




## MEMORANDUM

TO: Central Florida Expressway Authority      CLIENT-MATTER NO.: 19125.0144  
 Board Members

FROM: David A. Shontz, Esq., Right-of-Way Counsel 

DATE: October 24, 2016

RE: State Road 429 Wekiva Parkway, Project 429-204; Parcel 241  
 Proposed Offer of Judgment

---

Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the CFX Board for an Offer of Judgment in full settlement of Parcel 241 owned by Daryl A. Alderman and Laura L. Alderman for State Road 429 Wekiva Parkway, Project 429-204.

### DESCRIPTION AND BACKGROUND

Parcel 241 is a fee simple whole taking consisting of 20.112 acres. The property is located at 3252 Ondich Rd. in unincorporated Orange County, Florida. This was the homestead of Mr. and Mrs. Alderman. The subject property is improved with a 2,572 s.f. single family residence containing 3 bedrooms and 2 bathrooms built in 2006. Additional improvements include 4 storage sheds, a horse feeding stall and barn, a pond and lush landscaping. The property is zoned A-1, citrus rural district by Orange County.

The CFX's appraisal of the property was prepared by David Hall of Bullard, Hall and Adams. Mr. Hall opined the highest and best use of the property is for continued single family residential use. Mr. Hall used six (6) comparable land sales with prices ranging from \$21,604 per acre to \$28,520 per acre to arrive at an estimate of the land value of the Subject Property of \$28,000 per ac. or \$563,200 for the land value.

Mr. Hall used four (4) improved sales to determine the value of the improvements, with prices ranging from \$105.62 to \$111.52 s.f. Mr. Hall concluded an improvement value of \$110 s.f. or \$283,000. Accordingly, Mr. Hall's total valuation of the taking of Parcel 241 is \$846,200.

Mr. and Mrs. Alderman are represented by Tom Callan, Esq. We have attempted to engage in settlement negotiations with Mr. Callan in an effort to settle this parcel. Unfortunately, Mr. Callan has some health issues that require a surgery in December 2016, which is likely the

cause for a delay in settlement negotiations. While this case is currently set on the Court's April 2017 trial docket, due to Mr. Callan's health issues, it may ultimately be removed as Mr. Callan has already requested that the pretrial deadlines be extended. Accordingly, in an effort to move this case to forward and to provide the property owners a settlement offer and potentially cap the costs to be incurred by the property owner (which are recoverable against the CFX), we are proposing an Offer of Judgment. If the Offer of Judgment is accepted by the property owner, then the case would be concluded. If the Offer of Judgment is not accepted within 30 days, then it expires. If a jury subsequently renders a verdict equal to or less than the Offer of Judgment, the property owner shall not recover any costs (including expert fees) incurred from the expiration of the Offer of Judgment through trial.

Based upon our extensive knowledge and review of numerous parcels on the project, positions taken by opposing counsel and experts, prior settlements and prior jury verdicts, I would propose an Offer of Judgment for Parcel 241 in the amount of \$1,239,400, plus statutory attorney's fees and experts costs. The Offer of Judgment reflects an increase in the land value and additional monies for the improvements. Additionally, the Aldermans were eligible for and received a Replacement Housing Payment under the Uniform Relocation Act due to the taking displacing the Aldermans from their home. Accordingly, since the proposed Offer of Judgment is greater than the CFX's appraised value, the CFX is entitled to an RHP credit back from the Aldermans in the amount of \$94,000, which will offset the Offer of Judgment amount upon distribution, including a credit for the CFX's good faith deposit.

For the above-cited reasons, Right-of-Way counsel requests the CFX Board approve an Offer of Judgment in the amount of \$1,239,400, plus statutory attorney's fees and experts costs, which is in the CFX's best interest.

The Right-of-Way Committee recommended approval of the proposed Offer of Judgment at its October 26, 2016 meeting.

### **RECOMMENDATION**

We respectfully request that the CFX Board approve the Offer of Judgment in the amount of \$1,239,400, plus statutory attorney's fees and experts costs in full settlement of all claims for compensation in the acquisition of Parcel 241.

