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**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 *HMB*
Ext. 5736

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

DATE: September 28, 2004

SUBJECT: Settlement Authorization
Chuluota Bypass
Parcel No.: 101; Peggy Rybolt
Parcel No.: 103; Thomas R. Rybolt and Ann H. Rybolt
Parcel No.: 104; William H. Rybolt
Seminole County v. Rybolt, et al.
Case No.: 98-CA-1713-13-K

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 101, 103 and 104 on the Chuluota Bypass project. The acquisitions were for fee simple ownerships from the Rybolt Family properties. The recommended settlement is at the total sum of \$174,844.60 inclusive of land value, severance damage, statutory interest, and attorney fees. The settlement is exclusive of cost reimbursements.

I PROPERTY

A. Location Data

The subject properties are located at the intersection of CR 419 and the Chuluota Bypass (now renamed Snow Hill Road, to which it connects)

B. Street Address

The properties are vacant and therefore street addresses do not exist. A location map is attached as Exhibit A, a before parcel sketch is attached as Exhibit B and a sketch showing the acquisitions is attached as Exhibit C.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 98-R-118 on May 26, 1998, authorizing the acquisition of Parcel Nos. 101, 103 and 104 and finding that the Chuluota Bypass project was necessary and served a public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION AND REMAINDER

The acquisitions severed the property into the part taken and 5 separate remainders. Four out of five of the remainder tracts were rendered undevelopable and valued solely for assemblage. The only usable remainder tract consists of 6.663 acres.

IV APPRAISED VALUES

A. County Appraisal Reports

Two sets of appraisals were performed for the County:

(1) Rex-McGill, Inc. These reports valued the property based upon a residential density of 1 unit per five acres. The reported values for full compensation were: Parcel No. 101 at \$40,300.00; Parcel No. 103 at \$30,200.00; and Parcel No. 104 at \$9,600.00.

(2) Florida Realty Analysts, Inc. These reports valued the property based upon a residential density of 1 unit per five acres and identified significant wetlands on Parcel No. 101. The reported values for full compensation were: Parcel No. 101 at \$2,500.00. Parcel No. 103 at \$22,000.00; and Parcel No. 104 at \$8,800.00

(3) Property Appraiser. In 1998, the property appraiser had valued Parcel No. 101 at \$42,000.00. This value could have been admitted to evidence as an admission against interest.

B. Owners' Reports

The owners' report was prepared by Calhoun, Dreggors, and Associates, Inc., and reported full compensation for the three parcels at \$152,200.00. The value was based on residential density of three to four units per acre.

V NEGOTIATIONS

The mediated settlement is at \$152,200.00 for land value, severance damage, and statutory interest. Key issues in mediation centered upon densities. The County report in 1998 was based upon one unit per five acres. However, prior to 1998 the City of Oviedo approved the Sanctuary and Live Oak Reserve at three to four units per acre. Subsequent to 1998, in unincorporated Seminole County, the Trails and Osprey Lake was developed immediately west of this property at three to four units per acre. It would be difficult to argue one unit per five acres when a jury view of the property would show consistent developments in the area at three to four units per acre.

Also, the property appraiser's value on Parcel No. 101 was greater than the County's appraised value. At any trial, this fact would be deemed an admission against interest which the jury could consider. Combined with the density issue, there was a substantial risk that a jury verdict would be very close to the owner's value. That result would lead to a much higher exposure, considering the several years of interest that would be added to the verdict.

VI ATTORNEY FEES AND COST REIMBURSEMENTS

A settlement at \$174,844.60 includes the statutory attorney fee at \$22,644.60 based on binding written offers of \$83,580.00. Costs remain outstanding.

VII COST AVOIDANCE

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

- A.** A greater jury verdict in excess of the settlement sum which would require an interest analysis; and
- B.** Increased attorney fees and costs; and
- C.** All additional costs to proceed further.

VIII RECOMMENDATION

County staff recommends that the BCC approve this settlement at the total sum of \$174,844.60.

