

**Lee County Board Of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20070277

- 1. ACTION REQUESTED/PURPOSE:** Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$27,400 for Parcel 131, Plantation Road Extension, Project No. 4065, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete transaction.
- 2. FUNDING SOURCE:** Fund – Central District Road Impact Fees; Program: Capital Projects; Project: Plantation Road Extension.
- 3. WHAT ACTION ACCOMPLISHES:** Authorizes binding offer to property owner.
- 4. MANAGEMENT RECOMMENDATION:** Approve.

**5. Departmental Category: 06** **C6I** **6. Meeting Date:** MAR 13 2007

<b>7. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>8. Requirement/Purpose: (specify)</b> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:50%;">Statute</td><td style="width:50%;">125</td></tr> <tr><td>Ordinance</td><td></td></tr> <tr><td>Admin. Code</td><td></td></tr> <tr><td><input checked="" type="checkbox"/> Other</td><td>BS 20061315</td></tr> <tr><td></td><td>RSN # 06-10-34</td></tr> </table>	Statute	125	Ordinance		Admin. Code		<input checked="" type="checkbox"/> Other	BS 20061315		RSN # 06-10-34	<b>9. Request Initiated:</b> Commissioner _____ Department _____ Independent Division _____ County Lands By: Karen Forsyth, Director
Statute	125											
Ordinance												
Admin. Code												
<input checked="" type="checkbox"/> Other	BS 20061315											
	RSN # 06-10-34											

**10. Background:**  
Negotiated for: Department of Transportation  
Interest to Acquire: 2,613.6 square foot Fee Interest  
Property Details:  
 Owner: JES Plantation Road, LLC and LJS Plantation Road, LLC, t/c  
 STRAP: 07-45-25-00-00002.001H  
 Site Address: 11040 Plantation Road  
Purchase Details:  
**Purchase Price:** \$27,400  
**Costs to Close:** \$750  
 In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$27,400 (appraised value), and commence Eminent Domain procedures.  
Appraisal Information:  
**Appraised Value/Date:** \$27,400  
**Company:** Diversified Appraisal, Inc.  
Staff Recommendation: Staff recommends Board approve the Requested Motion.  
**Account:** 20406518823.506110  
Attachments: Purchase and Sale Agreement, In-House Title Search, Appraisal Summary, Location Map, Sales History

**11. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>[Signature]</i>			<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i> 3-1-07	<i>[Signature]</i> 3/1/07	<i>[Signature]</i> R.K. For LG 3-1-07	<i>[Signature]</i> 3/1/07	<i>[Signature]</i> 3-1-07

- 12. Commission Action:**
- Approved
  - Deferred
  - Denied
  - Other

RECEIVED BY  
 COUNTY ADMIN: *[Signature]*  
 3/ 2:40 PM  
 COUNTY ADMIN  
 FORWARDED TO: *[Signature]*  
 3/ 8:30

Rec. by CoAtty  
 Date: 3/1/07  
 Time: 11:50 AM  
 Forwarded To: *[Signature]*

3/1/07 2:31

This document prepared by  
Lee County Division of County Lands  
Project: Plantation Extension Project No. 4065  
Parcel: 131  
STRAP No.: 07-45-25-00-00002.001H

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY  
AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE  
IN LIEU OF CONDEMNATION PROCEEDINGS

THIS AGREEMENT for purchase and sale of real property is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between JES Plantation Road, LLC, a Florida Limited Liability Company and LJS Plantation Road, LLC, a Florida Limited Liability Company hereinafter referred to as SELLER, whose address is 58 Kilburn Road, Rochester, NY 14618, and Lee County, a political subdivision of the State of Florida, hereinafter referred to as BUYER.

WITNESSETH:

- 1. AGREEMENT TO PURCHASE AND TO SELL:** SELLER agrees to sell and BUYER agrees to purchase, subject to the terms and conditions set forth below, a parcel of land consisting of 0.06 acres more or less located at 11040 Plantation Road, Fort Myers and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property." This property is being acquired for the Plantation Extension Project No. 4065, hereinafter called "the Project", with the SELLER'S understanding that the property, if not voluntarily sold, would have been condemned by BUYER through the exercise of its eminent domain powers.
- 2. PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be Twenty Seven Thousand Four Hundred and no/100 (\$27,400.00), payable at closing by County warrant. The Purchase Price is mutually agreeable to both the SELLER and BUYER and represents the voluntary sale and purchase of the property in lieu of BUYER's condemnation.

