

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Galleria at Corkscrew, LLC filed an application on behalf of the property owners, The Design Parc, LLC, DSC Investments, LLC and Florida Gulf Properties, LLC to rezone a +/- 15.63 acre parcel from Residential Planned Development (RPD) and Commercial Planned Development (CPD) to Commercial Planned Development (CPD) in reference to The Design Parc; and

WHEREAS, a public hearing was advertised and held on May 4, 2005, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2004-00050; and

WHEREAS, a second public hearing was advertised and held on August 15, 2005, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a +/- 15.63 acre parcel from RPD and CPD to CPD, to allow up to 143,000 square feet of commercial uses, 60,000 of which may be retail. Maximum height requested is 45 feet/3 stories. No development blasting is being requested.

The property is located in the Suburban Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the 1-page Master Concept Plan entitled "DESIGN PARC" stamped RECEIVED SEP 02 2005, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

COPY

2. The following limits apply to the project and uses:

a. Schedule of Uses

Tract 2A

ACCESSORY USES AND STRUCTURES

ADMINISTRATIVE OFFICES

ATM

BANKS AND FINANCIAL ESTABLISHMENTS, GROUPS I AND II

BROADCASTING STUDIO

BUILDING MATERIAL SALES

BUSINESS SERVICES, GROUPS I AND II. EXCLUDING ARMORED CAR
SERVICES & AUTOMOBILE REPOSSESSING SERVICES.

CLEANING & MAINTENANCE SERVICES

CLOTHING STORES, GENERAL

COMPUTER AND DATA PROCESSING SERVICES

CONSUMPTION ON PREMISES, INDOOR ONLY, IN CONJUNCTION WITH A
GROUP III RESTAURANT ONLY.

CONSUMPTION ON PREMISES LIMITED TO BUILDINGS SOUTH OF THE 24-
FOOT-WIDE CROSS ACCESS EASEMENT.

OUTDOOR CONSUMPTION ON PREMISES WILL REQUIRE SPECIAL
EXCEPTION APPROVAL (PUBLIC HEARING REQUIRED).

CONTRACTORS AND BUILDERS, GROUP I

CULTURAL FACILITIES LIMITED TO ART GALLERIES AND MUSEUMS

DAY CARE CENTER, ADULT, CHILD

DRIVE THROUGH FACILITY, LIMITED TO BANKS, DRUG STORE/PHARMACY
AND DRY CLEANERS.

DRUGSTORE, PHARMACY

ESSENTIAL SERVICES, GROUP I

EXCAVATION, WATER RETENTION - NO BLASTING. THE REMOVAL OF
EXCAVATED MATERIAL OFF-SITE IS PROHIBITED.

FENCES, WALLS

FOOD STORE, GROUPS I AND II

GIFT AND SOUVENIR SHOP

HARDWARE STORE

HEALTH CARE FACILITIES, GROUPS I AND II

HOBBY, TOY AND GAME SHOP

HOUSEHOLD AND OFFICE FURNISHINGS

INSURANCE COMPANIES

LAUNDRY AND DRY CLEANING, GROUPS I AND II - NO PROCESSING
PLANTS.

LAWN AND GARDEN SUPPLY STORES

LIBRARY

MEDICAL OFFICE

MOTION PICTURE PRODUCTION STUDIO

NON-STORE RETAILER

PARCEL AND EXPRESS SERVICES, NO WAREHOUSE/DISTRIBUTION
CENTER
PACKAGE STORE, LIMITED TO ONE IN A MULTIPLE-OCCUPANCY COMPLEX -
NO STAND-ALONE.
PAINT, GLASS, AND WALLPAPER
PARKING LOT, ACCESSORY, TEMPORARY
PERSONAL SERVICES, GROUPS I, II, III, AND IV - EXCLUDING ESCORT
SERVICES, STEAM OR TURKISH BATHS, PALM READERS, FORTUNE
TELLERS OR CARD READERS, AND TATTOO PARLORS
PET SERVICES, NO OUTDOOR RUNS.
PET SHOPS, NO OUTDOOR RUNS
PHOTOFINISHING LABORATORY
PRINTING AND PUBLISHING
REAL ESTATE SALES OFFICE
RECREATIONAL FACILITIES, GROUP I
RENTAL OR LEASING ESTABLISHMENTS, GROUP I
REPAIR SHOP, GROUPS I AND II
RESEARCH AND DEVELOPMENT LABORATORY, GROUP II
RESTAURANT, GROUPS I, II, III, AND IV. NO FAST FOOD.
RETAIL AND WHOLESALE SALES WHEN CLEARLY INCIDENTAL AND
SUBORDINATE TO A PERMITTED PRINCIPAL USE ON THE SAME
PREMISES.
SCHOOLS, COMMERCIAL
SIGNS, PER CH. 30
SOCIAL SERVICES GROUP I
SPECIALTY RETAIL SHOP, GROUPS I, II, AND III
STORAGE, INDOOR ONLY
STUDIOS
TEMPORARY USES
USED MERCHANDISE STORE, GROUPS I AND II
VARIETY STORE
WHOLESALE ESTABLISHMENT, GROUP III

