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COUNTY ATTORNEY'S OFFICE  
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney *MM*

FROM: David G. Shields, Assistant County Attorney Ext. 5736 *DGS*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *PH*  
 David Nichols, Principal Engineer/Engineering Division *DN 10-16-06*

DATE: October 13, 2006

SUBJECT: Settlement Authorization  
 Eden Park Avenue road improvement project  
 Parcel Nos. 107/707; Park Place Community Association, Inc. (Owner)  
 Brian Levine and Paula Levine (easement holders)  
*Seminole County v. The Pantry, Inc., et al.*  
 Case No. 2005-CA-1806-13-W

This Memorandum requests authorization by the Board of County Commissioners (BCC) to approve the proposed negotiated settlement on Parcel Nos. 107/707 at the total aggregate sum of \$5,300.00. The negotiated settlement amount is allocated as follows: \$3,450.00 for all claims, including attorney fees for the owner (Park Place Community Association, Inc.) and \$1,850.00 for all claims, including attorney fees for the easement holders (Brian Levine and Paula Levine) and. No costs were incurred by the owner or the easement holders.

**I PROPERTY**

**A. Location Data**

The subject parcels are within the Park Place single-family residential subdivision located in the northeast corner of the intersection of Eden Park Avenue and Cub Lake Drive in Altamonte Springs, Seminole County, Florida. A location map is attached as Exhibit A.

**B. Property Address**

There is no address for the property as it is common area.

**II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2004-R-73 on April 13, 2004, authorizing the acquisition of Parcel Nos. 107/707. The Eden Park Avenue road improvement project was found to be necessary, serves a public purpose, and is in the best interests of the citizens of Seminole County. The Order of Take occurred on November 7, 2005, with title vesting in Seminole County on November 17, 2005, the date of the good faith deposit for \$3,100.00 for the referenced parcels.

**III ACQUISITIONS AND REMAINDER**

The fee acquisition of Parcel No. 107 totaled 409 square feet from a parent tract of 0.72± acres leaving a remainder of 0.71± acres. Parcel No. 707 is a temporary construction easement that totals 190 square feet and will be used to regrade the driveway entrance to provide a smooth transition from reconstructed Eden Park Avenue.

**IV APPRAISED VALUES**

The County's original report dated February 14, 2005, was prepared by Clayton, Roper, and Marshall, and opined full compensation to be \$3,000.00 as of January 28, 2005. An updated appraisal report dated October 19, 2005, reported full compensation at \$3,100.00 as of October 18, 2005, allocated as \$2,400.00 for Parcel No. 107 and \$700.00 for Parcel No. 707.

The owner did not have an appraisal report prepared.

**V BINDING OFFER/NEGOTIATION**

The County's initial written offer was \$13,600.00 for Parcel Nos. 105/107/707 *without allocation*.

Initially, Park Place Community Association, Inc., (the "Association") agreed to a purchase agreement settlement at the County's initial written offer of \$13,600.00, but closing was not effectuated due to the Levines hiring an attorney to make a claim for the easement interest of the Levines in Parcel Nos. 107/707.

Parcel No. 105 was finalized by a Stipulated Order of Taking and Final Judgment entered November 7, 2005 at the original appraised value of \$10,600.00.

In response to the Levines, the Association hired an attorney of their own. All parties reached a negotiated settlement for all claims at \$5,300.00 as to Parcel Nos. 107/707.

## **VI ATTORNEY'S FEES AND COSTS**

A. Attorney's Fees. The attorneys' fees in the instant case were not statutorily computed. However, the eminent domain statute provides for attorney fees on an hourly basis in an apportionment proceeding. The Association's attorney and the Levines' attorney agreed to accept \$350.00 each for services rendered for their clients in this apportionment matter, which fees are part of the total settlement amount.

B. Cost Reimbursements. Costs were not incurred by the Association or the easement holders.

## **VII COST AVOIDANCE**

If the Association and the Levines had chosen to litigate the apportionment of the compensation to be paid on Parcel Nos. 107/707, the eminent domain statute would have required the County to pay the parties' attorney fees on an hourly basis. Instead, the parties through their attorneys negotiated a reasonable settlement, one that is substantially less than the attorney fees that a litigated apportionment case would likely have caused. By this settlement, the County avoids all additional costs associated with litigation.