3. **EVIDENCE OF TITLE:** BUYER will obtain at BUYER's expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of the purchase price, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the Property and, except as is otherwise provided herein, accepts the Property in the condition inspected. Any loss and/or damage to the Property occurring between the date of this offer and the date of closing or date of possession by BUYER, whichever occurs first, will be at SELLER'S sole risk and expense. However, BUYER may accept the damaged property and deduct from the purchase price any expenses required to repair the damage, or BUYER may cancel this Agreement without obligation.

5. **SELLER'S INSTRUMENTS AND EXPENSES:** SELLER will pay for and provide:

- (a) A statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;
- (b) utility services up to, but not including the date of closing;
- (c) taxes or assessments for which a bill has been rendered on or before the date of closing, if closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year;
- (d) payment of partial release of mortgage fees, if any;
- (e) SELLER'S attorney fees, if any.

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed;
- (b) survey, (if desired by BUYER).

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing. BUYER is exempt from ad valorem taxation. SELLER will pay all taxes determined to be legally due and payable by the County Tax

Collector. If closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year without proration.

This voluntary sale and purchase is considered by Florida law to be exempt from the payment of Documentary Stamp Taxes because this transaction was made under the threat of an eminent domain proceeding by the BUYER.

8. **DEFECTS IN TITLE AND LEGAL ACCESS:** Prior to closing, BUYER will have a reasonable time to examine the title and documents establishing legal access to the property. If title or legal access is found to be defective, BUYER will notify SELLER in writing of the defects and SELLER will make a prompt and diligent effort to correct such defects. If SELLER fails to make corrections within 60 days after notice, BUYER may elect to accept the Property in its existing condition with an appropriate reduction to the purchase price, or may terminate this Agreement without obligation.

9. **SURVEY:** BUYER may order the Property surveyed at BUYER's expense. SELLER agrees to provide access to the Property for such survey to be performed. If the survey shows a discrepancy in the size or dimensions of the Property, or shows encroachments onto the Property or that improvements located on the Property encroach onto adjacent lands, or if the survey identifies violations of recorded covenants and/or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat such discrepancies, violations and/or encroachments as a title defect.

10. **ENVIRONMENTAL AUDIT:** BUYER may perform or have performed, at BUYER's expense, an environmental audit of the Property. If the audit identifies environmental problems unacceptable to the BUYER, BUYER may elect to accept the Property in its existing condition with an appropriate abatement to the purchase price or BUYER may terminate this Agreement without obligation.

11. **ABSENCE OF ENVIRONMENTAL LIABILITIES:** The SELLER warrants and represents that the Property is free from hazardous materials and does not constitute an environmental hazard under any federal, state or local law or regulation. No hazardous, toxic or polluting substances have been released or disposed of on the Property in violation of any applicable law or regulation. The SELLER further warrants that there is no evidence that hazardous, toxic or polluting substances are contained on or emitting from the property in violation of applicable law

or regulation. There are no surface impoundments, waste piles, land fills, injection wells, underground storage areas, or other man-made facilities that have or may have accommodated hazardous materials. There is no proceeding or inquiry by any governmental agency with respect to production, disposal or storage on the property of any hazardous materials, or of any activity that could have produced hazardous materials or toxic effects on humans, flora or fauna. There are no buried, partially buried, or above-ground tanks, storage vessels, drums or containers located on the Property. There is no evidence of release of hazardous materials onto or into the Property.

The SELLER also warrants that there have been no requests from any governmental authority or other party for information, notices of claim, demand letters or other notification that there is any potential for responsibility with respect to any investigation or clean-up of hazardous substance releases on the property. All warranties described herein will survive the closing of this transaction.

In the event the SELLER breaches the warranties as to environmental liability, SELLER agrees to indemnify and hold the BUYER harmless from all fines, penalties, assessments, costs and reasonable attorneys' fees resulting from contamination and remediation of the property.

**12. TIME AND BINDING AGREEMENT:** Time is of the essence for closing this transaction. The BUYER's written acceptance of this offer will constitute an Agreement for the purchase and sale of the Property and will bind the parties, their successors and assigns. In the event the BUYER abandons this project after execution of this Agreement, but before closing, BUYER may terminate this Agreement without obligation.

**13. DATE AND LOCATION OF CLOSING:** The closing of this transaction will be held at the office of the insuring title company on or before 60 days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties.

