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COUNTY ATTORNEY'S OFFICE
MEMORANDUM

To: Board of County Commissioners

Through: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

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

Concur: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division *DVN 10-18-06*

Date: October 18, 2006

Subject: Settlement Authorization
Lake Emma Road
Parcel No. 117 (Parts A & B)
Owner: Single Family Developers, LLC
Seminole County v. Danbury Mill Homeowners Association, Inc.
Case No.: 2003-CA-326-13-K

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 117 (Parts A & B) on the Lake Emma Road project. The proposed negotiated settlement is \$408,510.15. The total sum is allocated as follows:

\$310,500.00	land value, severance damage, improvements and cost to cure
\$ 63,587.70	statutory attorney's fee;
\$ 25,000.00	experts' fee and cost reimbursements; and
\$ 9,422.45	statutory interest

I PROPERTY

A. Location Data. Parcel No. 117 (Parts A & B) is located along the west side of Lake Emma Road directly south of the Huntington Point Subdivision. A location map depicting the location of the parcel is attached as Exhibit A.

B. Street Address. The street address of the property prior to taking was 2010 Lake Emma Road, Lake Mary, Florida (the owner obtained approval for a

subdivision on the parent tract and the current addresses are 615, 619 and 623 Whitman Cove, Lake Mary, Florida). A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2002-R-126 on August 13, 2002. The Lake Emma Road project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. The Order of Take occurred on June 12, 2003, with title vesting in Seminole County on June 24, 2003, the date of the good faith deposit for Parcel No. 117 (Parts A & B).

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 117 (Parts A & B) totaled .826 acres from a parent tract of 5.615 acres leaving a remainder of 4.789 acres.

IV APPRAISED VALUES

A. County Report. The County's reports were prepared by The Spivey Group, Inc.

Parcel No. 117 (Parts A & B). The initial appraisal reported full compensation as of May 15, 2001, at \$112,200.00. Following the first appraisal, the owner obtained site plan approval for a subdivision on the site. This resulted in the need for a second appraisal which opined the value as of May 30, 2002 at \$230,600.00. The update appraisal showed the value as of May 12, 2003, to be \$261,800.00.

B. Owner's Report. The owner's report was prepared by Calhoun, Dreggors & Associates, Inc., as of June 27, 2003, and reported full compensation at \$359,200.00.

V BINDING OFFERS/NEGOTIATION

The Board approved a first written offer of \$117,810.00 based on the initial appraisal. A second offer based on the second appraisal of \$256,000.00 was approved by the Board and issued to the Owner. As stated previously, the owner's appraised value is \$359,200.00 and the County's updated appraised value is \$261,800.00.

Through negotiations, the parties agreed to compensation of \$408,510.15 for all land value, severance damages, costs to cure, statutory attorney's fees, statutory interest, experts' fees and costs. The compensation for the land, severance damages and costs to cure is at \$310,500.00 which is an even split between the current appraisal amounts, \$359,200.00 and \$261,800.00.

In eminent domain cases, juries tend to return verdicts around midpoint when faced with two "reasonable," but differing appraisals. This settlement is at midpoint.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$63,587.70. The sum is statutorily computed based upon a settlement sum of \$310,500.00 less the first written offer of \$117,810.00 to produce a benefit of \$192,690.00.

B. Cost Reimbursements. The owner's initial cost claim was \$27,669.15. After negotiation, the parties agreed to settle at \$25,000.00 for experts' fees and costs.

VII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation.

VIII RECOMMENDATION

County staff recommends that the BCC approve this negotiated settlement in the total sum of \$408,510.15 inclusive of land value, improvements, cost to cure, severance damage, statutory interest, total statutory attorney's fees, expert fees and cost reimbursements.