Tract 2B

ACCESSORY USES AND STRUCTURES
ADMINISTRATIVE OFFICES
ATM
BANKS AND FINANCIAL ESTABLISHMENTS, GROUPS I AND II
BROADCASTING STUDIO
BUSINESS SERVICES, GROUPS I AND II. EXCLUDING ARMORED CAR
SERVICES & AUTOMOBILE REPOSSESSING SERVICES.
CLEANING & MAINTENANCE SERVICES
COMPUTER AND DATA PROCESSING SERVICES
CULTURAL FACILITIES - LIMITED TO ART GALLERIES AND
MUSEUMS
DAY CARE CENTER, ADULT, CHILD
ESSENTIAL SERVICES, GROUP I

EXCAVATION, WATER RETENTION - NO BLASTING. THE REMOVAL
OF EXCAVATED MATERIAL OFF-SITE IS PROHIBITED.

FENCES, WALLS
HEALTH CARE FACILITIES, GROUPS I, II AND III
INSURANCE COMPANIES
LIBRARY
MEDICAL OFFICE
MOTION PICTURE PRODUCTION STUDIO
NON-STORE RETAILER
PARKING LOT, ACCESSORY, TEMPORARY
PERSONAL SERVICES, GROUPS I, II, III, AND IV - EXCLUDING ESCORT
SERVICES, STEAM OR TURKISH BATHS, PALM READERS, FORTUNE
TELLERS OR CARD READERS, AND TATTOO PARLORS
PET SERVICES - GROOMING ONLY; NO OUTDOOR RUNS.
PRINTING AND PUBLISHING
REAL ESTATE SALES OFFICE
RESEARCH AND DEVELOPMENT LABORATORY, GROUP II
SCHOOLS, COMMERCIAL
SIGNS, PER CH. 30
SOCIAL SERVICES, GROUP I
STORAGE, INDOOR ONLY
STUDIOS
TEMPORARY USES
WHOLESALE ESTABLISHMENT, GROUP III

b. Site Development Regulations

The project may be developed with a total of 143,000 square feet of commercial building, 30,000 of which may be retail.

No individual building in this development may exceed 30,000 square feet.

No outdoor storage or display of merchandise is permitted.

Minimum lot area and dimensions:

Lot Size:	21,780 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks:

Corkscrew Road-	In accordance with the Corkscrew Road Main Street Overlay District (See also Deviation 4)
Street - private roads	20 feet
Side	10 feet
Rear	15 feet

Waterbody	25 feet except as otherwise approved in Deviation 8
Accessory Structures	per LDC §34-1174
Maximum height:	45 feet/3 stories - except as otherwise approved in Deviation 9
Maximum lot coverage:	40 percent
Minimum open space:	30 percent

3. No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.
4. **AGRICULTURAL USES.** Existing bona fide agricultural uses on this site is allowed only in strict compliance with the following:
 - a. Bona fide agricultural uses that are in existence at the time this resolution is approved and as shown on Exhibit D attached hereto may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing or grading of existing agricultural uses is prohibited. This prohibition is not intended to preclude County approved requests for the removal of exotic species.
 - c. The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.
5. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
6. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
7. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

8. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.
9. All required buffers must use 100 percent native vegetation.
10. Prior to approval of local development order, a minimum of 30 percent of common open space must be delineated on the development order plans.
11. Prior to local development order approval, the landscape plans must delineate the two heritage oak trees to be preserved along Corkscrew Road.
12. Prior to any site work, the appropriate gopher tortoise permit must be obtained from the Florida Fish and Wildlife Conservation Commission. A copy of the permit and any associated receipt must be submitted to the Division of Environmental Sciences Staff. The excavation of the burrow and moving of any gopher tortoise or commensal species to appropriate open space areas must be coordinated with the Division of Environmental Sciences Staff.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-416(d)(6) requirement to provide a solid wall or wall/berm combination not less than eight feet in height to be constructed not less than 25 feet from the abutting property line and landscaped (between the wall and the abutting property) with a minimum of five trees, and 18 shrubs per 100 linear feet if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, to allow a solid wall or combination berm and solid wall not less than eight feet in height to be constructed not less than 15 feet from the abutting property line to the north and landscaped (between the wall and the abutting property) with a double staggered row hedge maintained at 60 inches and 10 trees per 100 linear feet.
2. Deviation (2) seeks relief from the LDC §34-1044 requirement to provide a 20-foot wide buffer with 10 trees and 30 shrubs per 100 linear feet with an 8-foot-high solid wall, to allow a 15-foot-wide buffer and solid wall or combination berm and solid wall not less than eight feet in height constructed not less than 15 feet from the abutting property line and landscaped (between the wall and the abutting property) with a double staggered row hedge maintained at 60 inches and 10 trees per 100 linear feet.

These buffer requests are consistent with the buffer proposed in the Galleria CPD (DCI2004-00049) to the west. The applicant argues the parking area and proposed commercial development is separated from those residential uses by:

- a. The retention area to the north on the Master Concept Plan (only Tract 2B).
- b. The enhanced buffer proposed.
- c. The open space and right of way at the Estero River Estates Subdivision.

The applicant is offering to enhance the buffer by adding vegetation above and beyond the LDC requirements. Deviations 1 and 2 are APPROVED, SUBJECT TO the following condition:

Prior to approval of any development order, the landscape plans must delineate that at least one-half of the 10 trees per linear 100 feet on the northern and eastern boundaries (excluding the adjacent commercial parcel) are canopy type trees (no palms), 16 feet minimum height, with a 4-inch caliper at planting.

3. Deviation (3) - WITHDRAWN

4. Deviation (4) seeks relief from the LDC §34-1047 requirement to provide a maximum 25-foot setback in the Corkscrew Road Main Street Overlay District, to allow a setback of 135 feet maximum along Corkscrew Road for the commercial buildings shown on the approved Master Concept Plan.

Two large buildings, a gazebo and two small buildings are shown on the Corkscrew Road frontage on the Master Concept Plan to be set back 135 feet from the road. The buildings are set back from dry retention areas and a proposed lake. The intent of the regulation, to shield the parking area from the road, is still met with the combination of the lake and retention areas, and the placement of the buildings and buffering. The applicant received supportive comments from both the Estero Community Planning Panel (ECP) and the Estero Design Review Committee for this design. This deviation is APPROVED, SUBJECT TO THE condition that:

Approval is limited to the two large buildings and the gazebo shown on Tract 2A of the approved Master Concept Plan.

5. Deviation (5) seeks relief from the LDC §10-416(d)(4), and LDC §34-1044 requirements to provide a Type "D" buffer along Corkscrew Road, to eliminate the buffer in front of the lake as shown on the Master Concept Plan. The applicant is requesting this deviation so that the lake feature shown on the MCP is not blocked from view by the buffer. The Estero Design Review Committee was in favor of this request. This deviation is APPROVED, SUBJECT TO the condition that:

Prior to local development order approval, the landscape plans must include details of the plantings for the dry detention areas adjacent to the lake. These dry detention areas must be planted with appropriate native vegetation (minimum 1-gallon container size) that will provide a 50 percent coverage at time of planting.

6. Deviation (6) seeks relief from the LDC §10-329(d)(4) requirement to provide lake banks to be sloped at a maximum 4:1 slope, to allow a zero horizontal and a zero vertical slope for the bank slope that is adjacent to the buildings shown on the Master Concept Plan. This deviation is APPROVED, SUBJECT TO the condition that:

- a. Bulkheads or stem walls may comprise up to 30 percent of the lake shoreline. A compensatory littoral zone equal to the linear footage of the bulkhead must be provided and shown on the development order plans meeting the following criteria:

