

03



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

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

FROM: Lynn Vouis, Assistant County Attorney

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

DATE: August 3, 2004

SUBJECT: Purchase Agreement Authorization
 Owner: James F. and Sandra K. Outlaw
 Parcel Nos. 115
 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. 115. The parcel is required for the Lake Drive road improvement project. The purchase price is \$26,500.00, inclusive of attorney fees and expert costs incurred by the property owner.

I THE PROPERTY

A. Location Data

The property is located on the north side of Lake Drive approximately three tenths of a mile west of Tuskawilla Road, in Seminole County, Florida.

1. Location Map (Exhibit A);
2. Sketch (Exhibit B); and
3. Purchase Agreement (Exhibit C)
 (County has not yet received executed purchase agreement, which will be in the same form as attached.)

B. Address

4810 East Lake Drive
 Winter Springs, Florida 32708

C. Description

The parent tract contains 1,570 square feet and is vacant residential land.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2002-R-70 on April 23, 2002 and Third Supplemental and Third Amendment Resolution No. 2004-R-75 on April 13, 2004, 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 interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The proposed acquisition of Parcel No. 115 is 1,380 square feet. The original parcel 115 consisted of 1,570 square feet. The parcel was split into two ownerships. The County will acquire the remainder from the current owner as part of another transaction. The parcel is a remnant portion derived from the subdivision of the original 4.6 acre parent tract.

IV APPRAISED VALUE

The County's appraised value amount (for the entire 1570 square feet) was \$12,900.00 as of the March 5, 2004, the date of value. 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 June 8, 2004, the BCC authorized a binding written offer in the amount of \$18,000.00. The written offer was not mailed to the owners due to the question related to ownership caused by the way in which the property was subdivided. The property owners employed an attorney and an engineer to review the County's construction plans. Based on the recommendations of the experts, the property owners countered at \$22,000.00, exclusive of fees and costs. Thereafter, County staff negotiated this proposed inclusive settlement agreement with the property owners and their attorney in the amount of \$26,500.00.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

The main justification for this proposed settlement is the avoidance of future litigation costs. The owners employed experts to evaluate the County's offer to purchase this property. The experts opined the cost of land and improvements slightly above the County's values. The proposed settlement amount allows the owners to be compensated more than the binding written offer

amount of \$18,000.00 and allows them to negotiate what they believe to be reasonable compensation for the experts they employed.

In addition, the County agreed to provide a driveway apron to coincide with the opening in the masonry wall located on the road frontage, in order to provide access to that portion of the subdivided property.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$26,500.00, inclusive of attorney's fees and expert's costs incurred.

LV/kc

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

(Executed purchase agreement will follow)

P:\USERS\ILVOUIS\SETTLEMENT MEMOS\LAKE DRIVE\AGENDA ITEM LAKE DRIVE 115 OUTLAW.DOC

Seminole County, Florida **Property Appraiser Services** H. W. "Bill" Suber CFA, ASA
 Your Source for Property Information... Quick, Convenient, Accurate



Seminole County
Property Appraiser Services
 1101 E. First St.
 Sanford FL 32771
 407-665-7506

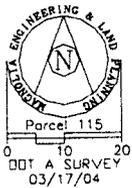
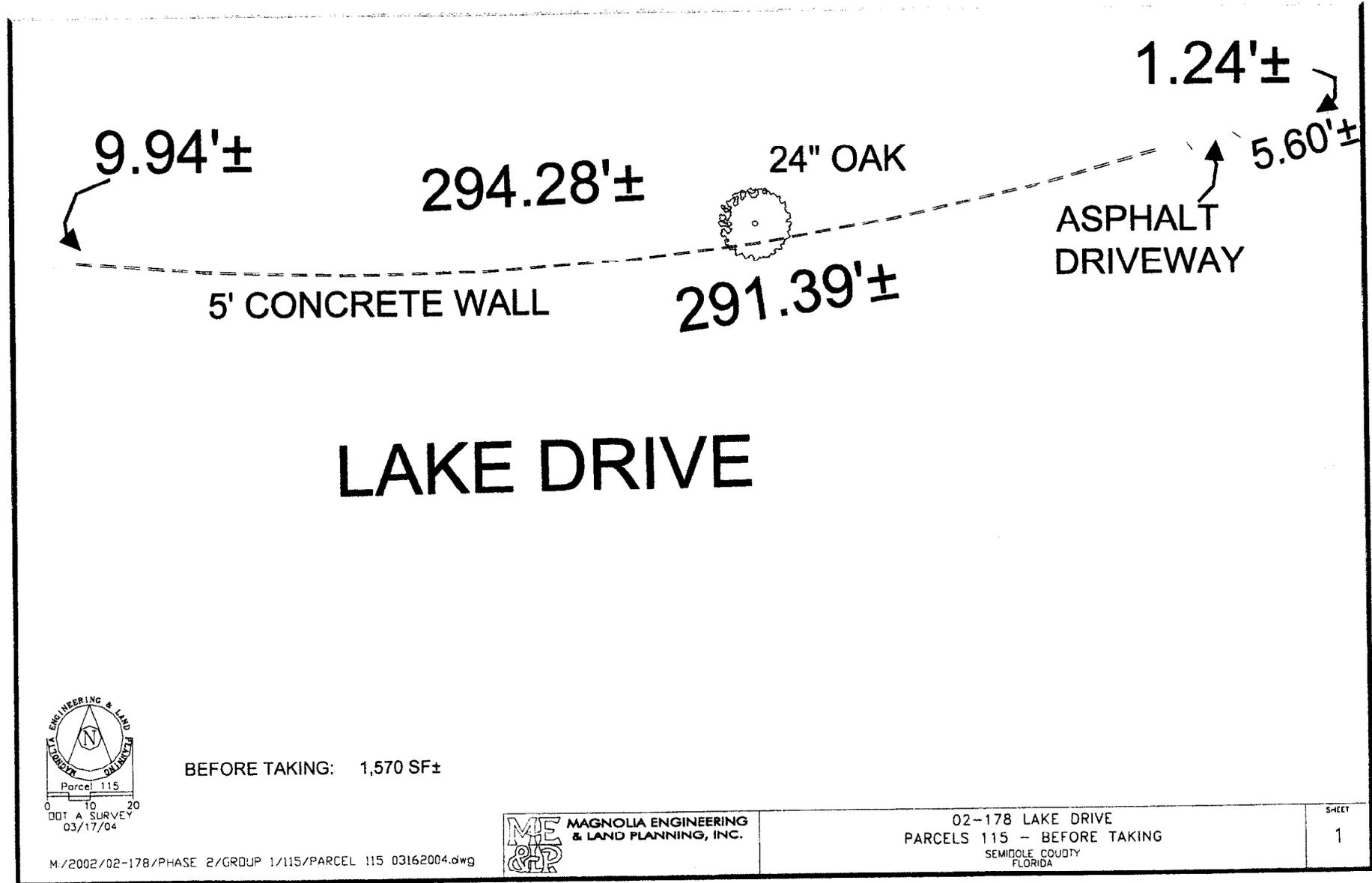
Legend

