

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

Blue Sheet No. 20040016

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$39,300 for Parcel 135, Veronica S. Shoemaker Blvd. (formerly Palmetto Avenue) Extension, Project No. 4073, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete transaction.

WHY ACTION IS NECESSARY: The Board must authorize the making of a binding offer to a property owner prior to initiation of condemnation proceedings.

WHAT ACTION ACCOMPLISHES: Makes binding offer to property owner.

2. DEPARTMENTAL CATEGORY: 06
COMMISSION DISTRICT # 2 and 5

C6C

3. MEETING DATE:

02-03-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE 73 & 125
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
 - B. DEPARTMENT Independent
 - C. DIVISION County Lands 1-9-04
- BY: Karen L. W. Forsyth, Director

7. BACKGROUND:

Negotiated for: Department of Transportation and the City of Fort Myers
Interest to Acquire: 22,602 square feet of fee interest in vacant property

Property Details:

Owner: National Organization of the New Apostolic Church of North America, an Illinois Religious Corporation
Address: 2425 Highland Avenue, Fort Myers
STRAP No.: 19-44-25-P2-01006.0000

Purchase Details:

Binding Offer Amount: \$39,300

Appraisal Information:

Company: Hanson Real Estate Advisors, Inc.
Appraised Value: \$37,300 as of November 24, 2003

Staff Recommendation: Staff is of the opinion that the purchase price increase of \$2,000 above the appraised value can be justified considering the costs associated with condemnation proceedings, estimated between \$3,000 - \$5,000 excluding land value increases and attorney fees. Staff recommends the Board approve the Requested Motion.

Account: City of Fort Myers Acct # 310-4315-541-6100

Attachments: Purchase and Sale Agreement, In-House Title Search, Appraisal Letter, Sales History, City Engineer Approval

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>K. Forsyth</i>			<i>1/15/04</i>	<i>1-16-04</i>	OA	OM	Risk	GC	<i>1/20/04</i>
					<i>1/20/04</i>	<i>1/20/04</i>	<i>1/20/04</i>	<i>1/20/04</i>	<i>1/20/04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *1/14/04*
Time: *11:30*
Forwarded To:
Co. Adm.
1/16/04 1PM

RECEIVED BY
COUNTY ADMIN:
1/16/04
2155 017 527
COUNTY ADMIN
FORWARDED TO: *PR*
1/21/04
1PM

KS

This document prepared by
Lee County Division of County Lands
Project: Palmetto Extension Project
Parcel: 135
STRAP No.: 19-44-25-P2-01006.0000

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 _____, 2004 by and between **The National Organization of the New Apostolic Church of North America, an Illinois Religious Corporation**, hereinafter referred to as SELLER, whose address is 3753 N. Troy Street, Chicago, IL 60618, 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 **22,602 square feet** more or less, and located at **2425 Highland Avenue, Fort Myers, FL**, 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 Veronica S. Shoemaker Blvd., 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 **Thirty-nine thousand three hundred and no/100 dollars (\$39,300.00)**, 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 **\$39,300.00**, 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;
- (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. 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:

National Organization of the New Apostolic
Church of North America, an Illinois
Religious Corporation

Signature

Name, Title

(CORPORATE SEAL)

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)

January 15, 2003

DESCRIPTION

PARCEL IN
SECTION 19, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

(REVISED) PARCEL NO. 135

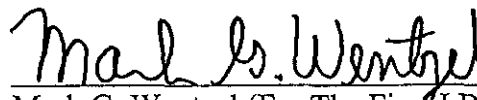
PARENT STRAP NO. 19-44-25-06-00006.0000

A tract or parcel of land located in Lot 6, W. Stanley Hanson's Highland Subdivision as recorded in Plat Book 1 at Page 57 of the Public Records of Lee County, Florida, lying in Section 19, Township 44 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

From the southeast corner of said Lot 6 run S 88° 53' 59" W along the south of said Lot 6 for 138.52 feet; thence run N 00° 32' 04" W for 162.48 feet to an intersection with the north line of the South Half (S-1/2) of said Lot 6; thence run N 88° 56' 01" E along said north line for 139.78 feet; thence run S 00° 05' 25" E along said quarter section line and along the east line of said Lot 6 for 162.41 feet to the Point of Beginning.