- i. A 5-foot-wide littoral shelf planted with herbaceous wetland plants to provide 50 percent coverage at time of planting; or
 - ii. an 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or
 - iii. an equivalent littoral shelf design as approved by the Division of Environmental Sciences Staff.
7. Deviation (7) - Deleted by the Hearing Examiner, pursuant to the May 10, 2005 memorandum from Tony Palermo stating this deviation is unnecessary. (Relates to signage request for three ground-mounted identification signs along Corkscrew Road for this development.)
8. Deviation (8) seeks relief from the LDC §34-1047 requirement to provide a 25-foot waterbody setback in the Corkscrew Road Main Street Overlay District, to allow a zero-foot waterbody setback for the buildings and gazebo abutting the north shore of the proposed lake. This deviation is APPROVED, SUBJECT TO the approval being limited to Buildings 1 and 2, and the gazebo as depicted on the approved Master Concept Plan.
9. Deviation (9) seeks relief from the LDC §34-1046(a)(6) requirement which limits the heights of the buildings to three stories or 45 feet, to allow the 65-foot height of the ornamental clock tower. This deviation is APPROVED, SUBJECT TO limiting the approval to the clock tower as it is depicted on the approved Master Concept Plan.

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan
Exhibit D: Agricultural uses at time of rezoning

The applicant has indicated that the STRAP numbers for the subject property are: 34-46-25-00-00002.0010, 34-46-25-00-00008.0010, and 34-46-25-00-00008.02010

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:

- a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
- a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner Janes and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Aye
Tammy Hall	Aye
John E. Albion	Absent

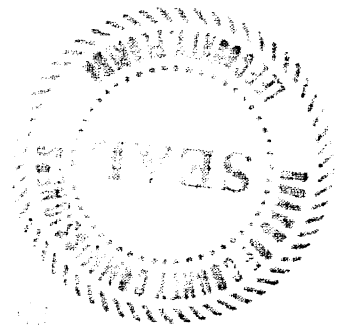
DULY PASSED AND ADOPTED this 15th day of August 2005.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA
BY: [Signature]
Chairman

Approved as to form by:

[Signature]
Joan C. Henry
County Attorney's Office

ATTEST:
CHARLE GREEN, CLERK
BY: [Signature]
Deputy Clerk



CASE NO: DC12004-00050

RECEIVED
MINUTES OFFICE
2005 SEP 16 AM 11:27

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN

SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

(15.63 ACRE PARCEL)

RECEIVED
FEB 01 2005

PERMIT COUNTER

DCI 2004-00050

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, SAID LEE COUNTY, FLORIDA, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

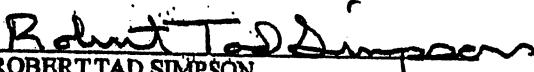
COMMENCING AT THE SOUTHWEST CORNER OF THE ESTATES AT ESTERO RIVER, A SUBDIVISION RECORDED IN PLAT BOOK 76, PAGES 82 THROUGH 85 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.89°50'12"E. ALONG THE SOUTH LINE OF SAID SUBDIVISION FOR 757.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°50'12"E. ALONG THE SOUTH LINE OF SAID SUBDIVISION FOR 1202.86 FEET TO THE SOUTHEAST CORNER OF SAID SUBDIVISION; THENCE S.01°07'24"E. FOR 554.87 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF CORKSCREW ROAD (S.R. S-850); THENCE S.89°37'03"W. ALONG SAID RIGHT-OF-WAY FOR 304.66 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY S.86°45'18"W. FOR 200.25 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY S.89°37'03"W. FOR 557.88 FEET TO THE SOUTHEAST CORNER OF TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N.77°01'36"W. ALONG THE NORTHERLY LINE OF SAID TAKING FOR 43.29 FEET; THENCE CONTINUE ALONG SAID NORTHERLY LINE S.89°37'03"W. FOR 98.00 FEET; THENCE N.01°07'24"W. FOR 566.33 FEET TO THE POINT OF BEGINNING

PARCEL CONTAINS 15.63 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD AND TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

ASSUMED NORTH BASED ON THE WEST LINE OF THE ESTATES AT ESTERO RIVER, A SUBDIVISION RECORDED IN PLATBOOK 76, PAGES 82 THROUGH 85 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS BEARING S.01°11'39"E.

