VILLAGE COUNCIL

Zoning Book

Volunteers of America

Case Number: DCI 2015-00013

January 13, 2016 Zoning Hearing

The following items are included in this packet:

- Newspaper Notice of Public Hearing
- Meeting Agenda
- Staff Report and Exhibits (including minutes from the 11-17-2015 Planning and Zoning Board Meeting)
- Draft Ordinance
- Applicant's Information
  - Application
  - Traffic Impact Statement
  - Environmental Assessment

NOTICE OF PUBLIC HEARING

YOU ARE HEREBY NOTIFIED that the Village of Estero, Florida proposes to adopt ORDINANCE NO. 2015-21 A ZONING ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA; REZONING 21.36 ACRES LOCATED AT 9201 AND 9301 CORKSCREW ROAD, FROM COMMERCIAL PLANNED DEVELOPMENT TO RESIDENTIAL PLANNED DEVELOPMENT FOR THE VOLUNTEERS OF AMERICA CONTINUING CARE/ASSISTED LIVING PROJECT, WITH A MAXIMUM 340 BEDS AND MAXIMUM BUILDING HEIGHT OF 45 FEET, AND INCLUDING CONDITIONS OF DEVELOPMENT; APPROVING CERTAIN DEVIATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The first reading of the ordinance will be held at the Village Council Regular Meeting on December 16, 2015 at 6:30 p.m. and the second reading of the ordinance and public hearing will be held at the Village Council Zoning Hearing on January 13, 2016 at 10:00 a.m. All public hearings/meetings will be held in the temporary Village Hall located at the Estero Fire Rescue District, 21500 Three Oaks Parkway, Estero, Florida. Interested parties may appear at the public hearings/meetings and be heard with respect to the proposed ordinance. Copies of proposed ordinances are available for review at the Office of the Village Clerk, 21500 Three Oaks Parkway, Estero, Florida.

If a person decides to appeal a decision made by the Council in any matter considered at these public hearings/meetings, such person may need to ensure that a verbatim record of the proceeding is to be made, to include the testimony and evidence upon which any such appeal is to be based.

Any person requiring special accommodations at any of the meetings due to a disability or physical impairment should contact the Kathy Hall, Village Clerk, at 239-221-5035, at least 48 hours prior to the meeting.

VILLAGE OF ESTERO, FLORIDA
By: Nick Batos, Mayor
Steve Sarkozy, Village Manager

VILLAGE COUNCIL
ZONING HEARING
Agenda

Village Hall
21500 Three Oaks Parkway, Estero, FL
Website: estero-fl.gov

Wednesday, January 13, 2016
10:00 a.m.

Village Council: *District 1 – Bill Ribble; District 2 – Howard Levitan, Vice Mayor; District 3 – Donald Brown; District 4 – Katy Errington; District 5 – Jim Boesch; District 6 – Nick Batos, Mayor; District 7 – Jim Wilson*

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1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **ZONING HEARING**
This will be a quasi-judicial hearing. The public will have an opportunity to speak; each individual will have one opportunity to speak for three minutes.

(A) Case #DCI 2015-00013 Volunteers of America

Second Reading and Public Hearing: Ordinance No. 2015-21
A Zoning Ordinance of the Village Council of The Village of Estero, Florida; Rezoning 21.36 Acres Located at 9201 and 9301 Corkscrew Road, from Commercial Planned Development to Residential Planned Development for the Volunteers of America Continuing Care/Assisted Living Project, with a Maximum 340 Beds and Maximum Building Height of 45 Feet, and Including Conditions of Development; Approving Certain Deviations; Providing for Conflict; Providing for Severability; and Providing an Effective Date

5. **ADJOURN**

If you desire to address the Council, please complete a Public Comment Card located on the table in the lobby and return it to the Clerk. Citizens desiring to speak must step up to the podium, state their full name and address and/or whom he or she represents.

ADA Assistance – Anyone needing special assistance at the Board meeting due to a disability or physical impairment, should contact Village Clerk Kathy Hall, 239-221-5033, at least 48 hours prior to the meeting.

Pursuant to Section 286.0105, Florida Statutes:
"If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a recording of the proceeding, and that, for such purpose, he or she may need to ensure that a verbatim recording of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

VILLAGE OF ESTERO
ZONING STAFF REPORT
FOR VILLAGE COUNCIL

CASE TYPE: PLANNED DEVELOPMENT/REZONING
CASE NUMBER: DCI2015-00013
NAME: VOLUNTEERS OF AMERICA
PLANNING & ZONING BOARD DATE: NOVEMBER 17, 2015
COUNCIL DATE: JANUARY 13, 2016

REQUEST AND STAFF ANALYSIS

This is a request to rezone 21 acres of land on Corkscrew Road from Commercial to Residential Planned Development for a continuing care/assisted living facility. As part of the RPD zoning, the applicant requests approval of a Master Concept Plan and several deviations as well. Should the Council decide to approve the application, staff recommends the specific conditions and deviations in Attachment "A". The staff's analysis follows, along with a discussion of the positives and negatives of the project.

APPLICATION SUMMARY

Applicant: Gulf Care, Inc./dba Gulf Coast Village in reference to Volunteers of America

Request: Request to rezone +/- 21.36 acres from Commercial Planned Development (CPD) per Zoning Resolutions Z-05-038 and Z-05-039 to Residential Planned Development (RPD) to permit assisted living units, independent living units and continuing care units (assisted living) with a maximum of 340 beds so long as the density equivalency ratios per the Land Development Code do not exceed a maximum density of 128 dwelling units. Maximum building height requested is 45 feet. Development will connect to both public potable water and sanitary sewer service. No development blasting is requested.

Location: The subject property is located at 9201 and 9301 Corkscrew Road, Village of Estero, FL.

The applicant indicates the STRAP numbers are: 34-46-25-E1-U1986.2380 and 34-46-25-E1-U2011.2380

FUTURE LAND USE CATEGORY: Suburban

PUBLIC INFORMATION MEETING

The public information meeting for this application was held at the Planning and Zoning Board on July 21, 2015. Additionally, the applicant met with the homeowner's association of the Estates at Estero River to discuss the proposed development (April 21, 2015 and July 17, 2015). The Planning and Zoning Board heard this case on November 17, 2015.

PROJECT HISTORY

The site is currently vacant and is not part of a plat or subdivision. The property consists of two STRAP numbers 34-46-25-E1-U1986.2380 and 34-46-25-E1-U2011.2380 both owned by RD Investment Properties, LLC.

The property was a portion of a larger 55.6 acre property (known as Kristen Woods) with a long zoning history. It was first rezoned from Agricultural (AG-2) to Residential Planned Development (RPD)/Commercial Planned Development (CPD) on March 15, 1999. The zoning permitted 220 dwelling units and 170,000 square feet of commercial office, not to exceed 40 feet in height. The frontage on Corkscrew Road (including the subject property) was zoned for the commercial portion, while the property to the north (Estates at Estero River) was zoned for residential development.

Subsequent Actions

- 2001
  The Kristen Woods RPD/CPD was amended per Zoning Resolution Z-00-077 January 29, 2001 to make modifications to the master concept plan, permit single-family development, make changes to the access, and request additional deviations.

- 2005
  Administrative Amendment ADD2005-00038 made a change to the maximum lot coverage for single-family lots at Estates at Estero River and was approved March 15, 2005.

- 2005
  Zoning Resolution Z-05-038 "Galleria at Corkscrew CPD" rezoned a 9.94-acre portion of the Kristen Woods RPD/CPD – located on the corner of Sandy Lane and Corkscrew Road – permitting 70,000 square feet of commercial retail and 30,000 square feet of commercial office, with a maximum building height of 45 feet. This zoning change was approved August 15, 2005.

- 2005
  Zoning Resolution Z-05-039 "Design Parc CPD" rezoned a 15.63-acre portion of the Kristen Woods RPD/CPD – located east of Galleria at Corkscrew – permitting a maximum of 143,000 square feet of commercial including 30,000 square feet of retail – also with a maximum building height of 45 feet. It was also approved August 15, 2005. This CPD included Tract 2A – shown on the master concept plan with six buildings – and Tract 2B – "Future Development Area".

- 2006
  Tract 2B (about 4.2 acres) was developed per Development Order DOS2005-00345 with four general office buildings (41,492 square feet) "Galleria Commercial Parc", issued May 23, 2006. This development was permitted and completed and is located east of Design Parc Road.

- 2015
  Administrative Amendment ADD2015-00098 "Legacy Church" was approved by the Village of Estero Planning and Zoning Board July 21, 2015 to amend Z-05-039 Design Parc CPD to add place of worship to the permitted schedule of uses on Tract 2B.

- 2005
  Development Order DOS2005-00058 "Galleria at Corkscrew" was issued November 28, 2005 for 192,000 square feet of commercial floor area in 11 buildings on about 25 acres, to include office and restaurants located on the subject property from Design Parc Road west to Sandy Lane. Galleria at Corkscrew includes property within Galleria at Corkscrew CPD and Tract 2A of Design Parc CPD. This development was never constructed and the Development Order expired on November 28, 2015

The proposed rezoning to RPD would remove all of Tract 2A from Z-05-039 Design Parc CPD, approximately 42 acres. Tract 2A was approved with 40,000 square feet of office and 60,000 square feet of retail. A total of 43,000 square feet of commercial development would be permitted on Tract 2B, allowing the current development to remain.

There are no special exceptions, variances or other zoning actions associated with the property. No open code enforcement or building code violations are associated with the subject property as of the date of this report.

PROJECT DESCRIPTION AND MASTER CONCEPT PLAN

The site plan shows the property in relation to roads and surrounding properties. An access to the site is shown on Sandy Lane and another (right in/right out) on Corkscrew Road. The buildings and parking areas are shown in detail as are proposed common areas and courtyards which are internal to the development. The site plan shows interconnections to the Galleria office park to the east.

There is an existing wall on the north side of the property which separates it from the residential subdivision directly north. Dry detention is located along Corkscrew Road, separating the internal drive from Corkscrew Road. Dry detention (green area in lieu of lakes/wet retention) separates Sandy Lane from the internal road as well. The proposed office uses are on the eastern part of the site.

STAFF ANALYSIS

The staff analysis section of this report includes information on various issues, such as compatibility, environmental issues, density, transportation impacts, comprehensive plan considerations (including Estero–specific goal and policies) and a discussion of "Zoning in Progress" and how it affects this case.

When the Council evaluates a zoning case, it must review these issues and determine whether the project should be approved, approved with conditions, revised, continued for more information, or denied. These issues must be evaluated and balanced to arrive at an appropriate decision.

In order to assist the Council, staff has provided a summary of the project's advantages and disadvantages below. Following this section is more detail on each of the issues listed in the first paragraph above.

Summary Of Project Advantages And Disadvantages

Advantages –

In general, continuing care and assisted living facilities generate less traffic than other uses, especially compared to high traffic generators such as commercial development. Continuing care facilities typically generate fewer impacts than other types of residential use as well.

The project will not create any level of service issues on Corkscrew Road and will generate much less traffic than the previously approved commercial uses which include office as well as many other commercial uses (see attached zoning resolutions).

The proposed project provides an alternative to commercial use which is currently viewed as overbuilt. By providing some medical office space on the easternmost portion of the site, the applicant has made an effort to meet the mixed use requirements given the typical internally-focused characteristics of these types of projects.

The applicant will provide interconnections to Sandy Lane and the office park to the east, and some elements of mixed use to meet the zoning in progress requirements. There is a combination of assisted and independent living along with proposed medical office use. Sidewalks are or will be provided on Sandy Lane and Corkscrew Road, with a pedestrian crosswalk to the south across Corkscrew Road.

The project will provide a shuttle bus for residents for shopping excursions, off-site medical appointments, and similar trips. Additionally, the project will provide an option for the growing senior population to age in place in Estero.

Disadvantages –

The requested height of this proposed facility (which is the same 45 foot height as that of the approved commercial zoning) exceeds the height of the residential project to the north. There is a distance setback and a wall and landscaping to mitigate the impacts, however, the units may still be visible from the development to the north, especially in the beginning before the landscaping matures. (The building orientation will help to mitigate the visibility issues.)

The applicant showed an artist rendering at a prior meeting and has stated ~~he~~ it would comply with Old Florida style, but no specific renderings have been submitted or committed to as part of this zoning approval. Old Florida is one of the preferred styles in Estero, along with Mediterranean.

The applicant provides some connectivity to adjacent properties, including sidewalks. Connectivity to the adjacent residential neighborhood to the north is hindered by an existing wall. Moreover, as pointed out in the Zoning in Progress memo, the utilization of the sidewalks may be limited by the lack of shade; therefore if the project is approved, trees should be planted to provide shade along the sidewalks, where possible, so that the sidewalks will be utilized.

The applicant has stated that the project will not be gated, but this should be added as a condition if Council wishes to approve the project, to ensure that this is implemented.

The applicant has stated that this project is mixed use. A true mixed use project includes different uses such as commercial and residential. A commercial component of 15,000 square feet is

proposed, but there is no assurance this will be constructed, or when, as it is depicted as a "future development" plan.

The civic space proposed (meeting rooms available for community groups to use) is limited and internal. Civic space is typically outdoor space.

No bus route is currently existing on Corkscrew Road (one is shown in the 2035 long range transportation plan). The applicant will provide shuttle bus service for residents for some off-site trips.

Zoning in Progress Resolution

This property is located in an area that is subject to the Village of Estero Resolution 2015-22. This resolution involves zoning in progress for an area encompassed in the "Village Center" study area. (See attached Resolution for additional detail.)

The Village has retained consultants who are conducting a study which may result in Land Development Code and Comprehensive Plan Amendments. Applications for development approval will be reviewed by the Village Council to determine if they are exempt, have vested rights or whether they comply with the principles of compact, walkable, transit supportive, mixed use development with an emphasis on employment, housing, recreational and civic uses. The Council will address this issue at its public hearing on this zoning case.

To assist the Council with its determination, the Village's consultant has been requested to review the plan and provide comments. The comments are quoted below and also attached.

The following factors are relevant to this evaluation:

1. **Comprehensive Plan Consistency:** A prerequisite for an application to proceed while the resolution is in effect is consistency with the Comprehensive Plan. This application meets that requirement.
2. **Compactness:** This application requests the maximum residential density allowed by the Comprehensive Plan, which is 6 dwelling units per acre (which will be converted to 340 beds using established formulas). The physical arrangement of the site, however, will isolate future residents from their surroundings, although it must be acknowledged that this separation would be difficult to avoid, given the existing wall on the north side, the Galleria offices to the east, and Corkscrew Road to the south.
3. **Walkability (Internal):** The site plan shows an internal sidewalk looping around the residential buildings and connecting to potential sidewalks along Sandy Lane and Corkscrew Road. The internal sidewalks immediately abut parking spaces and driveways, without separation or shade, which will greatly reduce their usefulness to residents.
4. **Walkability (External):** It is not clear whether the applicant will construct sidewalks along Sandy Lane and/or Corkscrew Road, and if so whether those sidewalks would be separated from traffic, without which pedestrian access to shopping on Corkscrew Road at US 41 would be more theoretical than practical. If the interior driveways are ungated and open the public, they would improve pedestrian circulation for surrounding residents and businesses; residents along Sandy Lane could reach the Estero Community Park and adjoining businesses without having to walk along pedestrian-hostile Corkscrew Road.

5. **Transit-Supportive:** The applicant intends to provide van service to its residents, which will significantly improve mobility for elderly residents. At present, the nearest bus service is Route 140, which runs along US 41 every 20 minutes from Coconut Point through downtown Fort Myers and across the Caloosahatchee. This community is very near the Seminole Gulf rail corridor, which may accommodate north-south public transportation in the future.

6. **Mixed Use:** This application would convert 21 acres of a larger commercial development to residential uses. It would also allow the construction of 15,000 square feet of medical offices facing Design Parc Lane. The applicant has not committed to constructing those offices.
7. **Employment:** This community would provide employment because some residents would require personal and medical services; medical offices would provide additional employment.
8. **Housing:** This community will increase housing diversity at a very central location in Estero.
9. **Recreational Uses:** This community will presumably provide recreational facilities on site for its residents. A Lee County recreation center at the Estero Community Park is less than a half mile to the south and is accessible to residents by walking along Design Parc Lane and Corkscrew Palms Boulevard, although the unsignalized crossing of Corkscrew Road is difficult even for agile pedestrians. A trail may be built along the rail corridor in the future; it would be easily accessible to residents.
10. **Civic Uses:** The van service could provide convenient access to off-site civic and recreational uses. The applicant has committed to civic uses on-site.
11. **Compatibility:** The proposed development will have buildings that are taller than surrounding parcels but the height difference does not create incompatible conditions.
12. **Connections to Street Network:** This community will provide reasonable connectivity to surrounding streets. No access will be provided to the north because a wall surrounds the Estates at Estero River community; the only potential access to the north is at the end of Design Parc Lane where there is an emergency gate in the wall. The internal looped driveway will provide the following connections:
    - East to Design Parc Lane – two full connections
    - West to Sandy Lane – one full connection
    - South to Corkscrew Road – one right-in, right-out connection to the westbound lanes

This site is sandwiched between an office park to the east, a gated community to the north, and two Lee County roadways. The proposed site plan is a reasonable response to those constraints. The major uncertainties as to the Village's goals for a future Village Center are whether the medical offices will actually be constructed, whether the internal sidewalks can be redesigned to be a useful amenity and whether they will be open to the public, and whether the external sidewalks and the pedestrian connections across Corkscrew Road will be constructed in a manner that encourages walking and biking by those residents able and interested in doing so.

Assisted Living Density
The Land Development Code Sections 34-1411-1414 and Sec. 34-1494 address density as it pertains to assisted living. Where health care, social service, assisted living, continuing care, or other group quarters are provided – but there is no central kitchen or dining – and each dwelling unit has its own kitchen – each unit is calculated at a 1:1 ratio – which is the same as a multi-family facility, meaning each unit counts as one.

Assisted Living Facilities/Continuing Care Facilities (ALF/CCF) – where there are no kitchens in individual units, but there is a central dining facility, and other transportation and social services for residents – units are calculated at a 4:1 equivalency ratio (four assisted dwelling units are equivalent to one standard dwelling unit).

Independent Living Units (ILU) are authorized as part of a state-licensed continuing care facility (CCF) which may be equipped with a kitchen in each unit. These facilities also provide health services, common dining, transportation and other resident services. Independent Living Units (ILU) are calculated at a 2:1 equivalency ratio.

At this stage of development, the precise mix and type of assisted living units is not known. More detail such as this will be necessary at the Development Order stage where the site plan will be reviewed in detail. With a maximum of 128 standard dwelling units (6 units per acre x 21.36 acres) – a maximum of 512 units (assisted living beds) could be permitted for an ALF/CCF use (at a 4:1 ratio or 128 x 4) and a maximum of 256 units (assisted living beds) can be permitted for an ILU use (2:1 ratio). If the Council agrees with the staff's proposed density condition, the applicant could develop with a mix of both types of assisted living products so long as the density does not exceed the equivalent of 128 standard dwelling units.

Environmental Issues
Lee County Environmental staff conducted a site inspection on July 10, 2015. The 21.36 acre subject site has been previously cleared, filled, and a small portion of the infrastructure installed per the approved local development order DOS2005-00058 for the commercial project. During the inspection, staff observed that two large oak trees were preserved along the south property line (Corkscrew Road) and a wall was installed along the north property line as per previous development approvals; although the work has not received certificate of compliance (CC).

Transportation Issues
The Master Concept Plan shows three access points for the proposed project. There is a full access on Sandy Lane (the northern extension of Via Coconut Point), a right-in/right-out access on the north side of the median dividing Corkscrew Road, and a full access to Corkscrew Road opposite Corkscrew Palms Boulevard through the existing Galleria commercial development to the east.

The proposed development with a 340 bed assisted living facility (equivalent to 128 residential units as explained above) and 15,000 square feet of medical offices is estimated to generate 962 daily two-way trips. These trips will be dispersed to the roadway network via the three access points with most of the trips anticipated to be local in nature. The applicant's traffic report contains an analysis of the impacts this rezoning would have on the Corkscrew Road/I-75 interchange. It anticipates that 45% of the project traffic will arrive from/depart to the east on Corkscrew Road, towards the I-75 interchange. Project traffic going east will dissipate from the connection of River Ranch Road and more notably at Three Oaks Parkway, a major north/south arterial. The report estimates that 20% to 25% of the project trips will reach the I-75 interchange from the project. A capacity analysis was performed at the two ramp intersections with I-75 using traffic counts

collected by the applicant's traffic engineer. This capacity analysis shows that the proposed rezoning would have a very small impact on the operations of the I-75 interchange as it currently exists (with no improvements). Specifically, the overall intersection level of service for both the northbound and southbound ramps during the weekday P.M. peak hours is LOS "E" in 2020 without the project and will remain at LOS "E" in 2020 with the project. Further, the average vehicle delay is estimated to increase by approximately 1.8%.

It is also worth noting that under the present CPD zoning resolutions for this property (Z-05-038 and Z-05-39) the total daily two-way trip generation would be much higher, at 6,655 trips, if the project were developed as previously approved for commercial use.

