



COUNTY ATTORNEY'S OFFICE  
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *MD6 FB-SC*

FROM: Lynn Vouis, Assistant County Attorney *lv*  
Ext. 5736

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

DATE: October 17, 2003

SUBJECT: Settlement Authorization  
East Lake Mary Boulevard, Phase IIB  
Parcel Nos.: 217/817  
Owner(s): Alfredo & Indalecia Fornasier  
*Seminole County vs. Hewitt Olson, et al.*  
Case No.: 2003-CA-2335-13-L

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 217/817 on the East Lake Mary Boulevard, Phase IIB project. The recommended settlement is at the total sum of SEVENTY FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00), inclusive of all land value, severance damage, statutory interest, attorney's fees, and costs.

**I PROPERTY**

**A. Location Data**

The property is located at the southeast corner of paved Beardall Avenue and unpaved Bridges Road.

- (1) Location Map (Exhibit A)
- (2) Sketch (Exhibit B)

**B. Street Address**

The 4.6 acre parent tract is unimproved, and therefore it has no street address.

**II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2003-R-47 on February 11, 2003, authorizing the acquisition of Parcel Nos. 217/817, and finding that the East Lake Mary Boulevard Project was necessary and served a public purpose and was in the best interest of the citizens of Seminole County.

**III ACQUISITIONS AND REMAINDER**

The fee simple acquisition consists of 1.6750 acres acquired from the total parcel of 4.6804 acres, leaving a remainder of 3.0054 acres. The permanent drainage easement to be acquired is 1,452 square feet.

**IV APPRAISED VALUES**

The County's appraisal report was prepared by Ted Hastings, III, MAI of the Spivey Group, Inc., who opined a value of \$41,900 for the fee taking and \$700.00 for the drainage easement.

The owners did not have an appraisal performed; however, the owners retained Calhoun, Dreggors, and Associates for appraisal consultation.

**V NEGOTIATION**

The County extended a BCC approved, binding written offer to the property owners in the amount of \$53,000.00. The owners felt strongly that their property was being damaged by the reduction in size caused by the acquisition of over an acre. They originally wanted \$80,000.00, prior to retaining an attorney. They retained Thomas P. Callan of Thomas P. Callan, P.A., to represent them. Eventually, a negotiated settlement was achieved by the County's acquisition agents in the amount of \$70,000.00 for the property owners, exclusive of any fees and costs incurred.

**VI ATTORNEY FEE AND COST REIMBURSEMENTS**

Based on the settlement amount of \$70,000.00 to be paid to the property owners, the amount of attorney's fees mandated by statute is \$4,600.00. A negotiated payment amount of \$1,000.00 was agreed upon for appraisal consultation costs. As a result of negotiations with staff, Mr. Callan agreed to accept less than the statutory amount so that fees and costs together would total \$5,000.00.

## **VII ANALYSIS**

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;
- B. All statutory interest; and,
- C. Attorney's fees and costs to proceed further.

The settlement sum of \$75,000.00 includes all attorney fees and cost reimbursements. The settlement amount of \$70,000.00 to the property owner is \$17,000.00 more than the County's binding written offer. A complete analysis of the potential issues pertaining to the acquisition of this parcel by an appraiser, engineer, land planner, etc. would easily exceed the sum paid over the written offer. Settlement now for cost avoidance is advised.

