



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 *[Signature]* HMB
Ext. 5736

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

DATE: July 24, 2003

SUBJECT: Binding Offer of Judgment Authorization and
Rejection of the owner's Offer of Judgment
Dodd Road Project
Parcel Nos.: 152, 752 and 852
Owner(s): Amberwood, Unit III Community Association.
Seminole County vs Erdman, et al.
Case No.: 01-CA-1900-13-K

This Memorandum requests authorization by the Seminole County Board of County Commissioners (BCC) to make an offer of judgment as to Parcel Nos. 152, 752, and 852 in an amount not to exceed \$50,000.00. Staff recommends rejection of the owner's reverse offer of judgment in the amount of \$70,000.00.

I PROPERTY

Location Data

A. The parcels are located along the west side of Dodd Road. The property is improved with a retention pond. The remainder of the property is common area within the Amberwood Subdivision.

B. No street address is available. See, location map attached as Exhibits A, B and C.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution 95-R-230 on September 26, 1995, finding that the Dodd Road project was necessary and serves a County and public purpose and is in the best interest of the citizens of Seminole County.

III ACQUISITIONS AND REMAINDERS

The fee simple acquisition is a strip ranging in depth from 13.68' on the north to 118.43' on the south property line totaling 0.777 acres. The permanent easement is 30' in width providing access to the County's retention pond off Dodd Road totaling 8,617 s.f. The temporary construction easement is a strip varying in depth from 5' to 30' totaling 4,988 s.f.

IV APPRAISED VALUES

The County's appraisal was performed by Diversified Property Specialists, Inc. and opines full compensation to be \$35,300.00 allocated: (1) Parcel No. 152 - \$26,000.00; Parcel No. 752 - \$3,000.00; Parcel No. 852 - \$6,300.00.

V PROPERTY OWNERS VALUES

The owner's appraisal report was prepared by Florida Real Estate Analysts, Inc. and opines full compensation to be \$94,600.00 allocated: (1) Land Taken - \$52,400.00; (2) Improvements Taken - \$10,000.00; (3) Damages - \$31,400.00; and, (4) Temporary Construction Easement - \$800.00.

VI REVERSE OFFER OF JUDGMENT

The owner's have served a reverse offer of judgment at \$70,000.00. If the BCC accepts the reverse offer then the case settles at \$70,000.00 exclusive of attorney fees and costs. However, attorney fees would be calculated at \$8,621.25. Costs would be outstanding. If the BCC rejects the reverse offer of judgment, then the case is not resolved and proceeds to mediation or trial. However, if rejected, the statutory calculation of reimbursable attorney's fees is lost if a final settlement or jury verdict exceeds \$70,000.00. In the event, that a final settlement or verdict exceeds \$70,000.00, then attorneys fees are calculated based upon a reasonable number of hours at a reasonable hourly fee. Costs would still be outstanding.

County staff recommends rejection of the reverse offer of judgment and the issuance of an offer or offers of judgment by the County not to exceed \$50,000.00.

VII ANALYSIS

The requested not-to-exceed offer or offers of judgment at \$50,000.00 if accepted would resolve the case with the benefits obtained attorney fees reimbursement capped at \$2,021.25. Costs would still be outstanding.

If not accepted, the impact is that expert costs are not reimbursed for time expended after rejections of the offer of judgment if a verdict or settlement exceeds the offer of judgment amount.

County staff is confident that a result better than the owner's reverse offer of judgment result can be obtained at mediation, future negotiated settlement or trial.

VI RECOMMENDATION

This Office recommends that the BCC authorize the issuance of an offer of judgment not-to-exceed \$50,000.00 and reject the owners offer of judgment.