DGS/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

P:\USERS\DEDEGE\MY DOCUMENTS\MEMO\AGENDA ITEM SINGLE FAMILY 117 LK EMMA.DOC

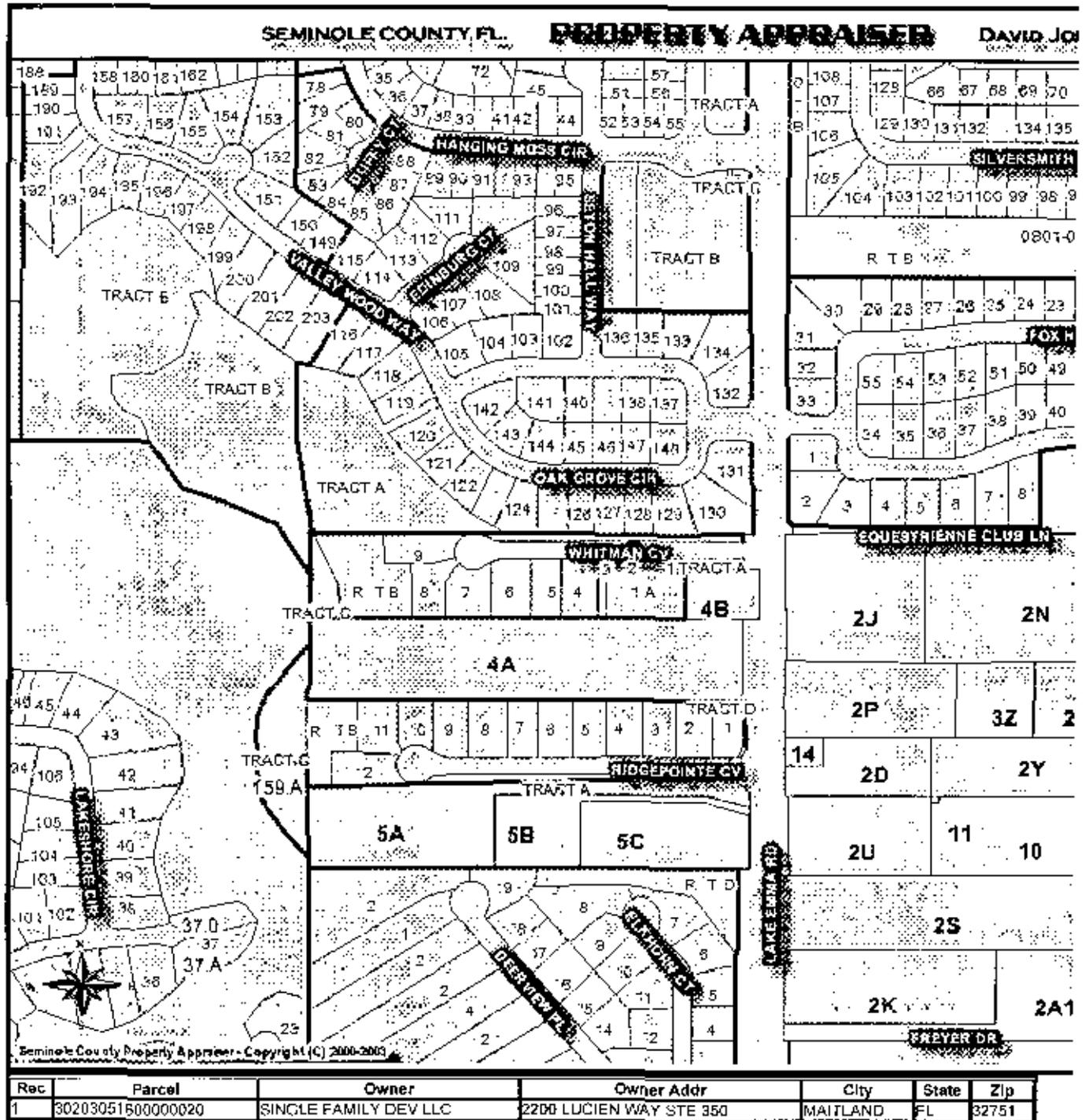


EXHIBIT A

AREA SUMMARY

AREA OF PARENT TRACT	5.615 AC
AREA OF TAKING (117A)	0.056 AC
AREA OF TAKING (117B)	0.770 AC
AREA OF REMAINDER	4.789 AC

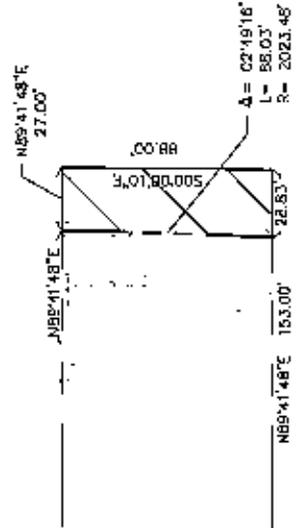
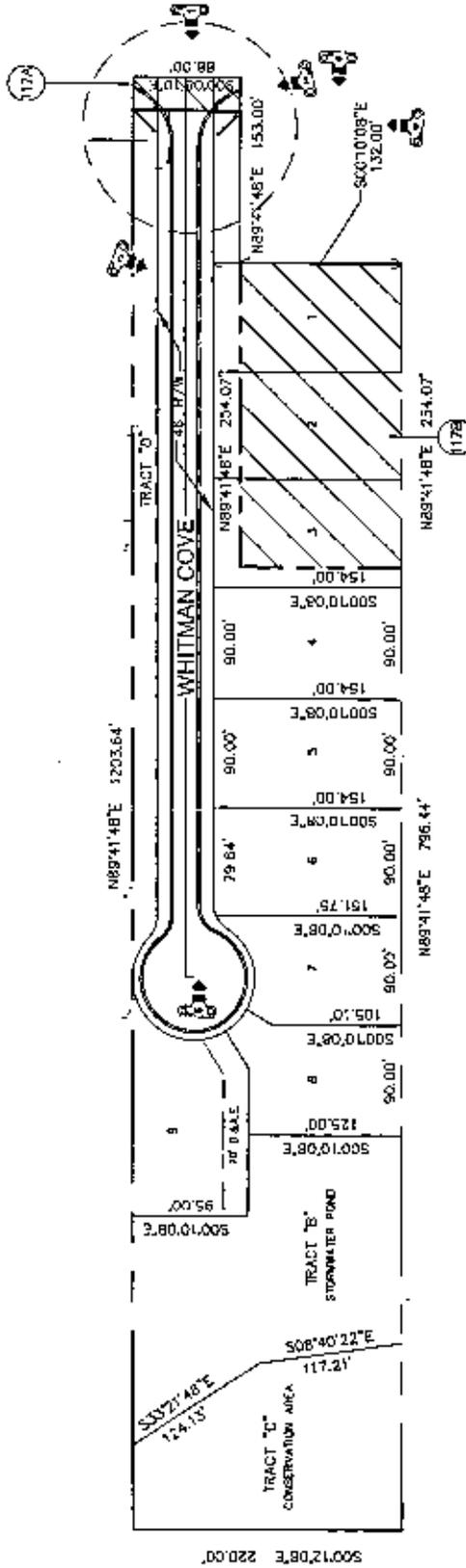
NOTES:

1. THIS DRAWING IS BASED UPON SITE SKETCH AND INFORMATION FROM SEMINOLE COUNTY R/W MAPS AND APPROVED PLAT OF RECORD PREPARED BY GEORGE SURVEYING AND MAPPING CONSULTANTS



SCALE: 1" = 100'

LAKE EMMA ROAD



DETAIL



KELLY,
COLLINS &
GENTRY, INC.
ENGINEERING / PLANNING

PARENT TRACT & AREA OF TAKING

PARCEL 117
NORTHAMPTON

Prepared For: BASTINGS & SPREY, INC.

PROJECT: LAKE EMMA RD
COUNTY: SEMINOLE COUNTY

DRAWN BY: WOE/MAY CHECKED BY: HHC/WDC DATE: 6/3/02

EXHIBIT G