

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

Blue Sheet No. 20030061

1. REQUESTED MOTION:

ACTION REQUESTED: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$3,550.00, for Parcel 106, Palmetto Extension, Project No. 4073, pursuant to the terms and conditions set forth in the Purchase Agreement; authorize Chairman on behalf of the BoCC to execute Purchase Agreement if offer is accepted by Seller; authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction and payment of all recording fees.

WHY ACTION IS NECESSARY: The Board must formally authorize the making of a binding offer to a property owner pursuant to F.S. §73.015 prior to initiation of condemnation proceedings.

WHAT ACTION ACCOMPLISHES: Makes binding offer to property owner as required by F.S. §73.015, as amended.

2. DEPARTMENTAL CATEGORY: 06

COMMISSION DISTRICT #: 2 AND 5 *C60*

3. MEETING DATE:

03-11-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE 73.125
- ORDINANCE
- ADMIN.
- OTHER Resolution of Necessity
Blue Sheet No. 20020762 and Interlocal Agreement Blue Sheet No. 20020586

6. REQUESTOR OF INFORMATION

- A.
- B. DEPARTMENT *Independent Division*
- C. DIVISION *County Lands* *2-14-03*
- BY *Karen L.W. Forsyth, Director* *KLF*

7. BACKGROUND:

The Division of County Lands has been requested by the Department of Transportation and the City of Fort Myers to acquire property that is necessary for the Palmetto Extension, Project No. 4073.

This acquisition consists of vacant property, further identified as part of land at the NW corner of Hanson St. and Palmetto Ave. (STRAP Number 30-44-25-00002.005J)

F.S. §73.015, as amended, requires the County to submit a binding offer to the property owner prior to the initiation of condemnation proceedings. The County obtained an appraisal dated December 11, 2002, performed by Woodward S. Hanson, MAI, CCIM, CRE, indicating a value of \$ 2,800.00. The binding offer to the property owner, South Florida Shutter & Window Company, Inc., is for \$3,550.00. Should the property owner agree to accept this offer, condemnation proceedings will not be required. If the property owner elects not to accept this offer, then condemnation proceedings may be commenced.

Staff is of the opinion that the purchase price increase of \$750.00 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.
Funds are available in 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	B	C	D	E	F				G
Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager
<i>A. Forsyth</i>		N/A	<i>[Signature]</i>	<i>John J. Regan 2-20-03</i>	OA	OM	RISK	GC	<i>DDS by Peter West</i>
					<i>John 2-20-03</i>	<i>John 2/20/03</i>	<i>John 2/20/03</i>	<i>R.M. 2/20/03</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: *2/19/03*
Time: *11:45 am*
Forwarded to: *Co. ADM. 2/20/03 9AM*

RECEIVED BY COUNTY ADMIN. *EW 2-20-03*
11:00
COUNTY ADMIN. *PN*
FORWARDED TO: *2-20-03 9:00*

This document prepared by
Lee County Division of County Lands
Project: Palmetto Extension Project
Parcel: 106
STRAP No.: 30-44-25-00-00002.005J

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 _____, 2003 by and between **South Florida Shutter and Window Company, Inc. a Florida corporation**; hereinafter referred to as SELLER, whose address is **3593 Palmetto Avenue, Ft. Myers, FL 33916, 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 **0.04 acres** more or less, and located at the NW corner of Hanson St. and Palmetto Ave. 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 Palmetto Extension, 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 **Three thousand five hundred and fifty and no/100 dollars (\$3,550.00)**, 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 **\$3,550.00**, 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:

South Florida Shutter & Window Company
Inc., a Florida corporation

President (DATE)

Printed Name

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)

August 19, 2002

DESCRIPTION

**PARCEL IN
SECTION 30, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA**

PARCEL NO. 106

PARENT STRAP NO. 30-44-25-00-00002.0050

A tract or parcel of land lying in the North Half (N-1/2) of the Northeast Quarter (NE-1/4) of Section 30, Township 44 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

From the southeast corner of the North Half (N-1/2) of the Northeast Quarter (NE-1/4) of said Section 30 run N 01° 12' 56" W along the east line of said Section 30 for 170.43 feet; thence run S 88° 48' 54" W for 30.00 feet to the existing westerly right-of-way line of Palmetto Avenue (50 feet wide) and the Point of Beginning.