- Selected Features
- County Boundary
- Streets
- Hydrology
- Subdivision Lines
- Parcels
- Facilities
- Golf Course
- Parks

Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	14213030000500000	CATHCART JOHN T	PO BOX 195788	WINTER SPRINGS	FL	32719

EXHIBIT A

PROPERTY SKETCH PARENT TRACT - BEFORE TAKING



BEFORE TAKING: 1,570 SF±

M:/2002/02-178/PHASE 2/GROUP 1/115/PARCEL 115 03162004.dwg



02-178 LAKE DRIVE
 PARCELS 115 - BEFORE TAKING
 SEMI DOLE COUNTY
 FLORIDA

SHEET
 1

**PURCHASE AGREEMENT
FEE SIMPLE**

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this _____ day of _____, 2004, by and between JAMES F. OUTLAW and SANDRA K. OUTLAW, husband and wife, whose address is 2395 LaFayette Avenue, Winter Park, Florida 32789, 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.: 115

A part of that parcel of land described in Official Record Book 2783, page 316 as recorded in the Public Records of Seminole County, Florida being that portion of Section 14, Township 21 South, Range 30 East of Seminole County, Florida,

described as follows:

Commence at the Northwest corner of Government Lot 4, Section 13, Township 21 South, Range 30 East, said corner being the intersection of the West line of said Section 13 and the Southerly Grant Line of the Philip R. Young Grant; thence N 84°55'54" W along said Southerly Grant line a distance of 350.78 feet; thence, departing said Southerly Grant line N05°36'52"E a distance of 663.83 feet to the Southeast corner of that parcel of land described in Official Record Book 2783, Page 316, Public Records of Seminole County, Florida, for a Point of Beginning, said point is also on the Right of Way line of Lake Drive as recorded in Deed 196, Page 327, Public Records of Seminole County, Florida; thence

S74°31'41"W along said Right of Way line a distance of 5.60 feet to a Point of Curvature of a curve concave Northerly and having a radius of 924.93 feet; thence along said Right of Way line an arc length of 291.39 feet through a central angle of 18°03'02" to a point on the East line of that parcel of land described in Official Record Book 2121, Page 1144, public Records of Seminole County, Florida; thence N11°42'09"E along said East parcel line a distance of 9.94 feet to a point on a non-tangent curve concave Northerly having a radius of 898.93 feet; thence from a chord bearing of N84°59'28"E run along said curve an arc length of 294.28 feet through a central angle of 18°45'25" to a point on the East line of that parcel of land described in the aforesaid Official Record Book 2783, Page 316, Public Records of Seminole County, Florida; thence S05°34'27"W along said East parcel line a distance of 1.24 feet to the Point of Beginning, LESS: the West 155.85 feet thereof.

Containing 1,380 square feet, more or less.

Parcel I. D. Number: 14-21-30-300-0050-0000

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-SIX THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$26,500.00). 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

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) County agrees to construct a 12' wide driveway apron at approximately Sta. 661 of the construction plans for the Lake Drive road improvement project. The driveway apron shall extend to the new right of way line for Lake Drive.

(i) 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.

(j) 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 paragraph I of 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.

(k) 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.

(l) 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.

(m) 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.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names on the date first above written.

WITNESSES:

PROPERTY OWNER:

SIGNATURE

JAMES F. OUTLAW

PRINT NAME

SIGNATURE

PRINT NAME

SIGNATURE

SANDRA K. OUTLAW

PRINT NAME

SIGNATURE

2395 LaFayette Avenue
Winter Park, Florida 32789

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
County Commissioners at its _____,
2004, regular meeting.

County Attorney
LV/kc
08/03/04