**14. ATTORNEYS' FEES:** The prevailing party in any litigation concerning this Agreement will be entitled to recover reasonable attorneys' fees and costs.

**15. REAL ESTATE BROKERS:** SELLER hereby agrees to indemnify and hold the BUYER harmless from and against any claims by a real estate broker claiming by or through SELLER.

16. **POSSESSION:** SELLER warrants that there are no parties in possession other than SELLER unless otherwise stated herein. SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein.

17. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

18. **SPECIAL CONDITIONS:** Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

SELLER: JES Plantation Road LLC, a  
Florida Limited Liability Company

\_\_\_\_\_  
John E. Smith, Managing Member

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

SELLER: LJS Plantation Road LLC, a  
Florida Limited Liability Company

\_\_\_\_\_  
Lawrence J. Smith, Managing Member

CHARLIE GREEN, CLERK

BUYER:  
LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
DEPUTY CLERK (DATE)

BY: \_\_\_\_\_  
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

\_\_\_\_\_  
COUNTY ATTORNEY (DATE)

# Exhibit "A"

DESCRIPTION  
OF  
A PARCEL OF LAND  
LYING IN  
SECTION 7, TOWNSHIP 45 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

## PARCEL 131A PLANTATION EXTENSION PROJECT

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 7, TOWNSHIP 45 SOUTH, RANGE 25 EAST, OF SAID LEE COUNTY, FLORIDA, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST, OF SAID LEE COUNTY; THENCE S 00°51'33" E ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION FOR 125.00 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF COLONIAL BOULEVARD, STATE ROAD S-82-B (250.00 FEET WIDE); THENCE S 88°56'23" W ALONG SAID SOUTH LINE FOR 527.87 FEET TO AN INTERSECTION WITH THE SURVEY BASELINE OF THE PROPOSED PLANTATION ROAD EXTENSION, STATION 68+45.38; THENCE S 00°51'33" E ALONG SAID BASELINE FOR 151.77 FEET TO STATION 66+93.61 AND THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 799.95 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND SAID BASELINE THROUGH A CENTRAL ANGLE OF 55°10'38" FOR 770.38 FEET TO STATION 59+23.23; THENCE S 54°19'05" W ALONG SAID BASELINE FOR 1,741.53 FEET TO STATION 41+81.70 AND THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 799.95 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE AND SAID BASELINE THROUGH A CENTRAL ANGLE OF 55°09'44" FOR 770.17 FEET TO STATION 34+11.53; THENCE S 00°50'39" E ALONG SAID BASELINE FOR 69.70 FEET TO STATION 33+41.84, THE CENTER OF SAID SECTION AND THE NORTHWEST CORNER OF FLORIMOND MANOR, AS RECORDED IN PLAT BOOK 7, AT PAGE 6 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S 00°49'38" E ALONG SAID BASELINE AND THE WESTERLY LINE OF SAID FLORIMOND MANOR FOR 2,641.84 FEET TO STATION 7+00.00, THE SOUTHWEST CORNER OF SAID FLORIMOND MANOR, THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 6 AND THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 7; THENCE S 00°39'37" E ALONG SAID BASELINE FOR 193.55 FEET TO STATION 5+06.45; THENCE S 89°20'23" W FOR 19.84 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF PLANTATION ROAD (WIDTH VARIES) AND THE POINT OF BEGINNING; THENCE S 00°33'29" E ALONG SAID WESTERLY LINE FOR 136.99 FEET; THENCE S 88°59'01" W FOR 20.00 FEET TO AN INTERSECTION WITH A LINE 20.00 FEET WESTERLY OF AND PARALLEL WITH (AS MEASURED ON A PERPENDICULAR) SAID WESTERLY LINE; THENCE N 00°33'29" W ALONG SAID PARALLEL LINE FOR 136.99 FEET; THENCE N 88°59'01" E FOR 20.00 FEET TO THE POINT OF BEGINNING.

PARCEL 131A CONTAINS 0.06 ACRES, MORE OR LESS.

BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" WEST ZONE 1983/90 ADJUSTMENT. WHEREIN THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 45 SOUTH, RANGE 25 EAST BEARS S.00°51'33"E. THE AVERAGE SCALE FACTOR IS 0.999943727.