Parcel contains 22,602 square feet, more or less.

Bearings hereinabove mentioned are based on the east line of the Northeast Quarter (NE-1/4) of Section 19, Township 44 South, Range 25 East to bear N 00° 00' 25" W.

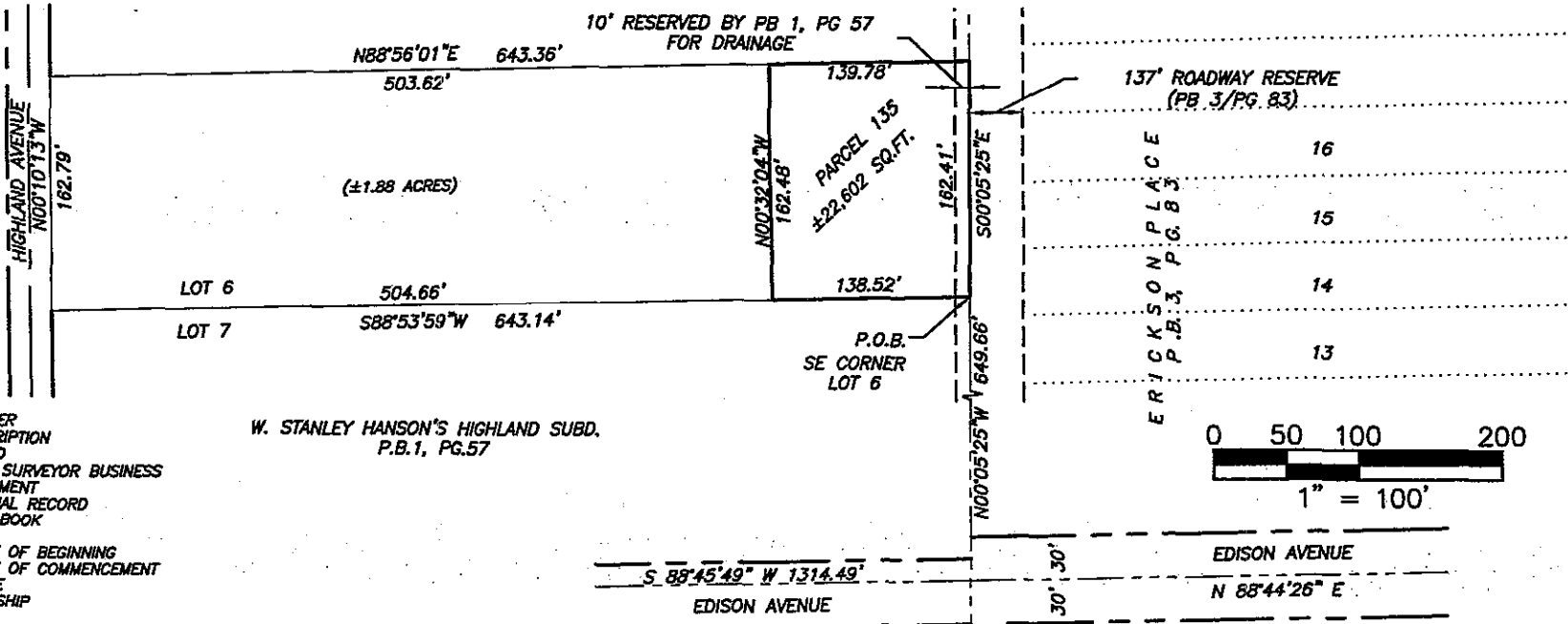


Mark G. Wentzel (For The Firm LB-642)
Professional Land Surveyor
Florida Certificate No. 5247