DESCRIPTION PREPARED May 25, 2004


ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

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S:\Jobs\12xx\1216GAL\SURVEYING\DESCRIPTIONS\1216GAL-05_SKT.dwg

SHEET 1 OF 2

EXHIBIT A

10511 Six Mile

• Fax (239) 939-2923

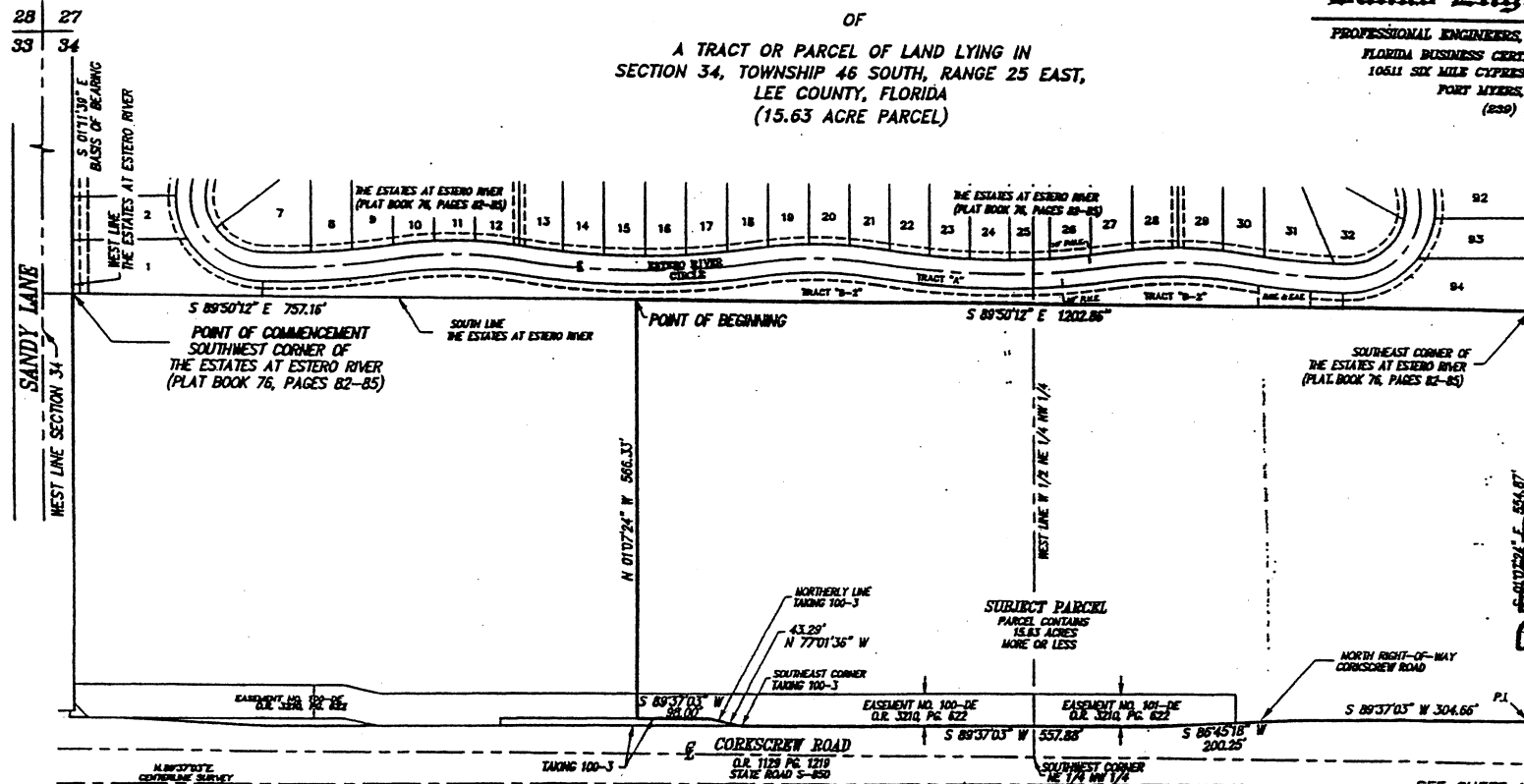
SKETCH OF DESCRIPTION

OF

A TRACT OR PARCEL OF LAND LYING IN
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA
(15.63 ACRE PARCEL)

Banks Engineering, Inc.

