

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

Blue Sheet No. 20070278

1. ACTION REQUESTED/PURPOSE: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$38,880 for Parcel 133, 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 **CGJ** **6. Meeting Date:** MAR 13 2007

7. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	8. Requirement/Purpose: (specify)		9. Request Initiated:
	<input type="checkbox"/> Statute	<input type="checkbox"/> Ordinance	Commissioner _____
	<input type="checkbox"/> Admin. Code	<input checked="" type="checkbox"/> Other	Department Independent
		BS 20061315	Division County Lands <i>223</i>
		RSN # 06-10-34	By: Karen Forsyth, Director <i>AF</i>

10. Background:

Negotiated for: Department of Transportation

Interest to Acquire: 3,920.4 square foot Fee Interest

Property Details:

Owner: Chicos FAS Inc.
STRAP: 07-45-25-00-00002.0020
Site Address: 11100 Plantation Road

Purchase Details:

Purchase Price: \$38,880
Costs to Close: \$800

In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$38,880 (appraised value), and commence Eminent Domain procedures.

Appraisal Information:

Appraised Value/Date: \$38,880
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>K. Forsyth</i>			<i>6/10/07</i>	<i>Lynnally</i>	<i>Jan 3-1-07</i>	<i>Mar 2/1/07</i>	<i>RK for RG 3-1-07</i>	<i>3/1/07</i>	<i>3-1-07</i>

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
COUNTY ADMIN: *pw*
3/2:40 mp.
1/1
COUNTY ADMIN
FORWARDED TO: *pw*
3/2 8:30

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

3/1/07 2:30 pm

This document prepared by
Lee County Division of County Lands
Project: Plantation Extension Project No. 4065
Parcel: 133
STRAP No.: 07-45-25-00-00002.0020

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 Chicos FAS Inc., a Florida Corporation hereinafter referred to as SELLER, whose address is 11215 Metro Parkway, Fort Myers, FL 33912, 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 0.09 acres more or less located at 11100 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 Thirty Eight Thousand Eight Hundred Eighty and no/100 (\$38,880.00), 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: Chicos FAS, Inc., a Florida Corporation

Scott Edmonds, President

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 133A 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 330.54 FEET TO STATION 3+69.46; THENCE S 88°59'01" W FOR 20.08 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 194.48 FEET; THENCE S 89°26'31" 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 194.32 FEET; THENCE N 88°59'01" E FOR 20.00 FEET TO THE POINT OF BEGINNING.

PARCEL 133A CONTAINS 0.09 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. 07-45-25-00-00002.0020

Date: July 20, 2006

Parcel: 133

Project: Plantation Extension, Project #4065

To: Michele S. McNeill, SRWA
Property Acquisition AgentFrom: Bill Abramovich *B.A.*
Real Estate Title Examiner

STRAP: 07-45-25-00-00002.0020

Effective Date: July 12, 2006, at 5:00 p.m.

Subject Property: See attached Exhibit "A"

Title to the subject property is vested in the following:

Chico's FAS, Inc., a Florida Corporation

By that certain instrument dated December 29, 2003, recorded December 31, 2003, in Official Record Book 4161, Page 209, Public Records of Lee County, Florida.

Easements:

1. Florida Power and Light Company Easement in Miscellaneous Book 32, Page 249, Public Records of Lee County, Florida.
2. Drainage Easement in Official Record Book 1763, Page 18, Public Records of Lee County, Florida.
3. Right-of-Way Consent Agreement in Official Record Book 4828, Page 700, Public Records of Lee County, Florida.

NOTE (1): Oil, Gas and Mineral Lease in Miscellaneous Book 23, Page 441, Public Records of Lee County, Florida.

NOTE (2): Lee County Ordinances relating to garbage and solid waste collection recorded in Official Record Book 2189, Pages 3281 and 3334, Public Records of Lee County, Florida.

*Taxes Paid for Tax Year 2006***Tax Status:** ~~Taxes in the amount of \$9,131.65 have been paid on November 30, 2005.~~
(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.***No other changes as of
2/15/07*


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

Search No. 07-45-25-00-00002.0020

Date: July 20, 2006

Parcel: 133

Project: Plantation Extension, Project #4065

Exhibit "A"

A parcel in Section 7, Township 45 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Commencing at the Northeast corner of the Northwest quarter of said Section 7, thence:

1. South 89° 24' 5" West 16.97 feet, along the North line of said Section 7 to the Westerly right of way of Plantation Road, thence;
2. South 0° 0' 22" West, 330.40 feet, along said Westerly right of way line to the True Point of Beginning, thence;
3. Continue South 0° 0' 22" West, 660.79 feet, along said Westerly right of way line, thence;
4. South 89° 25' 16" West, 440.00 feet, along the South line of the North half of the South half of the North half of the Northwest quarter of said Section 7, thence;
5. North 0° 0' 22" East, 660.69 feet; thence;
6. North 89° 24' 28" East 440 feet, along the North line of the South half of the North half of the North half of the Northwest quarter of said Section 7 to the True Point of Beginning.