HMB/dre

Attachments:

Exhibit A - Location Map

Exhibit B - Before Sketch

Exhibit C - Acquisition Sketch

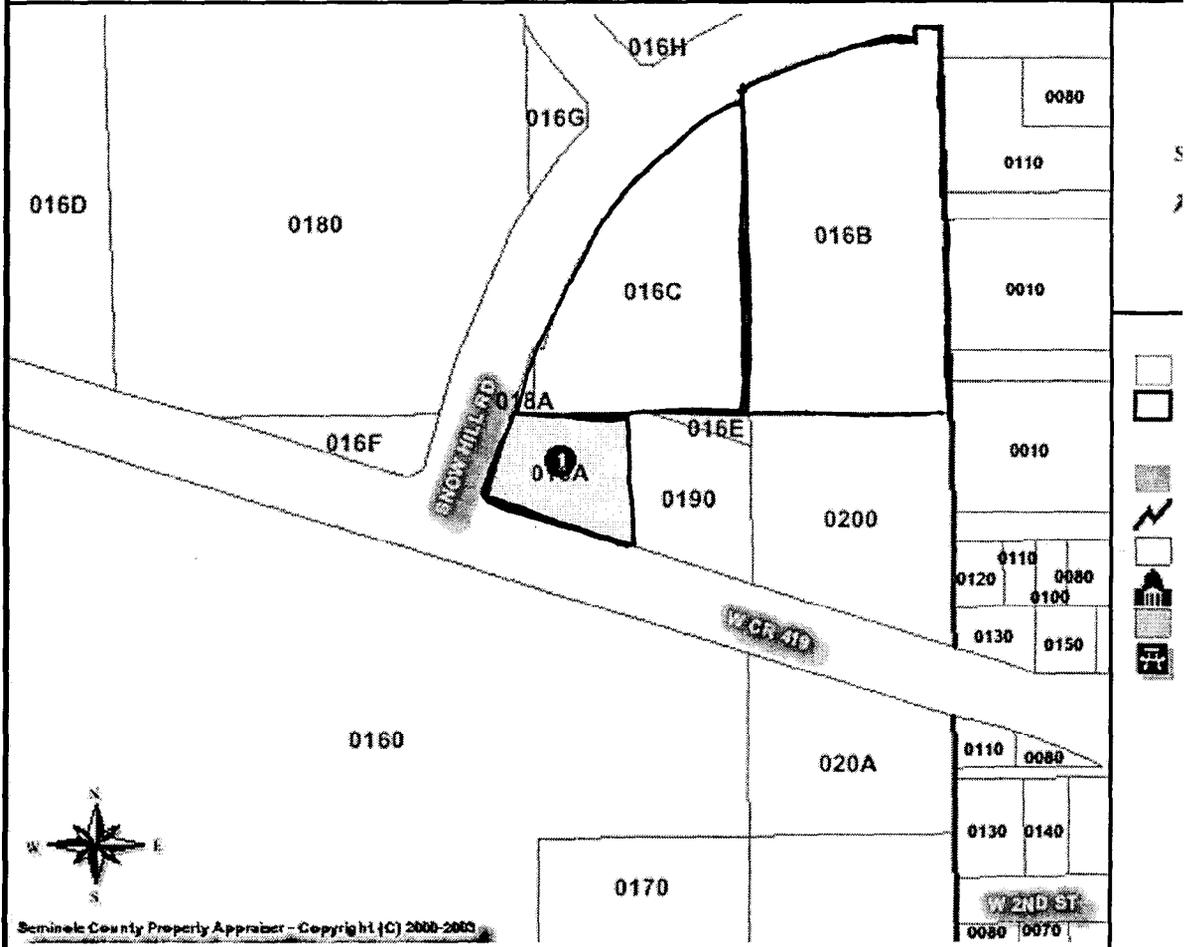
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Seminole County, Florida

