

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

Blue Sheet No. 20031342

1. REQUESTED MOTION:

ACTION REQUESTED: Approve re-conveyance of a portion of a drainage canal easement located in Section 34, Township 43 South, Range 27 East; authorize Chairman to execute County Deed; authorize County Lands Division to handle all documentation necessary to complete transaction.

WHY ACTION IS NECESSARY: The Board must approve all real estate conveyances by Lee County.

WHAT ACTION ACCOMPLISHES: Returns a portion of a drainage canal, not being used for intended purposes, to the adjacent owner.

2. DEPARTMENTAL CATEGORY: 6
COMMISSION DISTRICT # 5

CLB

3. MEETING DATE: *12-09-2003*

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE 255.22
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT *Independent* *11-10-03*
- C. DIVISION *County Lands*
- BY: *Karen L. W. Forsyth, Director* *KLF*

7. BACKGROUND:

This drainage easement was created in 1962 by the document recorded in Official Record Book 116, page 73, Public Records of Lee County, Florida. In 1973, the County obtained an alternate easement for a segment of the drainage canal to be rerouted and the abandoned portion was subsequently back-filled. According to staff, the County does not use, maintain, nor have any plans to reconstruct a drainage canal on this property.

Wellington Ranch, LLC by Robert S. Barber, Manager, the present owner of the adjacent parcel identified by STRAP Number 34-43-27-00-00008.1000, is requesting this parcel be re-conveyed.

Florida Statutes §255.22 authorizes the County to re-convey property donated for a specific purpose if a request is received from an adjacent owner, and the County has not used the property for the purpose intended for a period of 60 consecutive months. A review of the documents concerning this parcel indicates the statutory requirements for re-conveyance have been met.

Staff recommends the Board approve the Requested Motion.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>K. Forsyth</i> DOT DNR				<i>John J. Medjuna</i> 11-21-03	OA <i>ekw</i> 11-24-03	OM <i>ll</i> 11/24/03	Risk <i>or</i> 11/24/03	GC <i>RS</i> 11-24-03	<i>HS</i> 11-24-03

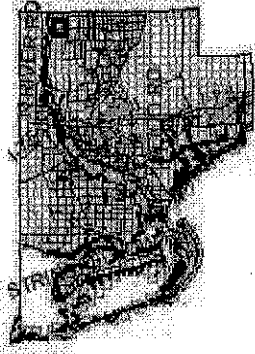
10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