19991321\Parcel No. 135 - 011503

Page 1 of 2

u:\19991321\surveying\autocad\Legal Sketches\Deso135.dwg



LEGEND

- COR. = CORNER
- DESC. = DESCRIPTION
- FD. = FOUND
- L.B. = LAND SURVEYOR BUSINESS
- MON. = MONUMENT
- O.R. = OFFICIAL RECORD
- P.B. = PLAT BOOK
- PG. = PAGE
- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCEMENT
- R. = RANGE
- T. = TOWNSHIP

THIS IS NOT A SURVEY

Mark G. Wentzel

MARK G. WENTZEL (FOR THE FIRM-L.B.642)
PROFESSIONAL SURVEY AND MAPPER
FLORIDA CERTIFICATE NO. 5247

DATE SIGNED: 2/4/03

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF FLORIDA LICENSED SURVEYOR AND MAPPER.

NOTES:

1. BEARINGS ARE BASED ON THE EAST LINE OF THE N.E. 1/4 OF SECTION 19, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA AS BEING N0°05'25"W.
2. PARCEL CONTAINS 22,602 SQUARE FEET, MORE OR LESS.

PARCEL NO. 135 (REVISED)
PARENT STRAP NO. 19-44-25-06-00006.0000
PART OF LOT 6
W. STANLEY HANSONS
HIGHLAND SUBDIVISION
(PLAT BOOK 1, PAGE 57-LEE COUNTY PUBLIC RECORDS)
SECTION 19, T.44 S., R.25 E.
LEE COUNTY, FLORIDA

JOHNSON
ENGINEERING

3501 DEL PRADO BOULEVARD
SUITE 110
CAPE CORAL, FLORIDA 33904
PHONE (941) 334-0046
FAX (941) 541-1383
E.B. #642 & L.B. #642

SKETCH TO ACCOMPANY
DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
08-20-02	19991321	19-44-25	1"=100'	1

EXECUTIVE SUMMARY

PROJECT NAME: Veronica S. Shoemaker Blvd.
(Formerly Palmetto Avenue Extension)

PARCEL NUMBER: 135

OWNER OF RECORD: National Organization of the New Apostolic Church of North America.

LOCATION: East side of Highland Avenue and north of Edison Avenue in the Fort Myers market area, Lee County, Florida.

LAND AREA: 104,586 square feet or 2.401 acres.

IMPROVEMENTS: Church building and site improvements.

ZONING/LAND USE: AG-2 (Agriculture)/Intensive Development and a small percentage is Central Urban.

HIGHEST AND BEST USE: "As vacant" is for future commercial/light industrial development and "as improved" is for continued utilization as a church with the potential for future expansion of the facility onto the excess land.

ESTIMATE OF VALUE – COST APPROACH: N/A

ESTIMATE OF PARENT TRACT VALUE – MARKET APPROACH: \$172,600*

*The parent tract value estimate is exclusive of the improvements that are outside the proposed acquisition area that are considered to be unaffected by the taking.

ESTIMATE OF VALUE – INCOME APPROACH: N/A

FINAL VALUE ESTIMATE: N/A

INTEREST APPRAISED: Fee Simple in the parent tract before and after the proposed acquisition.

DATE OF VALUATION: November 24, 2003

APPRAISERS: Woodward S. Hanson, MAI, CRE, CCIM and Timothy P. Foster

SPECIAL ASSUMPTIONS: None

AMOUNT DUE OWNER:

Value of Property Rights Taken:

Parcel 135 (Land Taken):	\$37,300	
Parcel 135 (Improvements Taken):	<u>-0-</u>	
Sub Total (Property Rights Taken):		\$37,300
Incurable Severance Damages:		<u>-0-</u>
Total Amount Due Owner:		\$37,300

Division of County Lands

Updated In House Title Search
Search No. 21884/C
Date: July 16, 2002
Parcel: 135
Project: Palmetto Avenue
Extension Project #4073

To: Michele S. McNeill, SR/WA
Property Acquisition Agent

From: Shelia A. Bedwell, CLS
Real Estate Title Examiner

No changes as of 12/17/03

STRAP: 19-44-25-06-00006.0000

An update has been requested of In House Title Search No. 21884/C which covers the period beginning January 1, 1940, at 8:00 a.m. and is now complete through July 6, 2002, at 5:00 p.m.