### **ATTACHMENTS**

- Exhibit "A" – Sketch of the Subject Property
- Exhibit "B" – Photographs of the Subject Property and Area

Reviewed by: \_\_\_\_\_



ORLDOCS 15012273 2

## LEGAL DESCRIPTION

PARCEL 241  
 PURPOSE: LIMITED ACCESS RIGHT OF WAY  
 ESTATE: FEE SIMPLE

THAT PART OF THE NW 1/4 OF THE NE 1/4 OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5576, PAGE 4295 AND BOOK 5576, PAGE 4297, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 27 EAST (A 1/2" IRON ROD IN WELLBOX AS NOW EXISTS); THENCE, SOUTH 89°21'11" WEST ALONG THE NORTH LINE OF THE NORTHEAST 1/4, A DISTANCE OF 1341.45 FEET; THENCE DEPARTING SAID NORTH LINE, SOUTH 00°21'32" WEST A DISTANCE OF 30.00 FEET TO A POINT ON THE EXISTING SOUTH RIGHT OF WAY LINE OF ONDICH ROAD TO THE POINT OF BEGINNING, ALSO BEING THE EAST LINE OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 12; THENCE, DEPARTING SAID EXISTING SOUTH LINE, CONTINUE SOUTH 00°21'32" WEST ALONG SAID EAST LINE, A DISTANCE OF 1298.54 FEET; THENCE, DEPARTING SAID EAST LINE, SOUTH 89°17'05" WEST A DISTANCE OF 674.56 FEET TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12; THENCE, NORTH 00°21'28" EAST ALONG SAID WEST LINE, A DISTANCE OF 1299.34 FEET TO A POINT ON SAID EXISTING SOUTH RIGHT OF WAY LINE; THENCE, DEPARTING SAID WEST LINE, NORTH 89°21'11" EAST ALONG SAID EXISTING SOUTH LINE, A DISTANCE OF 674.58 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR, AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.


CONTAINING 20.112 ACRES, MORE OR LESS.

I HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

  
 RUSSELL J. MARKS, PSM NO. 5623

9/4/2014  
 DATE

NOT VALID WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

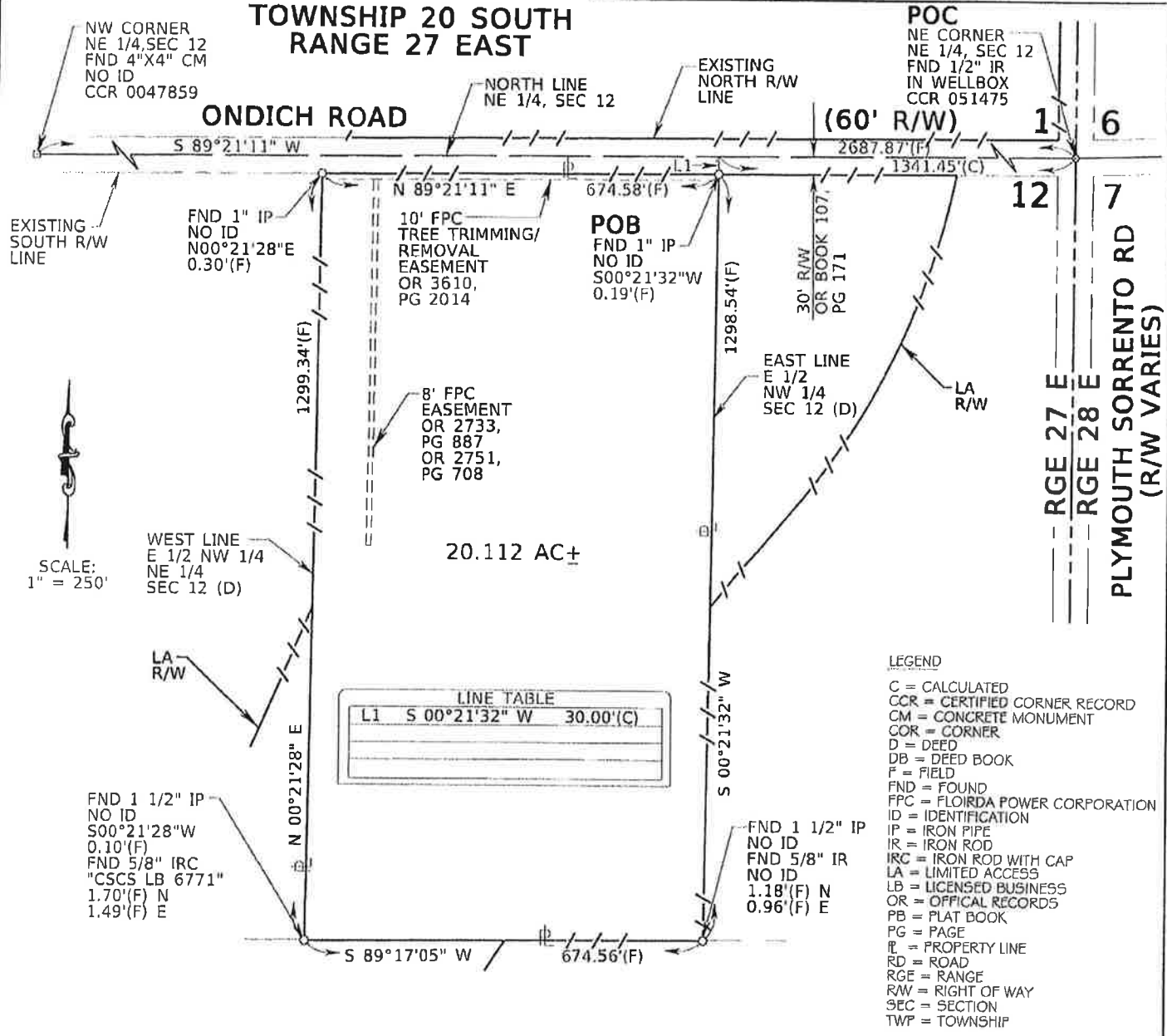
FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY		STATE ROAD 429	
DESIGNED BY: RJM	DATE: 9/03/14	 URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: DJK	JOB NO:		
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204		SHEET: 1 OF 2