REC'D.
by CO. ATTY.
11/18/03
3:10 PM
CO. ATTY.
FORWARDED TO:
Co. Adm.
11/21/03 10:00 AM

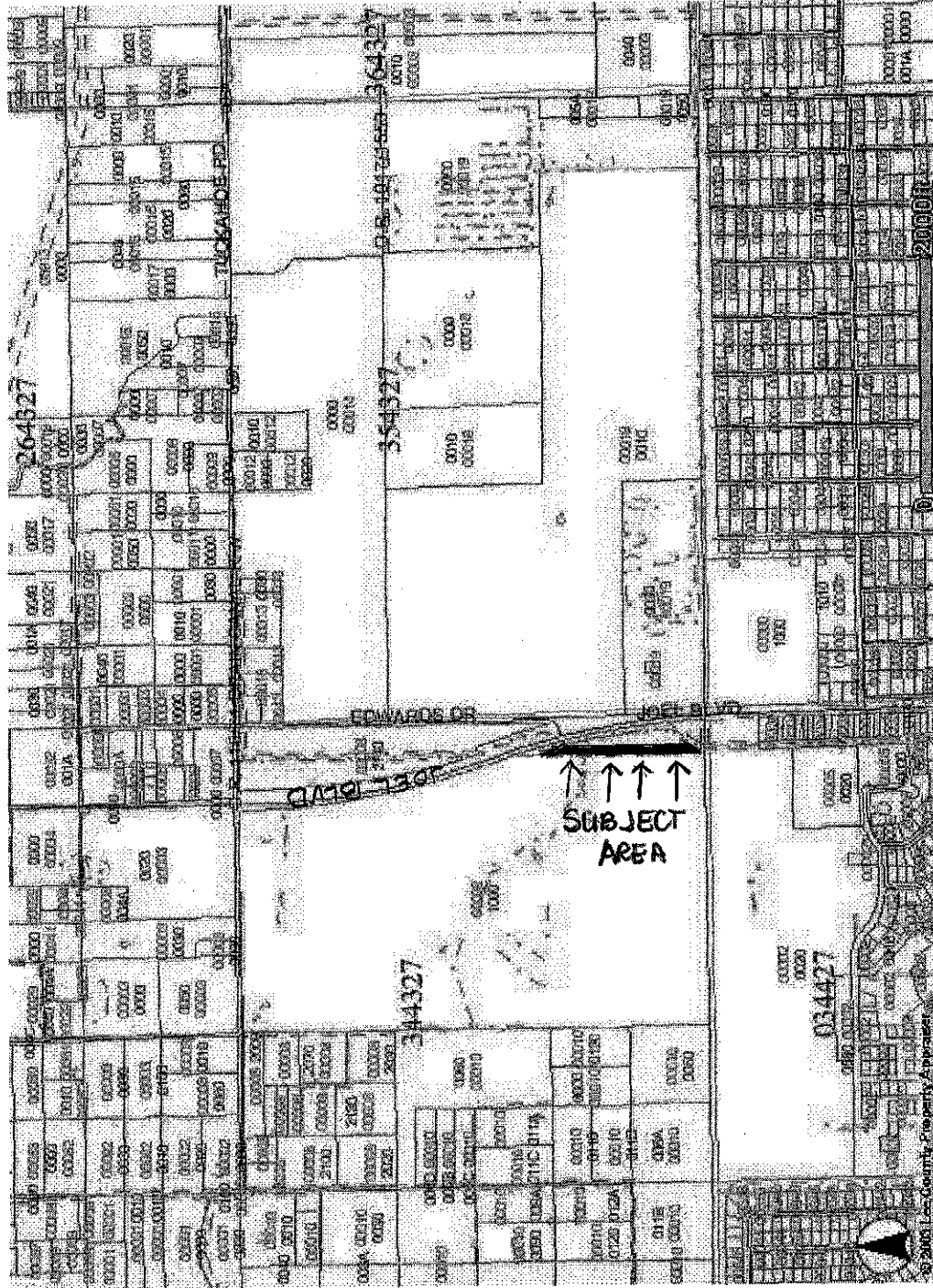
RECEIVED BY
COUNTY ADMIN: *EW*
11/21/03
11:40 AM 307
COUNTY ADMIN
FORWARDED TO:
ll
11/21/03

Request for Reconveyance - Wellington Ranch



Legend

- Easement Labels
- Easements
- Block
- Lot
- Parcels
- Parcel Hooks
- Witness Labels
- Witness Lines
- Hydro Features
- Road Center Line
- Section Lines
- City Limits
- Bona Spots
- Cable Corral
- Fort Myers
- Sawbel
- Town of Fort Myers Beach





Reply to
Charles J. Basinalt
Direct Dial Number 239.337.8433
E-Mail: charles.basinalt@henlaw.com

April 17, 2003

03 APR 18 PM 2:09
RECEIVED BY
LEE CO. ATTORNEY

VIA HAND DELIVERY

Timothy Jones, Esquire
Assistant County Attorney
2115 Second Street, 6th Floor
Fort Myers, FL 33901

Re: Reconveyance of Lands Under Section 255.22, Florida Statutes
Our File No: 557/138

Dear Tim:

The other day, I met with Margaret Lawson and Clay Simmons, of Lee County DOT, to discuss Lee County's position with respect to either reconveyance or vacation of a portion of a drainage easement which crosses property currently held by my client, Bob Barber.

The easement in question is identified under O.R. Book 116, Page 73, of the Lee County Public Records. I have enclosed a Survey of the property, and I have highlighted the pertinent portion of this easement in yellow. I have also enclosed a copy of the easement dedication document.

To my knowledge, this portion of the drainage easement has never been used for its intended purpose and, in fact, the drainage ditch was actually constructed in that area lying to the north of this drainage easement that has been outlined in blue on the enclosed Survey. While I do not believe that Lee County ever received any formal easement to place the ditch in this location, certainly my client would be willing to dedicate such an easement in exchange for reconveyance of the lands highlighted in yellow on the Survey. However, I am requesting that either you, or someone in your office, review this matter and let me know whether there are any legal impediments that you believe exist and, if not, please indicate specifically what sort of documentation the County would need to effectuate the reconveyance.