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6800
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
(239) 938-5490



1" = 200'

RECEIVED
FEB 01 2005
PERMIT COUNTER

NOTES:

- SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD, AND TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
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LEGEND:

PG. INDICATES PAGE
NO. INDICATES NUMBER
C INDICATES CENTERLINE
P.I. INDICATES POINT OF INTERSECTION
O.R. INDICATES OFFICIAL RECORDS BOOK
P.U.E. INDICATES PUBLIC UTILITY EASEMENT
E.A.E. INDICATES EMERGENCY ACCESS EASEMENT

SEE SHEET 1 FOR COMPLETE
METES AND BOUNDS DESCRIPTION.
THIS SKETCH OF DESCRIPTION
IS NOT A BOUNDARY SURVEY

Robert Tad Simpson
ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

- THIS SKETCH OF DESCRIPTION IS NOT VALID
WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED 05-26-04
SHEET 2 OF 2

S:\JOBS\1202\1216GAL\SURVEYING\DESCRIPTIONS\1216GAL-05_SKT.DOC
S:\JOBS\1202\1216GAL\SURVEYING\DESCRIPTIONS\1216GAL-05_SKT.DWG

ZONING INTAKE MAP DCI2004-00050

4/14/2005

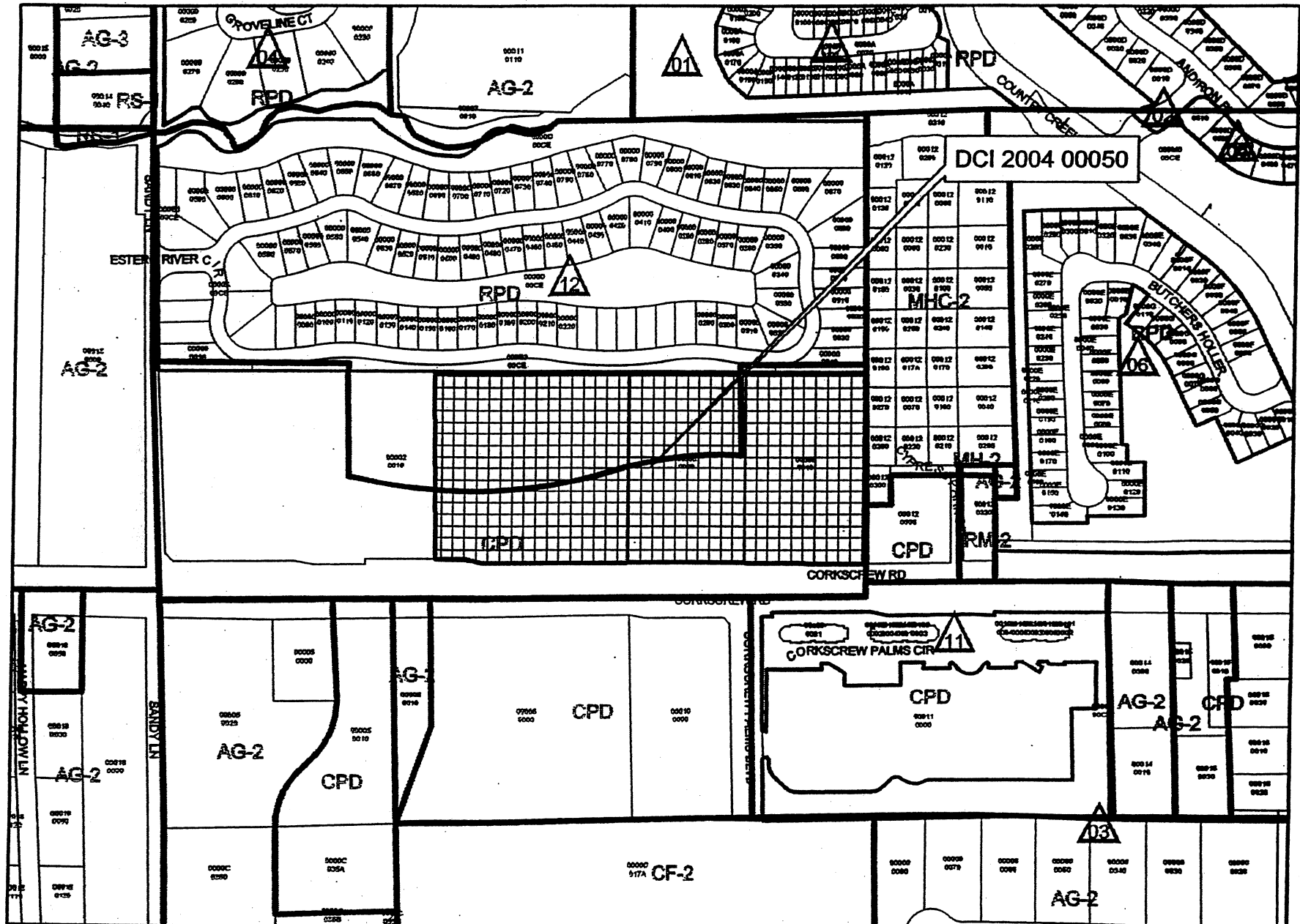
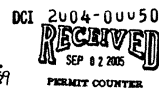
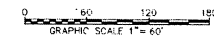