**EXHIBIT "A"**

# SKETCH OF DESCRIPTION

PARCEL 241  
 PURPOSE: LIMITED ACCESS RIGHT OF WAY  
 ESTATE: FEE SIMPLE

## TOWNSHIP 20 SOUTH RANGE 27 EAST



LINE TABLE		
L1	S 00°21'32" W	30.00'(C)

- LEGEND**
- C = CALCULATED
  - CCR = CERTIFIED CORNER RECORD
  - CM = CONCRETE MONUMENT
  - COR = CORNER
  - D = DEED
  - DB = DEED BOOK
  - F = FIELD
  - FND = FOUND
  - FPC = FLORIDA POWER CORPORATION
  - ID = IDENTIFICATION
  - IP = IRON PIPE
  - IR = IRON ROD
  - IRC = IRON ROD WITH CAP
  - LA = LIMITED ACCESS
  - LB = LICENSED BUSINESS
  - OR = OFFICAL RECORDS
  - PB = PLAT BOOK
  - PG = PAGE
  - PL = PROPERTY LINE
  - RD = ROAD
  - RGE = RANGE
  - RAW = RIGHT OF WAY
  - SEC = SECTION
  - TWP = TOWNSHIP

**GENERAL NOTES:**

1. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983 NORTH AMERICAN DATUM, 2007 ADJUSTMENT, WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, HAVING A BEARING OF SOUTH 89°21'11" WEST.
2. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.
3. ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA.
4. A CERTIFICATE OF TITLE INFORMATION PREPARED BY "FIRST AMERICAN TITLE INSURANCE COMPANY" DATED NOVEMBER 5, 2012, FILE NO. 2037-2856961 WAS REVIEWED BY THE SURVEYOR AND EXCEPTIONS (IF ANY) NOTED ON SAID CERTIFICATE ARE SHOWN HEREON.

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY		STATE ROAD 429	
DESIGNED BY: RJM	DATE: 9/03/14	URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: DJK	JOB NO:		
APPROVED BY: RJM	OCEA PROJECT NO: 429-204		SHEET: 2 OF 2