There is also a second area, which I have outlined in red on the enclosed survey (identified as O.R. Book 919, Page 41, copy enclosed), that I would like you to review. I suspect that this area was deeded to the County for drainage purposes, and I am

Henderson, Franklin, Starnes & Holt, P.A.

Timothy Jones, Esquire

April 17, 2003

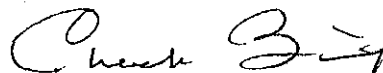
Page 2

inquiring as to whether the County is amenable to reconveying the parcel to my client. Essentially, the inquiry is the same, I do not believe that this land has been used for its intended purpose, and it would, therefore, be eligible for reconveyance. However, in this case, the conveyance document does not specifically state the purpose for the conveyance. Given its location and its proximity to other drainage easements, I am presuming that it was conveyed for drainage purposes. That implication may or may not be sufficient under the statute with respect to the specific purpose requirement. If the County is amenable to reconveying the property, then I would be happy to perform the necessary research into the Board Minutes to try and ascertain whether there was a specific purpose behind the conveyance.

In any event, I would appreciate it if you would review this matter also and get back to me with the County's position.

Thank you for your kind attention to these matters.

Very truly yours,



Charles J. Basinait

CJB/jma
Enclosures

cc: Margaret Lawson (w/encls.)

275
20

THIS INDENTURE, Made this 17th day of March, 1962 between LEE ACRES CORPORATION, a corporation existing under the laws of the State of Michigan having its principal place of business in the County of Wayne and State of Michigan, party of the first part, and LEE COUNTY, a Political Subdivision of the State of Florida, Party of the Second Party;

WITNESSETH, that the said party of the first part, for and in consideration of the sum of ONE (\$1.00) DOLLAR and other good and valuable consideration, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby grant unto the said party of the second part a perpetual easement in, on and over the following described property located in Lee County, Florida, to-wit:



From the Northeast (NE) corner of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) Section 34, Township 43 South, Range 27 East, run South along the East line of said Section 25 feet to the Point of Beginning. Thence South on the same line 60 feet; thence West 190 feet; thence deflect 45° to the left and run Southwest 85 feet; thence South, parallel to and 250 feet West of the East line of Section 34-43-27 3809 feet m/1 to the South line of Section 34-43-27; thence deflect 0° 58' to the left continue Southward 1891 feet m/1 on a line 250 feet West of and parallel to the centerline of Edwards Road to a point on the Easterly extension of the North line of Lot 6, Block "E" of Sunny Palm Estates, as recorded in Flat Book 14, page 82, Lee County records; thence West 60 feet; thence Northward on a line 310 feet West of and parallel to the center line of Edwards Road 1891 feet m/1 to the North line of Section 3-44-27; thence Northward on a line 310 feet West of and parallel to the East line of Section 34-43-27 3929 feet m/1 to the South Right-of-way line of Tuckahoe Road; thence East, along the South line of Tuckahoe Road 310 feet to the Point of Beginning. BEING a strip of land 60 feet in width to be used for the construction and maintenance of a drainage canal, and located in Section 34-43-27 and Section 3-44-27, Lee County, Florida.

Said easement to be used for the purposes of digging a drainage ditch and with the right of ingress and egress thereto over said land for the maintenance and care of said drainage ditch.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be signed in its name by its President, and its corporate seal to be affixed, attested by its the day and year above written.

(Corporate Seal)

LEE ACRES CORPORATION

ATTEST:

BY: [Signature]

Signed, Sealed and Delivered in the Presence of:

[Signature]

STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY, That on this 17 day of March, 1962

NELLOR & WATSON
ATTORNEYS AT LAW
POST OFFICE BOX 1481
FORT MYERS, FLORIDA

REC 118 74

before me personally appeared PETER MUSHO, President and
of LEE ACRES CORPORATION, a corp-
oration under the laws of the State of Michigan, to me known to
be the persons described in and who executed the foregoing convey-
ance to LEE COUNTY, a Political Subdivision of the State of Florida,
and severally acknowledged the execution thereof to be their free
act and deed as such officers, for the uses and purposes therein
mentioned; and that they affixed thereto the official seal of said
corporation, and the said instrument is the act and deed of said
corporation.

WITNESSE my signature and official seal at Fort Myers,
in the County of Lee and State of Florida, the day and year last
aforesaid.