The applicant's traffic study shows that Corkscrew Road in the vicinity of the proposed project will continue to operate at LOS "C" based upon the project peak hour, peak season, peak direction traffic added to the existing traffic for this link as published in the 2014 Lee County Concurrency Report and will continue to operate at LOS "C" to year 2020 as projected. Traffic counts are not provided for Sandy Lane or Via Coconut Point but these links are currently operating satisfactorily and should continue to operate at an acceptable level upon completion of the project.

Both Lee County Department of Transportation and Lee County Development Services technical staff reviewed this application and found that it creates no level of service (LOS) issues.

Surrounding Zoning

North – To the north of the subject property is the Estates at Estero River, zoned residential for 105 dwelling units on about 28 acres (about 3.9 units per acre). North of this is the Estero River and then a mix of lower and moderate density developments. A solid wall and vegetation buffer separate the subject property from the residential units. Building height for the assisted living facility is limited to 45 feet. The master concept plan for this assisted living facility shows detention areas, parking (including covered parking), and open space to the north. The master concept plan shows a wall and berm combination to the north (8 feet minimum height) with landscaping. Also see Deviation request 1.

South – To the south is Corkscrew Road, a four lane arterial and divided median. South of this are commercial planned developments and commercial office buildings and a produce stand and U-pick business with Agricultural (AG-2) zoning proposed for residential rezoning (also proposed in the southern location is the Genova Project).

West – West is Via Coconut (Sandy Lane), a two-lane Collector Road. West of this is vacant land with Mixed Use Planned Development (MPD) zoning (Estero on the River MPD). Estero on the River MPD includes approval of 530 dwelling units on 85.07 acres – about 7.84 dwelling units per acre. West of this is US 41.

East – East is Design Parc Lane and the Galleria office development.

Height

The Land Development Code section addresses maximum height in the Village of Estero:

Buildings outside of the Interstate Highway Interchange Areas are limited to a maximum of three stories or 45 feet, whichever is less, in height. Elements that enhance visibility, create focal points or amenities, such as turrets, sculpture, clock tower and corner accentuating rooflines, may exceed the maximum height limitations with an approved variance or deviation.

The applicant has requested 45 feet. This will be discussed in more detail in the neighborhood compatibility section.

Neighborhood Compatibility Issues
The Comprehensive Plan contains the following policy:

POLICY 135.9.5: *New development adjacent to areas of established residential neighborhoods must be compatible with or improve the area's existing character. (Amended by Ordinance No. 00-22).*

This application would provide housing and support services available to those needing assisted living. The proposed assisted living development is adjacent to established residential neighborhoods and commercial uses on Corkscrew Road and Sandy Lane.

Assisted living is typically a low-intensity residential use with fewer traffic impacts than commercial uses, retail uses, or high density residential uses. Impacts to nearby residential uses may include deliveries, visits by friends and family, medical and support services, and ambulance service for emergencies or transportation to nearby hospitals.

The separation of the residential project by the wall, landscape buffer, dry detention and internal driveway will provide a distance separation from the existing residential development to the north from the proposed 3-story buildings to reduce incompatibility issues. The proposed 3 story height is taller than the adjacent residences to the north but was approved in the prior commercial zoning by Lee County. At the Planning and Zoning Board meeting, the Board discussed the height difference and the potential for lights from the proposed project to shine into the residential area at night, as well as potential noise issues.

Comprehensive Plan Considerations
The property is designated as a "Suburban" land use category in the Comprehensive Plan.

POLICY 1.1.5: *The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed. (Amended by Ordinance No. 94-30).*

Residential requests such as assisted living are appropriate in this category but must meet density requirements as well as other requirements and policies of the Comprehensive Plan, including Estero-specific policies. The maximum density allowed in the Suburban Future Land Use category is 6 units per acre.

POLICY 2.2.1: *Rezonings and development-of-regional-impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22).*

This application proposes a Residential Planned Development (RPD) within an urban future land use category. The property is served by roads, utilities, EMS, fire and police protection. The site

is within the Lee County Utilities water and wastewater franchise areas which has the capacity to serve the proposed development.

Lee Tran does not provide service to the site on either Corkscrew Road or Sandy Lane. However, Lee Tran Route 60 has a stop on Three Oaks Parkway and the intersection of Corkscrew Road about 1 mile to the east (South County Library). Route 60 provides services from the San Carlos community to the north with stops at the South County Library, Miromar Outlets, Florida Gulf Coast University and Gulf Coast Town Center Mall. Lee Tran Route 140 provides service from Merchants Crossing in North Fort Myers south to Coconut Point Mall in Estero via US 41, with a stop on US 41 and Corkscrew Road, about 1 mile west of the subject property. Lee Tran Route 240 provides service from Bell Tower in South Fort Myers to Coconut Point Mall in Estero via US 41 – also with a stop on US 41 and Corkscrew Road.

Since a number of the project residents may not drive, the applicant has proposed to-make van service available to take residents to places such as shopping, restaurants and doctor appointments.

POLICY 5.1.3: *During the rezoning process, direct high-density residential developments to locations that are near employment and shopping centers; are close to parks and schools; and are accessible to mass transit and bicycle facilities. (Amended by Ordinance No. 94-30).*

The highest density in the Suburban category is requested. The subject property is proximate to other residential developments, employment, parks, and shopping. Lee Tran service is not available at the site.

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments. (Amended by Ordinance No. 94-30, 99-15, 00-22).*

The site is adjacent to residential single-family development to the north (the Estates at Estero River). The 3-story proposed height is taller than the single family homes to the north. Compatibility is a potential issue.

The proposed uses are limited to assisted living with amenities, and limited commercial use on the eastern part of the site. The proposed density is the maximum permitted in the Suburban Future Land Use category. The buildings are set back from the property line and there is an existing wall separating the two projects. There is a landscape buffer as well.

GOAL 11: WATER, SEWER, TRAFFIC, AND ENVIRONMENTAL REVIEW STANDARDS. *To insure that appropriate water, sewer, traffic, and environmental review standards are considered in reviewing rezoning applications and are met prior to issuance of a county development order.*

STANDARD 11.1: WATER. *Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square*

feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Chapter 17-22, F.A.C.).

STANDARD 11.2: SEWER. *Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.*

The property is served by Lee County Utilities and will connect to such services.

Estero–Specific Goals and Policies

GOAL 19: ESTERO. *Promote the development of Estero as a community with a unique quality of life, distinct character, and diverse housing, economic, recreational, and social opportunities by: a. Protecting the natural resources, environment, and lifestyle; b. Establishing minimum aesthetic and design requirements; c. Managing the type, location, quality, design and intensity of future land uses; d. Providing greater opportunities for public participation in the land development approval process; and e. Promoting a true sense of place in Estero. (Added by Ordinance No. 14-16).*

OBJECTIVE 19.1: CHARACTER & LAND USE. *Promote community character through the implementation of planning and development practices that create a visually attractive community, and an enhanced quality of life, and foster a unique sense of place. (Added by Ordinance No. 14-16).*

POLICY 19.1.1: *Support the unique character and quality of life within the Estero community by managing growth and development and by maintaining and executing Lee Plan policies, Land Development Code (LDC) regulations, and other planning tools that: a. Implement and maintain commercial development standards for architecture, landscaping, buffering, signage, lighting designs and visual appearance of developments, transportation facilities, and other community amenities; b. Promote the use of low impact design, sustainable energy, water, and other environmental features; c. Establish higher density, mixed-use development within areas targeted on the Mixed-Use Overlay; d. Encourage the redevelopment and infill of underutilized commercial and residential lands; and e. Increase public participation in the land development approval process to ensure future development efforts support the Estero community plan and adopted Lee Plan policies and LDC standards. (Added by Ordinance No. 14-16).*

The applicant previously showed artist renderings of an attractive Old Florida design but has not committed to any specific renderings at this time.

POLICY 19.1.2: *Lee County may not approve any proposed project that is inconsistent with the Lee Plan including this Goal 19 and its objectives and policies. Projects will be reviewed through a public process that includes the Estero community, property owners, and Lee County staff to ensure that the development is consistent with Estero's Plan and vision. (Added by Ordinance No. 14-16).*

POLICY 19.1.3: *Encourage new developments that achieve the Estero community's vision and planning goal and policies and are consistent with mixed-use design, architectural, location, connectivity and public access standards by establishing and implementing development incentives within the Lee Plan and Land Development Code that: a. Promote urban integrated forms of development in targeted areas identified on the Mixed-Use Overlay; b. Promote targeted industries in appropriate areas of Estero-e.g.: healthcare, arts and culture, technology, and*

research and development facilities; c. Promote the use of green design, sustainable energy, water, and other environmental features; d. Expedite development projects particularly in targeted incentive zones where the community has adopted mixed-use plans and LDC standards; e. Enable infill of underutilized commercial and residential lands; and f. Encourage residential developments to use the bonus density established through the Lee Plan Urban land use categories. (Added by Ordinance No. 14-16).

Estero has a vision to develop a community with a unique quality of life by promoting good planning principles consistent with Goal 19 and associated Objectives and Policies. This application proposes to utilize an infill area with a mix of assisted living related support uses and 15,000 square feet of medical office.

OBJECTIVE 19.2: MIXED-USE CENTERS AND ECONOMIC AREAS. *Promote Estero's quality of life and diverse local economy by fostering the development of mixed-use centers and targeted economic areas, as a preference over the development of strip commercial centers. The aim of the mixed-use centers is to provide Estero with central gathering places for Estero's residents, business people, and visitors. The aim of the economic areas is to provide the community a diverse employment and economic base while meeting the commercial, professional, and service needs of the people who live, work, and play within the community.*

POLICY 19.2.1: *Where feasible, provide for the development of walkable mixed-use town centers and economic areas featuring diverse housing options; government offices and public facilities; medical facilities; employment centers; public gathering places, parks, outdoor plazas, and other public spaces; greenway trails and pathways; and public access to the community's natural resources through Lee Plan policies and LDC regulations that support Estero's distinct community character and the following community priorities: Support the development of a central town center to unify the community; Improve the connectivity between Estero's residential neighborhoods, economic areas, civic uses, and park and recreational facilities; Diversify the community's economic base and employment opportunities; Encourage the development of targeted industry clusters-particularly health industries, professional services and businesses, and technology, research, and development; Expand multi-modal transportation options through improved pedestrian access, bikeways, transit service, and rail opportunities; Improve access to the community's cultural and historic resources; public spaces, parks and recreational facilities; and other community amenities; Commercial and mixed-use developments will maintain a unified and consistent aesthetic/visual quality in landscaping, architecture, lighting, and signage; and Promote and incentivize private investment within mixed-use centers and economic areas.*

The proposed development is for a mix of assisted living, related accessory uses, and some limited commercial uses where residents could walk to nearby commercial businesses. There are amenities on site. There are proposed connections (road and sidewalks) to residential and commercial uses and neighborhoods. Lee Tran service is about a mile to the east and west. The sidewalks could be enhanced to provide shade trees to ensure that they will be utilized.

OBJECTIVE 19.4: TRANSPORTATION CONNECTIVITY AND MOBILITY. *Facilitate the development of an interconnected community that enables people to easily access Estero's neighborhoods, commercial and mixed-use centers as well as other areas within the county and region through an integrated transportation and mobility system.*

POLICY 19.4.1: *Establish land development code standards that ensure the development of a well-connected transportation system that includes pedestrian pathways, bikeways, transit, and roadways. These standards should: Require, where feasible, interconnects with adjacent uses;*

To the extent feasible, minimize access points onto primary road corridors by providing multiple access to adjacent properties; Link neighborhoods, commercial and mixed-use centers, public facilities, and parks; and Enable multi-modal transportation access (pedestrian, bike, vehicular, and transit) within and between the different neighborhoods, economic and employment centers, civic uses, and public space, park, and recreational facilities within the Estero Community.

POLICY 19.4.3: *All public and private rights-of-way within future mixed-use centers and the Old Estero area, as defined in the Land Development Code, are encouraged to be designed to include pedestrian ways, cross walks and traffic calming measures including, where appropriate, on-street parking, raised crosswalks, narrow lane widths or other similar mechanisms.*

The proposed development includes interconnectivity to adjacent developments where possible. Links are provided internally and externally. There is an interconnection to the commercial office development to the east. Sidewalks will be constructed along Sandy Lane and Corkscrew Road. A marked cross walk across Corkscrew Road, currently not provided, would provide a safer way to cross the street to access the park.

Master Concept Plan and Deviations

The Master Concept Plan is attached as Exhibit C and is incorporated as part of the Residential Planned Development, if approved. There are five (5) deviations requested for setbacks from Corkscrew Road and technical deviations regarding internal accessways. A more detailed analysis of deviations is in Attachment A.

Planning and Zoning Board Meeting Summary

The Planning and Zoning Board met on November 17, 2015 to review this project. At the hearing, there was an applicant presentation, public input and discussion. The PZB recommended approval with several conditions, in addition to those proposed by staff. The PZB minutes are attached for further detail. In response to the issues and general discussion at the meeting, as well as the memo from the Village Center Consultant, staff has made revisions to the proposed conditions.

Proposed new conditions include:

- The wall on the north side of project must be verified for structural integrity and height and maintained in acceptable condition in perpetuity
- A pedestrian interconnection must be provided at the NE corner of site to Estero River Estates
- Cross access easements to be recorded at time of Development Order
- Landscaping of dry detention area along Corkscrew Road must be provided (if allowed by Lee County DOT)
- No gates – internal drives will be open to the public
- Planting of trees must be provided along sidewalks to encourage walking and biking

Findings and Conclusions

The Council will need to make a decision on this case based on the application's compliance with the Comprehensive Plan and the Land Development Code. Any decision should contain Findings of Fact.

Based upon an analysis of the application and the standards for approval of planned development rezonings contained in the Land Development Code, staff has suggested some Findings of Fact

for review should the Council desire to approve the project. The Council can modify those, or provide its own findings to support its decision, based on the substantial competent evidence in the record.

1. The applicant has justification for the rezoning to Residential Planned Development (RPD) by demonstrating compliance with the Comprehensive Plan, the Land Development Code, and other applicable codes and regulation, as conditioned.

2. The requested zoning to Residential Planned Development (RPD), as conditioned:

    a. Meets 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 Comprehensive Plan; and
    c. Is compatible with existing or planned uses in the surrounding area, as conditioned; and
    d. The request will not adversely affect environmentally critical areas or natural resources.

3. Although there will be additional trips generated by the development, approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.

4. Urban services, as defined in the Comprehensive Plan will be available and adequate to serve the proposed land use.

5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.

6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.

7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

8. The deviations, as conditioned, will preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

ATTACHMENTS:

A. Staff Revised Conditions and Deviations
B. Maps: Surrounding Zoning, Future Land Use, Aerial Photograph, Mixed Use Overlay, Sandy Lane Corkscrew Road Overlay, Project Density
C. Estero Continuing Care Retirement Community: Master Concept Plan
D. Zoning in Progress Resolution 2015-22

E. Memorandum from Spikowski Planning Associates, dated December 10, 2015
F. Planning and Zoning Board Minutes
G. Estates at Estero River HOA Meeting Notes, April 21, 2015
H. Lee County Utilities Water and Wastewater Availability Letter
I. Lee County School District Comments
J. Lee County Environmental Staff Comments
K. Lee County Department of Transportation Comments
L. Lee County Development Services TIS Comments
M. Zoning Resolution Z-05-038
N. Zoning Resolution Z-05-039

EXHIBIT

A. Legal Description, Sketch, Boundary Survey

ATTACHMENT "A"

Conditions and Deviations

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the one-page Master Concept Plan entitled **"ESTERO CONTINUING CARE RETIREMENT COMMUNITY"** last revised October 20, 2015, stamped received **DECEMBER 18, 2015 (Attachment "C")** except as modified by the conditions below.

This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

This rezoning allows a maximum of 340 beds/units of assisted living/independent living/continuing care (hereinafter referred to as assisted living) beds/units in any combination or configuration so long as the density does not exceed 128 standard dwelling units per LDC Sec. 34-1494 and LDC Sec. 34-1414(c) - as of the date of this Zoning Resolution approval. Commercial use is limited to 15,000 square feet.

Resolution Z-05-038 Galleria at Corkscrew CPD is null and void as a result of this zoning action, and is superseded by this zoning resolution.

Zoning Resolution Z-05-039 Design Parc CPD remains in full force and effect except as amended herein. In the event of any inconsistency between this zoning resolution and zoning resolution Z-05-039 then the conditions and deviations approved in this resolution shall prevail.

2. Uses and Site Development Regulations

The following limits apply to the project and uses:

Schedule of Uses

Residential

Accessory Uses and Structures

Accessory Commercial Support Uses, limited to a maximum of 2,500 square feet of floor area for each use. Must include a minimum of one of the following accessory commercial uses:

- Banks and Financial Institutions, Group I (including ATM)
- Barber or Beauty Shop
- Business Services, Group I – limited to catering for on-site events
- Convenience Store – (no self-service fuel pumps, not freestanding, located

internal to site)
Laundry or Dry Cleaning, Group I and II
Restaurants, Group II and III
Administrative Office
Assisted Living Facility – See dwelling units below
Clubs, private
Community Garden per LDC Sec. 34-1716
Continuing Care Facility – See dwelling units below
Consumption on Premises, limited to indoors. Locations limited to restaurants, and to those areas shown as common areas and civic space on the approved master concept plan. Outdoor consumption on premises will require approval through an amendment to the RPD (public hearing required)
Dwelling Units:
Assisted Living Facility, Independent Living Facility, Continuing Care Facility, Maximum 340 beds. See Condition #1 above
Essential Services
Essential Services Facilities, Group I
Excavation, Water Retention
Fences, Walls
Health Care Facilities, Group I, II, and III – accessory for on-site patient/resident care only.
Home Occupation
Independent Living Facility, See dwelling units above
Medical Office – (15,000 square feet maximum per the Master Concept Plan)
Model Units and Real Estate Sales (See Condition #4)
Parking Lot, Accessory – includes covered parking per the Master Concept Plan
Recreational Facilities, Private, On Site (accessory to assisted living only)
Recreational Facilities, Indoor (accessory to assisted living only)
Residential Accessory Uses and Structures
Signs: Per Chapter 30 and Chapter 33 of the Land Development Code

Minimum Lot Areas and Dimensions

Assisted Living including Amenities and Recreation

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/5 feet (private)
Also see Deviations #2 and #6	
Side	15 feet
Rear	20 feet

Water body 20 feet
All Accessory Uses: Per the LDC

Minimum Building Separation: 20 feet
Building Height: 45 feet/3 stories (whichever is less)
Maximum Lot Coverage: 45 percent

3. **No Blasting**
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. **Model Units/Real Estate Sales**
   A. Model units are limited to a maximum of 4.
   B. Real estate sales are limited to recreational facilities/administrative offices and within model units.
   C. Real estate sales will be limited to the sale of lots or units within the development only.
   D. Hours of operation for model homes and real estate sales in the residential area are limited to Monday through Sunday 8 a.m. to 8 p.m.
   E. No dry models are permitted.

5. **Concurrency**
Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

6. **Vehicular/Pedestrian Impacts**
Approval of this rezoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Land Development Code may be required to obtain a local development order.

7. **Plan Consistency/Concurrency**
Approval of this rezoning does not guarantee local development order approval, or issuance of a Concurrency Certificate. Future development order approvals must satisfy the requirements of the Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with all other Comprehensive Plan provisions.

8. **Utilities**
Water and sewer services are available to the site, and this development must connect to those services as part of any local development order for the site for vertical construction.

9. **Lighting**

Lighting of the subject property must be in compliance with LDC Section 33-16 and Section 34-625 utilizing a maximum height of 20 feet for light structures. All lighting must be architecturally designed and complementary to the buildings where the lighting is located.

10. **Development Parameters**

Development must include a unified "Old Florida" architectural theme for all buildings. The renderings must be reviewed by the Estero Design Review Board who will make a recommendation to the Village Council.

11. **Signage**

The development of the subject property must include a unified, common signage plan and graphic theme throughout the project. The signage and graphic design theme must be reviewed and approved by Village of Estero staff or Design Review Board, as applicable, prior to the issuance of a local development order.

12. **Pedestrian-Friendly Design**

The development must be designed with all of the following design elements:

A. Traffic calming measures within internal roadways, which may include but not be limited to: speed bumps or tables, if approved by the Village and Fire District, raised pedestrian crossings, street trees and pedestrian-friendly landscaping; roundabouts, street furniture or the use of pavers and contrasting materials within the roadways.
B. Sidewalks must be provided on Corkscrew Road and Sandy Lane and at all entrance points to provide connections to the existing sidewalk system on Corkscrew Road, and future sidewalk systems on Via Coconut/Sandy Lane.
C. An internal sidewalk network connecting the uses within the development on the approved Master Concept Plan.
D. Pedestrian crosswalk to be constructed south across Corkscrew Road from western edge of property near Via Coconut/Sandy Lane.

13. **Open Space**

The overall project must provide a minimum of 8.5 acres of open space in substantial compliance with the approved Master Concept Plan.

14. **Heritage Trees**

Development order landscape plans must retain the two existing heritage oak trees located along Corkscrew Road to be preserved as part of a completed project.