EXECUTIVE SUMMARY

PROJECT NAME: Plantation Road Extension

PARCEL #: 133

PROJECT NUMBER: 4065

OWNER OF RECORD: Chicos FAS, Inc.

STRAP NUMBER: 07-45-25-00-00002.0020

LOCATION: 11100 Plantation Road

PARENT TRACT: 203,601.44 s.f.

PART TAKEN: 3,888 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: \$38,880

ESTIMATE OF VALUE - INCOME APPROACH: N/A

JUST COMPENSATION DUE PROPERTY OWNER: \$38,880

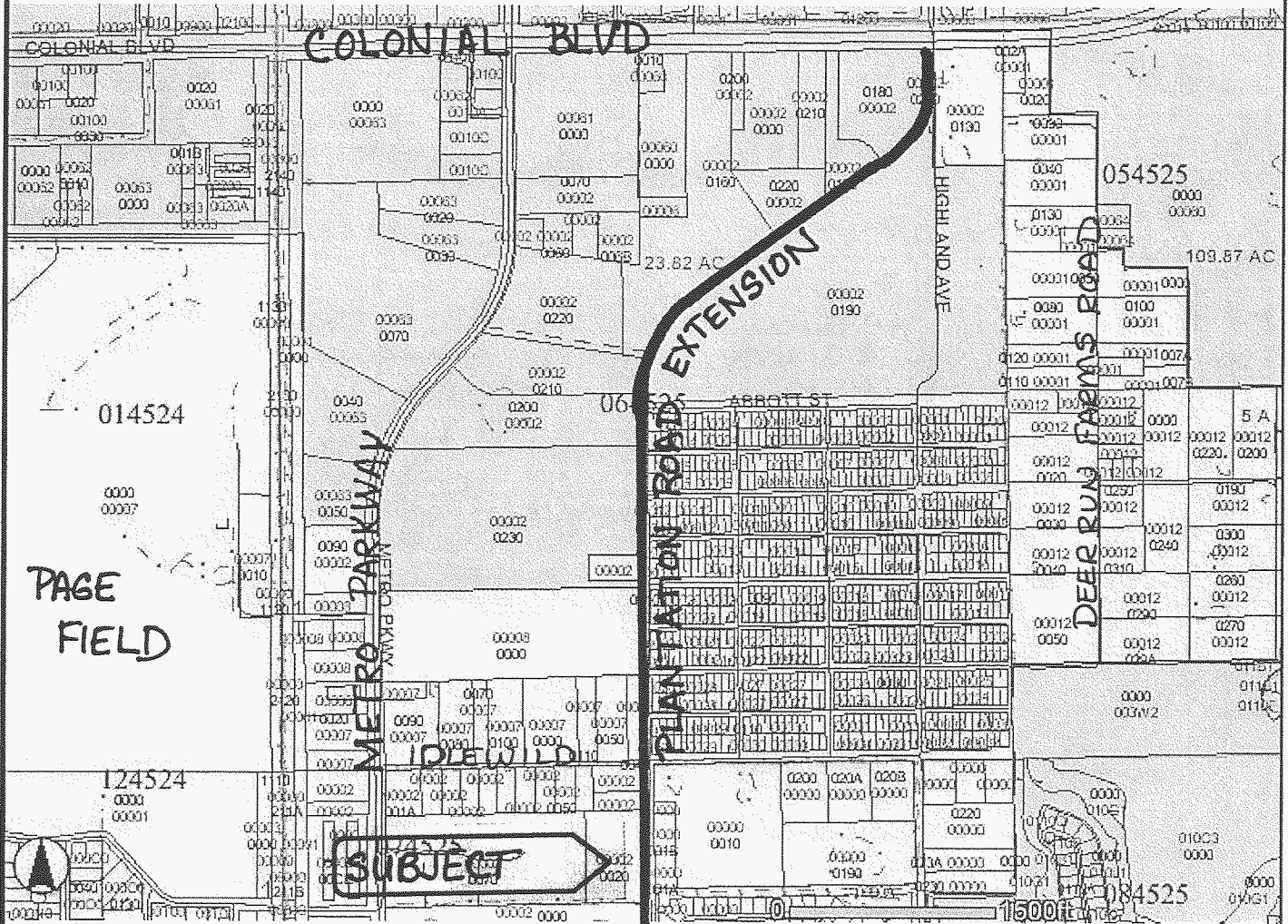
PRICE PER SQUARE FOOT: \$10.00