(NOTARY SEAL)

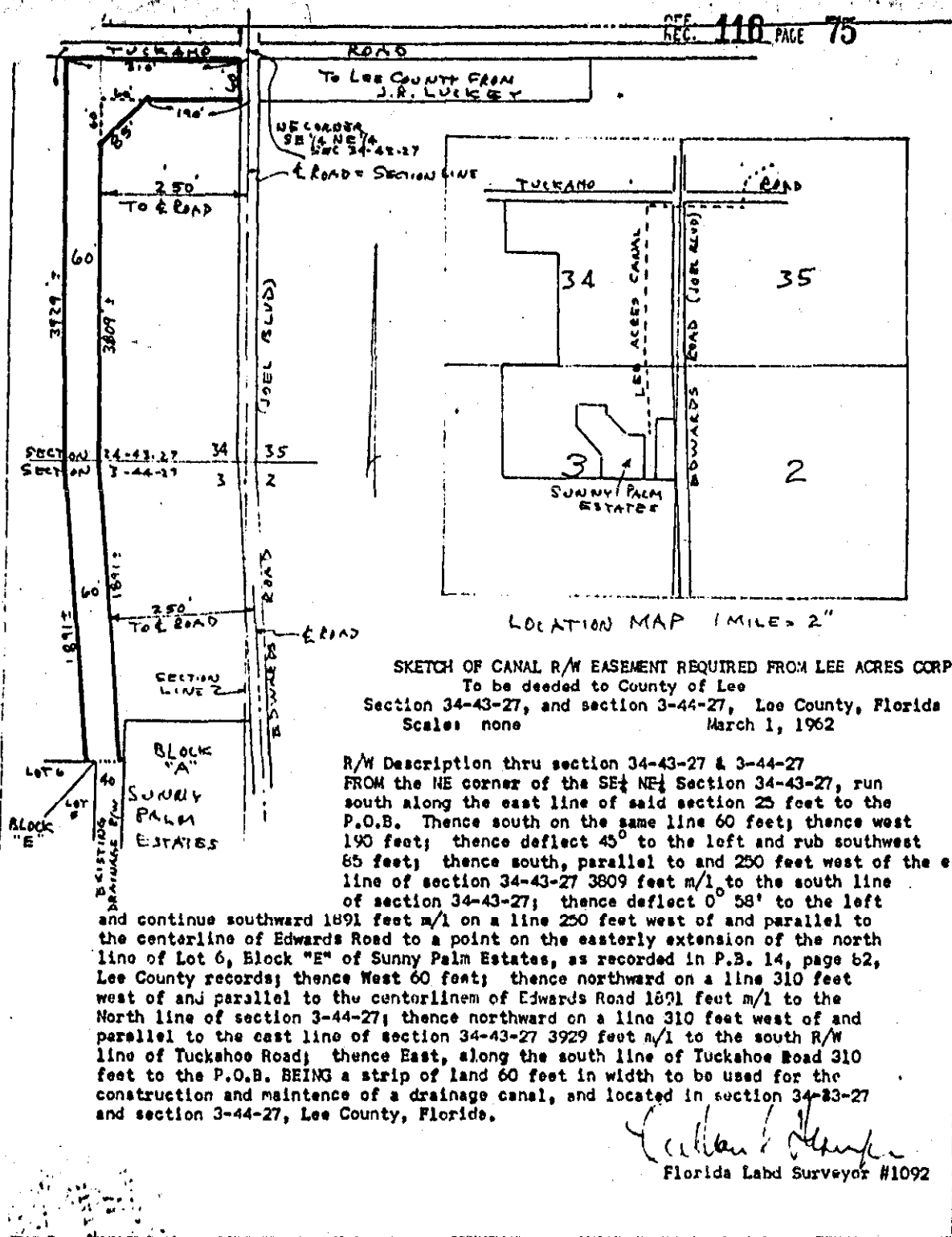
My Commission Expires:

Notary Public, State of Florida
at Large

STATE OF FLORIDA, COUNTY OF LEE

1973
D. L. FARABEL By Clerk

MELLOR & WATSON
ATTORNEYS AT LAW
POST OFFICE BOX 1431
FORT MYERS, FLORIDA



LOCATION MAP (MILE = 2")

SKETCH OF CANAL R/W EASEMENT REQUIRED FROM LEE ACRES CORP
 To be deeded to County of Lee
 Section 34-43-27, and section 3-44-27, Lee County, Florida
 Scale: none
 March 1, 1962

R/W Description thru section 34-43-27 & 3-44-27
 FROM the NE corner of the SE 1/4 NE 1/4 Section 34-43-27, run south along the east line of said section 25 feet to the P.O.B. Thence south on the same line 60 feet; thence west 190 feet; thence deflect 45° to the left and run southwest 85 feet; thence south, parallel to and 250 feet west of the east line of section 34-43-27 3809 feet m/l to the south line of section 34-43-27; thence deflect 0° 58' to the left and continue southward 1891 feet m/l on a line 250 feet west of and parallel to the centerline of Edwards Road to a point on the easterly extension of the north line of Lot 6, Block "E" of Sunny Palm Estates, as recorded in P.B. 14, page b2, Lee County records; thence West 60 feet; thence northward on a line 310 feet west of and parallel to the centerline of Edwards Road 1891 feet m/l to the North line of section 3-44-27; thence northward on a line 310 feet west of and parallel to the east line of section 34-43-27 3929 feet m/l to the south R/W line of Tuckahoe Road; thence East, along the south line of Tuckahoe Road 310 feet to the P.O.B. BEING a strip of land 60 feet in width to be used for the construction and maintenance of a drainage canal, and located in section 34-43-27 and section 3-44-27, Lee County, Florida.

William J. Stump
 Florida Land Surveyor #1092

This Instrument Prepared by:
PUBLIC WORKS/COUNTY LANDS DIVISION
Post Office Box 398
Fort Myers, Florida 33902-0398

STRAP No. Part of 34-43-27-00-00008.1000

COUNTY DEED
(Statutory)

THIS DEED, executed this ___ day of _____, 20___, by **LEE COUNTY, FLORIDA, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA**, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, COUNTY, to **WELLINGTON RANCH, LLC** whose address is 21550 River Ranch Road, Estero, FL 33928, Grantee.

WITNESSETH: The COUNTY, for and in consideration of the sum of Ten (\$10.00) Dollars to it in hand paid by the Grantee, receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, its heirs and assigns forever, the following described land, lying and being in Lee County, Florida:

SEE ATTACHED EXHIBIT "A"

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described, and does not warrant the title or represent any state of facts concerning the title.

IN WITNESS WHEREOF the COUNTY has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said Board, the day and year above.

(OFFICIAL SEAL)

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO LEGAL FORM:

Office of County Attorney

TRASK ASSOCIATES, INC.

(239)694-2335 phone
(239)694-2355 fax
ktrask@traskassociates.com

s u r v e y o r s

Florida Licensed Business No. LB7136

11543 Charlies Terrace
Fort Myers, FL 33907

DESCRIPTION OF A PARCEL
LYING IN SECTION 34, T-43-S, R-27-E,
LEE COUNTY, FLORIDA.

(PART OF DRAINAGE EASEMENT TO BE RELEASED)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 27 EAST, BEING A PART OF THE PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 2790 AT PAGE 63 AND BEING A PART OF THE 60.00 FOOT WIDE EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 116 AT PAGE 73, LEE COUNTY PUBLIC RECORDS AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

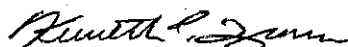
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 34; THENCE S.88°25'52"W., ALONG THE SOUTH LINE OF SAID SECTION 34, FOR 250.00; THENCE N.00°47'28"W., ALONG THE EASTERLY LINE OF SAID 60.00 FOOT WIDE EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 116, PAGE 73, FOR 113.21 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.00°47'28"W., ALONG SAID EASEMENT LINE, FOR 1140.19 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, HAVING A RADIUS OF 5,604.61 FEET, A CENTRAL ANGLE OF 02°30'40", A CHORD BEARING N.14°55'50"W., AND A CHORD LENGTH OF 245.62 FEET; THENCE ALONG THE ARC OF SAID CURVE, PARALLEL WITH AND 60.00 FEET WESTERLY OF (AS MEASURED ON A PERPENDICULAR) THE WESTERLY RIGHT OF WAY LINE OF JOEL BOULEVARD, FOR AN ARC LENGTH OF 245.64 FEET TO THE END SAID CURVE; THENCE S.00°47'28"E., ALONG THE WESTERLY LINE OF SAID EASEMENT, FOR 1374.34 FEET; THENCE N.31°13'14"E., ALONG THE NORTHWESTERLY LINE OF A 60.00 FOOT WIDE EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 978, PAGE 716, SAID PUBLIC RECORDS, FOR 113.19 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 72,656 SQUARE FEET OR 1.67 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF THE OF SAID SECTION 34 AS BEARING S.00°44'18"E.

TRASK ASSOCIATES, INC.

NOVEMBER 4, 2003



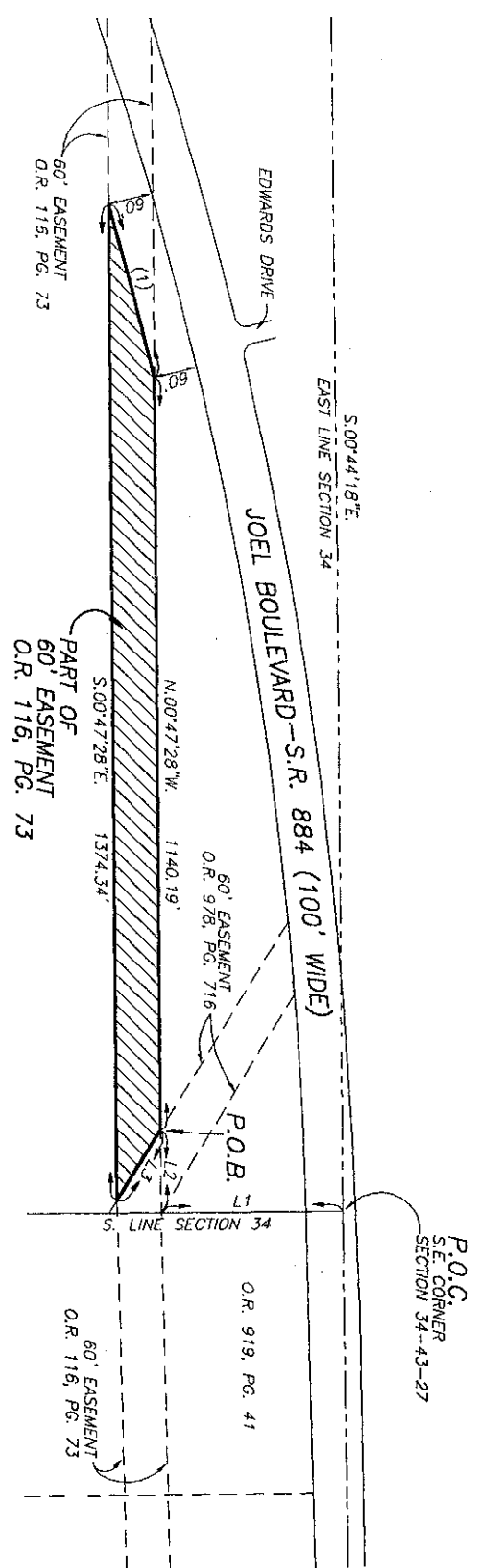
KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. LS4684

CURVE TABLE

NO.	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
1	5604.61'	230°40'	245.64'	245.62'	N.14°55'50"W.

LINE TABLE

LINE	BEARING	DISTANCE
L1	S.88°25'52"W.	250.00'
L2	N.00°47'28"W.	113.21'
L3	N.31°13'14"E.	113.19'



O.R. 2790, PG. 63

O.R. 919, PG. 41

O.R. 978, PG. 716

PART OF 60' EASEMENT O.R. 116, PG. 73

60' EASEMENT O.R. 116, PG. 73

60' EASEMENT O.R. 116, PG. 73



THIS IS NOT A BOUNDARY SURVEY

SKETCH

OF AN EASEMENT LYING IN SECTION 34, T-43-S, R-27-E, LFF COUNTY, FLORIDA.

TRASK ASSOCIATES, INC.
SURVEYORS

FLORIDA LICENSED BUSINESS NO. LB7136
11543 CHARLIE'S TERRACE, FORT MYERS, FL 33907
239-694-2335 PHONE 239-694-2355 FAX
KTRASK@TRASKASSOCIATES.COM

Kenneth E. Trask
KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. LS4684

11-4-03
DATE SIGNED:

LEGEND
O.R. OFFICIAL RECORD BOOK
PG. PAGE
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT

DATE: 11-04-2003
SCALE: 1"=250'
DRAWN BY: TW
CHECKED BY: KT
JOB NO.: 34-43-27
JOB NO.: 0188
SHEET 2 OF 2