EXHIBIT B

460 230 0 460 Feet



DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
12-22-04	1216GAL	MCP-T2A	EPB	EPB	JGH	1"=60'	1	1	34-48-25

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME this day appeared THIES PICKENPACK who, being first duly sworn, deposes and says:

1. He is the Managing Member of Galleria at Corkscrew, LLC, the owner of the property that is the subject of Application DCI 2004-00050.
2. A copy of the boundary sketch of the property to be rezoned is attached as Exhibit "A". The parcel consists of 15.63± acres.
3. A portion of the parcel described in Exhibit "A" is being used for grazing purposes.
4. Galleria at Corkscrew, LLC, or its successors in interest, intend to continue this use upon the approval of the rezoning until approval of a Local Development Order for the area of the project, upon which the cattle grazing use exists.

EXECUTED this 25 day of August, 2004.

GALLERIA AT CORKSCREW, LLC

By: [Signature]

Thies Pickenpack

Its: Managing Member

SWORN TO AND SUBSCRIBED before me this 25th day of August, 2004, by THIES PICKENPACK, who is personally known to me or who has produced _____ as Identification.

My Commission Expires:



Mary C Gagnon
My Commission DD067084
Expires January 27, 2006

[Signature]
Notary Public

Mary C. Gagnon
Print/Type Name of Notary

EXHIBIT D

RECEIVED
OCT 11 2004

PERMIT COUNTER
DCI 2004 00050

Ballas Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
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A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, SAID LEE COUNTY, FLORIDA, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

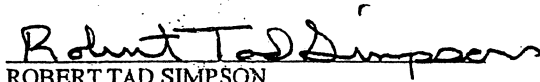
COMMENCING AT THE SOUTHWEST CORNER OF THE ESTATES AT ESTERO RIVER, A SUBDIVISION RECORDED IN PLAT BOOK 76, PAGES 82 THROUGH 85 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.89°50'12"E. ALONG THE SOUTH LINE OF SAID SUBDIVISION FOR 757.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°50'12"E. ALONG THE SOUTH LINE OF SAID SUBDIVISION FOR 1202.86 FEET TO THE SOUTHEAST CORNER OF SAID SUBDIVISION; THENCE S.01°07'24"E. FOR 554.87 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF CORKSCREW ROAD (S.R. S-850); THENCE S.89°37'03"W. ALONG SAID RIGHT-OF-WAY FOR 304.66 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY S.86°45'18"W. FOR 200.25 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY S.89°37'03"W. FOR 557.88 FEET TO THE SOUTHEAST CORNER OF TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N.77°01'36"W. ALONG THE NORTHERLY LINE OF SAID TAKING FOR 43.29 FEET; THENCE CONTINUE ALONG SAID NORTHERLY LINE S.89°37'03"W. FOR 98.00 FEET; THENCE N.01°07'24"W. FOR 566.33 FEET TO THE POINT OF BEGINNING

PARCEL CONTAINS 15.63 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD AND TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

ASSUMED NORTH BASED ON THE WEST LINE OF THE ESTATES AT ESTERO RIVER, A SUBDIVISION RECORDED IN PLAT BOOK 76, PAGES 82 THROUGH 85 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS BEARING S.01°11'39"E.

