



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: August 15, 2003

SUBJECT: Settlement Authorization
East Lake Mary Boulevard, Segment I
Parcel No.: 103
Owners: Silver Lake Realty Company
Seminole County vs. Silver Lake Realty Company, et al.
Case No.: 2000-CA-1886-13-G

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 103 on the East Lake Mary Boulevard, Segment I Project. The recommended settlement is at the total sum of \$570,000.00 inclusive of all land value, severance damage and statutory interest. Costs are not included. Attorney fees for benefits obtained are statutorily set at \$29,576.25.

I PROPERTY

A. Location data

Parcel No. 103 is located on the north side of East Lake Mary Boulevard just west of the railroad crossing. A location map is attached as Exhibit A.

B. Street Address

The street address is 1770 East Lake Mary Boulevard. A parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 96-R-187, on September 10, 1996, authorizing the acquisition of Parcel No. 103, and finding that East Lake Mary Boulevard, Segment 1 Project was necessary and served a public purpose and was in the best interest of the citizens of Seminole County.

III ACQUISITION AND REMAINDER

The fee simple acquisition consists of 2.36 acres (102,800 s.f.) from the total parcel of 9.52 acres (414,690 s.f.) leaving a remainder of 7.16 acres (311,890 s.f.) The property was improved with industrial, manufacturing, and warehouse buildings (the old Cobia Boat facility) with over 90,000 s.f. under roof. The acquisition (as shown on Exhibit B) consists of a thirty foot strip across the frontage and a 2 ± acre retention pond site. The acquisition had a significant impact on the property: (1) the thirty foot strip reduced the front building set back from 100 feet to 70 feet impacting truck access to the front four overhead doors; (2) the raised septic tank drain field was consumed and hook-up to the City of Sanford's force main was not available; and (3) 85 paved parking spaces were consumed by the acquisition.

IV APPRAISED VALUES

A. County Report

The County's appraisal report was prepared by Clayton, Roper, and Marshall and reported full compensation to be \$425,000.00 inclusive of land value, improvements acquired and severance damage. The report contained a cure that re-established parking spaces and compensated for the installation of a septic tank to maintain sewerage until the City of Sanford's force main and treatment plant are constructed. The County's report found the value of the property before to be \$2,000,000.00.

B. Owner's Report

The Owner's appraisal report was prepared by Consortium and reported full compensation to be \$675,500.00 inclusive of land value, improvements acquired and severance damage. The report contained an elaborate cure that involved a cut and face of the center buildings to accommodate truck movements resulting from the reduction from a 100 foot setback to the remaining 70 foot setback.

V PROPERTY APPRAISER'S VALUATION AND THE VALUE ADJUSTMENT BOARDS FINDINGS

The Property Appraiser's analysis and the Value Adjustment Board's (VAB) overturn of the Property Appraiser's assessment played a key role in the mediated result of this case. Under Florida Law the Property Appraiser's value and the VAB

adjustment to the Property Appraiser's market value are determinations admissible in evidence as admissions against the County's interests, even though the Property Appraiser and the VAB operate independently from the BCC.

Here, the Property Appraiser valued the property (in the condition after the County's taking) at \$2,363,896.00 for the 2002 tax year. The owner challenged the assessed value because it was a 26.5% increase over the previous years assessed value of \$1,870,632.00 for the property as it was before the taking. The VAB Special Master determined that the Property Appraiser had over valued the property after the taking and changed the assessed value to \$1,848,765.00.

In making his adjustment the VAB Special Master used an unusual mix and match methodology—selecting the highest value of the Property Appraiser (\$2,363,890.00) and the lowest uncured value from the County's eminent domain appraisal (\$1,415,000.00)--to compute "a 21.4% reduction in value based on damages." The Special Master applied the 21.4% to the Property Appraiser's valuation and reduced the assessment to \$1,848,765.00, approximately the same as the prior year's assessment.

While the VAB Special Master's value of \$1,848,765.00 is close to the County's "as cured" eminent domain appraisal, the use of a 21.4% damage reduction was most troubling as to the present mediation and a jury trial. (See below)

VI NEGOTIATIONS

At mediation, the Owner's asserted claim was \$675,500.00 inclusive of land, improvements, and severance damage. Significantly, the Owner's report opined to a 17.9% reduction in value based on damages.

The County's position was \$425,000.00 inclusive of land, improvements and severance damage. Most significantly, the County's report opined to a 11.2% reduction in value based on damages.

The VAB Special Master's percentage (21.4%) is almost double the County's percentage and even exceeds the Owner's. Because evidence of the VAB Special Master's percentage is admissible, the Owner could argue and a jury could use the County's values and apply the higher percentage to reach a result in excess of the County's position. If a jury uses the Owner's values and the higher percentage then the result would exceed even the Owner's appraisal. Thus, the recommended settlement is reasonable under the circumstances. The recommended settlement is \$145,000.00 above the County's appraised value and \$105,500.00 below the Owner's value.

