

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Wharton-Smith Properties, LLLP properties

**DEPARTMENT:** County Attorney's Office

**DIVISION:** Litigation

**AUTHORIZED BY:** Lola Pfeil

**CONTACT:** Sharon Sharrer

**EXT:** 7257

**MOTION/RECOMMENDATION:**

Wharton-Smith Properties, LLLP properties. Approval of a proposed negotiated settlement relating to Parcel Numbers 129/729 and 132/732 of the County Road 15 road improvement project. The proposed settlement is at the total sum of \$223,052.95 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to these parcels. Judge Dickey.

District 5 Brenda Carey

Bob McMillan

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**BACKGROUND:**

see attached

**STAFF RECOMMENDATION:**

Staff recommends the Board approve a proposed negotiated settlement relating to Parcel Numbers 129/729 and 132/732 of the County Road 15 road improvement project. The proposed settlement is at the total sum of \$223,052.95 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to these parcels.

**ATTACHMENTS:**

1. Wharton-Smith Properties LLLP

<b>Additionally Reviewed By:</b> No additional reviews
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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 *David G. Shields*  
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *Pam Hastings*  
David Nichols, Principal Engineer/Engineering Division *DN 2-13-08*

DATE: February 14, 2008

RE: Settlement Authorization  
County Road 15  
Parcel Nos. 129/729 and 132/732; Wharton-Smith Properties, LLLP  
Seminole County v. Timothy A. Waddle, et al.  
Case No. 2007-CA-1604-0111-13-W

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 129/729 and 132/732 on the County Road 15 road improvement project. The recommended settlement is at the total sum of \$223,052.95 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay in the referenced case allocated as follows:

\$167,900.00	Land value, severance damage, and statutory interest
\$ 28,372.32	Statutory attorney's fee
<u>\$ 26,780.63</u>	Engineering and appraisal cost reimbursements
<u>\$223,052.95</u>	Total

**I. THE PROPERTY:**

**A. Location Data**

The subject properties are located along the west side of County Road 15 south of School Street within unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

**B. Property Address**

The street address is 750 Monroe Road, Sanford, Florida 32771. Parcel sketches are attached as Composite Exhibit B.

## **II AUTHORITY TO ACQUIRE.**

The BCC adopted Resolution No. 2006-R-114 on May 9, 2006, and 2007-R-71 on April 10, 2007 authorizing the acquisition of Parcel Nos. 129/729 and 132/732. The County Road 15 road improvement 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 August 27, 2007, with title vesting in Seminole County on September 4, 2007, the date of the good faith deposit in the amount of \$167,750.00 for these parcels.

## **III ACQUISITIONS AND REMAINDER**

The acquisition of Parcel No. 129 is 6,673 square feet in fee simple from a parent tract of 100,458 square feet with a remainder of 93,785 square feet. The fee simple taking is a rectangular shaped parcel off the subject's C-15 frontage. The temporary construction easement, Parcel No. 729, is also rectangular in shape and is a temporary taking of 71 square feet which will be used to construct a drainage inlet.

The acquisition of Parcel No. 132 is 8,546 square feet in fee simple from a parent tract of 129,948 square feet with a remainder of 121,402 square feet. The fee simple taking is a rectangular shaped parcel off the subject's C-15 frontage. The temporary construction easement, Parcel No. 732, is also rectangular in shape and is a temporary taking of 58 square feet which will be used to construct a drainage inlet.

## **IV APPRAISED VALUES**

The County's original report dated September 27, 2006, was prepared by Florida Realty Analysts, Inc. The appraisal report for Parcel No. 129 reported full compensation to be \$81,900.00 and \$300.00 for Parcel No. 729 for a total of \$82,200.00. The updated report for the order of take hearing dated July 25, 2007, opined \$97,300.00 for Parcel No. 129 and \$300.00 for Parcel No. 729 for a total of \$97,600.00.

The appraisal report for Parcel No. 132 dated September 27, 2006, reported full compensation to be \$64,800.00 and \$200.00 for Parcel No. 732 for a total of \$65,000.00. The updated report for the order of take hearing dated July 25, 2007, opined \$70,100.00 for Parcel 132 and \$200.00 for Parcel No. 732 for a total of \$70,300.00.

The grand total for all parcels from the July 25, 2007 updates was \$167,900.00.

The property owner did not prepare an appraisal report, but received some informal advice from an appraiser.

## **V BINDING OFFER/NEGOTIATION**

The County's initial written offer for Parcel Nos. 129/729 was \$92,450.00 and \$75,300.00 for Parcel Nos. 132/732, totaling \$167,750.00 for all the parcels. The written offers were exclusive of costs and fees. The combined updated appraisal of

\$167,900.00 was slightly higher than the combined first written offers. The owner accepted this updated appraisal amount as full monetary compensation in exchange for receiving the significant non-monetary benefit described below.

During negotiations, the owner identified several significant non-monetary issues relating to drainage on the property. The County recognized these issues needed to be remedied and implemented a cure plan for them. The parties agreed the value of this non-monetary benefit to be \$85,826.75.

