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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 *AIMB*
Ext. 5736

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

DATE: November 17, 2004

SUBJECT: Settlement Authorization
Lake Drive Project
Parcel Nos. 157 A, B, and C
Owners, Casselberry Investment Properties, LTD.
Seminole County v. Casselberry Investment Properties, LTD., et al.
Case No.: 2004-CA-560-13-K

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 157 A, B, and C on the Lake Drive project. The recommended settlement includes payment to the owners of \$321,000.00 and conveyance to the owners of a County owned surplus strip (30,522 ± s.f.) and a portion of previously acquired right-of-way (38,322 ± s.f.), retaining a temporary construction easement over the first parcel and a permanent drainage easement over the latter. The settlement is inclusive of land value, severance damage, statutory interest, attorney fees and cost reimbursements.

I PROPERTY

A. Location Data

Parcel Nos. 157 A, B, and C are fee simple acquisitions totaling 2.599 acres. Parcel No. 157 A (8,720 ± s.f.) and Parcel No. 157B (3,873 ± s.f.) are right of way strip acquisitions. Parcel No. 157 C (2.310 ± acres) is a retention pond site. These parcels are shown in red on the attached Exhibit A.

B. Street Address

No street address is available for vacant lots. A location map is attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-133 on August 26, 2003, authorizing the acquisition of Parcel Nos. 157 A, B, and C, and finding that the Lake Drive Project was necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION AND REMAINDER

The fee simple acquisitions consist of a total of 2.599 acres from a parent tract of 13.162 acres leaving a remainder of 10.563 acres.

IV APPRAISED VALUES

The County's appraisal report was prepared by Clayton, Roper, and Marshall, Inc., and reported full compensation to be \$321,000.00 inclusive of land value, improvements acquired, and severance damage.

The owner's employed Consortium with a preliminary report opining compensation to be \$679,274.64.

V NEGOTIATED COMPENSATION

(a) Monetary

The proposed settlement is at the County's appraised value of \$321,000.00 inclusive of all attorney fees and cost reimbursements. The owners have agreed to pay the attorney fees and cost reimbursements which total \$52,532.00 out of the monetary settlement sum.

(b) Conveyance of the Strip and Drainage Area.

The County acquired the property shown in blue and green on Exhibit A from Northland Community Church, Inc. The piece shown in blue was acquired from Northland Church because its configuration and small size rendered it useless after construction of the road—it could not be issued a building permit for any type of development. The piece shown in green was acquired in fee simple and is part of the road project as it is designed to hold open drainage ditches. The County paid approximately \$79,000.00 for both parcels.

The settlement proposed in this memorandum involves conveyance of the blue and green parcels from the County to the owner of Parcels 157 A, B and C, retaining a permanent drainage easement over the green parcel in order to construct open drainage ditches and a temporary construction easement over the blue parcel to allow equipment and materials storage and placement of construction trailers on it. The cost to the County of this conveyance is estimated at \$40,500.00. This amount was calculated by adding \$31,500.00 for the blue strip (\$35,000.00 less 10% for the value of the temporary construction easement retained by the County) to \$9,000.00 for the green strip (\$44,000.00 less 80% for the value of the permanent drainage easement retained by the County).

The conveyance of the two parcels is authorized by *Section 125.35(2), Florida Statutes*, as the property is by itself of insufficient size and shape to be issued a building permit. Notice to adjacent property owners is not required as the owner of Parcels 157 A, B and C is the only adjacent owner.

(c) Owner's Use of the Green Area.

By converting the County's interest in the green area to a permanent drainage easement the owner obtains the right to pave over, pipe, reconfigure, and develop the property, subject to the approval of the County's engineers. The owner will be responsible for all costs related to piping or paving and, if joint use or reconfiguring of the drainage area occurs, then the owner will assume all maintenance obligations for the entire drainage ditch area.

In addition, the owner obtains, under applicable land development codes, the ability to use the drainage ditch area to satisfy green space and set back requirements.

VI ATTORNEY FEES AND COST REIMBURSEMENTS

Under this negotiated settlement, the County's appraised value and good faith deposit is \$321,000.00. The owner's have submitted costs and fees totaling \$52,532.00 allocated: (a) Attorney Fees \$20,000.00; (2) Engineering Costs \$20,700.00; and (3) Appraisal Costs \$11,832.00.

The negotiated settlement requires that the owner pay the fees and costs of \$52,532.00 out of the monetary compensation of \$321,000.00. Thus, the County will have no further responsibility for payment of fees and costs in this case.