**Division of County Lands****Ownership and Easement Search**

Search No. 07-45-25-00-00002.001H

Date: July 27, 2005

Parcel: 131

Project: Plantation Extension, Project 4065

To: Michele S. McNeill-Despot, SR/WA  
Property Acquisition AgentFrom: Shelia A. Bedwell, CLS  
Property Acquisition Assistant

STRAP: 07-45-25-00-00002.001H

Effective Date: June 29, 2005, at 5:00 p.m.

**Subject Property:** See attached Schedule "X"

Title to the subject property is vested in the following:

***JES Plantation Road, LLC, a Florida limited liability company, and LJS Plantation Road, LLC, a Florida limited liability company, as tenants in common.***

By that certain instrument dated October 12, 2004, recorded October 13, 2004, in Official Record Book 4464, Page 3446, Public Records of Lee County, Florida.

**Easements:**

1. One hundred foot easement to Florida Power & Light Company, recorded in Miscellaneous Book 32, Page 249, Public Records of Lee County, Florida.

NOTE(1): Notices of Development Orders, recorded in Official Record Book 1954, Page 4470 and Official Record Book 2088, Page 3695, Public Records of Lee County, Florida.

NOTE(2): Resolution regarding the South Fort Myers Sewer System MSBU, recorded in Official Record Book 2206, Page 2243, Public Records of Lee County, Florida.

NOTE(3): Mortgage, Security Agreement and Assignment of Rents executed by JES Plantation Road, LLC and LJS Plantation Road, LLC, to First National Bank of Florida, dated October 12, 2004, recorded October 13, 2004 in Official Record Book 4464, Page 3450, Public Records of Lee County, Florida.

NOTE(4): Assignment of Leases, Rents and Profits between JES Plantation Road, LLC and LJS Plantation Road, LLC, and First National Bank of Florida, recorded October 13, 2004 in Official Record Book 4464, Page 3459, Public Records of Lee County, Florida.

NOTE(5): Financing Statement between JES Plantation Road, LLC and LJS Plantation Road, LLC (Debtor), and First National Bank of Florida (Secured Party), recorded in Official Record Book 4464, Page 3463, Public Records of Lee County, Florida.

No changes as of  
2/15/07  
*[Signature]*



**Division of County Lands**

**Ownership and Easement Search**

Search No. 07-45-25-00-00002.001H

Date: July 26, 2005

Parcel: 131

Project: Plantation Extension, Project 4065

*2006 taxes are paid.*

**Tax Status: 2004 taxes are paid in the amount of \$10,563.72.**

*(The end user of this report is responsible for verifying tax and/or assessment information.)*

**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**

**Division of County Lands****Ownership and Easement Search**

Search No. 07-45-25-00-00002.001H

Date: July 26, 2005

Parcel: 131

Project: Plantation Extension, Project 4065

**Schedule "X"**

A tract or parcel of land lying in the North half of the North half of the Northwest quarter of Section 7, Township 45 South, Range 25 East, Lee County, Florida being further described as follows:

Commencing at the Northeast corner of the Northwest quarter of said Section 7, run South 88°50'23" West along the North line of said Section 7 for 30.00 feet to the Westerly right-of-way of Plantation Road; thence South 0°41'43" East for 193.39 feet to the point of beginning; thence continue South 0°41'43" East for 137.00 feet to the South line of the North half of the North half of the Northwest quarter of said Section 7; thence South 88°50'47" West for 380.95 feet; thence North 0°41'43" West for 137.00 feet; thence North 88°50'47" East for 380.95 feet to the Westerly right-of-way of Plantation Road and the point of beginning.

EXECUTIVE SUMMARY

PROJECT NAME: Plantation Road Extension

PARCEL #: 131

PROJECT NUMBER: 4065

OWNER OF RECORD: JES PLANTATION ROAD, LLC & LJS PLANTATION ROAD, LLC, tenants in common

STRAP NUMBER: 07-45-25-00-00002.001H

LOCATION: 11040 Plantation Road

PARENT TRACT: 52,197 s.f.

PART TAKEN: 2,739.8 s.f.

IMPROVEMENTS: None

ZONING/LAND USE: C-2/Industrial Development

HIGHEST AND BEST USE: Industrial Development

ESTIMATE OF VALUE - COST APPROACH: N/A

ESTIMATE OF VALUE - SALES COMPARISON APPROACH: \$27,400

ESTIMATE OF VALUE - INCOME APPROACH: N/A

JUST COMPENSATION DUE PROPERTY OWNER: \$27,400

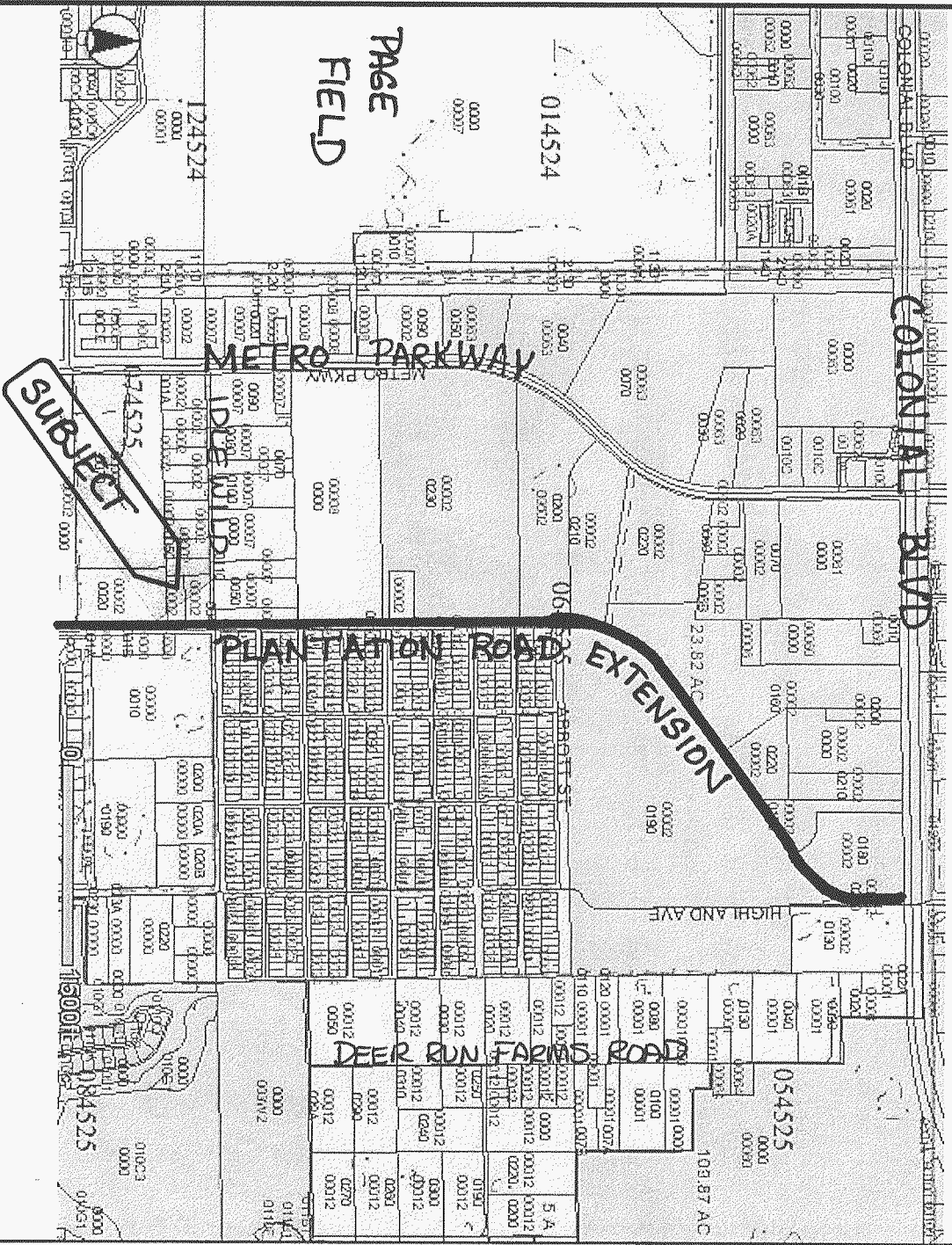
PRICE PER SQUARE FOOT: \$10.00

INTEREST APPRAISED: Fee Simple

DATE OF VALUATION: 22 November 2006

APPRAISER: Mr. David C. Vaughan, MAI

Location Map



# 5-Year Sales History

Parcel No. 131

## Plantation Extension Project, No. 4065

Grantor	Grantee	Price	Date	Arms Length Y/N
A & W Development Inc., a Florida Corporation	JES Plantation Road LLC and LJS Plantation Road LLC	\$800,000	10/12/04	Y

**NOTE: Sale(s) relate to "parent tract" of the subject parcel.**