From said Point of Beginning run S 01° 12' 56" E along said westerly right-of-way line for 145.56 feet to an intersection with the north right-of-way line of Hanson Street (55 feet wide); thence run S 88° 34' 00" W along said north right-of-way line for 44.22 feet; thence run N 44° 03' 06" E for 50.23 feet; thence run N 00° 56' 54" W for 110.39 feet; thence run N 88° 48' 54" E for 8.02 feet to an intersection with said westerly right-of-way line and the Point of Beginning.

Parcel contains 1,843 square feet, more or less.

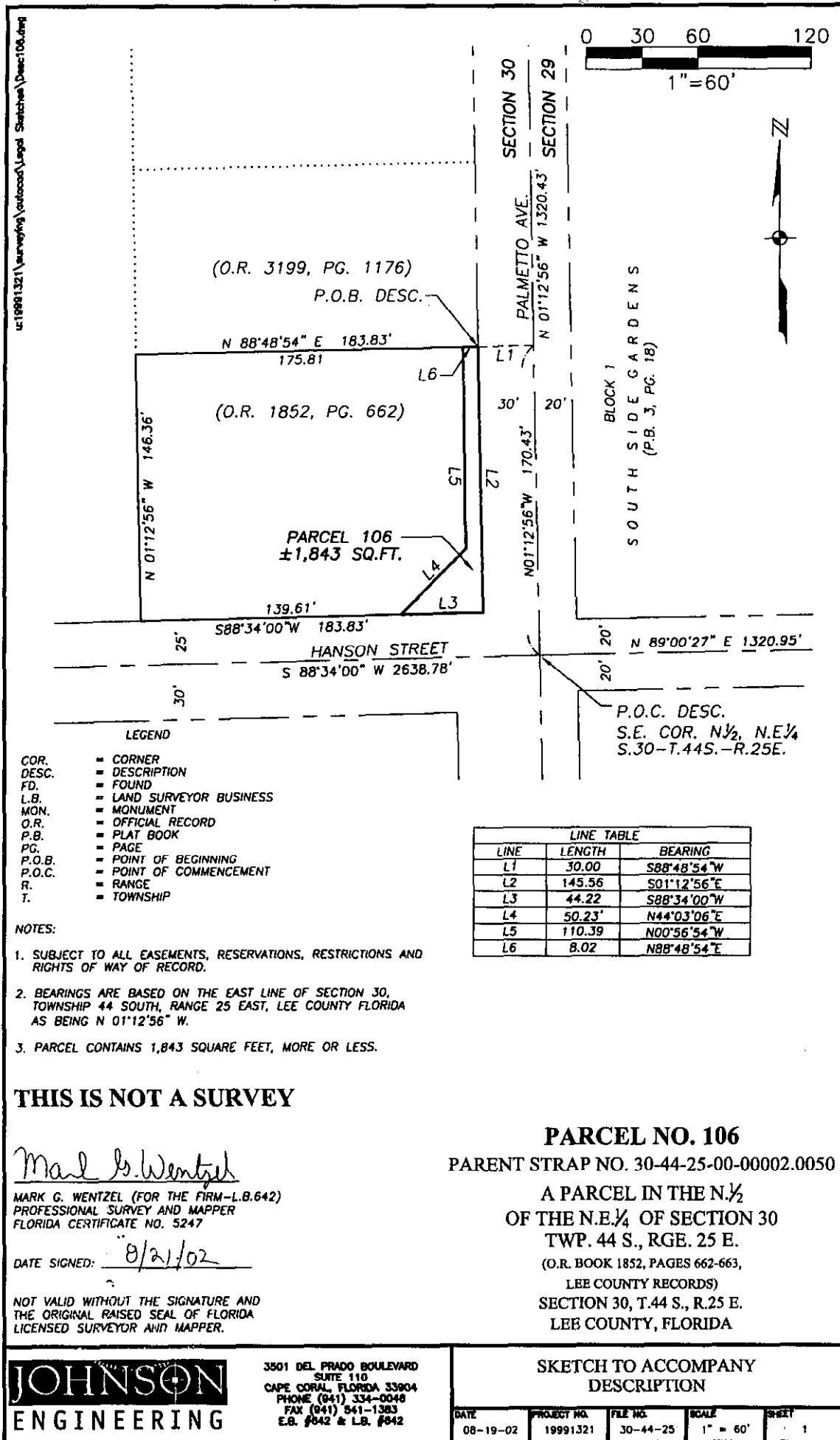
SUBJECT TO all easements, reservations, restrictions and right-of-ways of record.

