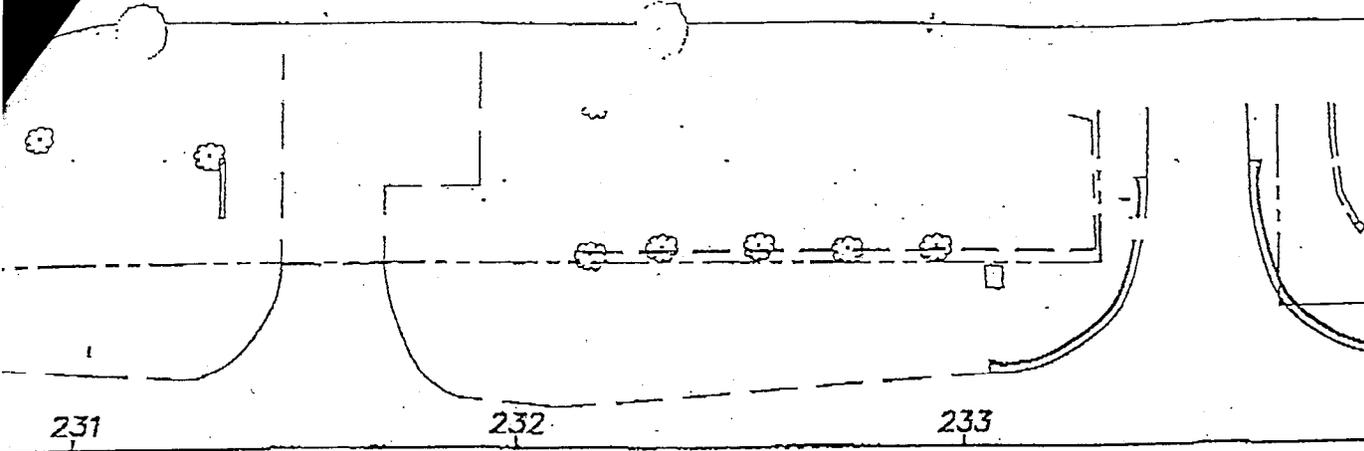
RIGHT OF WAY MAP

SEMINOLE COUNTY ENGINEERING DEPARTMENT

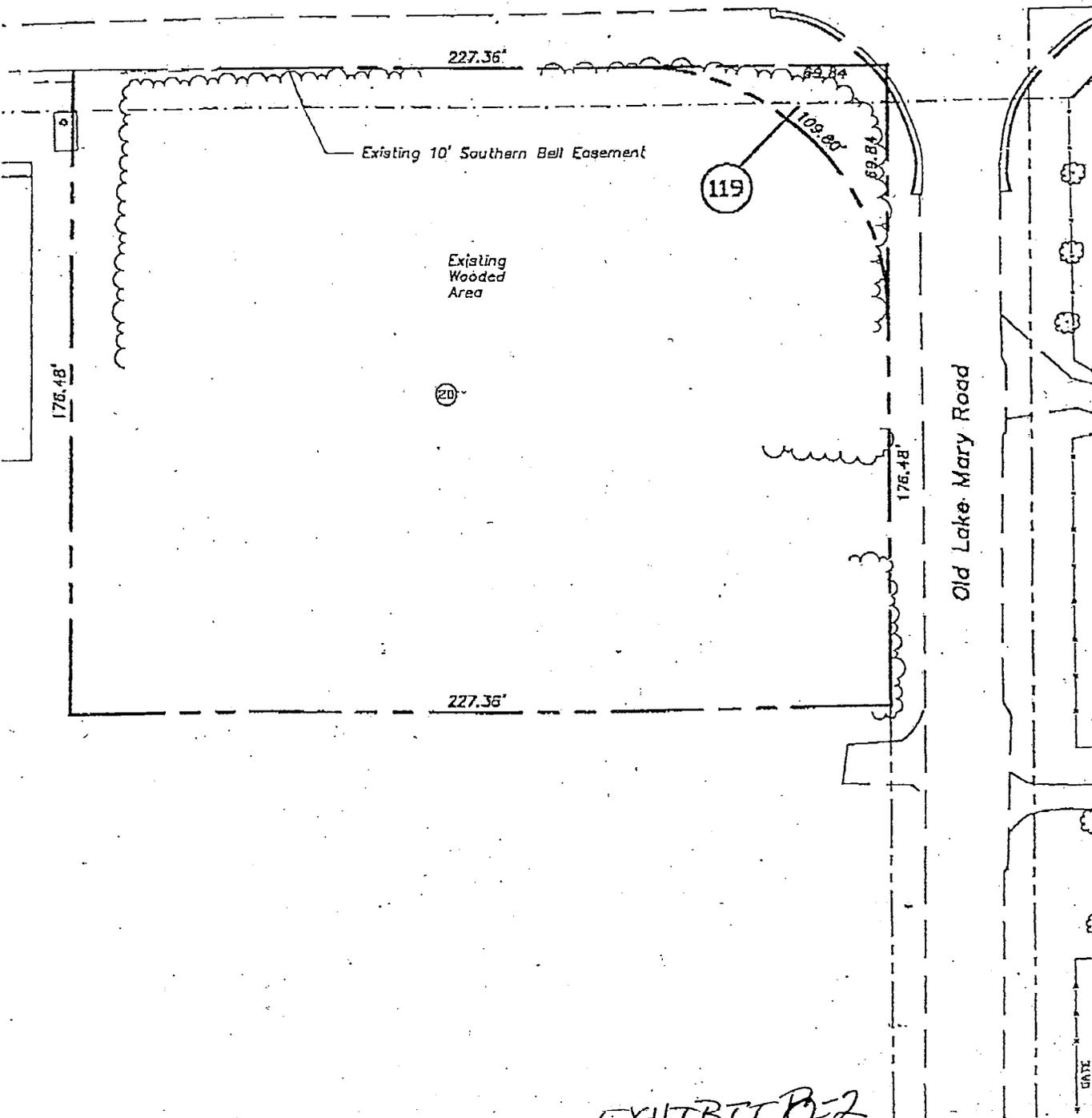
APPROVED BY

DATE

RIGHT OF WAY MAPPING



C.R. 46-A / 25th Street



ZO
ZO
MIN
MIN
MIN
MIN
MA:
OP:
MA:
PA
SIG
LAI
AC
PA
AR
RE

EXHIBIT B-2