**PHOTOGRAPHS OF SUBJECT  
PARCEL 241**



1. LOOKING EAST AT THE FRONTAGE ALONG ONDICH ROAD



2. LOOKING SOUTH AT THE ACCESS ROAD FROM ONDICH ROAD

Photographs Taken By:  
David K. Hall  
July 1, 2015

**EXHIBIT "B"**

**PHOTOGRAPHS OF SUBJECT  
PARCEL 241**



**3. LOOKING SOUTHEAST AT THE RESIDENCE**



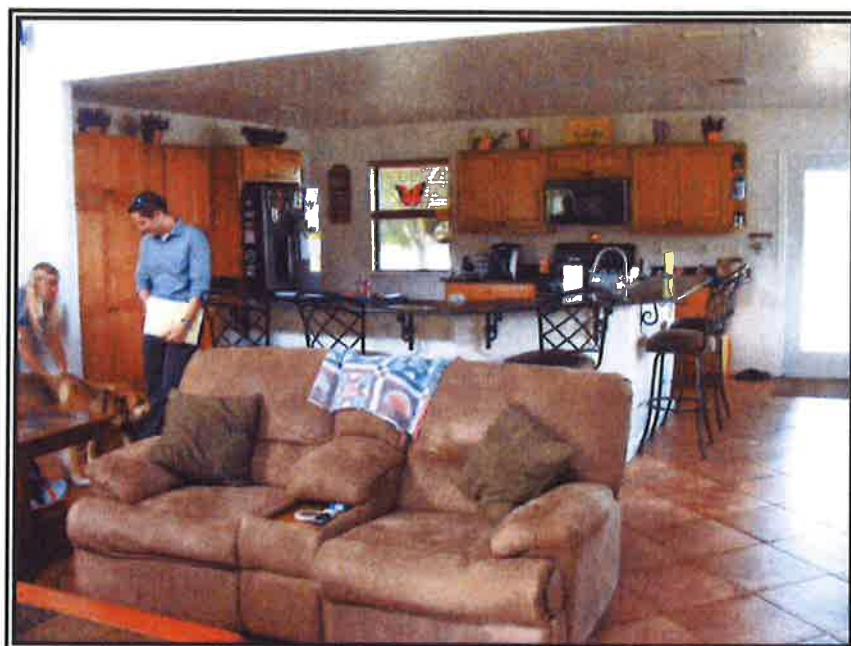
**4. LOOKING NORTHEAST AT THE RESIDENCE**