DESCRIPTION PREPARED May 25, 2004


ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

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SKETCH OF DESCRIPTION

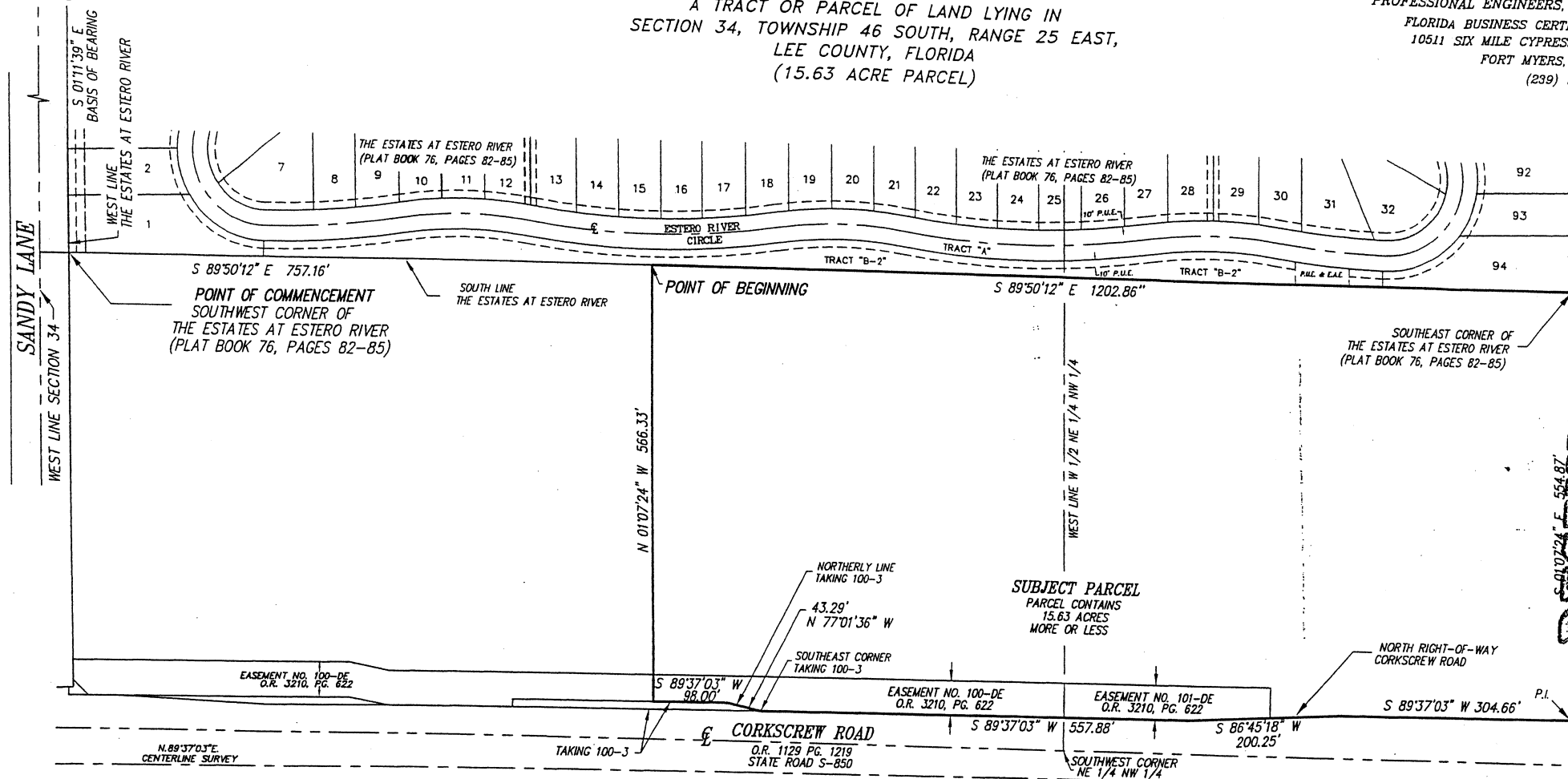
OF

A TRACT OR PARCEL OF LAND LYING IN
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA
(15.63 ACRE PARCEL)

Banks Engineering, Inc.

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
(239) 939-5490

28 27
33 34



NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD, AND TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
- 2.) ASSUMED NORTH BASED ON THE WEST LINE OF THE ESTATES AT ESTERO RIVER, A SUBDIVISION RECORDED IN PLAT BOOK 76, PAGES 82-85 OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA AS BEARING S.01°11'39"E.

LEGEND:

PG. INDICATES PAGE
NO. INDICATES NUMBER
CL INDICATES CENTERLINE
P.I. INDICATES POINT OF INTERSECTION
O.R. INDICATES OFFICIAL RECORDS BOOK
P.U.E. INDICATES PUBLIC UTILITY EASEMENT
E.A.E. INDICATES EMERGENCY ACCESS EASEMENT

SEE SHEET 1 FOR COMPLETE
METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION
IS NOT A BOUNDARY SURVEY

Robert Tad Simpson
ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

- THIS SKETCH OF DESCRIPTION IS NOT VALID
WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

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PREPARED 05-26-04
SHEET 2 OF 2

DCI 2004-00050