15. **Cross Access Easements**

The cross access easements must be recorded at the time of local Development Order.

16. **Landscape**

The applicant will landscape the dry detention area along Corkscrew Road unless prohibited by the Lee County Department of Transportation. The landscape plan is subject to approval by Village staff and Design Review Board. The applicant will plant trees to provide shade, along the sidewalks on Sandy Lane and Corkscrew Road. Specifications will be subject to approval of Village staff and Design Review Board.

17. **Pedestrian Crossing**

A pedestrian crossing will be provided in the northeast corner of the site to Estero River Estates, and must be depicted on the site plan and must be shown on a recorded plat.

18. **Wall**

The wall along the north property line must be verified for structural integrity and height, and maintained in acceptable condition in perpetuity.

19. **Driveways**

The internal driveways will be open to the public and will not be gated.

Deviation Requests

The application includes eight deviation requests, three of which are withdrawn.

The standard for approval is that the deviation request, as conditioned, enhances the planned development, and preserves and promotes the general intent of the LDC to protect the public health, safety and welfare. Staff analysis and recommendations regarding the deviations follows:

Deviation #1 *requests relief from LDC Section 10-416(d)(6) which requires roads, drives and parking areas to be located 125 feet from residential single family subdivisions. The applicant has requested a 25 foot distance with a solid 8 foot wall and landscaping (double staggered row hedge maintained at 60 inches and 10 trees per 100 linear feet).*

The buffer to the north with Estates at Estero River is similar in nature to the buffer and deviation for Design Parc CPD where the wall, berm and buffer have been constructed. The wall should prevent car lights from shining into the adjacent subdivision from the proposed assisted living.

The wall currently exists 15 feet from the north property line as allowed through previous zoning approvals. In addition, the proposed plantings (double hedge row maintained at min. 60-inches and 10 trees per 100 linear feet) are those required by a Type F buffer which as per LDC Section 10-421(a)(2) requires a minimum of 15-feet of plantable width. Environmental staff finds that the buffer plantings proposed exceed LDC requirements and the buffer plantable width meets minimum requirements.

Staff recommends **APPROVAL** of Deviation #1, with the following condition:

1. The dumpster must be relocated further south to the service area, and the parking on the north side of the buildings must be covered to minimize noise to the adjacent property.

Deviation #2 *requests relief from LDC Section 33-406 requiring a maximum 25-foot street setback in the Corkscrew Main Overlay district to allow a setback of 110 feet along Corkscrew Road for the buildings as shown on the Master Concept Plan.*

The property is located in the Corkscrew Main Overlay District per Chapter 33 of the Land Development Code. The intent of this district is as follows:

Sec. 33-402. Intent.
The Corkscrew Road and Sandy Lane districts will be developed as the Estero Planning Community's Main Street, a corridor of architecturally appealing and attractively landscaped retail, office, residential and institutional developments that cater to the needs of the community. These districts are depicted in Appendix I, Map 1.

The applicant makes the case that the request is an assisted living development with internal courtyards, amenities, and walkways and that a maximum setback standard is more appropriate for a commercial development, not a residential development. It also contests that a 110 foot-setback from an arterial road is appropriate to protect residents from noise and nuisance from the road. The applicant also states there is a 45-foot drainage easement along Corkscrew Road, making compliance with the required 25 foot setback problematic.

Many developments along Corkscrew Road have complied with this setback. Some projects with larger setbacks were developed before the requirement was put into place. A deviation was granted for the Miromar Design Center in the past, and a deviation was granted for this previously approved commercial project by Lee County. Staff does not object to granting this deviation due to the nature of this project.

Deviations #3 and Deviation #4 were Withdrawn.

Deviation #5 *requests relief from LDC Section 34-2015(2)d. which requires exiting vehicles to leave a parking lot in a forward motion to allow for parking as depicted on the master concept plan.*

The applicant states that the request is limited to situations where 90-degree parking spaces will back into an internal roadway within the context of an assisted living facility. Cars will exit on a local private road within the development, not subject to a lot of traffic, according to the applicant. The posted speed will be 20 miles per hour and traffic calming measures internal to the development are likely to be utilized.

It is assumed that this request relates to areas where the internal circulating access way passes through parking areas, thereby necessitating driver backing maneuvers directly onto the internal access way instead of a parking lot drive aisle. To mitigate this potential safety hazard, staff recommends approval of the deviation, subject to the condition below.

Staff recommends **APPROVAL** of Deviation #5 with the following condition:

1. If vehicles back directly onto an internal access way, the posted speed limit of the access way must be 25 miles per hour or less, and the access way must be designed so that traffic calming devices are provided per Administrative Code AC-11-14. The design and location of traffic calming devices will be to the satisfaction of the Village of Estero Community Development Director or her designee.

Deviation #6 *requests relief from LDC Section 33-403 which requires that buildings on corner lots be designed with a maximum setback of 25 feet from each adjacent right of way to allow a setback of 185 feet from Sandy Lane and a setback of 110 feet from Corkscrew Road.*

The applicant makes a similar case to Deviation #2 that the Master Concept Plan depicts an assisted living facility with internal courtyards, pedestrian areas, and amenities. The intent is to buffer the residents from both a Collector Road (Via Coconut/Sandy Lane) and an Arterial (Corkscrew Road).

Staff recommends **APPROVAL** of Deviation #6.

Deviation #7 *requests relief from LDC Section 34-2192(b)(5) which requires all parking lots, access streets, and drives to be a minimum of 75 feet from the right of way to allow parking lots, access streets, and drives to be set back to a minimum of 50 feet from the right of way as shown on the master concept plan.*

The applicant makes the case – similar to Deviation #2 and #6 – that parking is provided on the perimeter of the site – enabling a design to allow residents and services to be consolidated, compact, and amenities accessible. The setback is to allow greater protection of residents from the roadways. Sandy Lane, it was pointed out, could possibly be expanded from two to four lanes. The parking, as proposed, on the Sandy Lane side is adequately buffered.

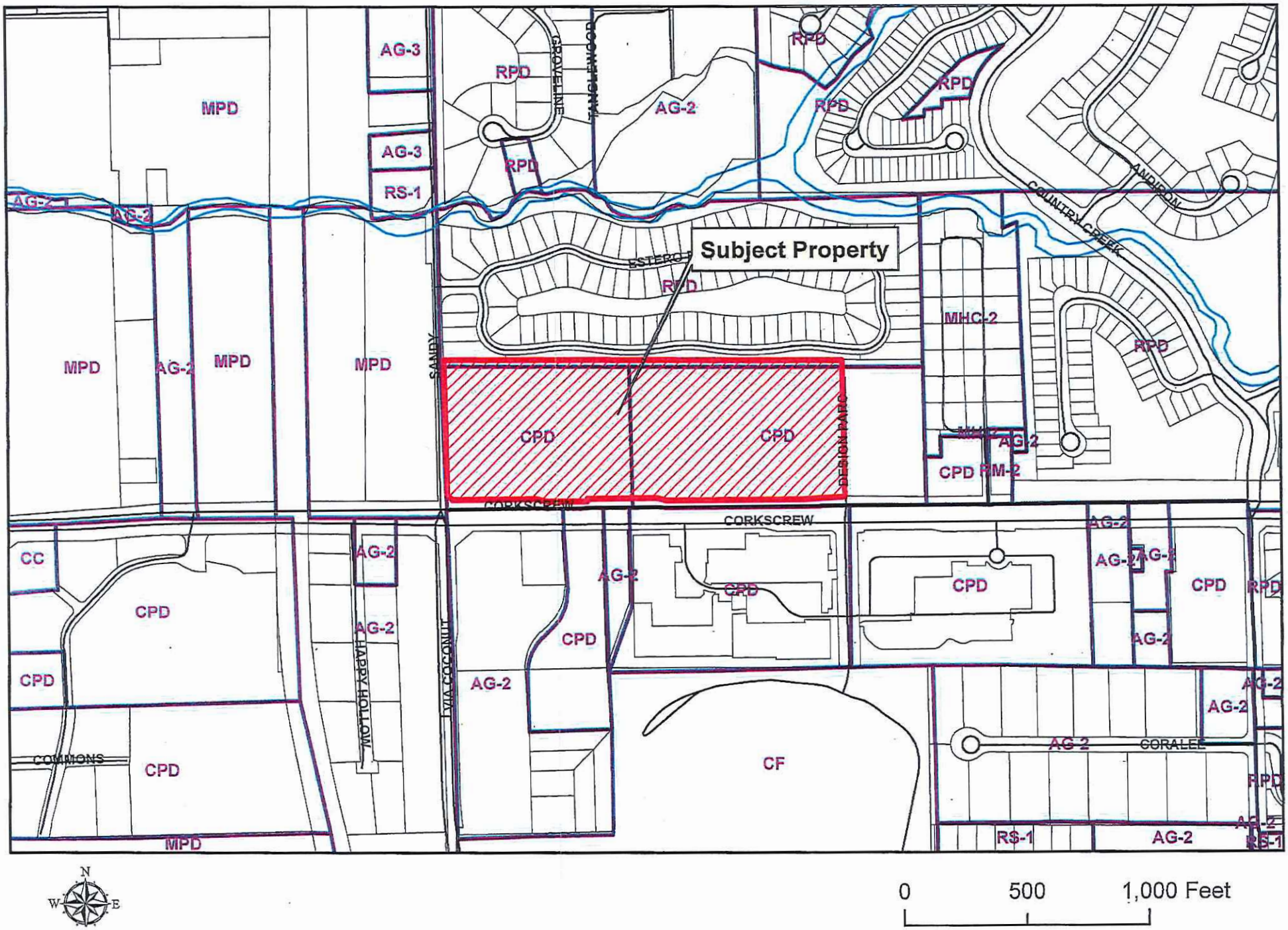
Staff recommends **APPROVAL** of Deviation #7.

Deviation #8 was Withdrawn.

DCI2015-00013

ATTACHMENT B

Zoning Map

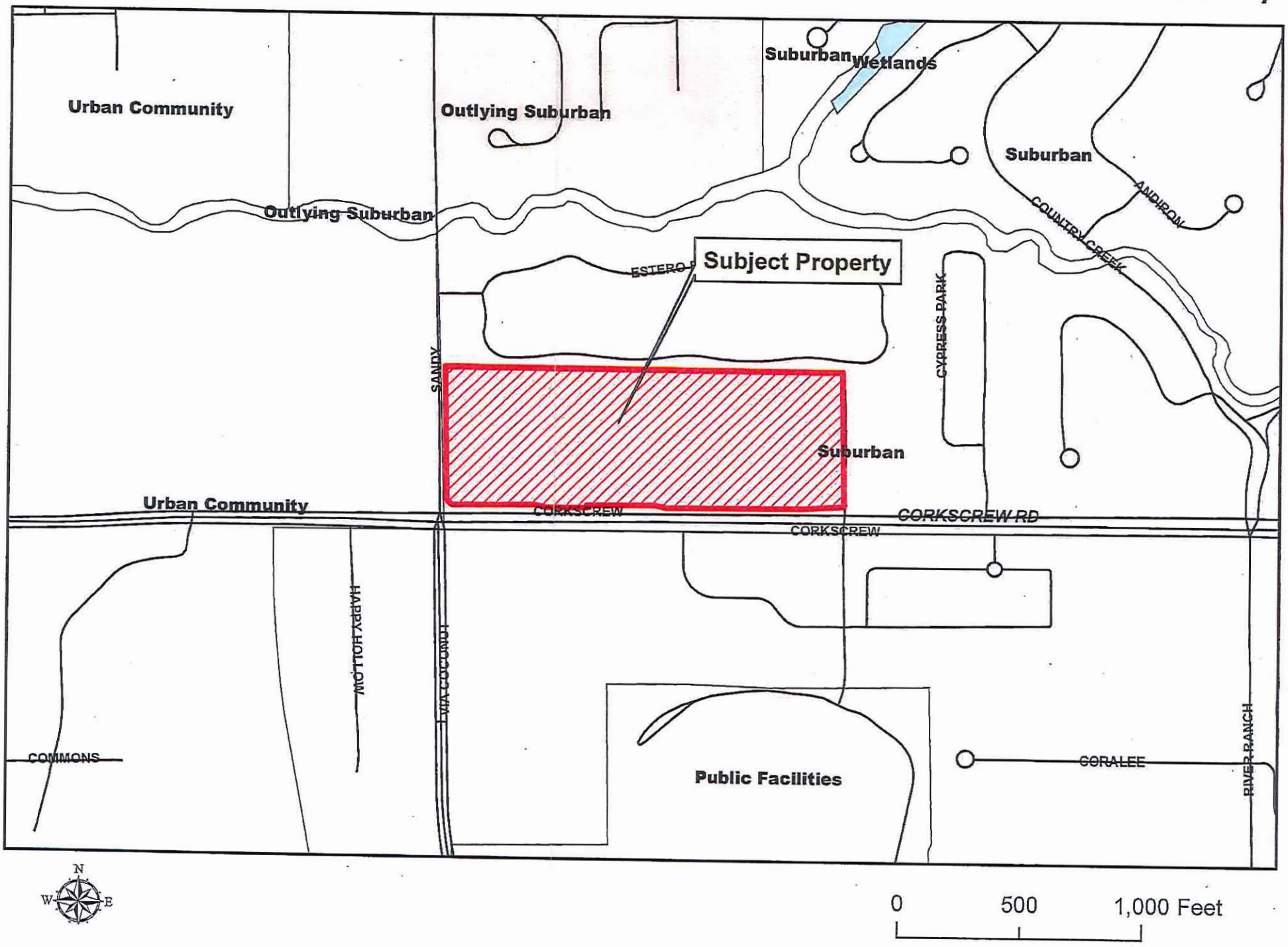


ATTACHMENT B

DCI2015-00013

ATTACHMENT B

Future Land Use Map



ATTACHMENT B

DCI2015-00013

ATTACHMENT B

2015 Aerial Map

N
W E

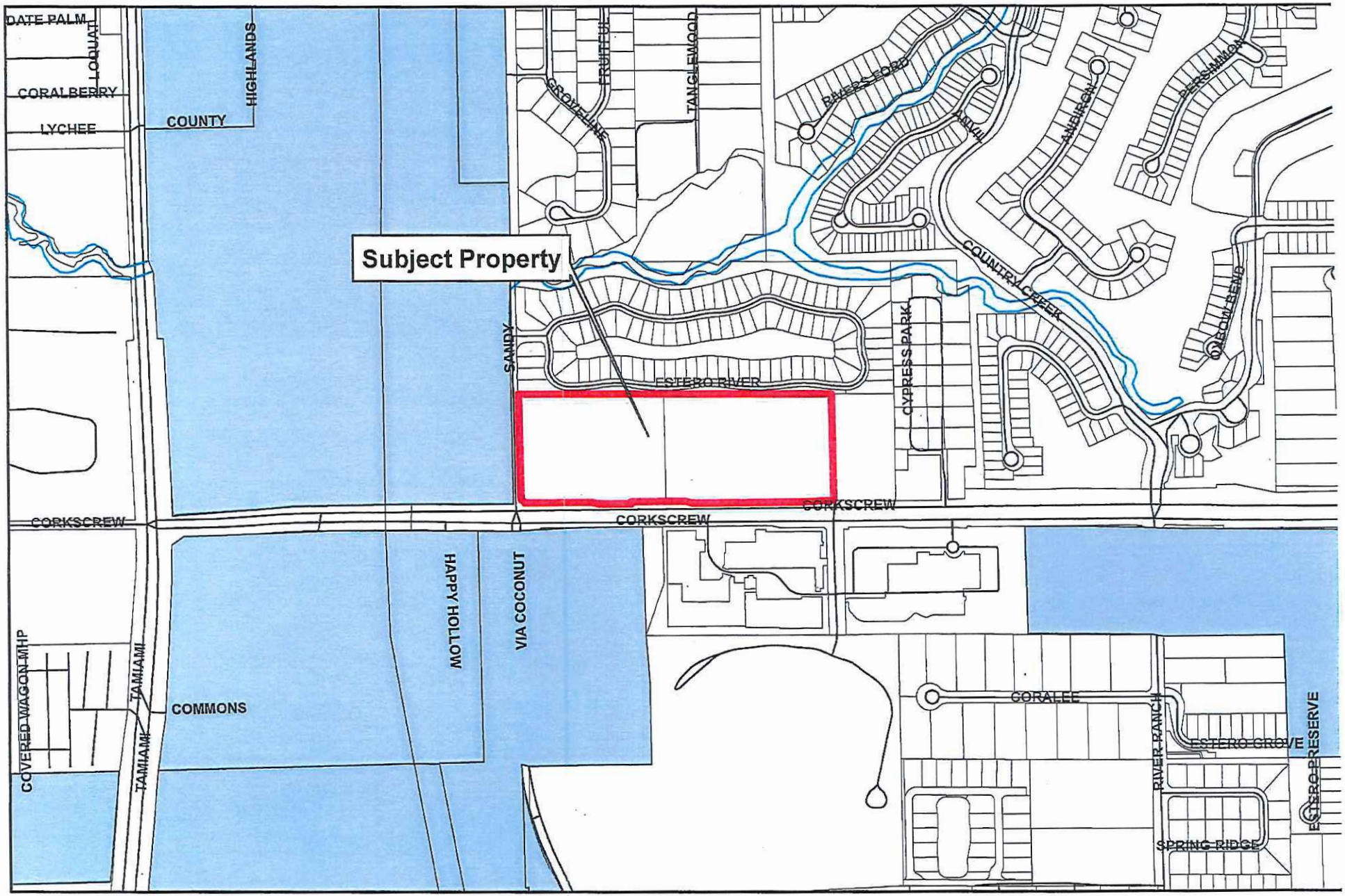
0 500 1,000 Feet

ATTACHMENT B

ATTACHMENT B

DCI2015-00013

MIXED USE OVERLAY



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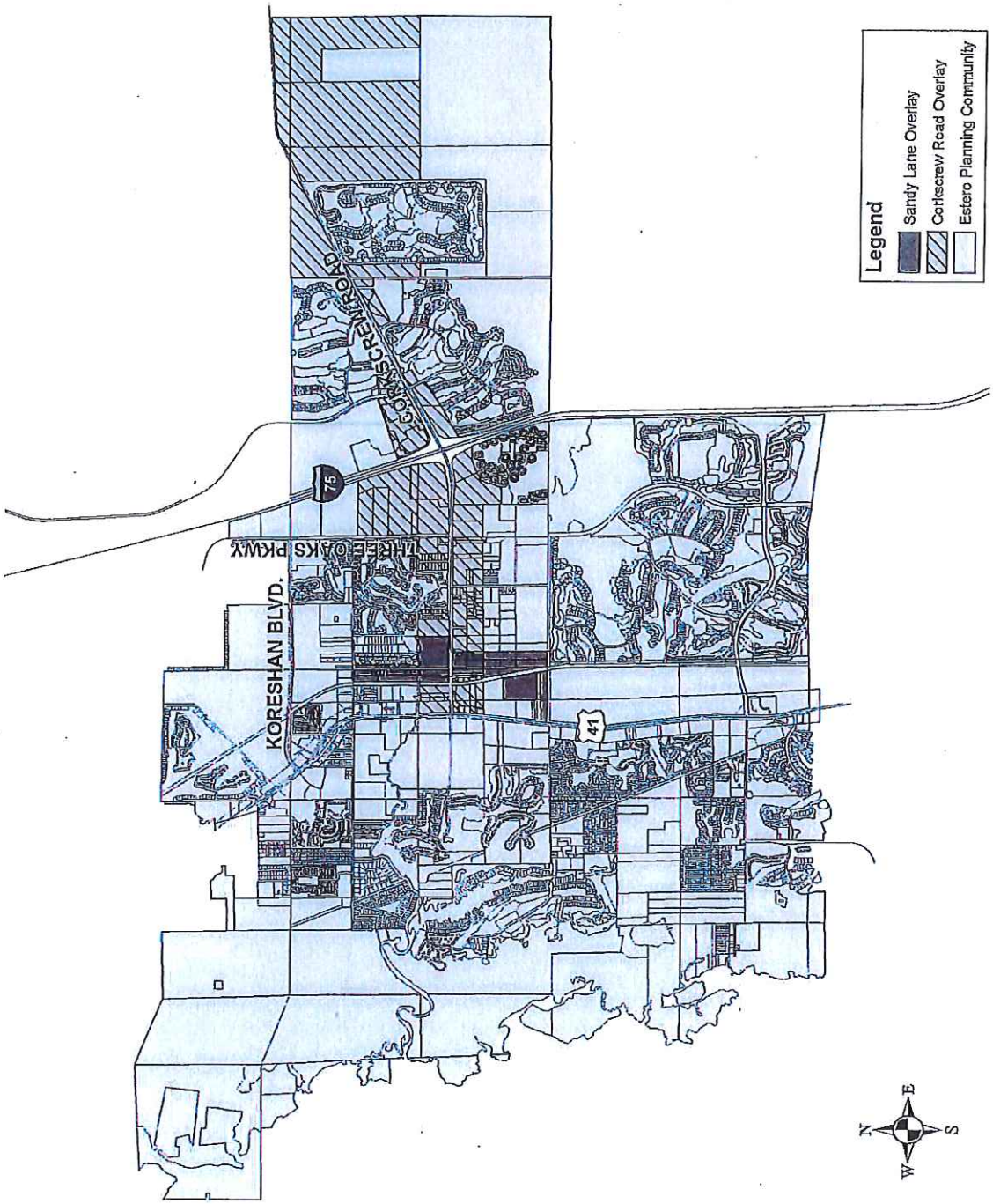
ATTACHMENT B