Photographs Taken By:  
Craig S. Adams  
July 21, 2014

**PHOTOGRAPHS OF SUBJECT  
PARCEL 241**



**5. INTERIOR VIEW**



**6. INTERIOR VIEW**

Photographs Taken By:  
Craig S. Adams  
July 21, 2014

**PHOTOGRAPHS OF SUBJECT  
PARCEL 241**



**7. INTERIOR VIEW**



**8. LOOKING WEST AT THE POOL**

Photographs Taken By:  
Craig S. Adams  
July 21, 2014



**PHOTOGRAPHS OF SUBJECT  
PARCEL 241**



**9. LOOKING NORTHWEST AT THE LARGE SHED**



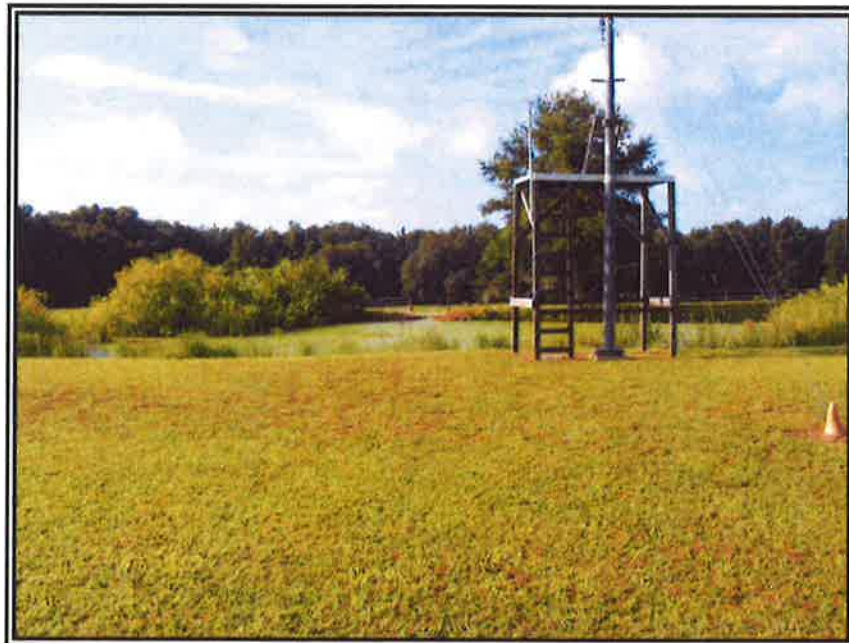
**10. LOOKING NORTHWEST AT A SHED**

Photographs Taken By:  
Craig S. Adams  
July 21, 2014

**PHOTOGRAPHS OF SUBJECT  
PARCEL 241**



**11. LOOKING NORTHEAST AT SOME OF THE SHEDS**



**12. LOOKING SOUTH AT THE ZIP LINE**

Photographs Taken By:  
Craig S. Adams  
July 21, 2014

**PHOTOGRAPHS OF SUBJECT  
PARCEL 241**



**13. LOOKING SOUTH AT THE CORRAL**



**14. LOOKING WEST AT THE SHEDS AND HORSE FEEDING STABLE**

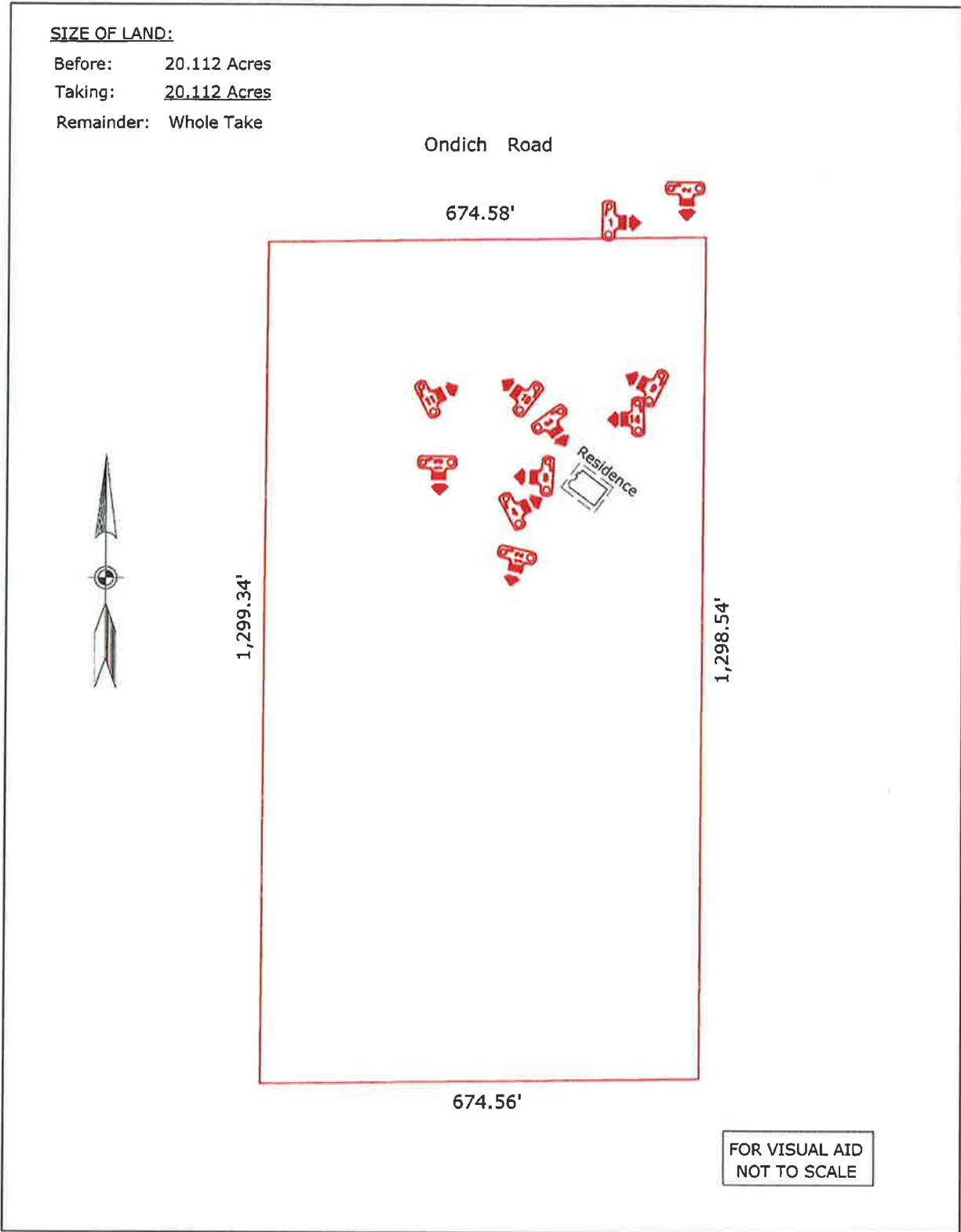
Photographs Taken By:  
Craig S. Adams  
July 21, 2014