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

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$28,372.32. The sum is statutorily computed based upon the \$85,826.75 non-monetary benefit and a monetary benefit of \$150.00 (the difference between the updated appraisal and the first written offer).

The owner's claimed costs for the referenced parcels totaled \$26,780.63. The break down is as follows:

\$ 1,406.25	General Contractor costs
\$ 2,550.00	Appraisal costs
\$22,824.38	Engineering costs

The engineering costs primarily involved identifying the drainage issues referenced above and reviewing the County's proposed cure plan.

## **VII COST AVOIDANCE**

The owner accepted the County's updated appraisal amount. In return, the owner only asked for the non-monetary benefit and the payment of expert costs and payment of attorney fees based on the non-monetary benefit obtained. If this settlement were not accepted, the owner would likely obtain an appraisal of its own, try to obtain higher monetary compensation and incur more expert costs and attorney fees. The settlement is therefore reasonable.

## **VIII RECOMMENDATION**

County staff recommends that the BCC approve this negotiated settlement in the total sum of \$223,052.95 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to these parcels.

Attachments:

- Exhibit A - Location Map
- Composite Exhibit B – Sketches

DGS/lpk

P:\Users\Dedge\My Documents\Ed\Waddle\Wharton-Smith Agenda Settlement 129 132.Doc