Property Appraiser Services

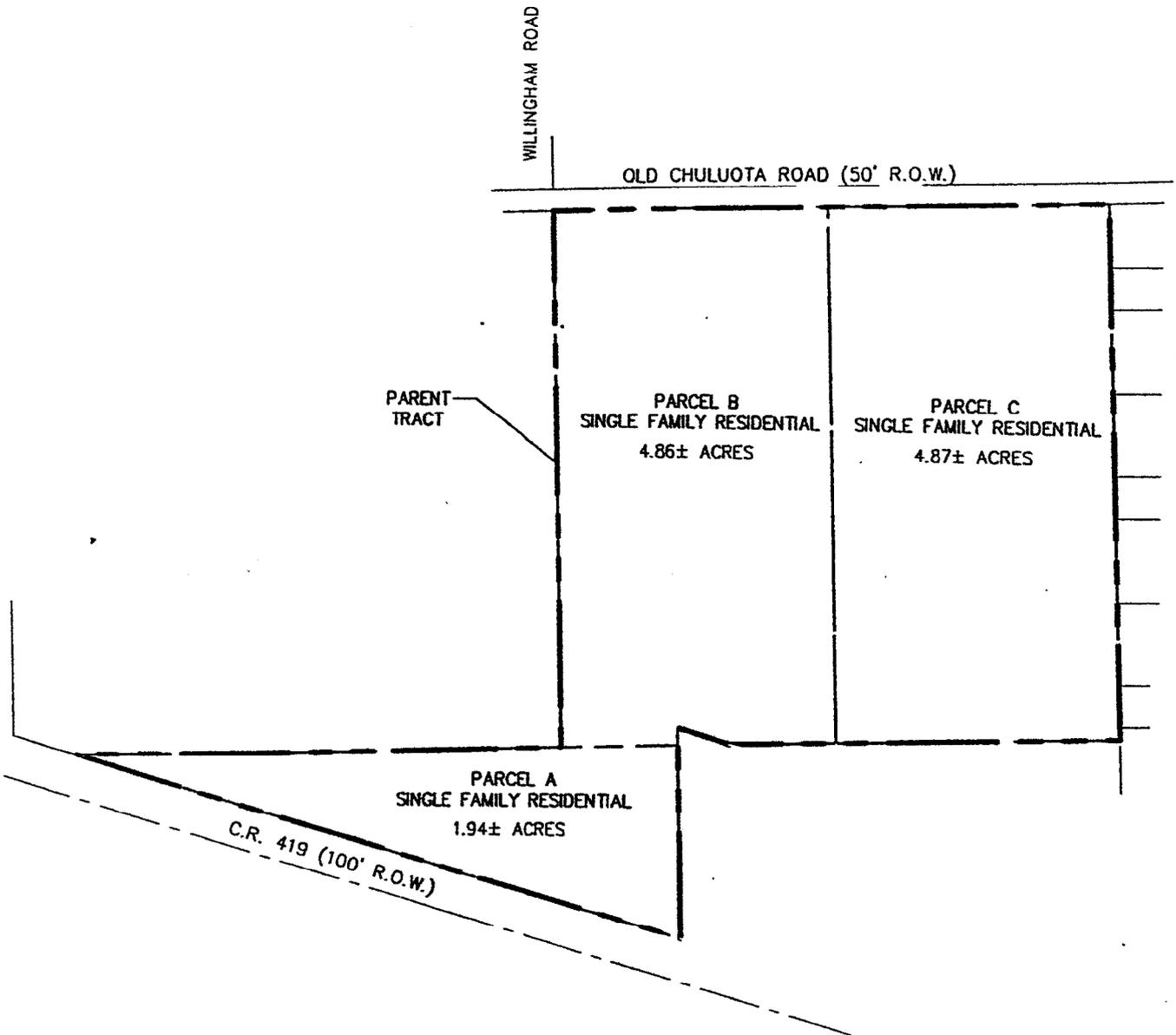
Your Source for Property Information... Quick, Convenient, Accurate

H. W. "Bill"

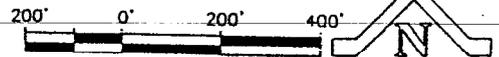


Seminole County Property Appraiser - Copyright (C) 2000-2003

Rec	Parcel	Owner	Owner Addr	City	State
1	202132300016A0000	RYBOLT PEGGY H	405 E ALPINE ST	ALTAMONTE SPRINGS	FL