HMB/sb

Attachment
Exhibit A, B, and C

P:\USERS\CASB01\MY DOCUMENTS\MEMAGENDA ITEM DODD AMBERWOOD UNIT III 152 752 852 BINDING OFFER.DOC

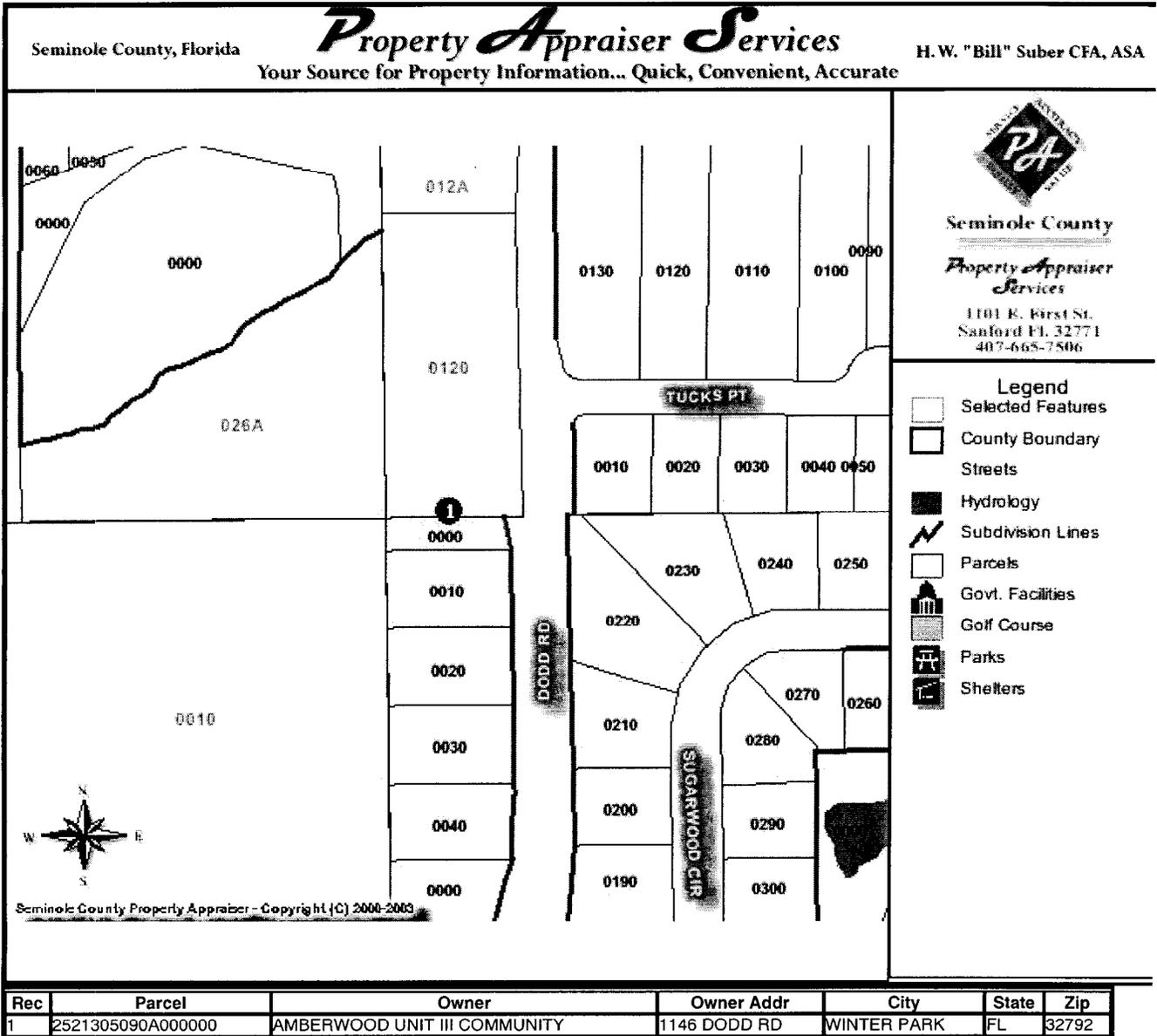


EXHIBIT A

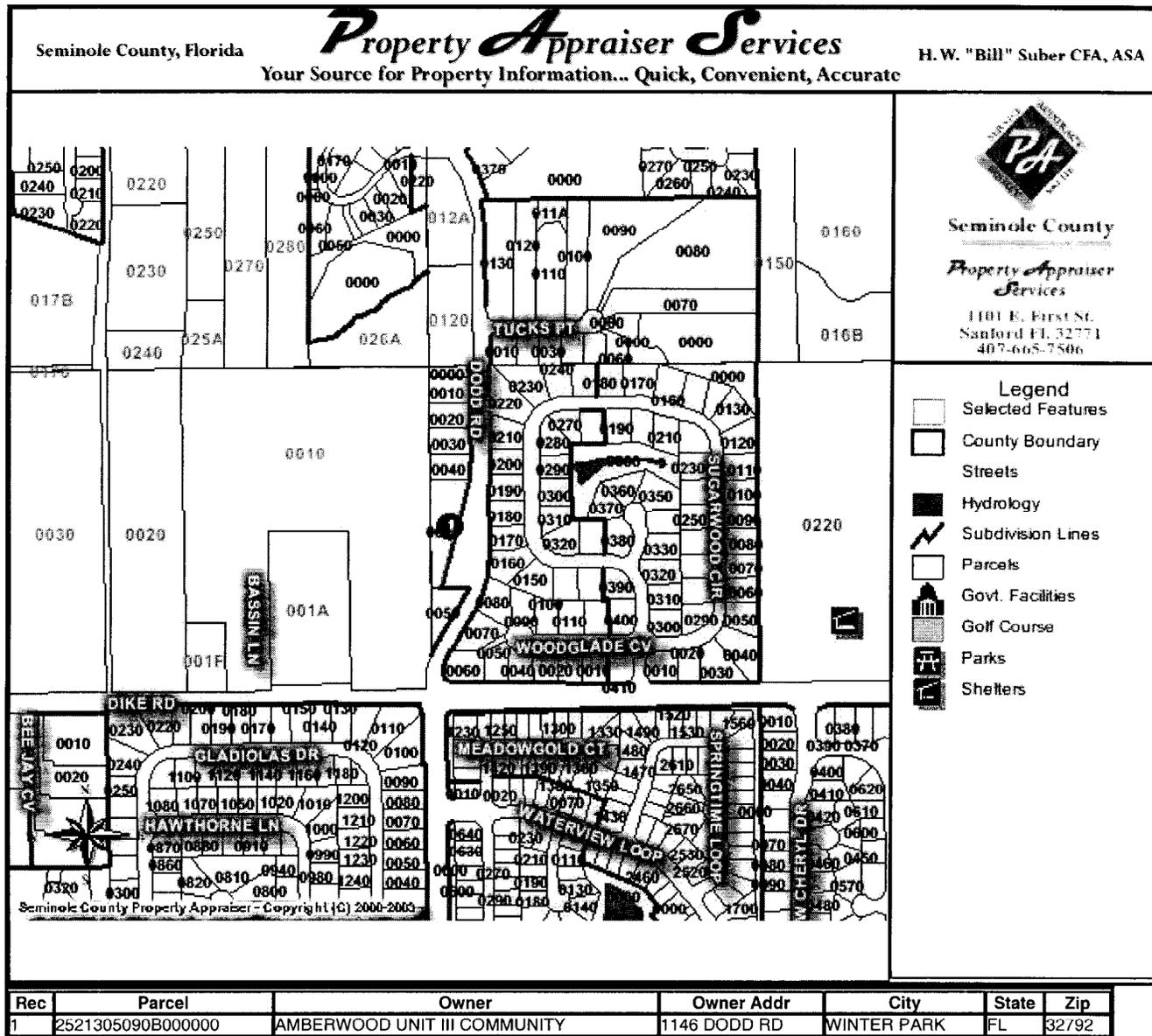