VII ANALYSIS AND COST AVOIDANCE

The settlement is cost effective in that as it is essentially at the County's appraised value, however, includes all attorney fees and costs (\$52,532.00). The value of the conveyance of the blue and green areas is estimated at \$40,500.00, however, the blue area really has little or no value as, standing by itself, it cannot be developed.

Further, the County's use of the green area strip has not changed as it will be permanently part of the drainage system for the road.

As to cost avoidance, all additional costs of proceeding further are avoided.

VIII RECOMMENDATION

County staff recommends that the BCC approve this settlement which involves: (1) Monetary settlement at the county's appraised value of \$321,000.00 inclusive of fees and costs; (2) Conveyance of the strip (the blue area) to the owner while retaining a temporary construction easement over it; and, (3) Conveyance of the green area to the owner while retaining a permanent drainage easement over it.

HMB/sb

Attachment

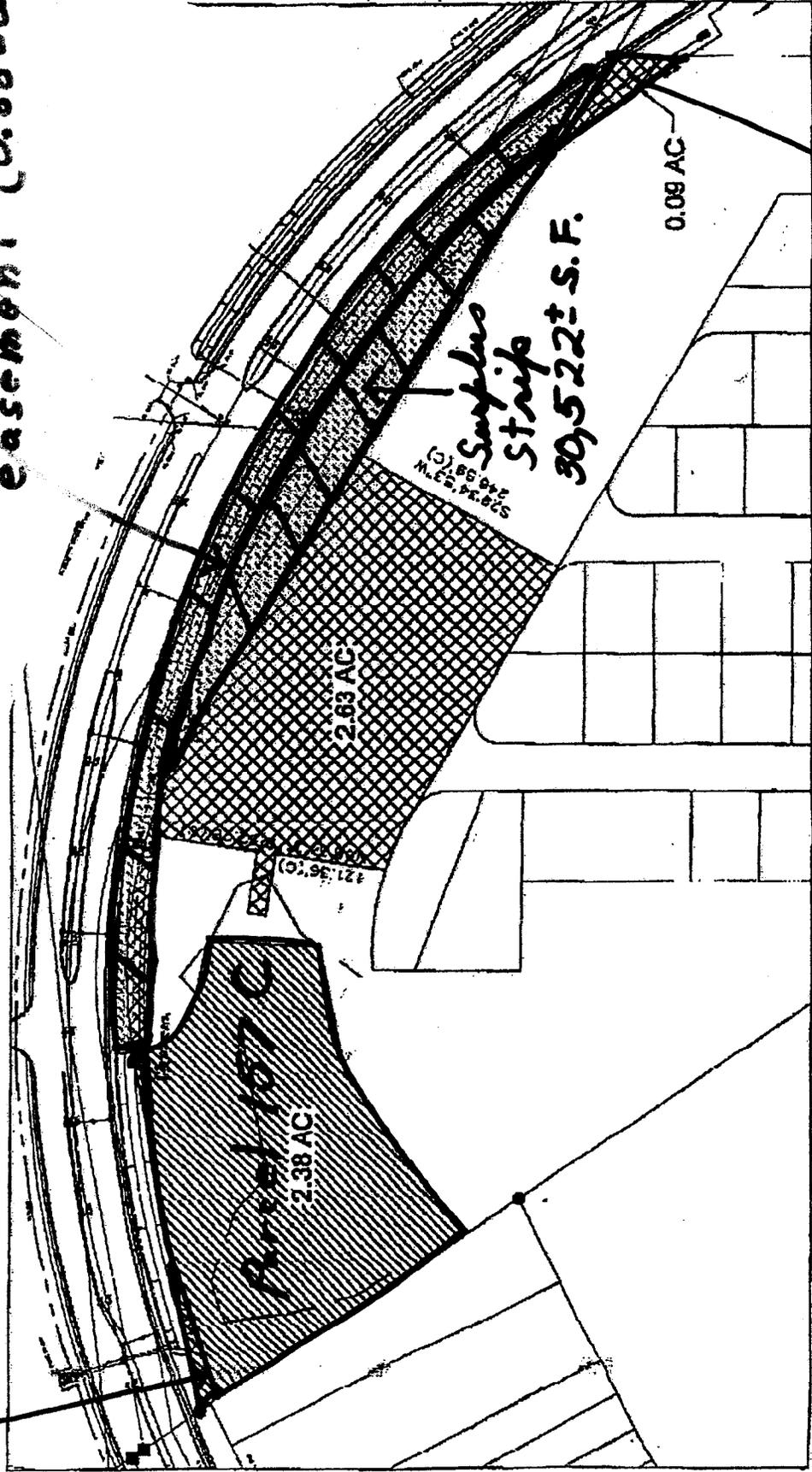
Location Map - Exhibit A

Parcel Sketch - Exhibit B

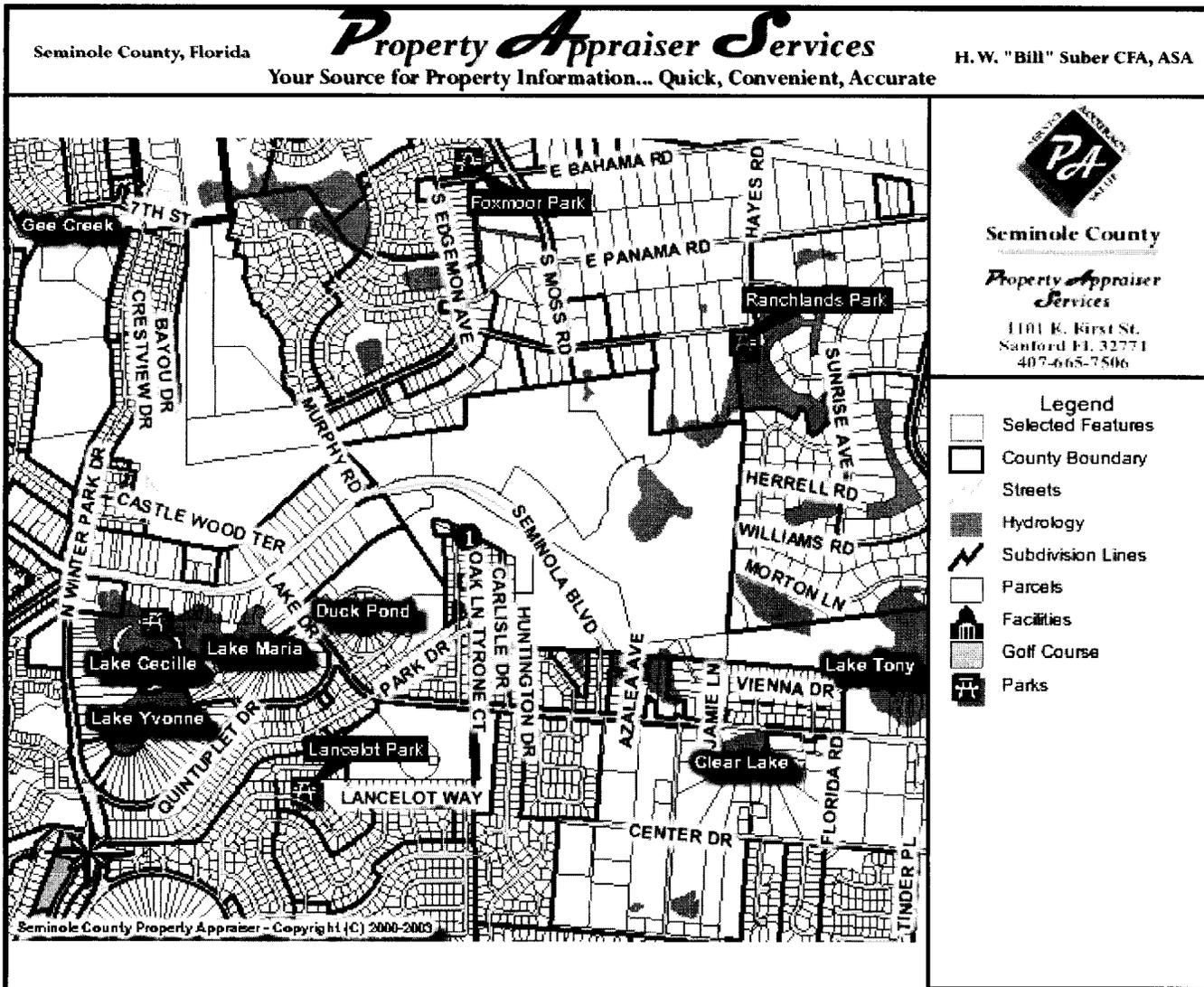
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Drainage Ditch Area
to be converted from
a fee to a permanent
easement (0.88 acres)

Parcel 157 B
(3,873± S.F.)



Parcel 157 A
(8,720± S.F.)



Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	2620305AR0D001380	CASSELBERRY INV PROPERTIES LTD	PO BOX 180001	CASSELBERRY	FL	32718

EXHIBIT B