Bearings hereinabove mentioned are based on the east line of Section 30, Township 44 South, Range 25 East to bear N 01° 12' 56" W.

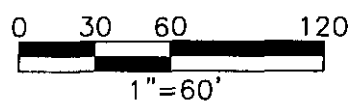
Mark G. Wentzel

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

19991321\Parcel No. 106-081902



c:\19991321\surveying\outboard\Legal Sketches\Desc100.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

LINE TABLE		
LINE	LENGTH	BEARING
L1	30.00	S88°48'54"W
L2	145.56	S01°12'56"E
L3	44.22	S88°34'00"W
L4	50.23	N44°03'06"E
L5	110.39	N00°56'54"W
L6	8.02	N88°48'54"E

- NOTES:**
- SUBJECT TO ALL EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD.
 - BEARINGS ARE BASED ON THE EAST LINE OF SECTION 30, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA AS BEING N 01°12'56" W.
 - PARCEL CONTAINS 1,843 SQUARE FEET, MORE OR LESS.

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: 8/21/02

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

PARCEL NO. 106
 PARENT STRAP NO. 30-44-25-00-00002.0050
 A PARCEL IN THE N½
 OF THE N.E¼ OF SECTION 30
 TWP. 44 S., RGE. 25 E.
 (O.R. BOOK 1852, PAGES 662-663,
 LEE COUNTY RECORDS)
 SECTION 30, T.44 S., R.25 E.
 LEE COUNTY, FLORIDA

JOHNSON ENGINEERING

3501 DEL PRADO BOULEVARD
 SUITE 110
 CAPE CORAL, FLORIDA 33904
 PHONE (941) 334-0048
 FAX (941) 541-1383
 E.B. #042 & L.B. #042

SKETCH TO ACCOMPANY DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
08-19-02	19991321	30-44-25	1" = 60'	1

Division of County Lands

In House Title Search

Search No. 22386

Date: January 24, 2003

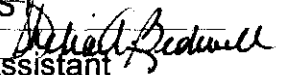
Parcel: 106

Project: Palmetto Avenue Extension

Project 4073

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

From: Shelia A. Bedwell, CLS
Property Acquisition Assistant



STRAP: 30-44-25-00-0002.005J

This search covers the period of time from January 1, 1940, at 8:00 a.m. to January 7, 2003, at 5:00 p.m.

Subject Property: The South 150 feet of the North 1,300 feet of the West 183.83 feet of the East 213.83 feet of the Northeast 1/4 of Section 30, Township 44 South, Range 25 East, Lee County, Florida. Known at Lot 12, Southside Industrial Park, an unrecorded subdivision.

Title to the subject property is vested in the following:

South Florida Shutter and Window Company, Inc., a Florida corporation

by that certain instrument dated December 13, 2001, recorded November 18, 2002, in Official Record Book 3776, Page 4373, 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. Mortgage executed by South Florida Shutter and Window Company, a Florida corporation in favor of Press Printing Enterprises, Inc., a Florida corporation, dated December 13, 2001, recorded November 18, 2002, in Official Record Book 3776, Page 4374, Public Records of Lee County, Florida.

Tax Status: Taxes are not yet assessed to this parcel.

(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.

INTEGRA Realty Resources

SOUTHWEST FLORIDA ■ FORT MYERS

December 17, 2002

Robert G. Clemens
Acquisition Program Manager
Division of County Lands
P.O. Box 398
Fort Myers, Florida 33902-0398

SUBJECT: File Number: 02-03-03.106
Project: Palmetto Avenue Extension
Project No. 4073
Parcel No.: 106
Owner: South Florida Shutter and Window Company, Inc.
County: Lee County, Florida

Dear Mr. Clemens:

Integra Realty Resources-Southwest Florida is pleased to transmit this summary report of a complete appraisal that was prepared on the above referenced property. The purpose of this appraisal is to develop an opinion of the market value of those property rights proposed to be acquired by Lee County, Florida together with all legally compensable diminution in value to the remaining land (if any) which can be attributed to the proposed partial taking, or the uses and/or activities proposed thereon. The attached report sets forth the data, research, analyses and conclusions for this appraisal.