Subject Property: South ½ of Lot 6, W. Stanley Hanson's Highland Subdivision, according to the plat thereof, as recorded in Plat Book 1, Page 57, Public Records of Lee County, Florida.

Title to the subject property is vested in the following:

National Organization of the New Apostolic Church of North America, an Illinois Religious Corporation.

by that certain instrument dated January 26, 1990, recorded February 1, 1990, in Official Record Book 2125, Page 2046, Public Records of Lee County, Florida.

Subject to:

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Plat book and page recited in legal descriptions on Certificate of Title recorded in Official Record Book 2000, Page 2512 and Warranty Deed recorded in Official Record Book 2125, Page 2046, Public Records of Lee County, Florida are incorrect. This must be addressed and resolved by the title company or attorney that handles the transfer to the County.
3. Drainage easement granted to Lee County recorded in Official Records Book 2199, Page 2708, Public Records of Lee County, Florida.
4. Notice of Development Order, recorded in Official Record Book 2321, Page 694. Public Records of Lee County, Florida.

Division of County Lands

Updated In House Title Search

Search No. 21884/C

Date: July 16, 2002

Parcel: 135

Project: Palmetto Avenue

Extension Project #4073

NOTE: The Plat of W. Stanley Hanson's High Land Subdivision recorded in Plat Book 1, Page 57, Public Records of Lee County, Florida has language describing a 10 foot drainage ditch with a fall of 9 ft. per mile. The language also states that the ditch is used for subsoil irrigation. The drainage ditch appears to abut the East line of subject property.

Tax Status: 2001 taxes have been paid in full.

(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.

5-Year Sales History

Parcel No. 135

Veronica S. Shoemaker Blvd. Extension Project No. 4073

NO SALES in PAST 5 YEARS

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

S:\POOL\LANDFORM\HISTORY.WPD



LEE COUNTY

SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

239.479.8505
239.479.8391 FAX

Writer's Direct Dial Number: _____

Bob Jones
District One

VIA FAX TO 332-6604

Douglas R. St. Gemy
District Two

January 7, 2004

Ray Judah
District Three

Andrew W. Coy
District Four

Saeed Kazemi, P.E. City Engineer
City of Fort Myers
P.O. Box 2217
Fort Myers, FL 33902-2217

John E. Albion
District Five

Donald D. Stillwell
County Manager

RE: **PARCEL 135, PALMETTO EXTENSION PROJECT**
Request for review and sign-off on acquisition proposal

James G. Yeager
County Attorney

Diana M. Parker
County Hearing Examiner

Dear Saeed:

The appraisal for parcel 135 has been reviewed and approved by County Staff and we are preparing to request Board approval to make a binding offer. Below is the relevant data for this parcel. Please review and approve on behalf of the City as well as confirm that funds are available. Thank you.

Sincerely,

Michele S. McNeill, SR/WA
Property Acquisition Agent

Parcel 135

Property Owner: National Organization of the New Apostolic Church of North America
Appraiser: Hanson Real Estate Advisors
Appraisal Date: 11/24/03
Appraised Amount: \$37,300
Binding Offer Amount: \$39,300

Binding Offer Approved:

Funds are available in account:

Saeed Kazemi, P.E.
City Engineer, City of Fort Myers

S:\POL\PalmettoExt\Correspondence\135 City Engineer Approval.wpd

P.O. Box 396, Fort Myers, Florida 33902-0396 (239) 335-2111
Internet address: <http://www.lee-county.com>
AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER