

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

DATE CRITICAL
Blue Sheet No. 20041288

1. REQUESTED MOTION:

ACTION REQUESTED: Approve the Confirmatory Easement to Watermen at Parkway, LLC confirming the easement and access rights established by court order.

WHY ACTION IS NECESSARY: Board approval is necessary to execute a confirmatory easement.

WHAT ACTION ACCOMPLISHES: Confirms an easement established by court order and removes a cloud on title.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #5

C12A

3. MEETING DATE:

10-19-2004

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER Court Order

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION Paralegal
- BY: Joan C. Henry
Assistant County Attorney

7. BACKGROUND:

On October 27, 1981 a final judgment was entered in the case Lee County v. May K. Wood, following condemnation proceedings for infrastructure required in the construction of Southwest Florida International Airport. The judgment recorded in O.R. Book 1556, Page 1269 of the Public Records, Lee County, Florida, ordered that, "the frontage roadway shown on the plans and specifications for the project ("the road") is a public road giving legal access to the property owner, her successors and assigns." The legal description of the frontage roadway was not attached to the judgment. Lee County constructed the roadway as contemplated and it is a portion of Chana Court.

Continued on Page 2

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
N/A	N/A	N/A	N/A	<i>[Signature]</i>	OA <i>[Signature]</i>	OM <i>[Signature]</i>	RISK <i>[Signature]</i>	GC <i>[Signature]</i>	<i>[Signature]</i> 10-1-04

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY.
FORWARDED
TO CO. ADMIN.
10/14/04 *[Signature]*

RECEIVED BY
COUNTY ADMIN:
10/04/04
11:20 AM
COUNTY ADMIN
FORWARDED TO:
10/7/04
11:20

Blue Sheet #: 20041288

Page No.: 2

Subject:

The property owner's representative contacted Lee County and is requesting a confirmatory easement be executed to clear a cloud on the title to the property. The property owner's title insurance company is unable to insure access to the remaining property without confirmation from Lee County that Chana Court provides access.

Lee County Department of Transportation staff have reviewed this request and recommend approval.

Attachments:

1. Final Judgment
2. Confirmatory Easement

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA

LEE COUNTY, FLORIDA, a political :
subdivision of the State of :
Florida, :

Petitioner, :

vs. 1485132 :

CASE NO. 79-2049-CA-RHP

MAY K. WOOD, ET AL, :

Defendants. :

DECLARIES & FILED

REC-1556 PC1269

OCT 30 1981

FINAL JUDGMENT AS TO PARCEL 1

SAL BRACK CLERK
DMS

THIS CAUSE came on to be heard upon the Stipulation of the attorney for the Petitioner and the attorney for the Defendant MAY K. WOOD, owner of Parcel 1, and the Court being fully advised in the premises, it is therefore,

ORDERED, ADJUDGED and DECREED as follows:

1. That the Defendant, MAY K. WOOD receive the sum of \$118,000.00 in full payment for the property designated as Parcel 1 taken and the sum of \$5,000.00 for severance damages, for a total of \$123,000.00 as full compensation and for all other damages of any nature.

2. It is stipulated between the parties and adopted as part of this Judgment that:

a. The frontage roadway shown on the plans and specifications for the project ("the road") is a public road giving legal access to the property owner, her successors and assigns. A copy of the plans and specifications have been filed in this cause and are incorporated herein by reference.

b. The right-of-way width for the road shall be deemed to be not less than the minimum width prescribed by Lee County, Florida, for an access or service road which might serve any development which might be undertaken at the property. Provided, nothing herein is to be construed as any grant of development rights for the property.

OCT 16 1981

EC-1556 PG1270

c. The road is constructed of stabilized limestone surface of the same construction and material as the presently existing, now completed, north airport access road. The road will be maintained by Lee County, Florida.

d. The subject property owner, her successors and assigns will be allowed at least three (3) standard roadway access openings to the road.

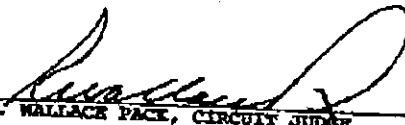
e. This stipulation is based upon the roadways as they are constructed in the plans and specifications on file in this cause and with the further understanding that the overpass originally designed for the site is no longer contemplated.

3. That upon entry of this Final Judgment, the Petitioner shall deposit the additional sum of \$41,400.00 into the Registry of the Court in order to pay this award, and the Clerk of this Court shall, upon receipt of said deposit, pay unto the said MAY K. WOOD the sum of \$123,000.00 out of the sums deposited in the Registry of this Court, minus any sums paid by the Clerk of the Circuit Court from the Registry of said Court, subject to mortgages, leases, liens, and judgments, if any.