VII ATTORNEY'S FEE REIMBURSEMENTS

The recommended settlement at \$570,000.00 sets statutory benefit obtained attorney fees at \$29,576.25 based on a written offer of \$480,375.00.

VIII COST AVOIDANCE

By this settlement, the County avoids the following additional costs, beyond those for which it is already liable by law:

- A. A potential jury verdict in excess of the settlement sum of \$570,000.00;
- B. All statutory interest;
- C. Attorney's fees in excess of the statutory fixed sum of \$29,576.25; and
- D. Cost to proceed further.

IX ANALYSIS

The County's engineering design and appraisal work in this case were excellent. Were it not for the admission against interest (see above), this case would have been a good case to try to a jury. However, the difficulty of explaining away the 21.4% damage calculation mitigated against taking the case to trial. Fortunately, at mediation, the County was able to utilize excellent design plans, cure plan, and appraisal work to achieve a good settlement at \$570,000.00.

X RECOMMENDATION

County staff recommends that the BCC approve this settlement in the amount of \$570,000.00 with benefit obtained attorneys fees statutorily set at \$29,576.25. Costs are not resolved.

HMB/sb

Attachment:

Exhibit A

Exhibit B

Seminole County, Florida

Property Appraiser Services

Your Source for Property Information... Quick, Convenient, Accurate

H. W. "Bill" Suber CFA, ASA



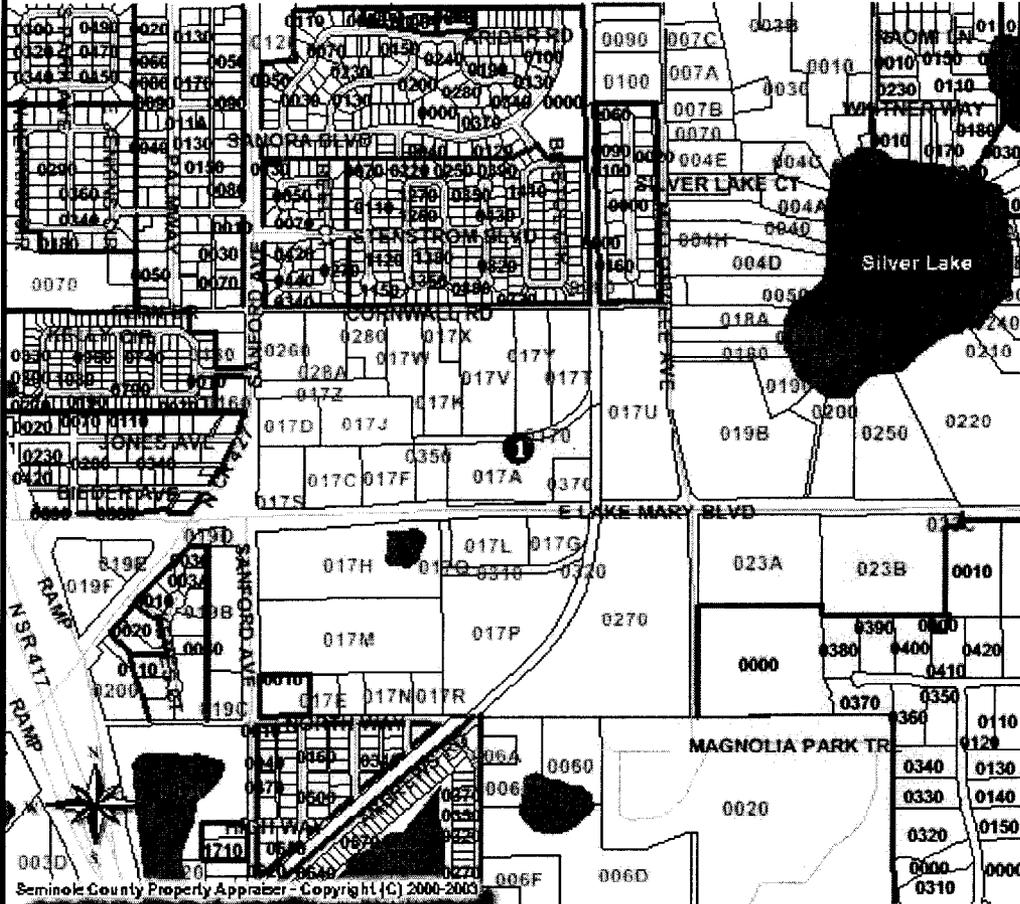
Seminole County

Property Appraiser Services

1101 E. First St.
Sanford FL 32771
407-665-7506

Legend

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



Seminole County Property Appraiser - Copyright (C) 2000-2003

Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	072031300017A0000	SILVER LAKE REALTY CO	PO BOX 1248	MADISON	CT	06443

