
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM****SUBJECT:** Turfmaster Lawn & Ornamental Care, Inc.**DEPARTMENT:** County Attorney's Office**DIVISION:** Litigation**AUTHORIZED BY:** Lola Pfeil**CONTACT:** Sharron Sharrer**EXT:** 7257**MOTION/RECOMMENDATION:**

Turfmaster Lawn & Ornamental Care, Inc. A business damage claim has been filed by Turfmaster Lawn & Ornamental Care, Inc., relating to Parcel Numbers 112/712 and 113/713 on the County Road 15 project. The owners of Parcel Numbers 112/712 and 113/713, Stephen G. Kohler and Douglas C. Lee, are also the business owners. Turfmaster Lawn & Ornamental Care, Inc. operates a business on the sites and has claimed \$1,222,940.00 in damages exclusive of statutory interest, attorney's fees and costs reimbursements. Request authorization to reject the claim without a counteroffer, based on the recommendation of the County's business damage expert. Judge Galluzzo.

District 5 Brenda Carey

Bob McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends that the Board authorize the County Attorney's Office to reject the claim without a counteroffer, based on the recommendation of the County's business damage expert.

ATTACHMENTS:

1. Turfmaster Lawn & Ornamental Care, Inc.

Additionally Reviewed By: No additional reviews



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

To: Board of County Commissioners

From: Robert ~~A. McMillan~~
County Attorney

Date: September 21, 2007

Subject: Authorization to Respond to Business Damage Claim
County Road 15 - Parcel Nos. 112/712 and 113/703
Property owners: Stephen G. Kohler and Douglas C. Lee
Business Tenant: Turfmaster Lawn & Ornamental Care, Inc.
Seminole County v. Seminole Co. State Road 46, Ltd., et al
Case No. 2007-CA-1605-101C-13-L

This Memorandum requests authorization to reject the business damage claim of Turfmaster Lawn & Ornamental Care, Inc. ("Turfmaster"). Turfmaster is a commercial landscaping business located along the west side of County Road 15 north of unpaved Narcissus Avenue in a portion of unincorporated Seminole County. By statute, the County must accept or reject a business damage claim within 120 days after receipt. Turfmaster made a business damage claim of \$1,222,940.00. A County response is required by October 1, 2007.

I ACQUISITION/REMAINDER

The Parcel No. 112 fee taking is a 6,526 square foot rectangular strip taken from the frontage on C15. The acquisition leaves a remainder of 43,568 square feet. The temporary construction easement ("TCE") is 78 square feet and is located along the east boundary of the parcel. The parent tract consists primarily of a house that has been converted to an office.

The Parcel No. 113 fee taking is a 5,367 square foot rectangular strip taken from the frontage on C15. The acquisition leaves a remainder of 29,620 square feet. The TCE is 137 square feet and is located along the east boundary of the parcel. The parent tract consists primarily of a parking area for commercial trucks, a couple of small Quonset hut-like structures and some other small structures.

II BUSINESS DAMAGE CLAIM

Turfmaster's business had been in operation since February 1994. It has continuously operated over five (5) years and meets the statutory time requirement in order to be eligible for business damages.

Mr. Kohler, one of the owners of Turfmaster and of the property, prepared the business damage report himself and opined business damages totaling \$1,222,940.00. The owners claim loss of the entire business on the theory that the parent tracts support separate businesses and, therefore, the claim only relates to the parent tract for Parcel No. 113. They allege the taking results in the loss of the Quonset huts as office space and loss of the parking if the Quonset huts are relocated elsewhere on the site. (It should be noted that the Quonset huts were not in the area of the taking.)

The County retained a certified public accountant as its expert on the business damage claim. The expert, after inspecting the property, having a parking study prepared and reviewing the records and other documents concluded that both parcels are used in conjunction as the site of the business and that the Quonset hut is apparently used only for storage and that there is sufficient parking for all vehicles on the remainder.

The conclusion of the County's business damage expert was that, although there may exist some minor business damages, there does not appear to be enough substance to the claim to require a counteroffer at this time. Therefore, it appears that the owners' business damage claim is of questionable merit.

III ATTORNEY FEES

Attorney fees for business damage claims are based on the difference between the final judgment or settlement and the amount of the County's initial counteroffer. The same percentage attorney fee schedule is applied to this difference as is applied to the monetary benefits obtained as to land, improvements and damages.

IV RECOMMENDATION

For the reasons discussed above, County staff recommends that the Board authorize the County Attorney's Office to reject Turfmaster's offer to settle business damages without a counteroffer. This request pertains only to business damages.

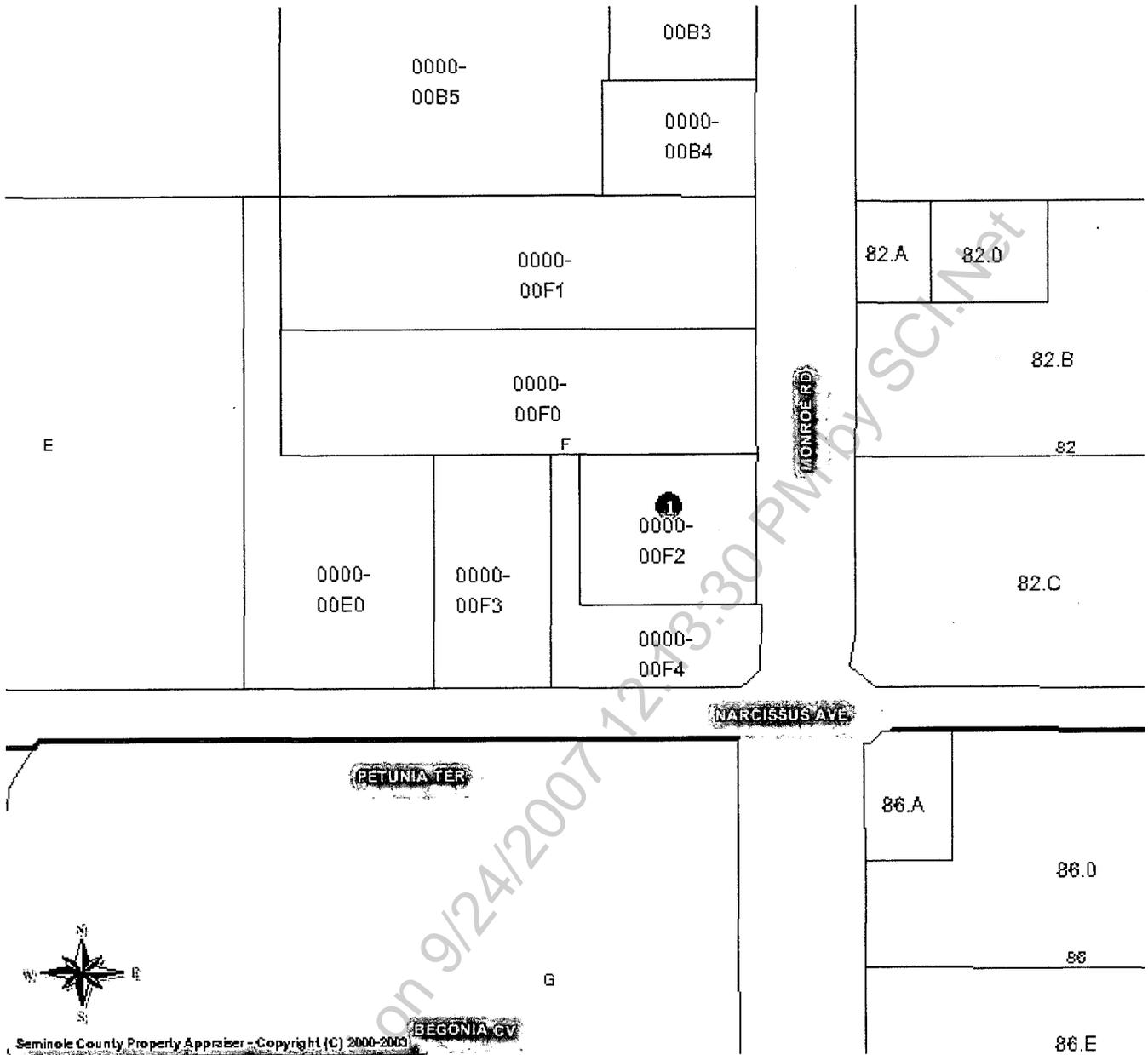
DGS/dre

Attachments

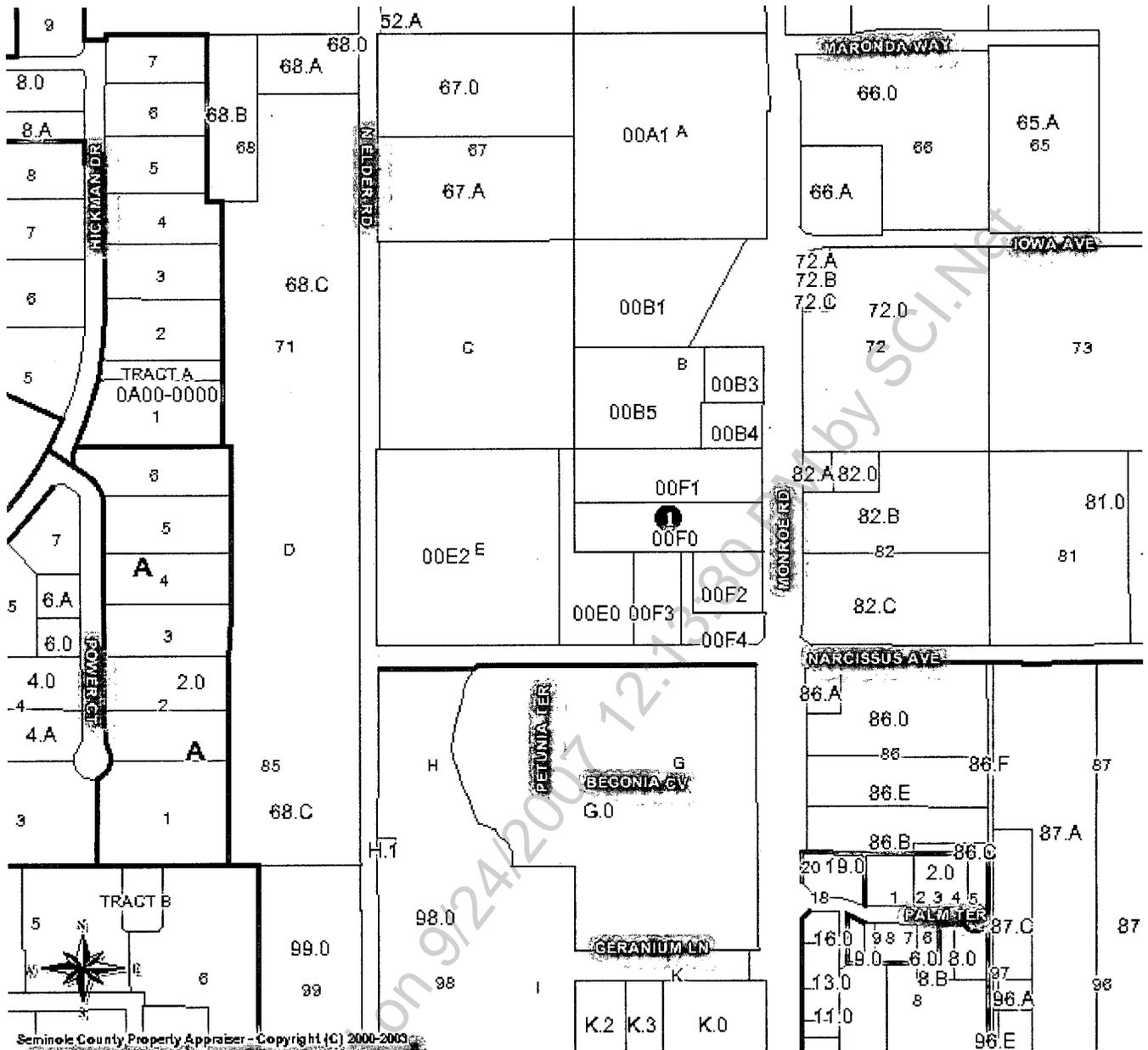
Exhibit A – Location map

Exhibit B – Parcel Sketch