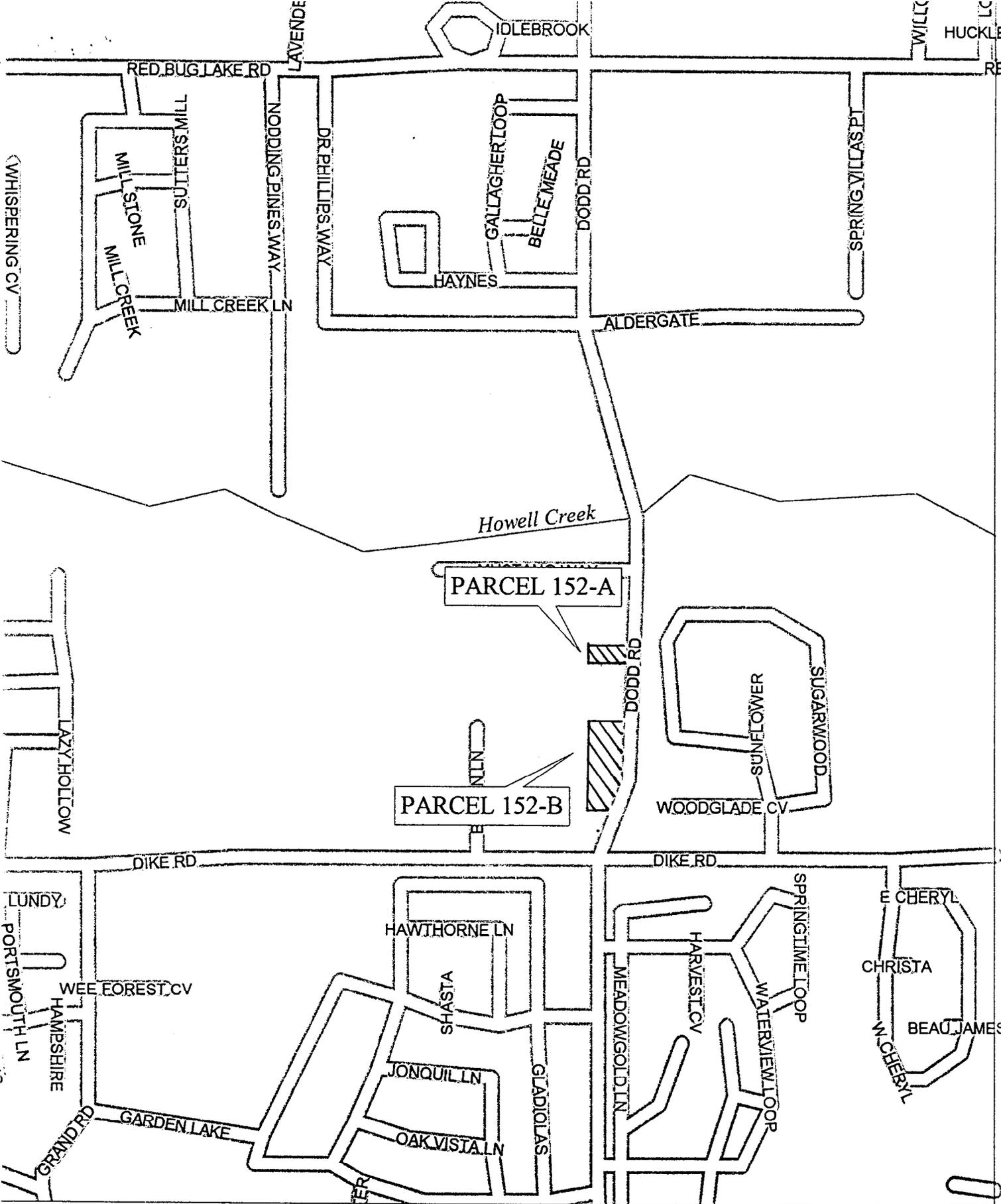


EXHIBIT B



SUBJECT LOCATION MAP

EXHIBIT C