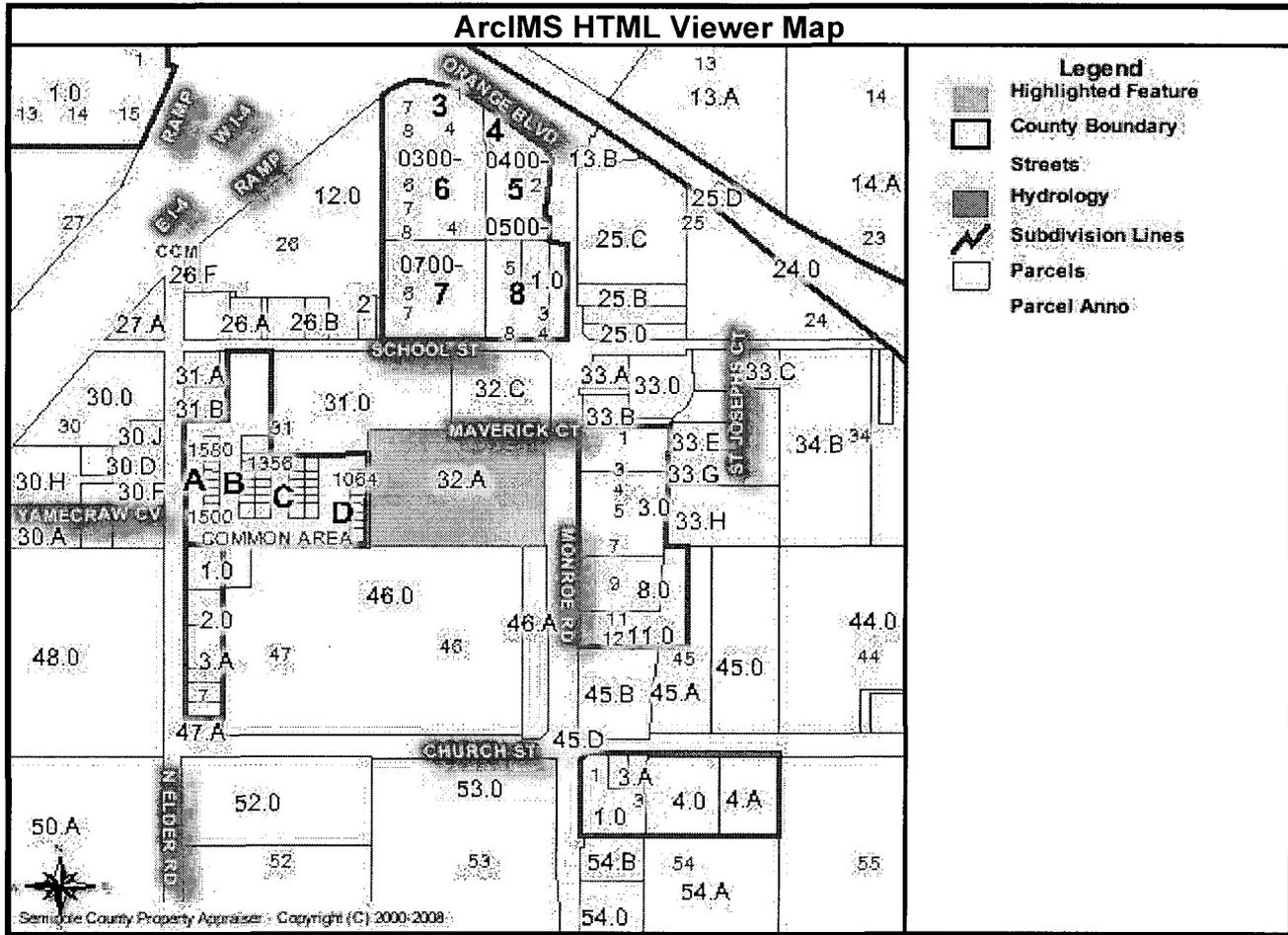
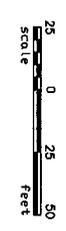
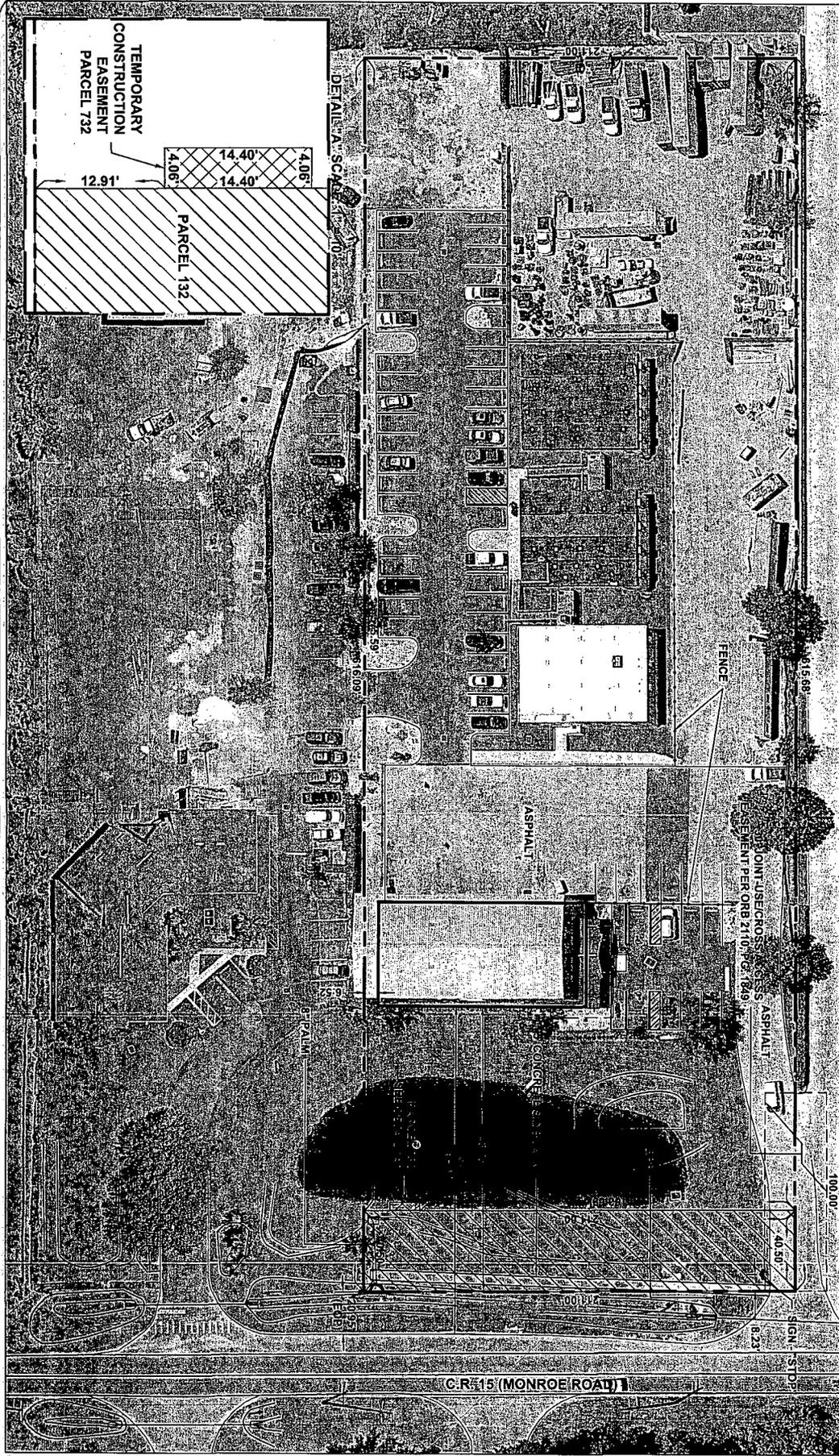


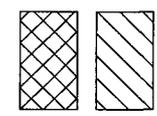
EXHIBIT A



PARENT TRACT  
AREA OF TAKE  
REMAINDER TRACT  
PROPERTY LINE

2.983 AC  
8,546 SF  
2.787 AC

AREA OF TAKE  
PARCEL 132 - 8,546 SF  
AREA OF TCE  
PARCEL 732 - 58 SF



COMPOSITE  
EXHIBIT B

PARENT TRACT : WITH TAKING SHOWN

PARCEL 132/732  
C.R. 15 / MONROE ROAD  
SEMINOLE CO., FLORIDA



**gai consultants**  
618 East South Street  
Orlando, Florida 32801  
407-742-6559

SHEET 2  
PROJECT NUMBER  
A060352.00  
FILE NAME: PAR132-732.dwg

SCALE	AS SHOWN
DRAWN	FHP
CHECKED	DWD
APPROVED	JMS
APP. DATE	10/04/06