## **VII RECOMMENDATION**

County staff recommends that the BCC approve the negotiated settlement of \$5,300.00 for all claims as to Parcel Nos. 107/707.

DGS/dre

Attachments:

Exhibit A - Location Map

Exhibit B - Sketch

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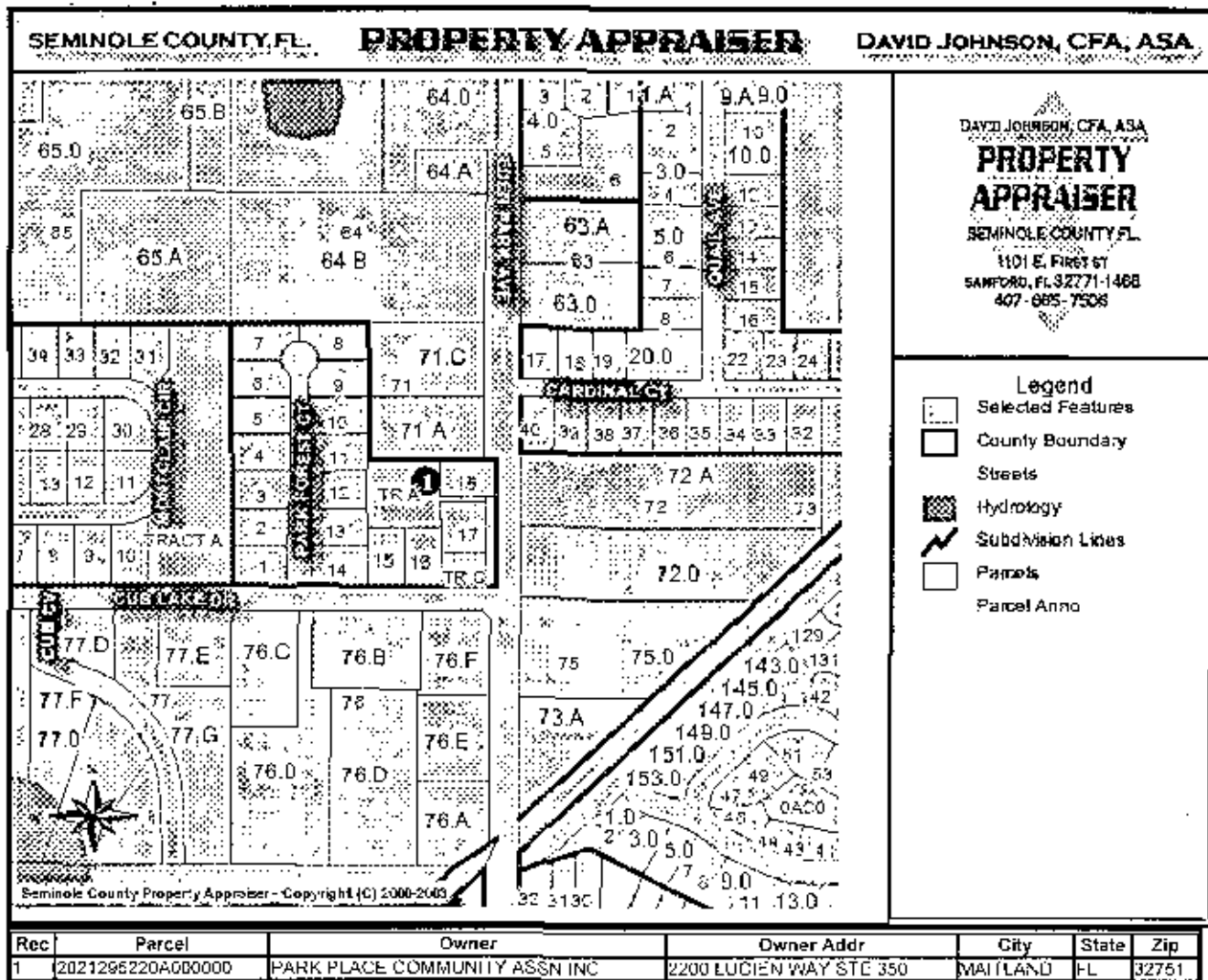