INTEREST APPRAISED: Fee Simple

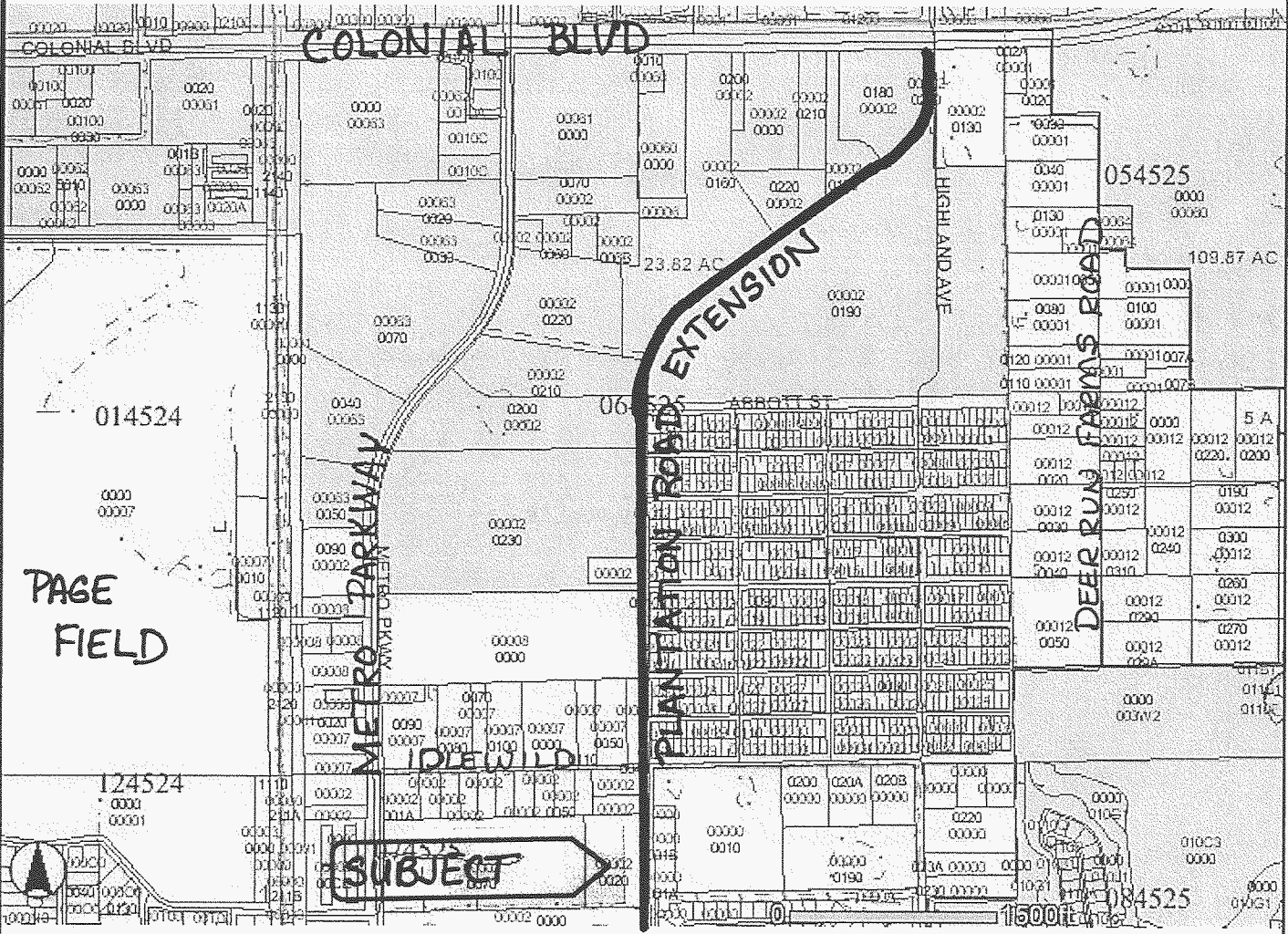
DATE OF VALUATION: 22 November 2006

APPRAISER: Mr. David C. Vaughan, MAI

Location Map



Location Map



5-Year Sales History

Parcel No. 133

Plantation Extension Project, No. 4065

Grantor	Grantee	Price	Date	Arms Length Y/N
Dipoce Properties Limited, a Delaware Corporation	Chico's FAS, Inc. a Florida Corporation	\$651,000	12/29/03	Y

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