ATTACHMENT B

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS [1]



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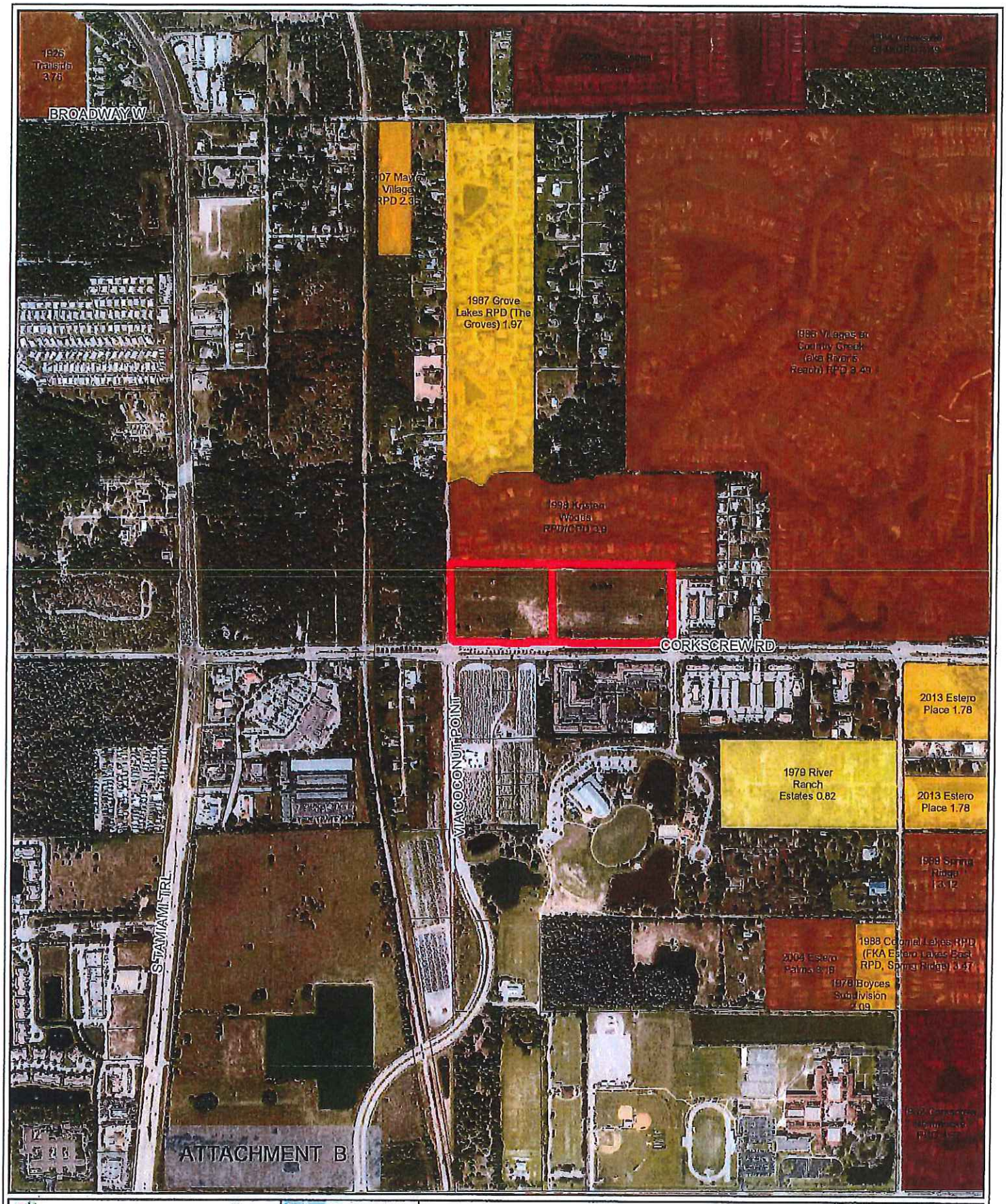


LEE COUNTY
SOUTHWEST FLORIDA
DIVISION OF PLANNING

0.08 0.04 0 0.08 0.16
Miles

Map Generated October 2015

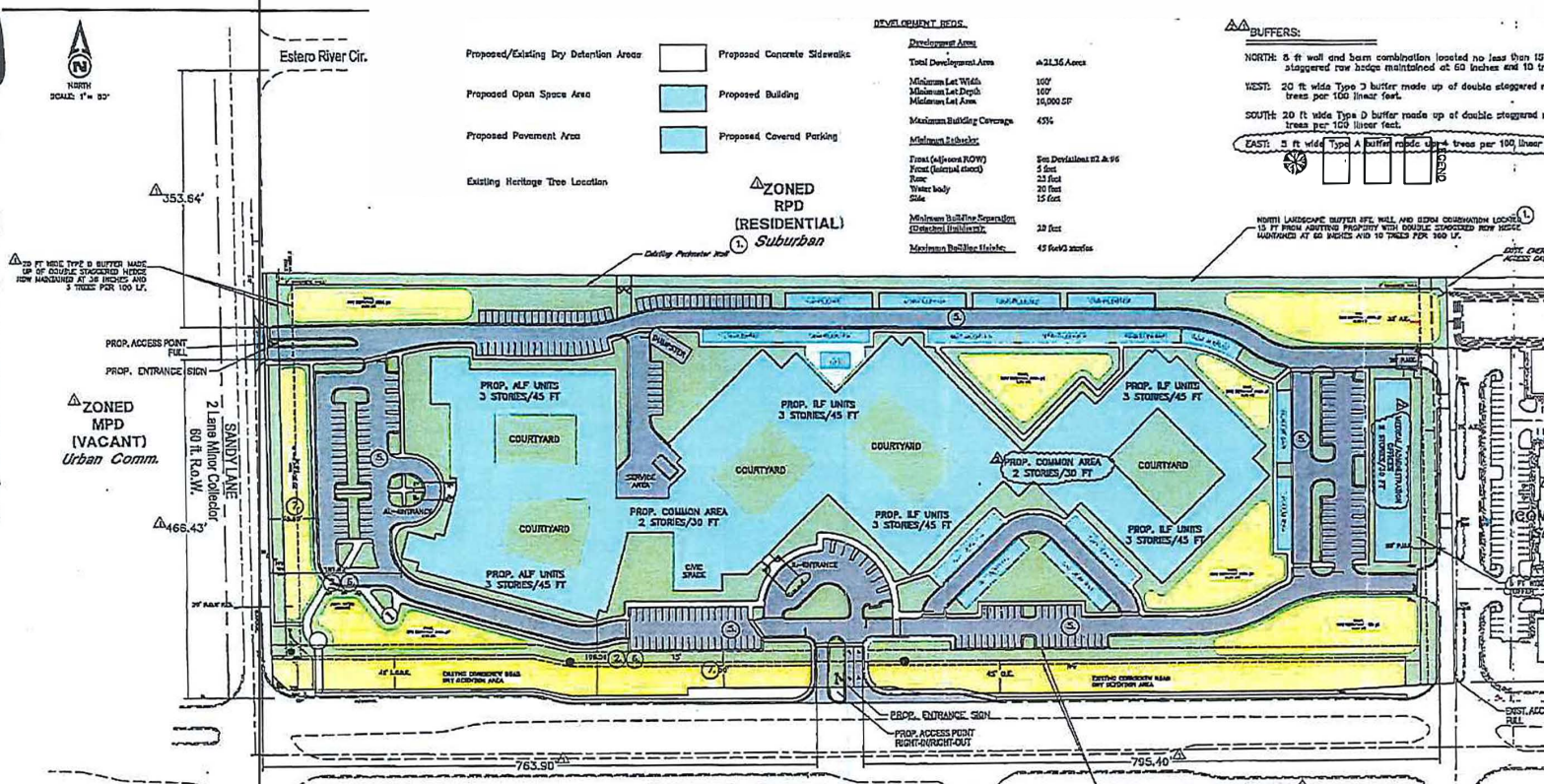
Approved Project Density

- Less then 1
- 1 to 1.999
- 2 to 2.999
- 3 to 3.999
- 4 or more
- Subject Property

VOLUNTEERS OF AMERICA

Project Densities

ATTACHMENT C



DEVELOPMENT REQS.

Development Area:

Total Development Area	±21.36 Acres
Minimum Lot Width	100'
Minimum Lot Depth	100'
Minimum Lot Area	10,000 SF
Maximum Building Coverage	45%
Minimum Setbacks:	
Front (adjacent ROW)	See Deviation #2 & #6
Front (internal street)	5 feet
Rear	25 feet
Water body	20 feet
Side	15 feet
Minimum Building Separation (Detached buildings):	20 feet
Maximum Building Height:	45 feet/3 stories

BUFFERS:

NORTH: 8 ft wall and berm combination located no less than 15 staggered row hedge maintained at 60 inches and 10 t

WEST: 20 ft wide Type D buffer made up of double staggered trees per 100 linear feet.

SOUTH: 20 ft wide Type D buffer made up of double staggered trees per 100 linear feet.

EAST: 5 ft wide Type A buffer made up of trees per 100 linear

NORTH LANDSCAPE BUFFER SITE WALL AND BERM COMBINATION LOCATED 15 FT FROM ADJOINING PROPERTY WITH DOUBLE STAGGERED ROW HEDGE MAINTAINED AT 60 INCHES AND 10 TREES PER 100 LF.

PROJECT SUMMARY:

1.) PARCEL SIZE: ±21.36 Acres
Future Land Use: Suburban
Existing Zoning: CPD
Existing Planning Community: Estero

2.) REQUEST: A Rezoning of a portion of existing C.P.D. to R.P.D.

a.) Adjacent Property Land Use / Zoning:

	Zoning	Use
North	R.P.D	Estates on the Estero River — R.P.D.
West	R.O.W.	Sandy Lane — Roadway
South	R.O.W.	Corkscrew Road — Roadway
East	C.P.D.	Galleria — Commercial

3.) CONCEPTUAL LAND USE BREAKDOWN:

Continuing Care Retirement Community

Development Area (Bldg)	± 4.52 Ac.
Development Area (Pavement/Walks)	± 3.02 Ac.
Covered Parking	± 0.82 Ac.
O.S./Buffers/Green/Dry Detention Areas (total)	± 11.00 Ac.
TOTAL	± 21.36 Ac.

4.) CONCEPTUAL OPEN SPACE:

Open Space Req'd:

Residential Development Areas

±21.36 Ac. x 0.4 =	± 8.54 Ac.
Total Open Space Req'd:	± 8.54 Ac.

Open Space Prov'd:

Indigenous Preserve Area	± 0.00 Ac.
Development Area — Open Space/Ammenities	± 4.77 Ac.
Dry Detention Areas/Drainage Easement	±3.77 Ac.
Total Open Space Prov'd:	± 8.54 Ac.

5.) INDIGENOUS OPEN SPACE:

Project site is a former orange grove and has been cleared of all indigenous vegetation. As such there is no indigenous preservation area being provided.

6.) NOTES:

1. Solid waste facilities shall be located within areas denoted as service areas only. These facilities may consist of dumpsters and trash compactors.

7.) PROJECT INTENSITY / PHASING:

Phase:
1 — (2016–2020) — 118 units
2 — (2020–2022) — 12 units
Total: Equivalency of 128 dwelling units

Residential Density Calculation:
Max Density = 6 Units/Acre Based on Total Area
Residential Project Total Project Area = 21.36 Ac
Max. Density = 6 units/ac * 21.36 ac = 128 dwellin units

Conversion factors:
Independent Living Units: 2:1
Assisted Living Units: 4:1

Dwelling units requested: 128 units

8.) PARKING CALCULATIONS:

Per LDC 34–2020(a)(5) Continuing Care Facility parking shall be provided at 1.12 spaces per unit.

Proposed total number of units = 340

Required Parking 340 * 1.12 = 381 Spaces

Provided Parking = 408

9.) REQUESTED DEVIATIONS:

1. Deviation seeks relief from LDC 10–416(d)(5) requirement to pro combination not less than right feet in height to be constructed property line and landscape (between the wall and the abutting p and 16 shrubs per 100 linear feet if roads, drives or parking ar an existing residential subdivision or residential lots.
2. Deviation seeks relief from LDC 33–406 requirement to provide Corkscrew Road Main Street Overlay District.
3. Deviation: Withdrawn
4. Deviation: Withdrawn
5. Deviation seeks relief from LDC 34–2013(2)d, which requires exit forward motion.
6. Deviation seeks relief from LDC33–403, which requires that buildi with a maximum setback of 25 ft. from each adjacent right-of-
7. Deviation seeks relief from LDC 34–2192(b)(5), which requires th drives be set back a minimum 75 ft. from the right-of-way.
8. Deviation: Withdrawn

PROJECT NO.	2014078
SHEET NO.	1 of 1
DRAWING NO.	XXXX-01
DRAWING NO.	XXXX-01 MCP
SCALE	1" = 60'
DESIGNED	T.M.H.
DATE	04/15
DRAWN	C.L.K.
DATE	04/15
CHECKED	C.L.K.
DATE	04/15

ESTERO CONTINUING CARE RETIREMENT COMMUNITY
Master Concept Plan
Village of Estero, FL.

HOLE MONTES
ENGINEERS · PLANNERS · SURVEYORS

6200 Whiskey Creek Drive
Fort Myers, FL. 33919
Phone : (239) 985–1200
Florida Certificate of Authorization No.1772
Naples · Fort Myers

NUMBER	REVISIONS	DATE
1	Revised per Lee Co. Development Services	10/20/15
2	Revised & Per LeeCounty Comments	8/10/16

RECEIVED

ATTACHMENT C

ATTACHMENT D

RESOLUTION NO. 2015- 22

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING RECITALS; INVOKING ZONING IN PROGRESS FOR THE AREA ENCOMPASSED IN THE VILLAGE CENTER STUDY AREA ILLUSTRATED ON MAP A ATTACHED HERETO; ADOPTING EXEMPTIONS; PROVIDING FOR ECONOMICALLY VIABLE USE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Estero was incorporated by referendum held on November 4 3, 2014 and the Village Council was elected on March 3, 2015, pursuant to the Charter of the Village of Estero ("Charter") created by Ch. 2014-249, Laws of Florida; and

WHEREAS, the Charter provides that the Village Council shall have the broadest exercise of home rule powers permitted under the state Constitution and the laws of the state; and

WHEREAS, the Village Council has reviewed the January 2015 Community Planning Initiative Final Report (Report), by Seth Harry & Associates, Inc. and Spikowski Planning Associates, and based on the Report has determined to pursue the preparation and adoption of Land Development Code regulations to implement a walkable, mixed use regulatory framework based on the preliminary concepts in the Report, for the areas generally identified in the Report as the Village Center and the Healthcare Village ; and

WHEREAS, the Village Center which is the subject of this Resolution is depicted in the Map attached hereto as Map A;

WHEREAS, the Village has contracted with Seth Harry & Associates, Inc. and Spikowski Planning Associates, and Lewis, Stroud & Deutsch, PL, for the preparation of Land

Development Code Amendments and any appropriate Comprehensive Plan Amendments to implement the concepts set out in the Report; and

WHEREAS, it is anticipated that the adoption of new Land Development Code Amendments pursuant to the concepts set out in the Report will be accomplished in approximately one year; and

WHEREAS, Florida law recognizes the doctrine of "Zoning In Progress" that allows applications for development approval to be accepted but temporarily delayed for a reasonable amount of time while zoning changes are pending that would affect the development approval, as explained in City of Hollywood v. Hollywood Beach Hotel Co., 283 So.2d 867 (Fla. 4th DCA 1973), aff'd in pertinent part, 329 So. 2d 10 (Fla. 1976), and City of Pompano Beach v. Yardarm Restaurant, Inc., 509 So.2d 1295 (Fla. 4th DCA 1987); and

WHEREAS, Zoning in Progress prevents the premature review and approvals of new development which may be incompatible with proposed land development regulations that may result from the adoption process; and

WHEREAS, the Village Council has determined that it is in the best interests and welfare of the Village and its residents to invoke Zoning in Progress for any new application for development approval in the Village of Estero in the area depicted in Map A that would be affected by the pending zoning changes.

NOW THEREFORE, THE VILLAGE OF ESTERO HEREBY RESOLVES as follows:

Section 1. **Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this

Resolution.

Section 2. **Zoning in Progress.** After the effective date of this Resolution, any application for development approval within the Village within the areas depicted on Map A attached hereto and made a part hereof, shall be reviewed to determine if it complies with the principles of compact, walkable, transit supportive, mixed use development, with an emphasis on employment, housing, recreational and civic uses, as more fully envisioned by the January 2015 Community Planning Initiative Final Report, insofar as those applications are also consistent with the Village Comprehensive Plan The final approval of any such development application may be temporarily stayed until the adoption of land development regulations that implement the principles of the Report

Section 3. **Exemptions.** The Village Council hereby determines that the following shall be exempt from the application of Zoning in Progress:

a. Applications for development approval within the area depicted on Map A which are pending and determined to be sufficient for review as of April 17, 2015.

b. Applications for development approval within the area depicted on Map A which the Village Council determines, after public hearing, proposes particular development for which the Applicant has vested rights to proceed.

Section 4. **Economically Viable Use.** Nothing in this Resolution shall be construed or applied to prevent all economically viable use of property within the area depicted on Map A

Section 5. **Severability.** If any section, subsection, clause or provision of this Resolution is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder

shall not be affected by such invalidity.

Section 6. **Effective Date.** This Resolution shall be effective immediately upon passage and shall remain in effect for no longer than 365 days.

PASSED and ADOPTED this 17th day of April, 2015

Nick Batos, Mayor

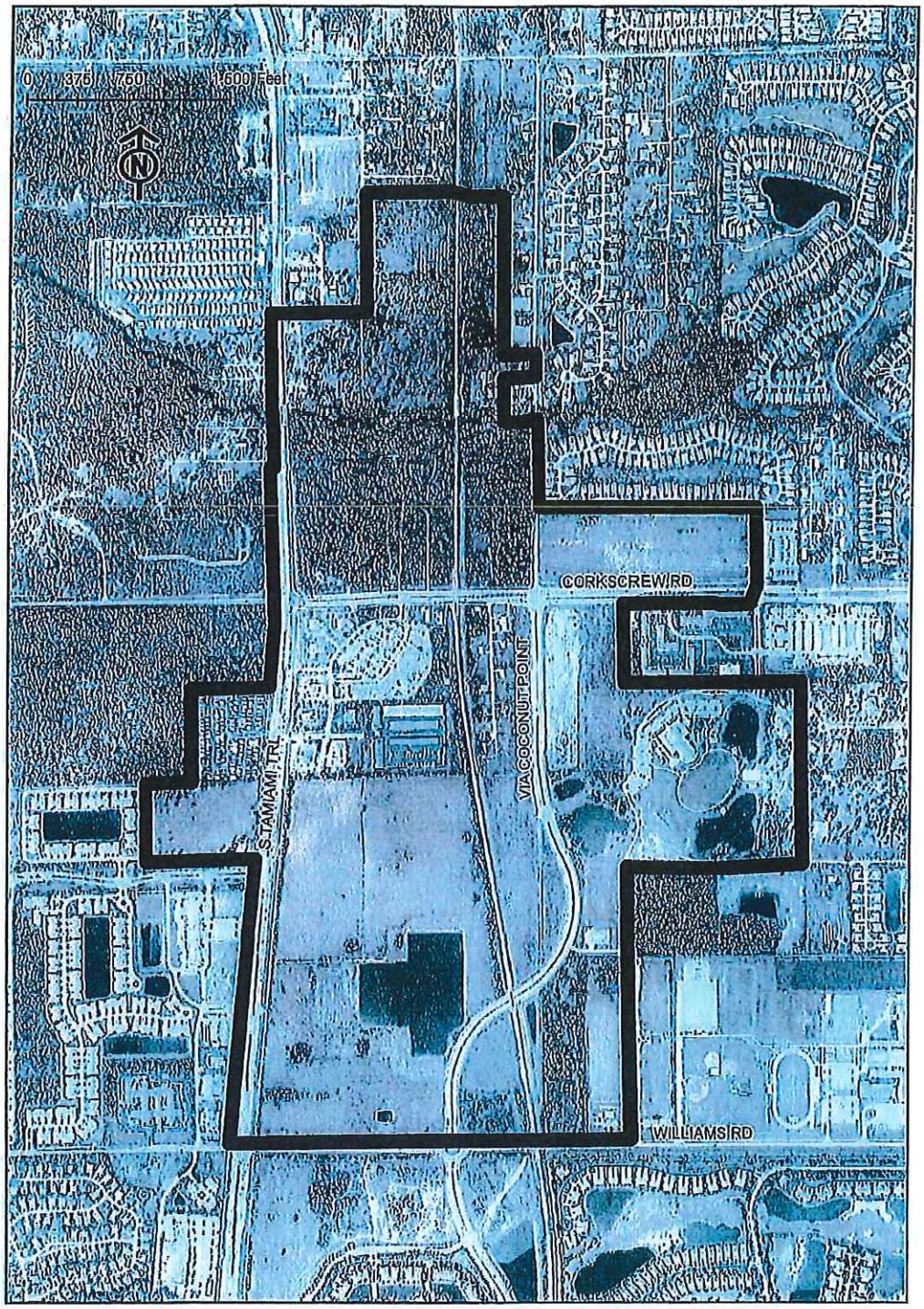
Attest:

Interim Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Burt Saunders, Interim Village Attorney

Mayor Batos	yes ✓	no
Vice Mayor Levitan	yes ✓	no
Councilmember Boesch	yes	no ✓
Councilmember Brown	yes ✓	no
Councilmember Errington	yes	no ✓
Councilmember Ribble	yes ✓	no
Councilmember Wilson	yes ✓	no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CORKSCREW RD
VIA COCONUT POINT
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WILLIAMS RD

MAP A

ATTACHMENT E

SPIKOWSKI PLANNING ASSOCIATES

MEMORANDUM

TO: Mary Gibbs, Community Development Director
FROM: Bill Spikowski
DATE: December 10, 2015
SUBJECT: Volunteers of America
Estero Continuing Care Retirement Community

The Village Council will soon be considering the rezoning request for the Estero Continuing Care Retirement Community. During that public hearing, the Village's zoning-in-progress resolution requires the council to also evaluate whether this request:

> *"...complies with the principles of compact, walkable, transit supportive, mixed use development, with an emphasis on employment, housing, recreational and civic uses, as more fully envisioned by the January 2015 Community Planning Initiative Final Report, insofar as those applications are also consistent with the Village Comprehensive Plan."*

The council will have a copy of this resolution available (2015-22, adopted on April 17, 2015) because it is an attachment to the staff report. The resolution was adopted to prevent the premature approval of new development that would be incompatible with initial plans for a future Village Center in the immediate area. The resolution states that development approvals may be temporarily delayed while new Village Center plans and codes are being completed. The resolution is in effect until April 17, 2016, unless extended or repealed earlier.

The following factors are relevant to this evaluation:

1. **Comprehensive Plan Consistency:** A prerequisite for an application to proceed while the resolution is in effect is consistency with the Comprehensive Plan. This application meets that requirement.
2. **Compactness:** This application requests the maximum residential density allowed by the Comprehensive Plan, which is 6 dwelling units per acre (which will be converted to 340 beds using established formulas). The physical arrangement of the site, however, will isolate future residents from their surroundings, although it must be acknowledged that this separation would be difficult to avoid, given the existing wall on the north side, the Galleria offices to the east, and Corkscrew Road to the south.
3. **Walkability (Internal):** The site plan shows an internal sidewalk looping around the residential buildings and connecting to potential sidewalks along Sandy Lane and Corkscrew Road. The internal sidewalks immediately abut parking spaces and driveways, without separation or shade, which will greatly reduce their usefulness to residents.

1617 Hendry Street, Suite 416, Fort Myers, Florida 33901-2947 • phone: (239) 334-8866 fax: (239) 334-8878
e-mail: bill@spikowski.com web: www.spikowski.com

4. **Walkability (External):** It is not clear whether the applicant will construct sidewalks along Sandy Lane and/or Corkscrew Road, and if so whether those sidewalks would be separated from traffic, without which pedestrian access to shopping on Corkscrew Road at US 41 would be more theoretical than practical. If the interior driveways are ungated and open the public, they would improve pedestrian circulation for surrounding residents and businesses; residents along Sandy Lane could reach the Estero Community Park and adjoining businesses without having to walk along pedestrian-hostile Corkscrew Road.
5. **Transit-Supportive:** The applicant intends to provide van service to its residents, which will significantly improve mobility for elderly residents. At present, the nearest bus service is Route 140, which runs along US 41 every 20 minutes from Coconut Point through downtown Fort Myers and across the Caloosahatchee. This community is very near the Seminole Gulf rail corridor, which may accommodate north-south public transportation in the future.
6. **Mixed Use:** This application would convert 21 acres of a larger commercial development to residential uses. It would also allow the construction of 15,000 square feet of medical offices facing Design Parc Lane. The applicant has not committed to constructing those offices.
7. **Employment:** This community would provide employment because some residents would require personal and medical services; medical offices would provide additional employment.
8. **Housing:** This community will increase housing diversity at a very central location in Estero.
9. **Recreational Uses:** This community will presumably provide recreational facilities on site for its residents. A Lee County recreation center at the Estero Community Park is less than a half mile to the south and is accessible to residents by walking along Design Parc Lane and Corkscrew Palms Boulevard, although the unsignalized crossing of Corkscrew Road is difficult even for agile pedestrians. A trail may be built along the rail corridor in the future; it would be easily accessible to residents.
10. **Civic Uses:** The van service could provide convenient access to off-site civic and recreational uses. The applicant has not committed to civic uses on-site.
11. **Compatibility:** The proposed development will have buildings that are taller than surrounding parcels but the height difference does not create incompatible conditions.
12. **Connections to Street Network:** This community will provide reasonable connectivity to surrounding streets. No access will be provided to the north because a wall surrounds the Estates at Estero River community; the only potential access to the north is at the end of Design Parc Lane where there is an emergency gate in the wall. The internal looped driveway will provide the following connections:
    - East to Design Parc Lane – two full connections
    - West to Sandy Lane – one full connection
    - South to Corkscrew Road – one right-in, right-out connection to the westbound lanes

This site is sandwiched between an office park to the east, a gated community to the north, and two Lee County roadways. The proposed site plan is a reasonable response to those constraints. The major uncertainties as to the Village's goals for a future Village Center are whether the medical offices will actually be constructed, whether the internal sidewalks can be redesigned to be a useful amenity and whether they will be open to the public, and whether the external sidewalks and the pedestrian connections across Corkscrew Road will be constructed in a manner that encourages walking and biking by those residents able and interested in doing so.

1617 Hendry Street, Suite 416, Fort Myers, Florida 33901-2947 • phone: (239) 334-8866 fax: (239) 334-8878
e-mail: bill@spikowski.com web: www.spikowski.com

ATTACHMENT F

VILLAGE OF ESTERO PLANNING AND ZONING BOARD
MEETING OF NOVEMBER 17, 2015

The Village of Estero Planning and Zoning Board meeting was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida.

Present: Chairman Roger Strelow, and Board Members David Crawford, Ned Dewhirst, Jeff Maas, Marlene Ann Naratil, and Scotty Wood. Absent: Board Member Ryan Binkowski.

Also present: Nancy Stroud, Esq., Community Development Director Mary Gibbs, and Village Clerk Kathy Hall.

1. CALL TO ORDER

Chairman Strelow called the meeting to order at 5:30 p.m.

2. PLEDGE OF ALLEGIANCE

Chairman Strelow led the Pledge of Allegiance.

3. ROLL CALL

Village Clerk Kathy Hall called the roll; all members were present with the exception of Board Member Binkowski.

4. APPROVAL OF AGENDA

Board Member Wood moved approval of the agenda, seconded by Board Member Crawford, called and carried unanimously.

5. BUSINESS

(a) Approval of Minutes

(1) October 20, 2015

Board Member Crawford moved approval of the October 20, 2015 minutes, seconded by Board Member Naratil, called and carried unanimously, with Board Member Binkowski absent.

(b) Consent Agenda

None.

(c) Unfinished Business

None.

Chairman Strelow provided information regarding Board business. All audience members and staff providing testimony were sworn in by Village Clerk Kathy Hall. Chairman Strelow called for Board Member conflicts of interest and ex parte contact. There were no conflicts of interest noted. Board Member Dewhirst declared ex parte contact with the Planner related to the Volunteers of America application. Community Development Director Mary Gibbs introduced new staff members.

(d) Public Hearings

(1) Coconut Point Art Festival – TMP 2015-00248 (District 6)
Request for Special Event Permit for New Year's weekend art festival at Coconut Point mall parking lot January 2 and 3, 2016

Community Development Director Gibbs and Chairman Strelow provided brief introductions.

Sean Carroll, Coconut Point Mall, explained what would take place related to the art festival, which would include approximately 180 vendors; they expect attendance to be 2,000 to 3,000 people. In response to an inquiry regarding whether the same vendors and local artists were there every year, Mr. Carroll responded "yes."

Community Development Director Gibbs provided further information regarding conditions of approval as described in the resolution.

Chairman Strelow called for public comment and no one came forward.

Board Member Crawford moved approval of Resolution No. PZB 2015-09, seconded by Board Member Wood, called and carried unanimously, with Board Member Binkowski absent.

(2) Volunteers of America – DCI 2015-00013 (District 4)
Request for rezoning to Residential Planned Development for Continuing Care/Assisted Living Facility at northeast corner of Corkscrew Road and Via Coconut (Sandy Lane)

Charles Basinait, representing Volunteers of America, noted the revised project name: The Colonnade of Estero CCRC, and explained that the request was to rezone from CPD to RPD. Through a PowerPoint presentation, he provided further explanation regarding aerial map; maximum 128 dwelling units on the site; adult living facility units; limited to 340 beds. Mr. Basinait also provided copies of all materials, which were accepted as exhibits.

Chairman Strelow provided an explanation of Zoning in Progress and Village Center concept.

Mr. Basinait stated that they agreed with the staff report and conditions, and inquired regarding entering information in the record related to expert witnesses and noted that Mr. Mulhere's resume had been made available for the record.

Bob Mulhere, Professional Planner, Hole Montes Engineering, provided information related to his professional background. Mr. Mulhere was accepted by the Planning and

Zoning Board as an expert in land use planning for purposes of this matter. Continuing with the PowerPoint presentation, he provided an explanation regarding approved vs. proposed, which was continuing care retirement community and pointed out the following: existing construction; proposed development; master concept plan, which included connectivity, pedestrian, and bicycle; comprehensive plan consistency and objectives; connectivity, parking, pedestrian area, civic use building, and typical amenities; elements of zoning in progress; Community Planning Initiative final report (Seth Harry report); requested deviations; transportation; sidewalks; "Old Florida" design; conceptual site plan; interior perspective; buffers; landscaping; planning conclusions; project consistent with the Estero Community Plan, the Lee Plan and the LDC design requirements.

Mr. Basinait emphasized that a specific finding in the Seth Harry report indicated that there was insufficient senior housing in Estero. He believed that this project was a direct response to the finding in the report. He noted that they were speaking with Lee County regarding installation of a crosswalk at Corkscrew Road and Sandy Lane, in order to get people from their project to the south side of Corkscrew Road. He also addressed traffic calming measures within the project; the minimal amount of traffic generated by the project at the interchange, which was radically different than what would have been created with the previously proposed commercial use. He added that there would be an overall traffic reduction of 85% with the revised request. Mr. Basinait spoke regarding a berm that would be created along Corkscrew Road with plantings on the top and enhanced buffers; both sides of the wall along the north side of the project would be heavily landscaped; the north side would be irrigated. In response to Board Member inquiries, Mr. Basinait provided explanations regarding portions of the roadway, wall, and buffering that were approved as part of the previous CPD zonings; making the site accessible for residents within and outside of the site; uses of accessory structures; sidewalks on Corkscrew Road and Sandy Lane to be built consistent with the Master Concept Plan; phased development; and home occupations.

Kevin Ahmadi, Director of Operations, Volunteers of America, and Executive Director, Gulf Coast Retirement Village, explained that the community was a life plan community with entrance fees. He noted that the community would be open to the public and the civic space would be opened up for a multitude of civic organizations, including inter-generational level. In response to an inquiry regarding pets, Mr. Ahmadi responded that pets less than 20 pounds would be acceptable.

Charlie Krebs, Engineer, Hole Montes, provided professional background information; Chairman Strelow stated that the Board accepted him as an expert witness. Mr. Krebs offered an explanation regarding the on-site water management system.

In response to Board Member inquiries, Mr. Basinait provided information regarding parking requirements; civic use; medical use and EMS parking; interconnection and crossing to the north; and dry detention areas.

Community Development Director Gibbs provided an explanation regarding the staff report and recommendation.

Judy Libersher, Estates at Estero River resident, addressed concern regarding: residents residing along the wall that believe they have not been represented; the 3-story buildings;

number of possible residents and employees; compatibility with the neighborhood; traffic along Sandy Lane; building and parking lot lighting. She believed that the project was a major medical facility and did not meet the mixed-use criteria.

Jennifer Palmer, Estates at Estero River resident, Estates at Estero River Community Association Board of Directors President, and spouse of the realtor involved with the sale of the subject property, provided information regarding: a letter of support from the Board of Directors to the Volunteers of America; a Board Member that lobbied and collected signatures on a petition against the project on her own without sanction from the Board, which did not represent the majority of the community; a community-wide survey as a gesture of good faith by the Board for membership input regarding the letter of support, resulting in 59 respondents, with 43 responding in favor of the rezoning.

Judy Libersher, Estates at Estero River resident, was recognized by Chairman Strelow for additional comment. Ms. Libersher stated that the Planning and Zoning Board may want to review the survey, as Ms. Palmer was stating her opinion. Ms. Libersher added that her opinion was based on the signatures she received on a petition and that she spoke personally with the people who said they would not be in complete support of the project.

Charles Basinait addressed concerns raised by Ms. Libersher related to the 3-story buildings, the number of people, the project being a medical facility, mixed use, traffic, the wall on the north side, and lighting. He responded that the developers were mindful of the neighbors and that any visual impacts would be minimal on the north side; they have agreed to limit the facility, which was not a medical facility, to 340 beds; to some extent there would be a mixed use component to the project; traffic produced by this project would be significantly less than previously approved; the developers were aware that the wall was in bad shape, however, the wall and landscaping would be maintained; lighting would not be an issue due to compliance with the existing strict lighting regulations; and, the project would eliminate some of the surplus commercial zoning and would increase stock for senior housing.

In response to an inquiry whether staff believed that the project complied with zoning in progress, Community Development Director Gibbs responded that the Village Council would make the final determination. She stated that staff initially believed the applicant did not have enough components; however, after reviewing the interconnections, roads, sidewalks, crosswalk, civic space, the items that the applicant provided to bring it into compliance, and given the unique nature of the project, she believed that the applicant had complied as much as possible. She reiterated that the Village Council would address the compliance and make the final determination.

In response to an inquiry regarding the appropriate mechanism to transmit the Board's recommendation to Council, Attorney Nancy Stroud responded that it would be in the form of a motion and a vote that would show up in the minutes of the proceeding; there would not be an additional document. She noted that staff prepared suggested findings that the Board could begin from, add to, or change.

Chairman Strelow called for further public comment.

Judy Libersher, Estates at Estero River resident, was permitted to speak one more time and inquired whether the Board had ever approved this type of request that had been in

close proximity to residential. Brief discussion followed. Community Development Director Gibbs stated that this would go to the Village Council and would be one of the first zoning decisions for the Village Council to make. She noted that the Planning and Zoning Board was not making a decision; they were making a recommendation. She added that Lee County had approved some requests similar to this that were close to residential.

Chairman Strelow closed the public hearing.

Board Member Dewhirst moved to recommend approval as per the staff report and recommendations with additional conditions: the cross access easement be recorded at time of Development Order; if allowed, landscaping at the dry detention area along Corkscrew Road; amend the exhibit to indicate the pedestrian crossing in the northeast corner; stipulation that the wall be maintained in acceptable condition in perpetuity. Motion seconded by Board Member Wood. Brief discussion of the motion followed. The motion was called and carried unanimously through a roll call vote, with Board Member Binkowski absent.

(3) Autumn Leaves of Estero – ADD 2015-00145 (District 2)
Request for two deviations for monument signage at Autumn Leaves Memory Care Facility on US 41 south of Marsh Landing

Chairman Strelow provided a brief introduction.

Bill Prysi, Land Architects, Inc., stated that the concern by Planning staff and the Design Review Board was setting a precedent, which he believed would not be the case due to the unique circumstances that caused a hardship. Mr. Prysi reviewed information presented at the September 22, 2015 Planning and Zoning Board meeting and noted deviation requests to allow the second sign due to the hardship from the bus stop improvements along with the setback from 15 feet to 10 feet.

Discussion ensued regarding the location and compromised views of the proposed signs, and staff's concern related to setting a precedent. In response to whether granting the deviation request for two signs was legally precedent setting, Attorney Stroud responded that deviations are supposed to be unique to the property; from a legal standpoint it was not necessarily precedent setting; however, from a policy standpoint, it may be something that the Board would want to think about.

Discussion followed related to the specific circumstances at the site and the sign materials. In response to an inquiry whether the problem could have been mitigated by increasing the sign height, Mr. Prysi responded that there would have been other problems with increasing the height.

Chairman Strelow moved to adopt staff recommendation and Resolution PZB 2015-08, with revisions: The proposed additional sign will not set a precedent due to the unique circumstances of the bus stop location obscuring the sign visibility which is specific to this site; The deviation for the sign quantity is approved as limited to the size and height shown on Exhibit "B"; and removing the wording "The additional sign is not approved." Motion seconded by Board Member Wood, called and carried unanimously through a roll call vote, with Board Member Binkowski absent .

(4) Estero WAS – DCI 2015-00016 (District 2)
Request to rezone 1.36 acres from Mixed Use Planned Development to Commercial Planned Development on the west side of US 41 south of Pelican Sound Drive

Applicant requested continuance to December 15, 2015.

Board Member Crawford moved to continue the request to December 15, 2015, seconded by Board Member Dewhirst, called and carried unanimously, with Board Member Binkowski absent.

(e) Workshops

None.

6. PUBLIC INPUT

None.

7. BOARD COMMUNICATIONS

(a) Committee Reports: None.

(b) Chairman's Reports: None.

(c) Member Reports and Comments: None.

8. ADJOURN

Board Member Naratil moved to adjourn, seconded by Board Member Dewhirst, called and carried unanimously, with Board Member Binkowski absent. Chairman Strelow adjourned the meeting at 7:52 p.m.

Respectfully submitted,

Kathy Hall

Kathy Hall, MMC
Village Clerk

Minutes approved as submitted: December 15, 2015

ATTACHMENT G

Estates at Estero River HOA Meeting
April 21, 2015
6:30 PM
Estero Recreation Center

PRESENTATION:
Kevin Ahmadi introduced the team and provided an in depth overview of the project, the nature of VOA/Gulf Coast Village/Greystone and their accomplishments to date. Kevin provided a detailed overview of the projects operations and context of the facilities and proposed site plan.

GENERAL COMPARISONS PROVIDED BY PROJECT TEAM TO RESIDENTS:

- Illustrated the context of the currently approved CPD and the comparable impacts between what is approved and what is being proposed.
- Noted that traffic is substantially less under this use versus what is currently approved. Noted that the TIS for this project will be available once the application has been submitted.

GENERAL FEEDBACK VOICED BY RESIDENTS IN ATTENDANCE:
Sidewalks:

- By far the biggest concern noted by the residents was in response to the current lack of sidewalks along Sandy Lane and how the impact of the project would further exacerbate the problem without them.
- Greatest issue is with the nature of the Sandy Lane/Corkscrew Road intersection.

Buffering/Landscaping:

- Residents noted that the current wall is in disrepair and that some of imagery presented looked light on landscaping. Team noted that the imagery was for effect only and didn't indicate what would be installed. Team noted that the wall would be repaired/replaced and that all required landscaping would be installed.
- Residents noted that would like to have a pedestrian access gate along the north buffer that would provide access near the Galleria area at the east end of the property. No commitment was made in this regard by the team.
- The 15' north of the wall is part of subject site – landscaping to be provided between wall and Estates at Estero River (EER) – trees and shrubs, trees min. 12' height at installation

Noise Concerns:

- Compared to vested/approved development, this project will be much quieter with far less impacts along the north perimeter (loading areas, dumpsters, etc...).
- Most concerns articulated by residents were with potential sirens. Team noted that the operators typically have running agreements with service provider to not run sirens while on or near the property.
- Deliveries are typically once per week

Traffic Issues:

- Residents noted that wish to assure that the project will provide a turn lane into site along Sandy Lane.
- Resident reiterated the need for sidewalks
- Residents noted a need for a green turning arrow for drivers turning left onto Corkscrew form Sandy Lane
- Residents commented that they would prefer removing entrance onto Sandy Lane entirely. The team noted that without a signalized intersection on the east side would make that problematic for the operations of the facilities...
- Adequate spacing between intersection, entrance, and entrance to EER?
- Traffic from employees backing onto Sandy

Smell:

- Dumpsters/trash (if located north side of buildings)

CONCLUSIONS:

- Residents noted their appreciation in being informed and the Team willingness to hear their concerns.
- Team committed to keeping them informed and to meet with them again once the plans and designs were closer to completion.

ATTACHMENT H

DCI 2015-00013

Lee County
Southwest Florida
BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 533-8532

John E. Manning
District One

Cecil L Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

April 29, 2015

RECEIVED
MAY 08 2015
COMMUNITY DEVELOPMENT

Charlie Krebs
Hole Montes, Inc
6200 Whiskey Creek Drive
Fort Myers, FL 33919

RE: Potable Water and Wastewater Availability
Estero CCRC, 9301 Corkscrew Road
STRAP #s 34-46-25-E1-U1986.2380 & 34-46-25-E1-U2011.2380

Dear Mr. Krebs:

The subject properties are located within Lee County Utilities Future Service Area as depicted on Maps 6 and 7 of the Lee County Comprehensive Land Use Plan. Potable water and sanitary sewer lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of 233 unit continuing care facility with an estimated flow demand of approximately 53,590 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water and sanitary sewer service as estimated above.

Availability of potable water and sanitary sewer service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our Pinewood Water Treatment Plant.

Sanitary sewer service will be provided by Three Oaks Wastewater Treatment Plant. The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

This is only a letter of availability of service and not a commitment to serve. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of Water and Wastewater service is for re-zoning for this project only. Individual letters of availability will be required for obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES

Mary McCormic

Mary McCormic
Technician Senior
UTILITIES ENGINEERING

VIA EMAIL

ATTACHMENT I

THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966 ♦ WWW.LEESCHOOLS.NET

DAWN HUFF
LONG RANGE PLANNER
239-337-8142
DAWNMHU@LEESCHOOLS.NET

CATHLEEN O'DANIEL MORGAN
CHAIRMAN, DISTRICT 3
STEVEN K. TEUBER
VICE CHAIRMAN, DISTRICT 4
MARY FISCHER
DISTRICT 1
JEANNE S. DOZIER
DISTRICT 2
PAMELA H. LARIVIERE
DISTRICT 5
NANCY J. GRAHAM, ED.D
SUPERINTENDENT
KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

May 14, 2015

Tony Palermo, AICP
Lee County Development Services Division
P.O. Box 398
Fort Myers, FL 33902-0398

RE: Volunteers of America
Case # DCI2015-00013

Dear Mr. Palermo:

This letter is in response to your request for comments date May 8, 2015 for the Volunteers of America in regard to educational impact. The project is located in the South Choice Zone, S-2.

This project should have no impact on classroom needs based on the request is for a Continuing Car Facility.

Thank you for your attention to this issue. If I may be of further assistance, please me at 239-337-8142.

Sincerely,

Dawn Huff,
Long Range Planner

ATTACHMENT J

MEMORANDUM
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION

Date:	**October 5, 2015**
To:	**Tony Palermo, Senior Planner**
From:	**Susie Derheimer, Environmental Planner**
	Phone: (239) 533-8158
	E-mail: sderheimer@leegov.com
Project:	**Volunteers of America RPD**
Case:	**DCI2015-00013**
STRAPS:	**34-46-25-E1-U1986.2380 & 34-46-25-E1-U2011.2380**

Environmental staff has review ed the proposed Volunteers of America Residential Planned Development (RPD) and offer the following analysis and recommended conditions:

SITE DESCRIPTION:
ES staff conducted a site inspection on July 10, 2015. The 21.36 acre subject site has been previously cleared, filled, and a small portion of the infrastructure installed as per approved local development order DOS2005-00058 for commercial project. During the inspection staff observed two large oak trees were preserved along the south property line (Corkscrew Road) and a wall was installed along the north property line as per previous development approvals; although, the work has not received certificate of compliance (CC). The current request is to rezone the property from Commercial Planned Development to RPD to allow for development of a continuing care facility.

OPEN SPACE:
Land Development Code (LDC) Section 10-415(a) requires a large residential development must provide a minimum of 40 percent open space; therefore, the proposed large 21.36 acre project must provide a minimum of 8.5 acres (21.36 x 0.4) of open space. The Master Concept Plan (MCP) Conceptual Open Space Table indicates a minimum of 8.54 acres (40%) of open space is to be provided which meets LDC Section 10-415(a) requirements.

In addition, LDC Section 33-354 Tree preservation (2) requires existing native vegetation must be preserved whenever possible; and (3) requires infrastructure design must integrate existing trees and the natural character of the land to the greatest extent possible. The MCP plan identifies the location of the two existing heritage trees along Corkscrew Road that were preserved through

ATTACHMENT EE

previous approvals and staff recommends that they continued to be preserved as a part of approvals for this project.

ES staff finds the open space is in compliance with the LDC and consistent with the following Lee Plan Objectives:
Objective 77.1: Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.
Objective 77.3: New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent policies are to be implemented through the zoning process.
Policy 77.3.3: The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

ES staff recommends the following condition in order to ensure the minimum LDC open space requirement is met:

The overall project must provide a minimum of 8.5 acres of open space in substantial compliance with the approved Master Concept Plan.

Development order landscape plans must depict the two existing heritage oak trees located along Corkscrew Road to be preserved as part of a completed project.

BUFFERS:
The project site abuts Corkscrew Road right-of-way (ROW) to the south, Sandy Lane ROW to the west, Estates at Estero River single family residential to the north, and Galleria commercial development to the east.

LDC Section 33-351 Landscape buffers require a 20-foot wide Type D buffer where the proposed project abuts Corkscrew Road and Sandy Lane and a 15-foot Type B buffer where the proposed multi-family like living facility abuts commercial to the east. In addition, LDC Section 10-416(d)(6) requires where the road and parking areas are located less than 125 feet from an existing single-family residential subdivision to the north a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet or a 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property.

The MCP depicts the 20-foot wide Type D buffers to be provided along the Corkscrew Road and Sandy Lane ROWs which meet minimum LDC buffer requirements. The application requests the following deviations for the north and east property lines:

Deviation #1 requests to deviate from LDC Section 10-416(d)(6) requiring the solid wall or combination berm and solid wall not less than eight feet in height to be constructed not less than 25 feet from the abutting property to the north and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet; **to allow** an eight foot in height wall or berm combination located no less than 15-feet from the abutting property line to the north with a double staggered hedge row maintained at a minimum of 60 inches and ten trees per 100 linear feet.

As per the site inspection, staff verified the wall currently exist 15-feet of the north property line as allowed through previously zoning approvals. In addition, the proposed plantings (double hedge row maintained at min. 60-inches and 10 trees per 100 linear feet) are those required by a Type F buffer which as per LDC Section 10-421(a)(2) requires a minimum of 15-feet of plantable width. Environmental staff finds that the buffer plantings proposed exceed LDC requirements and the buffer plantable width meets minimum requirements. Environmental staff has no objection to the deviation requested and defers to Zoning planning staff for recommendation.

Deviation #8 requests to deviate from LDC Section 33-351 requiring a 15-foot Type B buffer where the proposed multi-family like living facility abuts commercial to the east; **to allow** no buffer.

The MCP depicts the eastern portion of the project abutting the existing commercial to the east proposed to be accessory medical and administration offices which is more of a commercial use. LDC Section 33-351 indicates a Type A buffer should be provided where a commercial use abuts commercial use. In addition 33-351 Note 2 indicates that Type A buffers required between commercial uses must be designed to allow for pedestrian, bicycle, and automobile connections through adequate spacing between required trees and that palms may be used where commercial (COM) abuts commercial on a 1:1 basis, if they are clustered as defined. Given the applicants concern indicated in the deviation justification, staff recommends that the COM to COM Type A buffer may be more appropriate at this location. **Environmental staff recommends that at minimum a COM to COM Type A buffer be provided along the east property line** and defers to Zoning planning staff for final recommendation.

ATTACHMENT K

LEE COUNTY
SOUTHWEST FLORIDA

DEPARTMENT OF TRANSPORTATION

Memo

To: Tony Palermo, Senior Planner
Zoning Division

From: Lili Wu Wu
Sr. Transportation Planner

Date: July 24, 2015

Subject: Volunteers of America (DCI2015-00013)

The Lee County Department of Transportation (LCDOT) has reviewed the application for public hearing. This project is located on the north side of Corkscrew Rd east of Sandy Lane. Accesses to the subject site are shown on the Master Concept Plan via a proposed driveway on Sandy Lane, a right-in/right-out access to Corkscrew Rd and access to Corkscrew Rd via Design Parc Lane, which is constructed. Lee County DOT have no objection to the application.

cc: File

ATTACHMENT FF

ATTACHMENT L

MEMORANDUM
FROM THE
DEPARTMENT OF COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES SECTION

DATE: October 22, 2015

TO: A. Palermo
Senior Planner

FROM: M. Evans ME.
Senior Engineer

RE: Volunteers of America
Case No. DCI2015-00013

The 21.4-acre subject site is located on the north side of Corkscrew Road between Sandy Lane/Via Coconut Point and Design Parc Lane/Corkscrew Palms Boulevard in the Village of Estero. On the applicant's Master Concept Plan (MCP), access to the site is shown directly to Corkscrew Road via a single right-in/right-out driveway, to Sandy Lane via a single full-access driveway, and to Design Parc Lane via two full-access driveways.

The site is currently undeveloped and zoned Commercial Planned Development (CPD). Per Zoning Resolutions Z-05-038 and Z-05-039, this site at present may be developed with a maximum of 130,000 ft² of retail and 71,500 ft² of office uses. In this zoning case, the applicant proposes to rezone the site to Residential Planned Development (RPD) and construct a 340-unit Continuing Care Retirement Community (CCRC). Since the proposed schedule of uses for this rezoning will allow more intense residential development than simply a CCRC, the applicant's traffic analysis assessed the future site development based on the impacts of a 340-assisted-living-bed facility and a 15,000 ft² medical office, and compared the trips generated by a full site build-out under the current zoning. The development parameters used to compare the trip generation of the current and proposed zoning are described in Table 1.

Table 1
Development Parameters
Current vs. Proposed Zoning

ATTACHMENT GG

Use	Current CPD	Proposed RPD
Retail	130,000 ft²	--
General Office	71,500 ft²	--
Assisted Living	--	340 beds
Medical Office	--	15,000 ft²

In order to assess and compare the traffic impacts of the current and proposed zoning, the Institute of Transportation Engineer's (ITE's) report, titled **Trip Generation**, *9th Edition*, was reviewed and generated trips were calculated. The results of the trip generation calculations are described in Table 2.

Table 2
New Trip Generation
Current vs. Proposed Zoning

Description	AM Peak Hour			PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Current CPD	-208	-66	-274	-267	-392	-659	-6,655
Proposed RPD	59	25	84	48	80	128	962
Trip Difference	-149 (-72%)	-41 (-62%)	-190 (-69%)	-219 (-82%)	-312 (-80%)	-531 (-81%)	-5,693 (-86%)

As noted in Table 2, the proposed zoning will greatly decrease AM/PM peak hour and daily 2-way trips as compared to the current zoning.

Generated trips from the proposed zoning were distributed to the County road network in order to assess the Level of Service (LOS) impacts on Corkscrew Road. Based on the 2014 Lee County Concurrency Report, the section of Corkscrew Road adjacent to the site currently operates at LOS "C". Utilizing the 2014 Lee County Traffic Count Report and a five-year project build-out in 2020, the background traffic volume on Corkscrew Road was estimated to be 744 peak hour, peak direction trips, corresponding to a LOS "C". Once the project build-out traffic was added to this roadway section, Corkscrew Road was estimated to operate at LOS "C". Based on the LOS Standards set forth in THE LEE PLAN, LOS "C" is an acceptable Level of Service. Therefore, the proposed development is consistent with the standards contained within the County's comprehensive plan.

The applicant requests six deviations from standards within the Land Development Code (LDC) in order to facilitate its proposed design. Development Services Section (DSS) staff provides comment on deviations with regard to traffic- and gate-related provisions within LDC Chapter 34 as well as provisions within Chapter 10. Staff provides the following comments with respect to the corresponding requested deviation(s):

Deviation #5: This deviation provides relief from the provisions of LDC Section 34-2015(2)d. which requires that vehicles exiting a parking lot leave the parking lot in a forward motion. It is assumed that this request relates to areas where the internal circulating access way passes *through* parking areas, thereby necessitating driver backing maneuvers directly onto the internal access way instead of a parking lot drive aisle. To mitigate this potential safety hazard, DSS staff *recommends approval* of the deviation, *subject to the following condition*:

> *If vehicles back directly onto an internal access way, the posted speed limit of the access way must be 25 miles per hour or less, and the access way must be designed so that traffic calming devices are provided per Lee County Administrative Code AC-11-14. The design and location of traffic calming devices will be to the satisfaction of the Village of Estero manager or his designee.*

ATTACHMENT GG

ATTACHMENT M

RESOLUTION NUMBER Z-05-038

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

WHEREAS, an application was filed by the property owner, Galleria at Corkscrew, LLC., to rezone 9.94 +/- acres from Residential Planned Development (RPD) and Commercial Planned Development (CPD) to Commercial Planned Development (CPD) in reference to Galleria at Corkscrew, LLC; 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 #DCI2004-00049; 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 9.94 +/- acres from RPD and CPD to CPD, to allow up to 100,000 square feet of commercial uses, including retail and office. Maximum building heights proposed are 45 feet/three stories. No development blasting is proposed. 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 one-page Master Concept Plan entitled "Galleria at Corkscrew," 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.

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

   a. Schedule of Uses

      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. 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
NONSTORE RETAILER
PARCEL AND EXPRESS SERVICES NO WAREHOUSE/ DISTRIBUTION CENTER
PACKAGE STORE, LIMITED TO 1. NO STAND ALONE. ONLY WHEN LOCATED IN A MULTIPLE-OCCUPANCY COMPLEX. NOT PERMITTED IN BUILDING "A".
PAINT, GLASS, AND WALLPAPER
PARKING LOT, ACCESSORY, TEMPORARY

PERSONAL SERVICES, GROUPS I, II, III, 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 CHAPTER 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.

b. Site Development Regulations

The project may be developed with a total of 70,000 square feet of retail uses, and 30,000 square feet of office uses as set out in Condition 13 below.

No individual retail 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 Main Street Overlay District
Sandy Lane	25 feet (minimum)

Street - private roads	20 feet
Side	10 feet
Rear	15 feet
Waterbody	25 feet
Accessory Structures	Per LDC §34-1174

Maximum height:	45 feet/3 stories

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 E 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 rezoning 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 local development order approval, the plans must identify the heritage live oak tree closest to the Corkscrew Road right-of-way and demonstrate that this oak tree is being preserved in place. The landscape plans must include a statement that the tree will be pruned by a certified arborist in coordination with Division of Environmental Sciences and the plans must detail appropriate protection techniques. No excavation or fill may occur within three quarters of the drip-line of the heritage tree.

11. Prior to approval of local development order, the landscape plans must specify that four live oak trees with a minimum height of 20 feet must be planted to replace the heritage oak trees that will be removed. At least two of the replacement trees must be planted within the Corkscrew Road right-of-way buffer.

12. Prior to approval of local development order, a minimum of 30 percent of common open space must be delineated on the development order plans.

13. Commercial retail square footage will be limited to a maximum of 30,000 square feet consistent with the Minor Commercial standards set out in Policy 6.1.2 of the Lee Plan. At such time that Sandy Lane is improved from a local road to a collector road, the development may qualify as a Neighborhood Commercial Center, but is restricted to 70,000 square feet of retail uses and 30,000 square feet of office uses.

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 must 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 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 (b), 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.

Deviations 1 and 2 are APPROVED, SUBJECT TO THE following condition:

Prior to approval of any development order, the landscape plans must specify that, at least, one-half of the 10 trees per 100-linear-foot requirement on the northern boundary will be canopy type trees, with a 16-foot minimum height, 4-inch caliper (no palms) at planting.

3. Deviation (3) - WITHDRAWN

4. Deviation (4) seeks relief from the LDC §10-416(d)(3) and (4) and LDC §34-1044, which requires a Type "D" buffer along a public right-of-way, to eliminate the Type "D" buffer along Sandy Lane. This deviation is APPROVED, SUBJECT TO the condition that:

   Prior to approval of a local development order, the right-of-way buffer planting along Sandy Lane must be in substantial compliance with the conceptual landscape plan "Galleria at Corkscrew-Enlargement" stamp dated April 12, 2005 (Exhibit D).

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 (subject parcel identified with shading)
Exhibit C: The Master Concept Plan
Exhibit D: Landscape Plan stamp dated April 12, 2005
Exhibit E: Agricultural uses at time of rezoning

The applicant has indicated that the STRAP number for the subject property is:
34-46-25-00-00002.0010

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.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

SEAL

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
Joan C. Henry
County Attorney's Office

RECEIVED
MINUTES OFFICE
2005 SEP 19 PM 4:55

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

(9.94 ACRE PARCEL)

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:

BEGINNING 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; THENCE S.01°07'24"E. FOR 566.33 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.89°37'03"W. ALONG SAID NORTHERLY LINE FOR 183.88 FEET TO THE NORTHWEST CORNER OF SAID TAKING; THENCE S.00°22'57"E. ALONG THE WEST LINE OF SAID TAKING FOR 10.00 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 NORTH LINE FOR 161.34 FEET TO THE SOUTHEAST CORNER OF TAKING 100-2 AS RECORDED IN SAID OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382; THENCE N.79°04'21"W. ALONG THE NORTHERLY LINE OF SAID TAKING FOR 50.99 FEET; THENCE S.89°37'03"W. ALONG SAID NORTHERLY LINE FOR 341.11 FEET TO THE SOUTHEASTERLY CORNER OF TAKING 100-1 AS RECORDED IN SAID OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382; THENCE N.45°47'23"W. ALONG THE NORTHEASTERLY LINE OF SAID TAKING FOR 28.48 FEET TO AN INTERSECTION WITH THE SOUTHERLY PROLONGATION OF THE WEST LINE OF SAID SUBDIVISION; THENCE N.01°11'39"W. ALONG SAID PROLONGATION FOR 553.56 FEET TO THE POINT OF BEGINNING

PARCEL CONTAINS 9.94 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD AND TAKINGS 100-1, 100-2, AND 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
DESCRIPTION REVISED September 14, 2004

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

RECEIVED
FEB 0 1 2005
PERMIT COUNTER

DCI 2004-00049

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EXHIBIT A

10511 Six Mil
1 • Fax (239) 939-2923

ZONING INTAKE MAP: DCI2004-00049 GALLERIA

4/4/2005

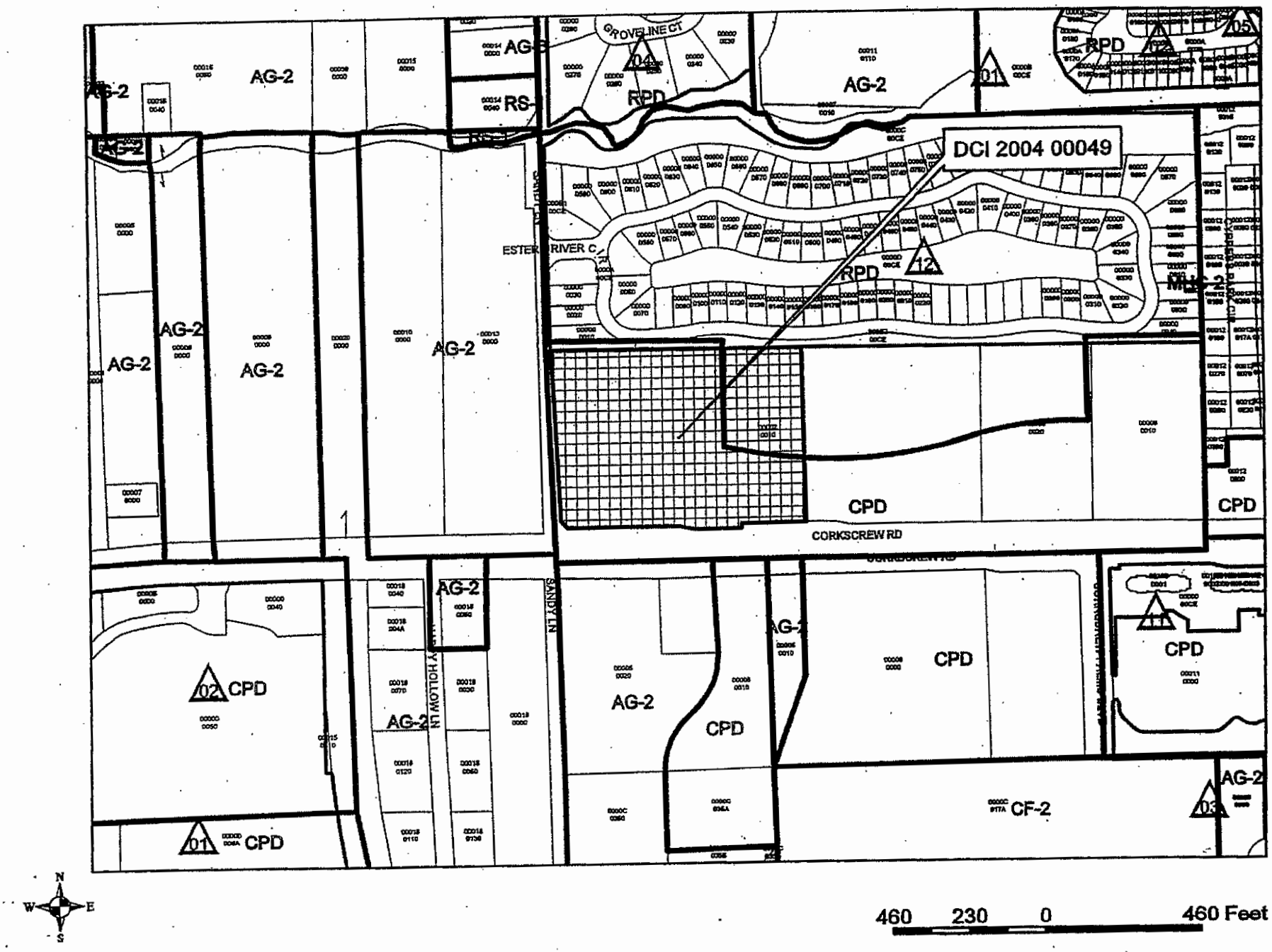


EXHIBIT B

EXHIBIT A

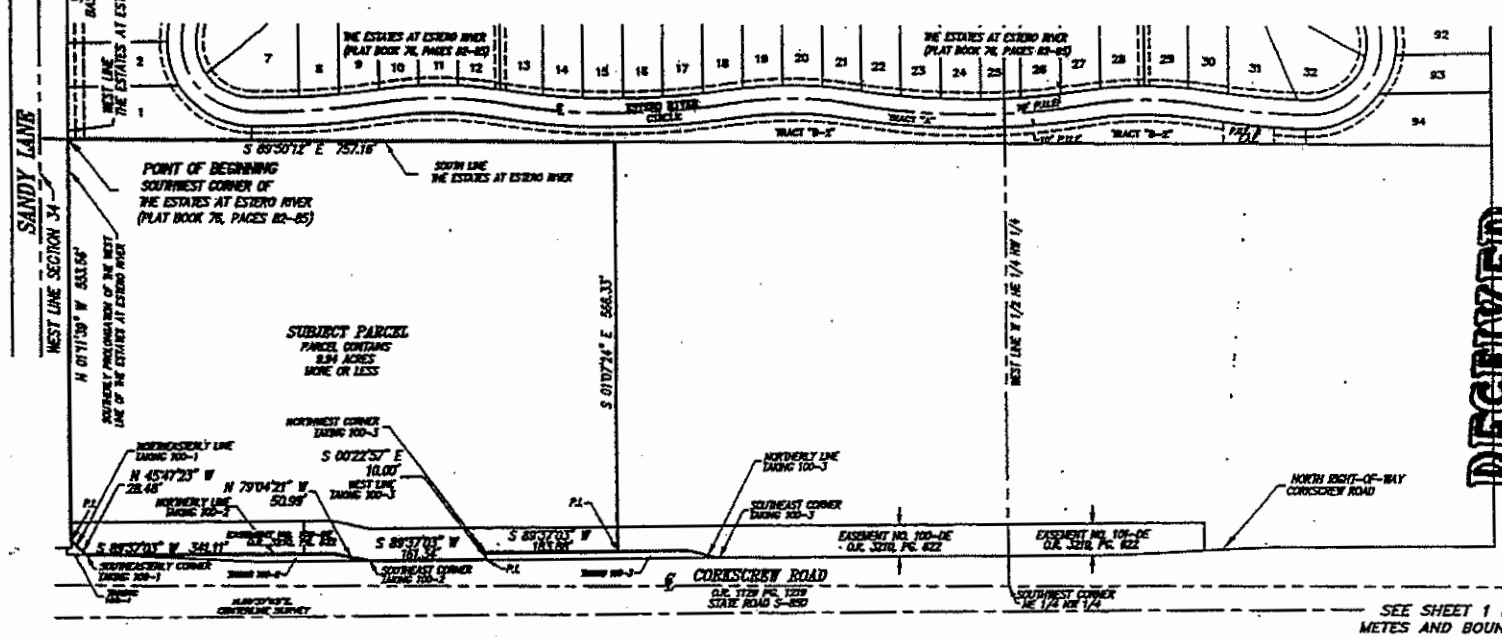
SKETCH OF DESCRIPTION

OF

A TRACT OR PARCEL OF LAND LYING IN
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA
(9.94 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



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PERMIT COUNTER

DCI 2004-00047

SEE SHEET 1 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

NOTES:

1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD, AND TAKINGS 100-1, 100-2, AND 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.

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PREPARED 05-26-04
REVISED 09-14-04
SHEET 2 OF 2

LEGEND:

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

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.

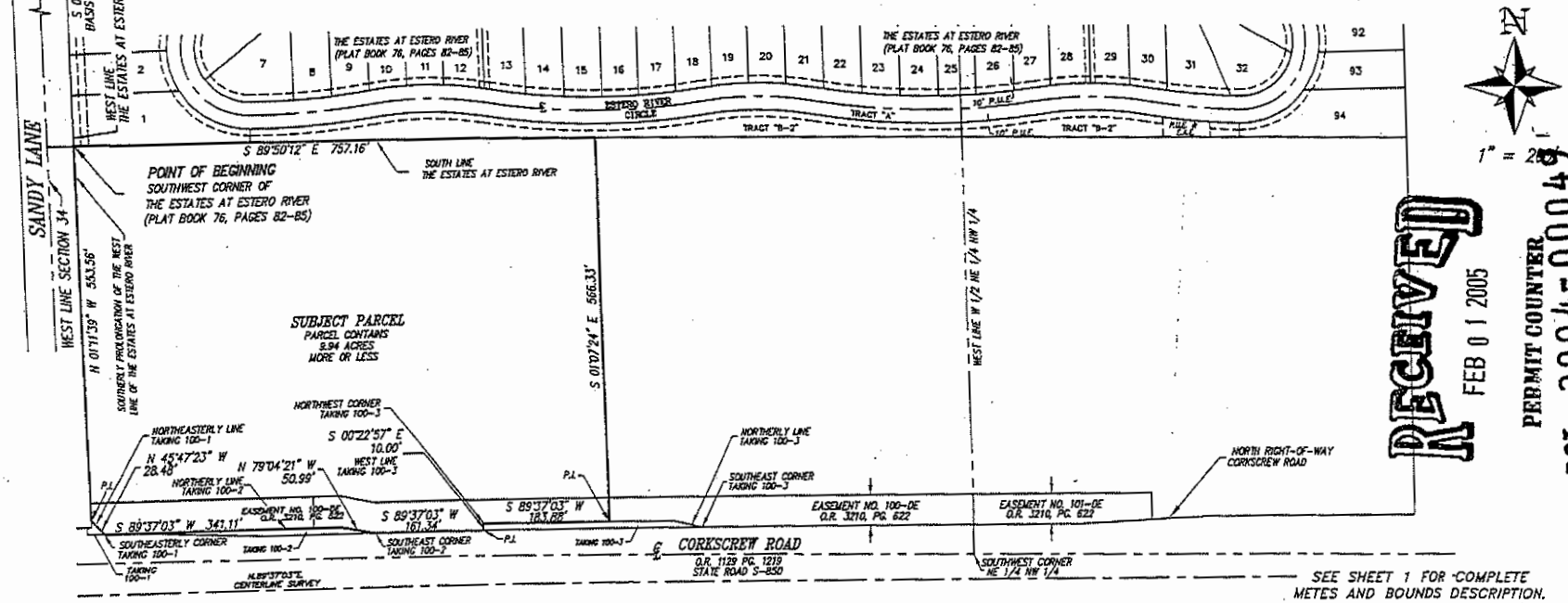
SKETCH OF DESCRIPTION

OF

A TRACT OR PARCEL OF LAND LYING IN
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA
(9.94 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



SEE SHEET 1 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

RECEIVED FEB 01 2005

PERMIT COUNTER DCI 2004-00049

EXHIBIT E

NOTES:

1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD, AND TAKINGS 100-1, 100-2, AND 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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PREPARED 05-26-04
REVISED 09-14-04
SHEET 2 OF 2

LEGEND:

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

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.

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

(9.94 ACRE PARCEL)

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:

BEGINNING 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; THENCE S.01°07'24"E. FOR 566.33 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF TAKING 100-3 AS RECORDED IN OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.89°37'03"W. ALONG SAID NORTHERLY LINE FOR 183.88 FEET TO THE NORTHWEST CORNER OF SAID TAKING; THENCE S.00°22'57"E. ALONG THE WEST LINE OF SAID TAKING FOR 10.00 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 NORTH LINE FOR 161.34 FEET TO THE SOUTHEAST CORNER OF TAKING 100-2 AS RECORDED IN SAID OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382; THENCE N.79°04'21"W. ALONG THE NORTHERLY LINE OF SAID TAKING FOR 50.99 FEET; THENCE S.89°37'03"W. ALONG SAID NORTHERLY LINE FOR 341.11 FEET TO THE SOUTHEASTERLY CORNER OF TAKING 100-1 AS RECORDED IN SAID OFFICIAL RECORD BOOK 3487, PAGES 379 THROUGH 382; THENCE N.45°47'23"W. ALONG THE NORTHEASTERLY LINE OF SAID TAKING FOR 28.48 FEET TO AN INTERSECTION WITH THE SOUTHERLY PROLONGATION OF THE WEST LINE OF SAID SUBDIVISION; THENCE N.01°11'39"W. ALONG SAID PROLONGATION FOR 553.56 FEET TO THE **POINT OF BEGINNING**

PARCEL CONTAINS 9.94 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY OF RECORD AND TAKINGS 100-1, 100-2, AND 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
DESCRIPTION REVISED September 14, 2004

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

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PERMIT COUNTER

DCI 2004-00049

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EXHIBIT E

10511 Six Mile Cypress Pkwy, Suite 101, Ft Myers, Florida 33912 • (239) 939-5490 • Fax (239) 939-2923

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 2004-00049.

2. A copy of the boundary sketch of the property to be rezoned is attached as Exhibit "A". The parcel consists of 9.94± 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: _____
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
Notary Public

Mary C Gagnon
My Commission DD067084
Expires January 27, 2006

Mary C. Gagnon
Print/Type Name of Notary

EXHIBIT E

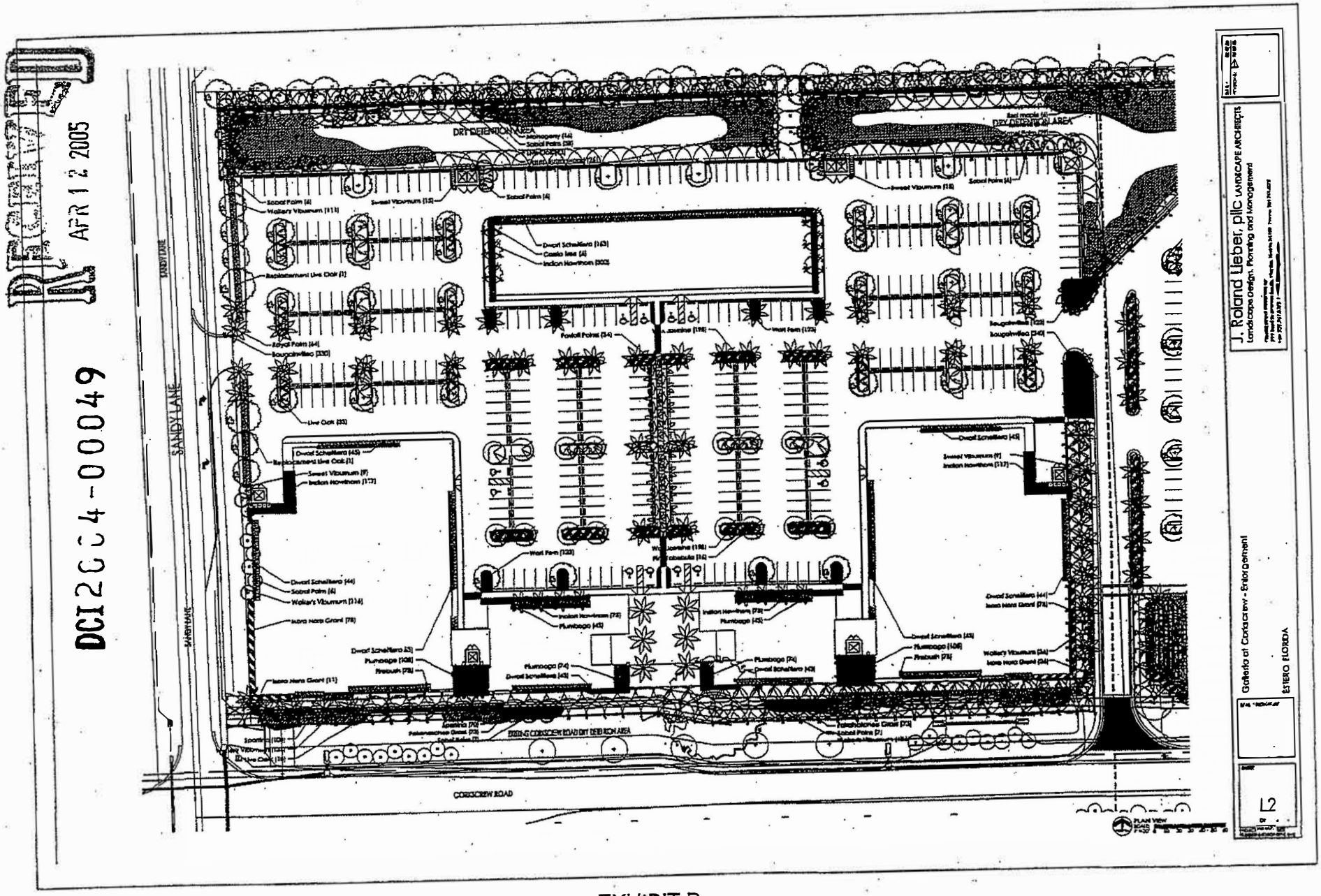
DCI2004-00049
APR 12 2005
SANDY LANE
CORKSCREW ROAD
DRY DETENTION AREA
J. Roland Lieber, plic LANDSCAPE ARCHITECTS
Landscape Design, Planting and Management
Galleria at Corkscrew - Enlargement
ESTERO FLORIDA
L2

EXHIBIT D

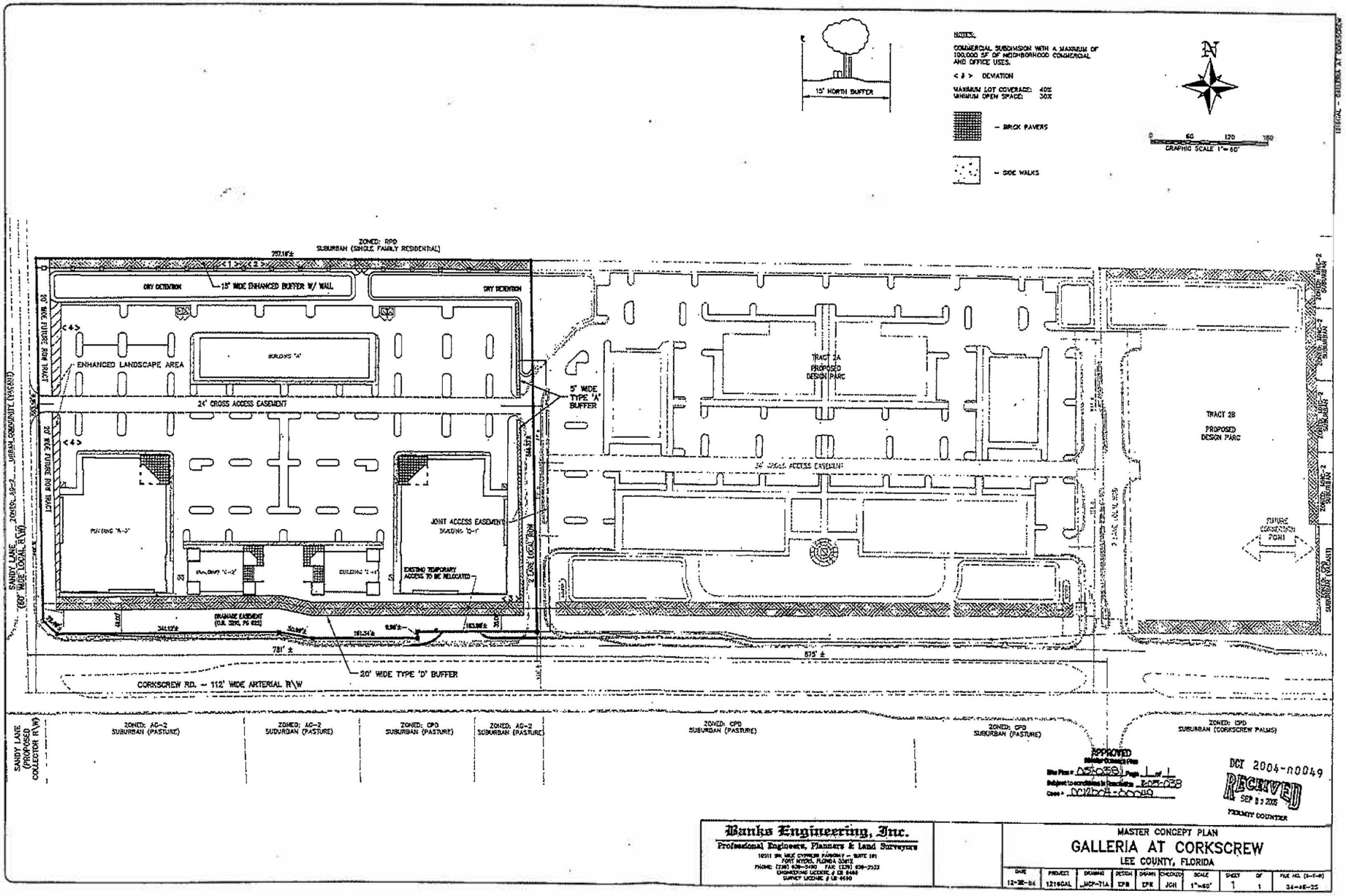
NOTES:
COMMERCIAL SUBDIVISION WITH A MAXIMUM OF 100,000 SF OF NEIGHBORHOOD COMMERCIAL AND OFFICE USES.
< 3 > DEVIATION
MAXIMUM LOT COVERAGE: 40%
MINIMUM OPEN SPACE: 30%
– BRICK PAVERS
– SIDE WALKS
15' NORTH BUFFER
GRAPHIC SCALE 1"=60'
ZONED: RPD SUBURBAN (SINGLE FAMILY RESIDENTIAL)
15' WIDE ENHANCED BUFFER W/ WALL
DRY DETENTION
ENHANCED LANDSCAPE AREA
24' CROSS ACCESS EASEMENT
5' WIDE TYPE 'A' BUFFER
TRACT 2A PROPOSED DESIGN PARC
TRACT 2B PROPOSED DESIGN PARC
JOINT ACCESS EASEMENT
EXISTING TEMPORARY ACCESS TO BE RELOCATED
DRAINAGE EASEMENT
20' WIDE TYPE 'D' BUFFER
CORKSCREW RD. – 112' WIDE ARTERIAL R\W
SANDY LANE (60' WIDE LOCAL R\W)
SANDY LANE (PROPOSED COLLECTOR R\W)
ZONED: AG-2 SUBURBAN (PASTURE)
ZONED: CPD SUBURBAN (PASTURE)
ZONED: CPD SUBURBAN (CORKSCREW PALMS)
APPROVED
DCI 2004-00049
RECEIVED
SEP 8 2005
PERMIT COUNTER
Banks Engineering, Inc.
Professional Engineers, Planners & Land Surveyors
MASTER CONCEPT PLAN
GALLERIA AT CORKSCREW
LEE COUNTY, FLORIDA
DATE 12-28-04
PROJECT 1216GAL
DRAWING MCP-71A
DESIGN EPB
DRAWN EPK
CHECKED JCH
SCALE 1"=60'
SHEET 1 OF 1
FILE NO. 34-AE-25

EXHIBIT C

ATTACHMENT N

RESOLUTION NUMBER Z-05-039

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

ATTACHMENT N

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 (ECPP) 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.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
Joan C. Henry
County Attorney's Office

Banks Engineering, Inc.

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

RECEIVED
FEB 01 2005
PERMIT COUNTER
DCI 2004-00050

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

(15.63 ACRE PARCEL)

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

ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

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SHEET 1 OF 2

EXHIBIT A

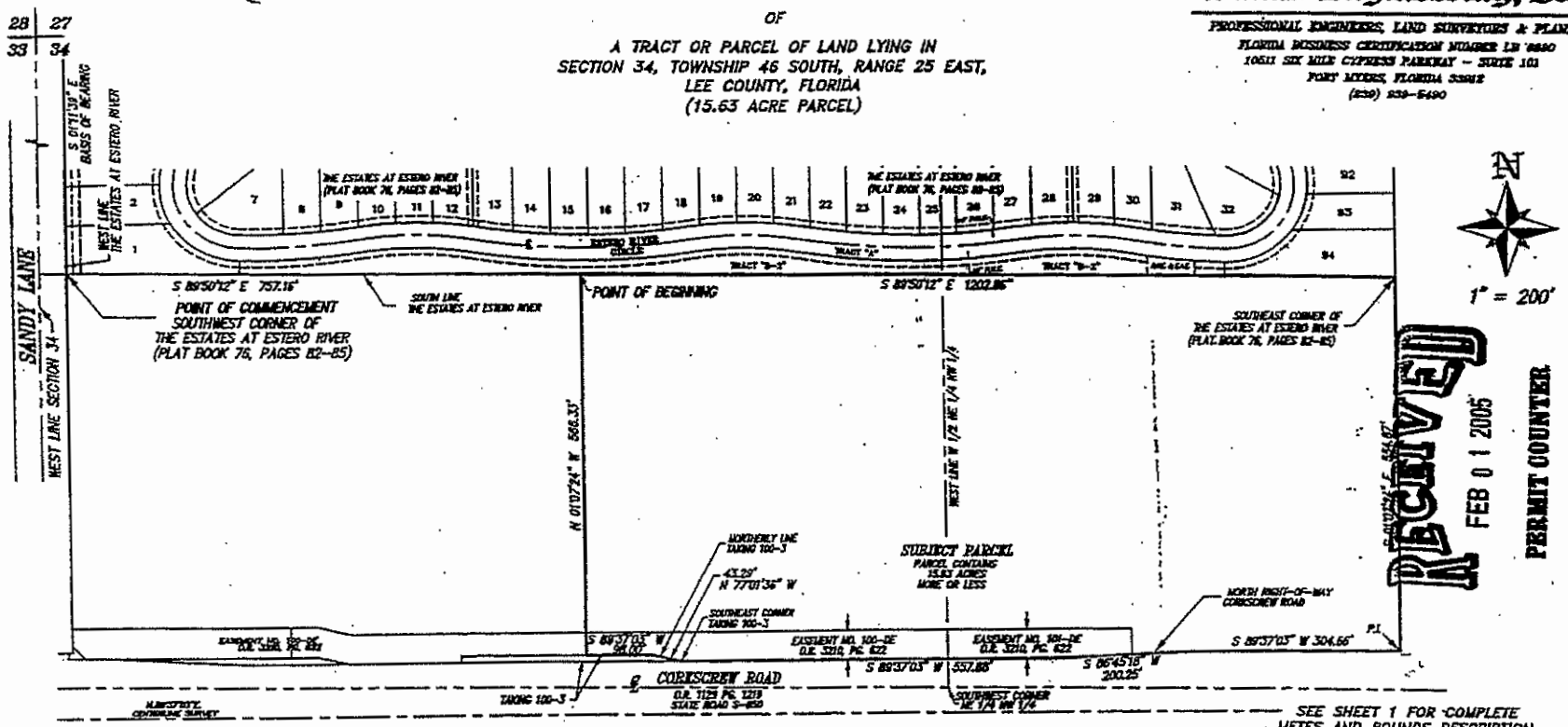
SKETCH OF DESCRIPTION

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 6840
10511 SIX MILE CYPRESS PARKWAY – SUITE 101
FORT MYERS, FLORIDA 33966
(239) 939-5490



RECEIVED
FEB 01 2005
PERMIT COUNTER

SEE SHEET 1 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

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.

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LEGEND:

PG.	INDICATES PAGE
NO.	INDICATES NUMBER
℄	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

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

ZONING INTAKE MAP DCI2004-00050

4/14/2005

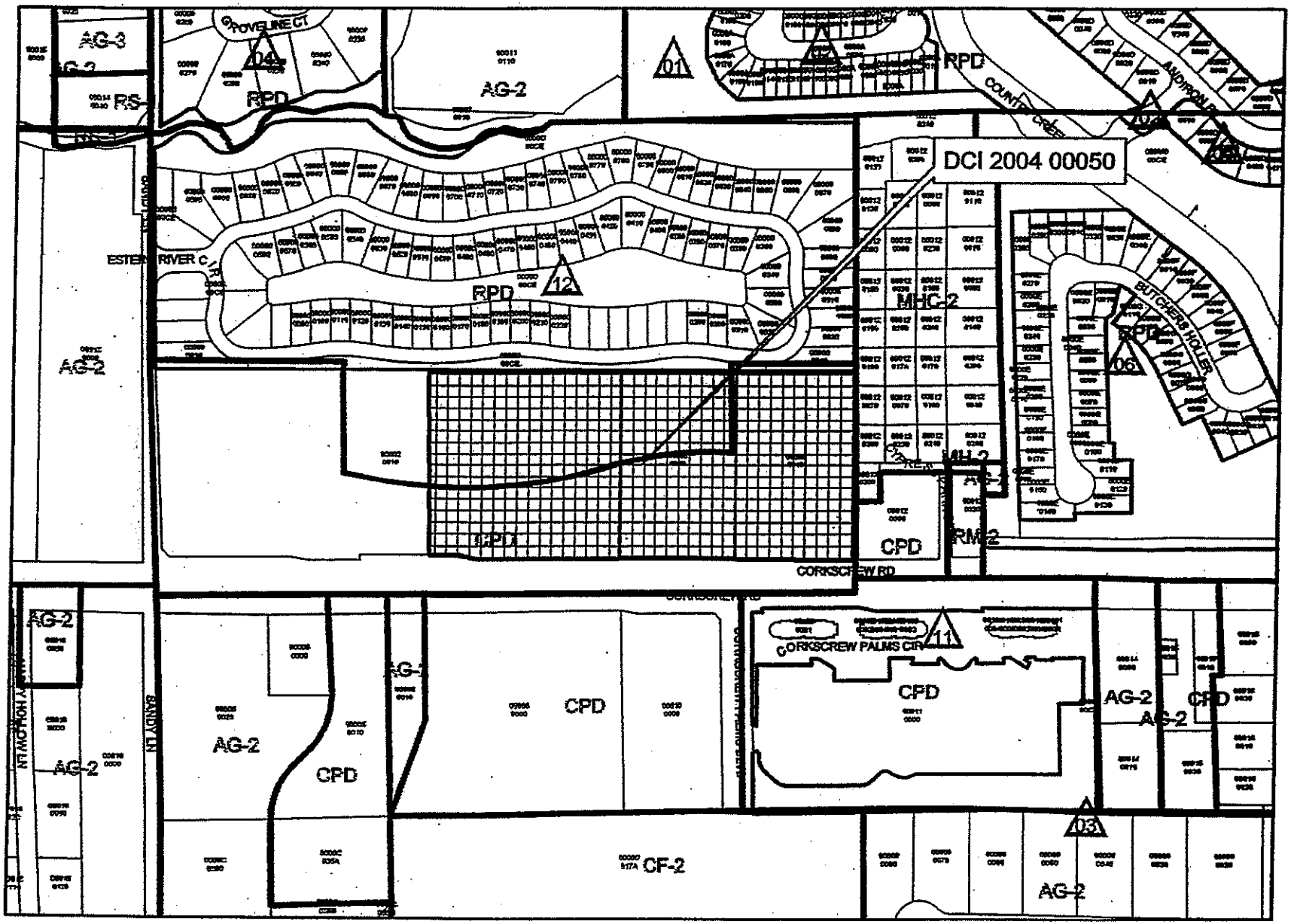

EXHIBIT B

460 230 0 460 Feet

NOTES:

COMMERCIAL SUBDIVISION WITH A MAXIMUM OF 100,000 SF OF NEIGHBORHOOD COMMERCIAL AND OFFICE USES.

< # > DEVIATION

MAXIMUM LOT COVERAGE: 40%
MINIMUM OPEN SPACE: 30%

= PROPOSED LAKE

= COURTYARD/OPEN SPACE

= SIDE WALK

15' NORTH BUFFER

N

0 60 120 180
GRAPHIC SCALE 1" = 60'

ZONED: RPD
SUBURBAN (SINGLE FAMILY RESIDENTIAL)

PROPOSED GALLERIA AT CORKSCREW

DRY DETENTION

15' WIDE TYPE 'D' BUFFER W/ WALL

5' WIDE TYPE 'A' BUFFER

BUILDING 6

BUILDING 5

BUILDING 4

CLOCK TOWER <8>

BUILDING 3

TRACT 2A

24' CROSS ACCESS EASEMENT

JOINT ACCESS EASEMENT

BUILDING 1

BUILDING 2

<4><8>

<8><4>

<7>

DRY DETENTION

DRAINAGE EASEMENT (O.R. 3234, PG 4 2)

20' WIDE TYPE 'D' BUFFER

781' ±

875' ±

CORKSCREW ROAD

CORKSCREW RD.
(112' WIDE ARTERIAL R\W)

SANDY LN.
(60' WIDE LOCAL R\W)

ZONED: AG-2
URBAN COUNTRY (VACANT)

SANDY LN.
(PROPOSED COLLECTOR R\W)

ZONED: AG-2
SUBURBAN (PASTURE)

ZONED: CPD
SUBURBAN (PASTURE)

2 LANE LOCAL ROAD

TRACT 2B – FUTURE DEVELOPMENT AREA

FUTURE CONNECTION POINT

5' WIDE TYPE 'A' BUFFER

20' WIDE TYPE 'D' BUFFER

ZONED: CPD
SUBURBAN (CORKSCREW PALMS)

CORKSCREW PALMS BLVD.
(60' WIDE LOCAL R\W)

APPROVED
Master Concept Plan
Case/Plan: 05-059 Page 1 of 1
Original Resolution & Resolution: 2005-059
Date: DCI2004-00050

DCI 2004-00050
RECEIVED
SEP 8 2005
PERMIT COUNTER

Banks Engineering, Inc.
Professional Engineers, Planners & Land Surveyors
10511 BIG MAE CYPRESS PARKWAY – SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 936-2480 FAX: (239) 936-2033
ENGINEERING LICENSE # EB 6461
SURVEY LICENSE # LB 6490

MASTER CONCEPT PLAN
DESIGN PARC
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
12-22-04	1216GAL	MCP-72A	EPB	EPB	JOH	1"=60'	1	1	34-46-25

EXHIBIT C

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: _____
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
Notary Public

Mary C Gagnon
My Commission DD087064
Expires January 27, 2006

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

RECEIVED
FEB 0 1 2005
PERMIT COUNTER
DCI 2004-00050

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

(15.63 ACRE PARCEL)

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.

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DESCRIPTION PREPARED May 25, 2004

Robert Tad Simpson

ROBERT TAD SIMPSON
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 5559

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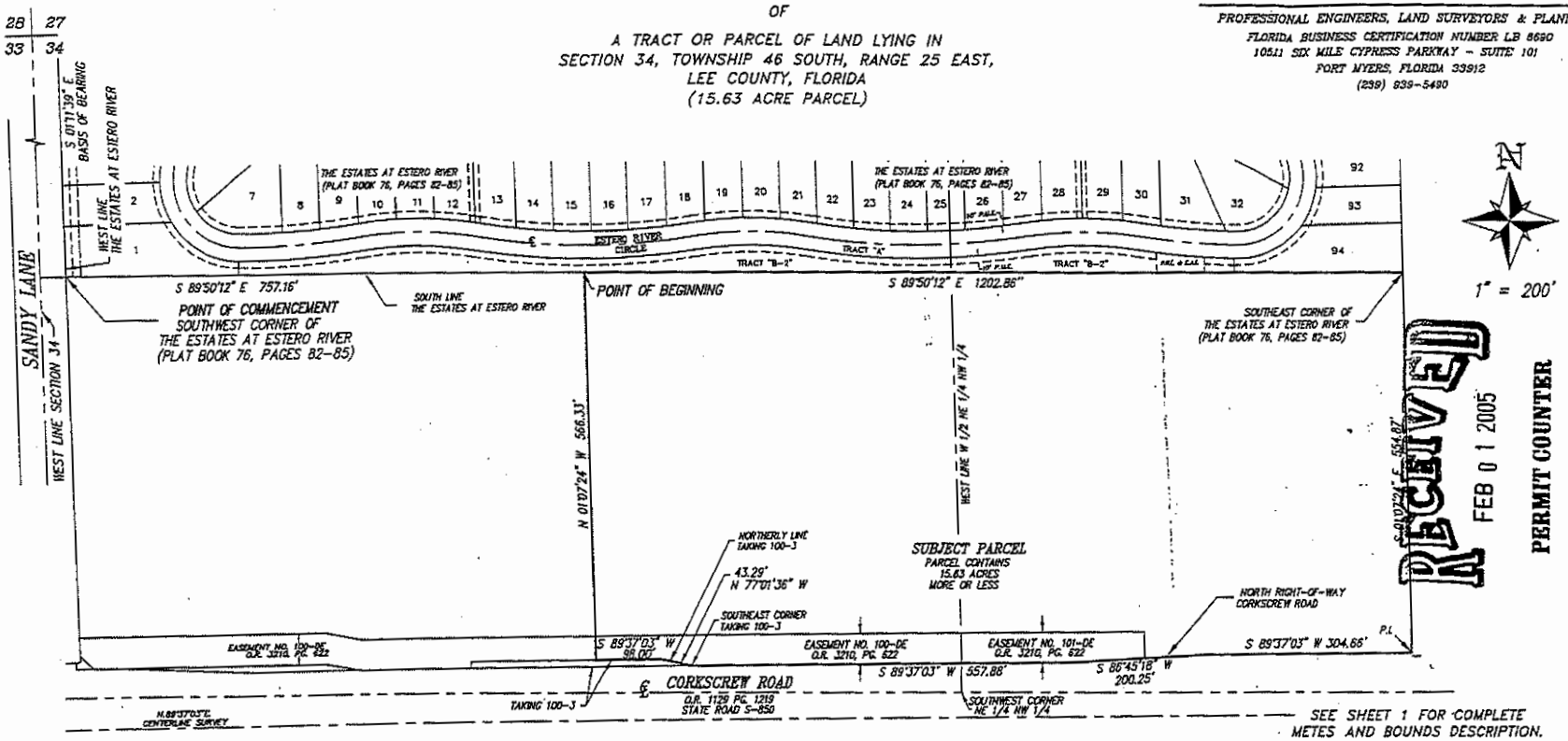
SKETCH OF DESCRIPTION

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 8690
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
(239) 939-5490



SEE SHEET 1 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

RECEIVED
FEB 01 2005
PERMIT COUNTER

DCI 2004-00050

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.

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LEGEND:

PG.	INDICATES PAGE
NO.	INDICATES NUMBER
℄	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

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

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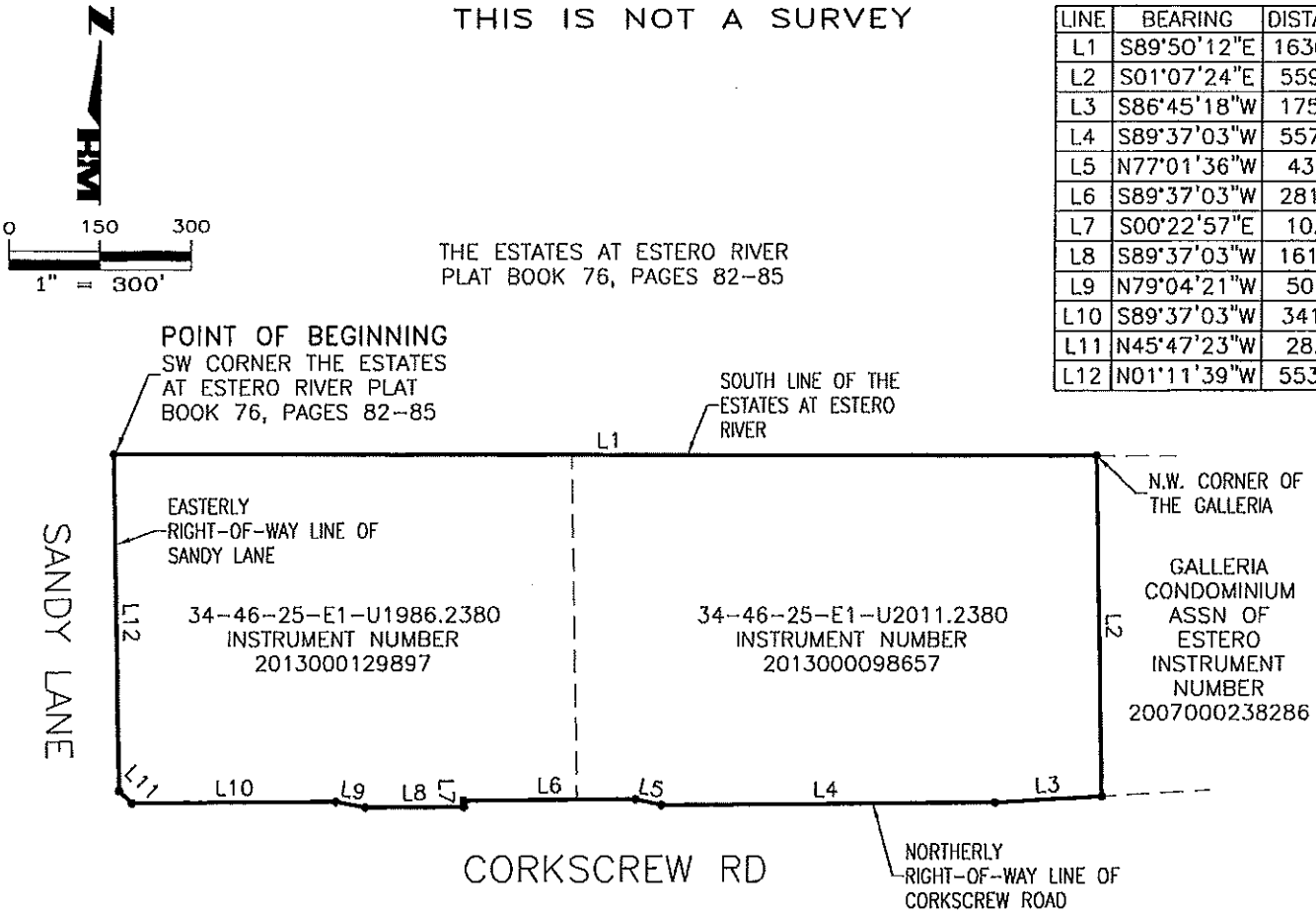
S:\JOBS\12XX\1216GAL\SURVEYING\DESCRIPTIONS\1216GAL-05_SKT.DWG

EXHIBIT A

\\hm-data\HMDATA-SV2\2014\2014078\DW\SU\SKETCH AND DESCRIPTION\P1-P2 Combined.dwg Tab: Layout1 Jun 22, 2015 - 10:12am Plotted by: RickKornell

THIS IS NOT A SURVEY

LINE	BEARING	DISTANCE
L1	S89°50'12"E	1630.46
L2	S01°07'24"E	559.25
L3	S86°45'18"W	175.38
L4	S89°37'03"W	557.88
L5	N77°01'36"W	43.29
L6	S89°37'03"W	281.88
L7	S00°22'57"E	10.00
L8	S89°37'03"W	161.34
L9	N79°04'21"W	50.99
L10	S89°37'03"W	341.11
L11	N45°47'23"W	28.48
L12	N01°11'39"W	553.56



LEGAL DESCRIPTION

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 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE ESTATES OF ESTERO RIVER, A SUBDIVISION RECORDED IN PLAT BOOK 76, PAGES 82 THROUGH 85 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF SAID SUBDIVISION RUN S89°50'12"E FOR A DISTANCE OF 1630.46 FEET, TO THE NORTHWEST CORNER OF THE GALLERIA, A CONDOMINIUM, DECLARATION RECORDED IN INSTRUMENT NUMBER 2007000238286, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG THE WEST LINE OF SAID GALLERIA RUN S01°07'24"E FOR A DISTANCE OF 559.25 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF CORKSCREW ROAD (S.R. S-850); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING NINE (9) DESCRIBED COURSES: 1) THENCE RUN S86°45'18"W FOR A DISTANCE OF 175.38 FEET; 2) THENCE RUN S89°37'03"W FOR A DISTANCE OF 557.88 FEET; 3) THENCE RUN N77°01'36"W FOR A DISTANCE OF 43.29 FEET; 4) THENCE RUN S89°37'03"W FOR A DISTANCE OF 281.88 FEET; 5) THENCE RUN S00°22'57"E FOR A DISTANCE OF 10.00 FEET; 6) THENCE RUN S89°37'03"W FOR A DISTANCE OF 161.34 FEET; 7) THENCE RUN N79°04'21"W FOR A DISTANCE OF 50.99 FEET; 8) THENCE RUN S89°37'03"W FOR A DISTANCE OF 341.11 FEET; 9) THENCE RUN N45°47'23"W FOR A DISTANCE OF 28.48 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SANDY LANE; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SANDY LANE, RUN N01°11'39"W FOR A DISTANCE OF 553.56 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED. CONTAINING 930,474 SQUARE FEET OR 21.4 ACRES, MORE OR LESS.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY Thomas M. Murphy
THOMAS M. MURPHY

P.S.M. #5628
STATE OF FLORIDA

DRAWN BY: R.A.K.	DATE: 6/22/15	HOLE MONTES ENGINEERS PLANNERS SURVEYORS	950 Encore Way Naples, FL. 34110 Phone: (239) 254-2000 Florida Certificate of Authorization No.1772	SKETCH AND LEGAL DESCRIPTION	DRAWING NO. B-7178
CHECKED BY: T.M.M.	DATE: 6/22/15				PROJECT NO. 2014078
SEC-TWN-RGE: 34-46S-25E	SCALE: 1"=300'				FILE NAME P1-P2 Combined.dwg