EXHIBIT A

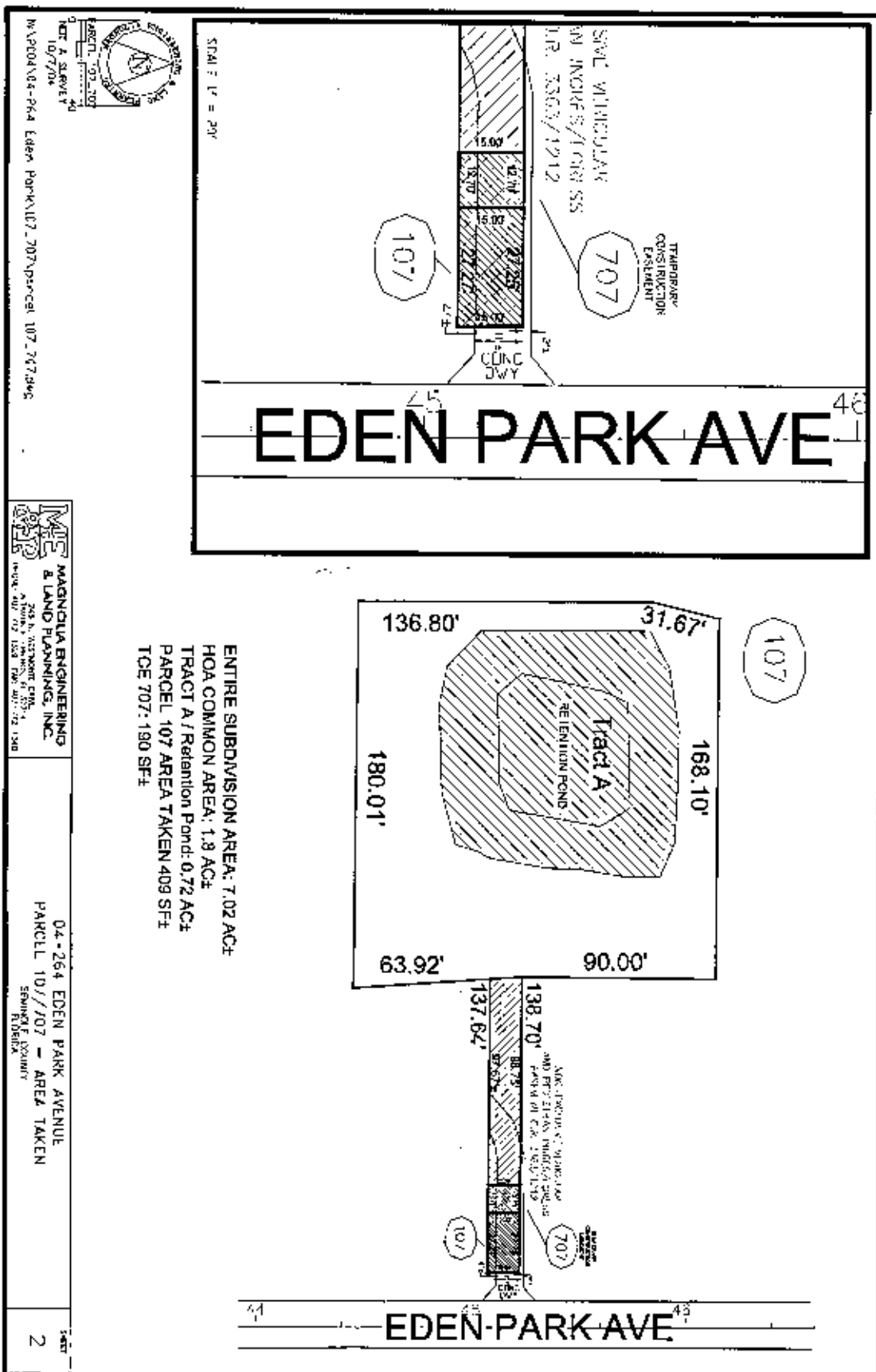


EXHIBIT B