EXHIBIT A

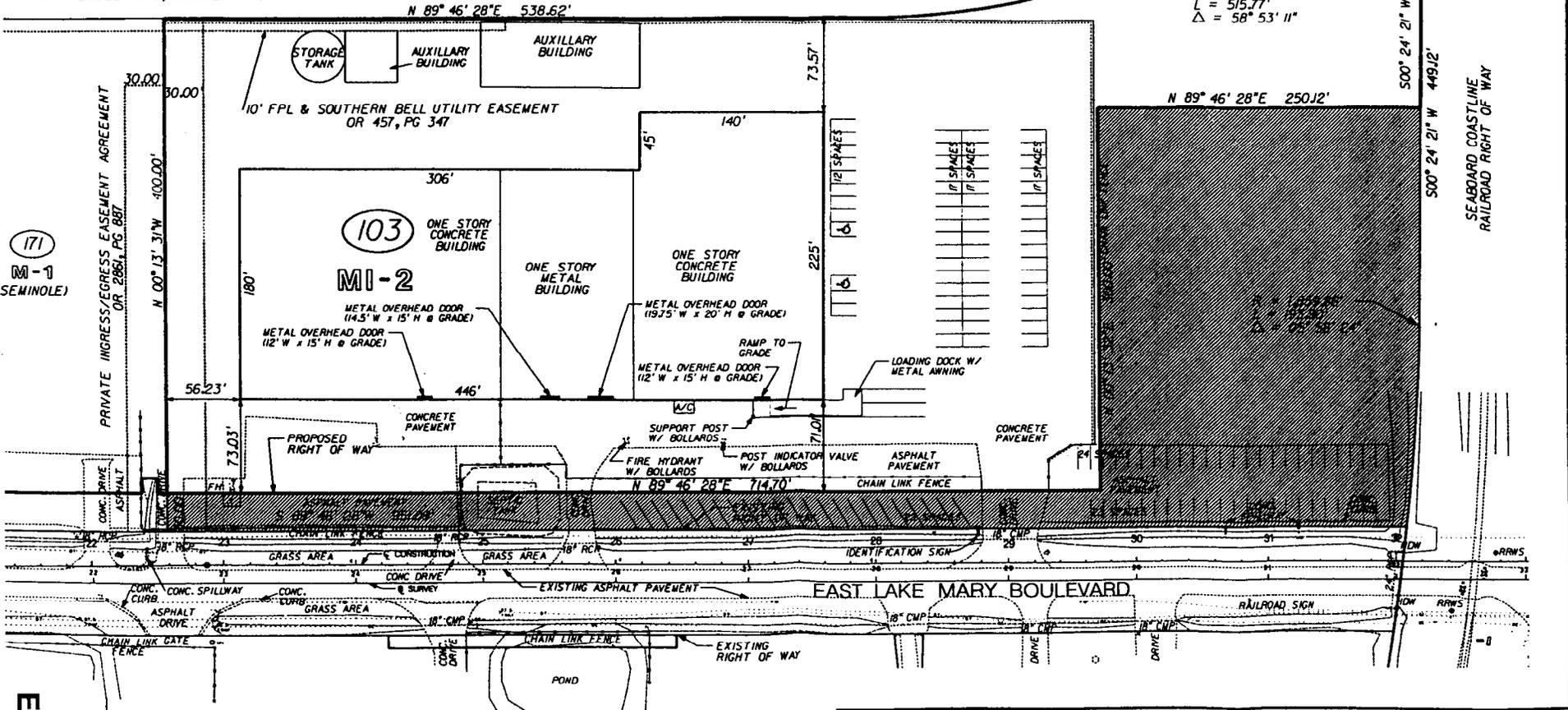
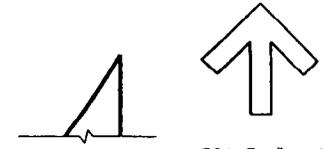
GENERAL NOTES

1. THIS IS NOT A SURVEY.
2. BASE DATA SHOWN HAS BEEN ASSEMBLED FROM AVAILABLE RIGHT-OF-WAY MAPS, CONSTRUCTION DRAWINGS, AERIAL PHOTOGRAPHS, AND FIELD MEASUREMENTS OF THE SUBJECT AREA.
3. BEARINGS AND DIMENSIONS ARE AS SHOWN ON THE RIGHT-OF-WAY MAPS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.
4. AREA MEASUREMENTS OF THE PROPOSED TAKINGS ARE AS SHOWN ON THE RIGHT-OF-WAY MAPS AND TABLE OF OWNERSHIP SHEETS FOR EAST LAKE MARY BOULEVARD, SEGMENT 1.

PARCEL NO. 103 SUMMARY DATA
 PARENT TRACT = 414,690 S.F. (9.52 AC.)
 AREA OF TAKING = 102,800 S.F. (2.36 AC.)
 ZONING: MI-2, MEDIUM INDUSTRIAL DISTRICT
 (CITY OF SANFORD)

LEGEND

■ AREA OF TAKING



(171)
 M-1
 (SEMINOLE)

EXHIBIT B

EAST LAKE MARY BOULEVARD, SEGMENT 1 EXHIBIT B

HDR
 HDR Engineering, Inc.
 315 East Robinson Street
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 Orlando, FL 32801
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 www.hdrinc.com
 License No. 4213

**PARCEL 103
 AREA OF TAKING**

01-09-01