PARENT TRACT: 11.67± ACRES

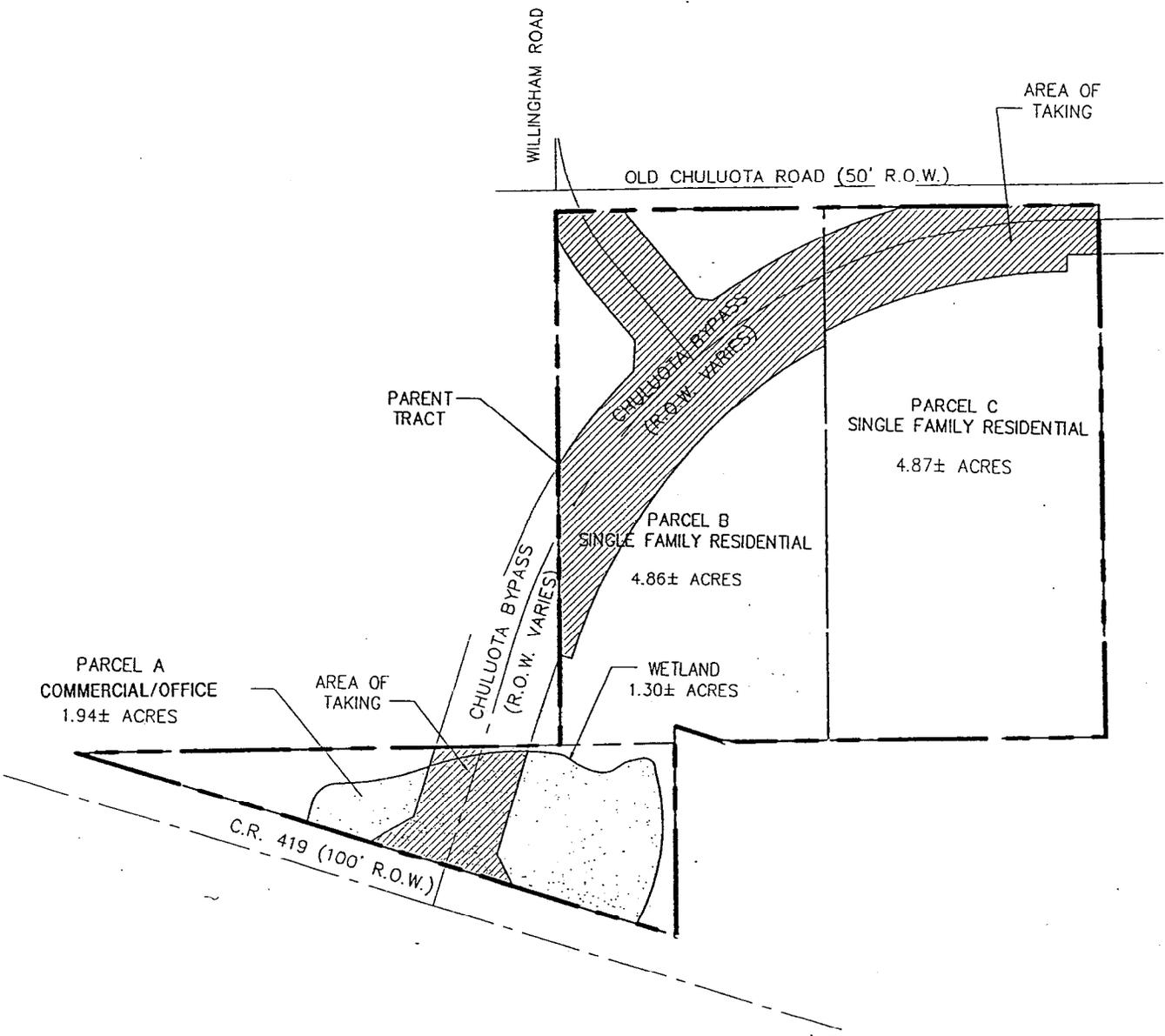


RYBOLT PROPERTY

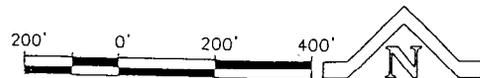
PREPARED BY CANIN ASSOCIATES, INC.

EXHIBIT 3

PRE-CONDEMNATION CONCEPT PLAN



PARENT TRACT: 11.67± ACRES
 AREA OF TAKING: 2.78± ACRES



RYBOLT PROPERTY

PREPARED BY CANIN ASSOCIATES, INC.

EXHIBIT 4

AREA OF TAKING

EXHIBIT C