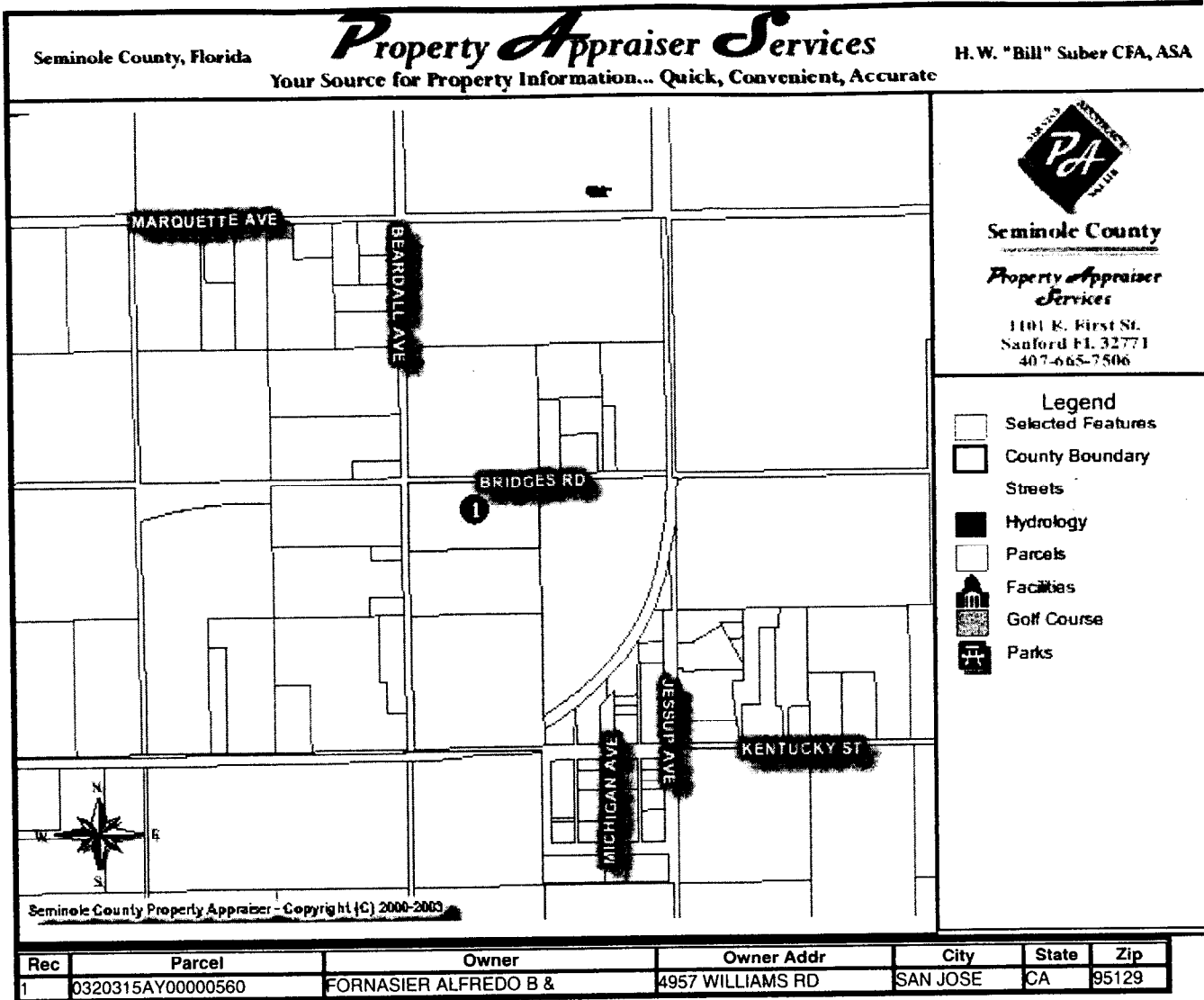
## **VIII RECOMMENDATION**

County staff recommends that the BCC approve this settlement in the amount of \$75,000.00, inclusive of all attorney's fees and costs.

Attachments:

- (1) Location Map (Exhibit A)
- (2) Sketch (Exhibit B)