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COMPOSITE EXHIBIT A

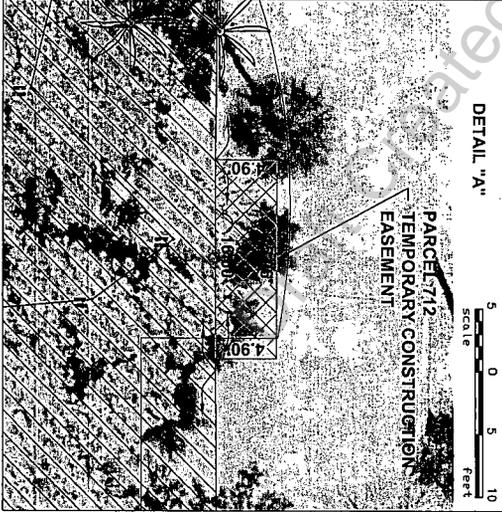


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COMPOSITE EXHIBIT A



COMPOSITE
EXHIBIT B



PARENT TRACT	1,298 AC
AREA OF TAKE	6,526 SF
AREA OF TCE	78 SF
REMAINDER TRACT	1,148 AC
PROPERTY LINE	---
AREA OF TAKE	▨
PARCEL 112	▨
AREA OF TCE	▨
PARCEL 712	▨

Scale: 0 20 40 feet

PARENT TRACT : WITH TAKING SHOWN

PARCEL 112/712
C.R. 15 / MONROE ROAD
SEMINOLE CO., FLORIDA

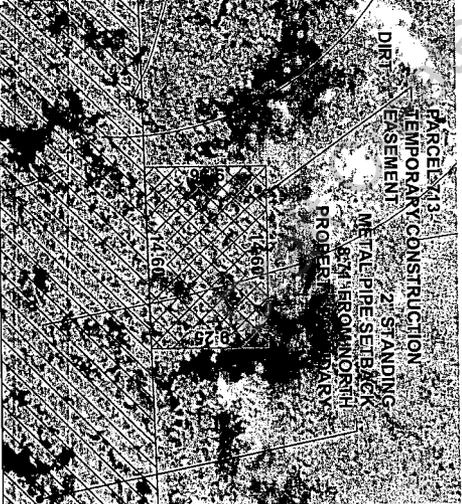
SHEET 2
PROJECT NUMBER
A060352.00
TITLE NAME: par112-712.dwg

gai consultants
618 East South Street
RD 9915
407-423-8388
33501

BLDG. EOP SETBACK	PHP	8/24/06
REMOVE MAILBOX	PHP	8/21/06
SCALE AS SHOWN		
DRAWN	PER	APPROVED
CHECKED	DCD	APP. DATE: 08/21/06