**SIZE OF LAND:**

Before: 20.112 Acres

Taking: 20.112 Acres

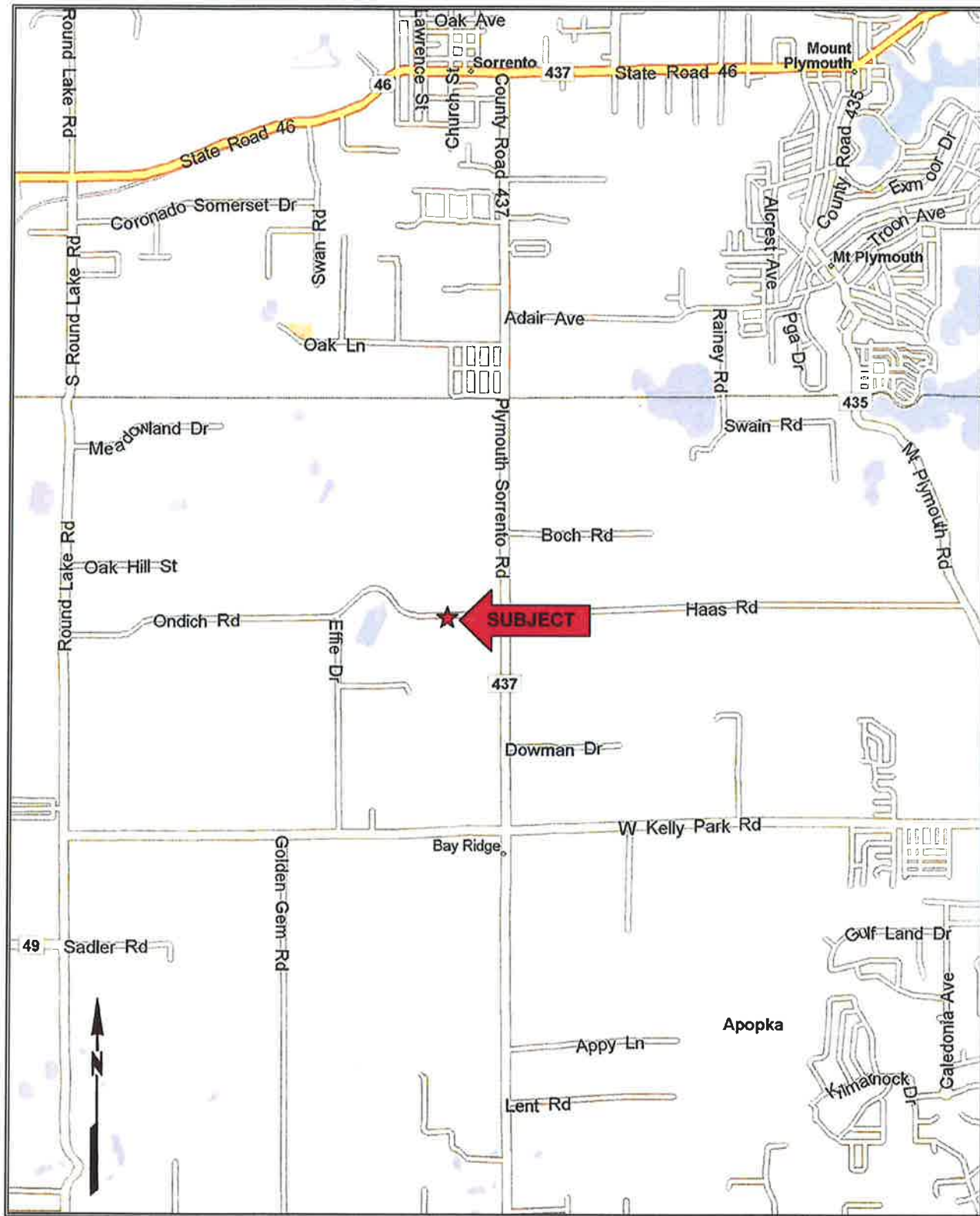
Remainder: Whole Take



**PARCEL SKETCH  
PARCEL 241**



**AERIAL PHOTO  
PARCEL 241**



**SUBJECT LOCATION MAP  
PARCEL 241**