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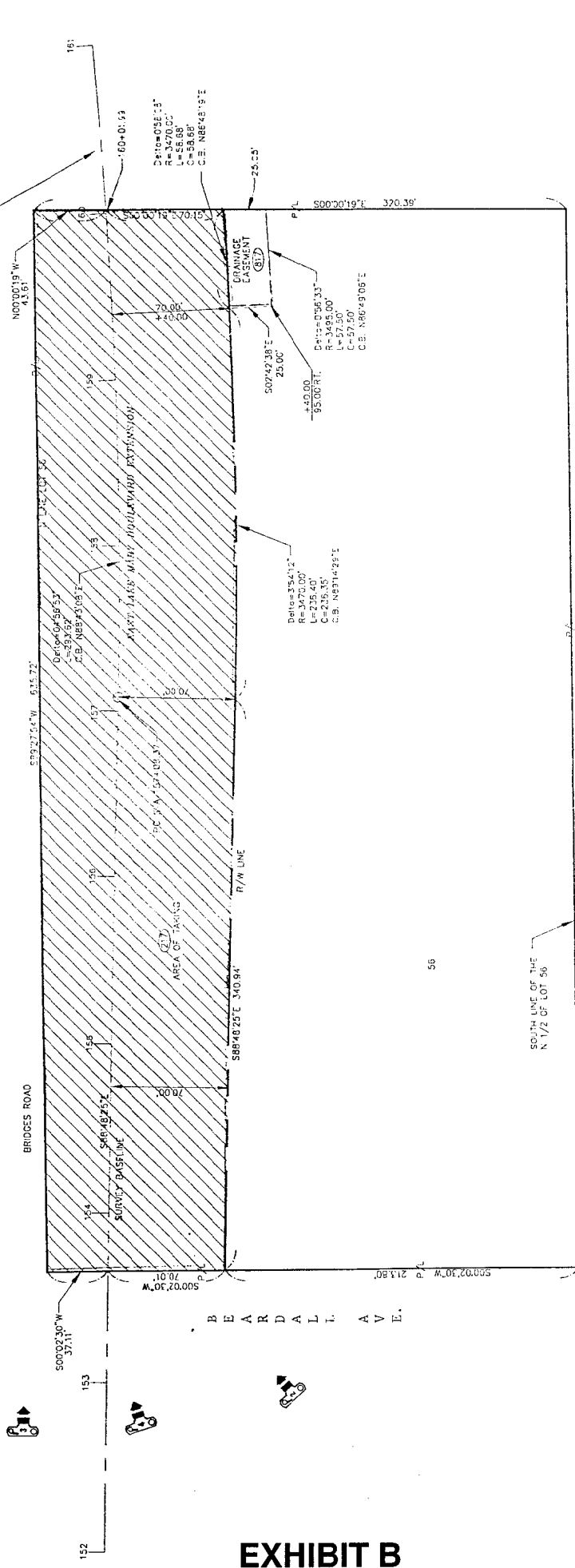


## EXHIBIT A



SCALE: 1" = 60'

SURVEY B/A CURVE DATA  
 Delta = 6°20'08"  
 R = 3400.00'  
 L = 3817.72'  
 C = 3520.29'  
 C.B. N59°01'32"E



**MARY LAKE MARY BOULEVARD EXTENSION**  
 SEMINOLE COUNTY, FLORIDA  
 PARCELS 217 & 817 - SKETCH OF PARCELS  
 AREA OF PARENT TRACT = 4.6804 ACRES  
 AREA OF TAKING = 1.6750 ACRES  
 DRAINAGE EASEMENT 8' x 4' = 0.28 S/F  
 AREA OF REMAINDER = 3.0054 ACRES

**EXHIBIT B**

NOTE:  
 THIS IS A SKETCH ONLY. IT IS NOT A  
 BOUNDARY SURVEY  
 THE PURPOSE OF THIS SKETCH IS TO AID  
 THE APPRAISAL OF THE SUBJECT PARCEL.  
 ALL BOUNDARY INFORMATION AND CALCULATIONS  
 ARE BASED ON A SET OF PLANS FOR THE  
 EXTENSION FROM ONE AVENUE TO STATES  
 DRIVE COUNTY RECORDS 753-037

DATE	REVISIONS	CHANGES PER ECR'S DRAWINGS	SPEC'D DATE	FIELD BOOK/MAP	CLIENT
12/19/02			12/19/02	N/A	THE SPIVEY GROUP, INC.
					PROJECT: MARY BOULEVARD EXTENSION - SEMINOLE COUNTY - PARCEL 217
					JOB NO: TSG022-7
					SKETCH OF PARCEL
					PARENT TRACT AND AREA OF TAKING
					2 of 2

**CORNERSTONE**  
 LAND SURVEYING, INC.  
 OFFICE ADDRESS: 715 N. CASHION ST., STE. 100  
 TALLAHASSEE, FLORIDA 32303  
 PHONE: (904) 668-7000  
 MOBILE: (904) 913-7115  
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