The report has been prepared in conformity with the *Uniform Standards of Professional Appraisal Practice (USPAP)* and the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute. Our opinion of market value is premised upon the Assumptions and Limiting Conditions contained within this report. The definition of market value is in Addendum B.

The **parent tract**, containing 26,832 square feet of gross land area, is located at the northwest corner of Palmetto Avenue and Hanson Street in the Southside Industrial Park market area of Fort Myers, Lee County, Florida. The property is rectangular shaped with an easterly edge measuring 145.56 feet along the westerly right-of-way of Palmetto Avenue, a southerly property line which measures 183.83 feet along the northerly right-of-way of Hanson Street, a westerly property line which measures 146.36 feet, and a northerly property line which measures 183.83 feet. The property is zoned IL (Light Industrial) and is designated Industrial Development on the Future Land Use Map ("FLUM") of the Lee County Comprehensive Plan. The appraisers have estimated the highest and best use of the property to be for potential industrial development.

The **partial acquisition area** ("Parcel 106"), containing 1,843 square feet of gross land area, is a strip taking from the easterly edge of the parent tract with a corner clip at the southeast corner of

LOCAL EXPERTISE...NATIONALLY

the property as well. The partial acquisition area measures 145.56 feet along its easterly edge (the westerly right-of-way of Palmetto Avenue), has a depth there from along its northerly edge of 8.02 feet, has a westerly edge which measures 110.39 feet (along the westerly right-of-way of the reconstructed Palmetto Avenue extension), and a southerly edge of 44.22 feet. There are no improvements of any consequence located within the partial acquisition area.

The **remainder property**, containing 24,989 square feet of gross land area, is of primarily rectangular shape (exclusive of corner clip) and is characterized by an easterly edge measuring 110.39 feet (exclusive of curvature) along the westerly right-of-way of the reconstructed Palmetto Avenue, a southerly property line measuring 139.61 feet along the northerly right-of-way of Hanson Street, a northerly property line measuring 175.81 feet, and westerly property line measuring 146.36 feet (unchanged). The highest and best use of the remainder property is estimated to be for potential industrial development

By reason of our investigation and analysis, data contained in this report and our experience in the real estate appraisal business, it is our opinion that the amount due the owner (as a result of the proposed partial acquisition), as of December 11, 2002, is:

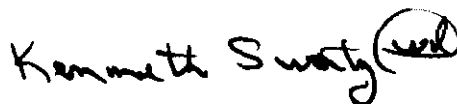
Value of Part Taken :	
• Land Taken:	\$2,800
• Improvements Taken:	<u>-0-</u>
Sub Total (Part Taken):	\$2,800
Net Cost to Cure:	-0-
Incurable Severance Damages:	<u>-0-</u>
AMOUNT DUE OWNER	\$2,800

If you have any questions or comments, please contact the undersigned. Thank you for the opportunity to be of service.

Respectfully submitted,



Woodward S. Hanson, MAI, CCIM, CRE
State-Certified General Real Estate Appraiser
Florida Certificate RZ 0001003



Kenneth F. Swartz, Analyst
State-Certified General Real Estate Appraiser
Florida Certificate RZ 0001297

5-Year Sales History

Parcel No. 106

Palmetto Extension Project, No. 4073

Grantor	Grantee	Price	Date	Arms Length Y/N
Luetlich Enterprises	South Florida Shutter and Window Company, Inc.	\$57,000	12/13/01	N

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



BOARD OF COUNTY COMMISSIONERS

239.479.8606
239.479.8391 FAX

Writer's Direct Dial Number: _____

Bob James
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

VIA FAX TO 332-6804

~~January 15, 2003~~ February 12, 2003

Andrew W. Coy
District Four

John E. Alblan
District Five

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

Donald D. Stihwell
County Manager

RE: PARCEL 106, PALMETTO EXTENSION PROJECT
Request for review and sign-off on acquisition proposal

James G. Yrieger
County Attorney

Dear Saeed:

Diana M. Parker
County Hearing Examiner

The appraisal for parcel 106 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 106

Property Owner: South Florida Shutter and Window Company, Inc.
Appraiser: Integra Realty Resources (W.S. Hanson, MAI, CCIM, CRE)
Appraisal Date: 12/11/02
Appraised Amount: \$2,800
Binding Offer Amount: \$3,550

Binding Offer Approved:

Funds are available in account:

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

310-4315-541-6100