COMPOSITE EXHIBIT B



<p>DETAIL "A"</p> <p>5' 0' 5' 10'</p> <p>scale</p> <p>feet</p>	<p>AREA OF TAKE PARCEL 113</p> <p>AREA OF TCE PARCEL 713</p>	<p>PROPERTY LINE</p> <p>AREA OF TAKE PARCEL 113</p> <p>AREA OF TCE PARCEL 713</p>	<p>PARENT TRACT AREA OF TAKE AREA OF TCE REMAINDER TRACT</p>	<p>2.383 AC</p> <p>5,367 SF</p> <p>137 SF</p> <p>2,260 AC</p>
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PARENT TRACT : WITH TAKING SHOWN

PARCEL 113/713
C.R. 15 / MONROE ROAD
SEMINOLE CO., FLORIDA

SHEET 2
PROJECT NUMBER
A069352
FILE NAME: PAR113-713.dwg

gai consultants
618 East South Street
Orlando, Florida 32801
407-451-1313



BLDG. EOP SETBACK	PHP	8/24/06
ADD WOOD FENCE	PHP	8/21/06
D/W SURFACE	PHP	8/16/06
SCALE AS SHOWN		
DRAWN	PHP	APPROVED: JMS
CHECKED	PCD	APP. DATE: 08/01/06