4. That title to the property described in the Petition for condemnation as Parcel 1 be and it is hereby vested in the Petitioner. Said Parcel 1 as more particularly described on attached Schedule "A", which vested in the Petitioner pursuant to Order of Taking and deposit of money heretofore made, is approved, ratified and confirmed.

5. The Court reserves jurisdiction to assess costs and attorneys' fees in this matter.

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida this 30 day of October 1981.


R. WALLACE PACK, CIRCUIT JUDGE

STIPULATION

WE hereby stipulate and consent to the entry of the
foregoing Final Judgment as to Parcel 1 this 27th day of
October 1981.

REC. 1556 PD1271

PAVLEE, SHIELDS, GARNER,
HAVERFIELD, KLUTTS & COTTRELL
Attorneys for Petitioner
P. O. Drawer 1507
Fort Myers, Florida 33902
(813) 334-2195

MOOREY, SEALS & GARVIN
Attorneys for Defendant
P. O. Box 2040
Fort Myers, Florida 33902
(813) 334-1824

BY Stephen E. Dalton
STEPHEN E. DALTON

BY Jeffrey R. Garvin
JEFFREY R. GARVIN

334/1824

Thomas S. Moorey

275 5005

SCHEDULE "A"

REC-1556 PG1272

LEGAL DESCRIPTION

ACQUISITION PARCEL (1)

SOUTHWEST FLORIDA REGIONAL AIRPORT

January 12, 1978

A parcel of land lying in the south half (S $\frac{1}{2}$) of the southeast quarter (SE $\frac{1}{4}$) of the northeast quarter (NE $\frac{1}{4}$), Section 23, Township 45 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Beginning at the east quarter corner of said Section 23, run S 88° 06' 12"W along the south line of said northeast quarter (NE $\frac{1}{4}$) for 1349.72 feet to the southeast corner of said southeast quarter (SE $\frac{1}{4}$) of the northeast quarter (NE $\frac{1}{4}$); thence run N 00° 39' 21"W along the west line of said fraction for 155.72 feet; thence run N 88° 06' 12"E for 155.55 feet; thence run N 54° 36' 12"E for 729.32 feet; thence run N 88° 10' 25"E for 598.20 feet to an intersection with the east line of said fraction; thence run S 00° 17' 50"E along said east line for 557.70 feet to the point of beginning.

Containing 23.21 acres more or less.

Bearings hereinabove mentioned are Plane Coordinates for the Florida West Zone.

SEARCHED
INDEXED
SERIALIZED
FILED
OCT 30 12 33 PM '91
LEE COUNTY, FLORIDA
RECORDS DEPARTMENT

This instrument prepared by
and return to:
G. Carson McEachern, Esq.
Roetzel & Andress
850 Park Shore Drive, Suite 300
Naples, Florida 34103
(239) 649-2713

(Space above this line for recording data)

CONFIRMATORY EASEMENT

THIS CONFIRMATORY EASEMENT made this ___ day of _____, 2004, by and among Lee County, Florida, a political subdivision of the State of Florida, hereinafter called ("Lee County"), whose mailing address is _____ in favor of Watermen At Daniels Pkwy, LLC, a Florida limited liability company ("Watermen") whose address is 8045 N.W. 155th St., Miami Lakes, FL 33016, its successor and or assigns.

Background Recitals:

Lee County and May K. Wood were parties to an action in Lee County styled Lee County, Florida, a political subdivision of the State of Florida, Petitioner, vs. May K. Wood, ET AL., Defendants in Case Number 79-2049-CA-RWP as to which a Final Judgment as to Parcel 1 ("Final Judgment") was entered on October 30, 1981 and recorded October 30, 1981, Official Record Book 1556, Page 1269-1272 of the Public Records of Lee County, Florida. The Final Judgment provides that there will be a frontage roadway along the Parcel left to May K. Wood so as to give her legal access. The Final Judgment further provides "A copy of the plans and specifications have been filed in this cause and are incorporated herein by reference." After investigation, it has been determined that the files for Case Number 79-2049-CA-RWP has been destroyed, thus preventing one from making reference to the plans and the specifications. Lee County is the only party having ownership and use interest in their property described in Exhibit A. May K. Wood conveyed title to her property to Cynwyd Investments, a Pennsylvania general partnership, by Warranty Deed recorded February 21, 1983, in Official Record Book 1659, Page 38 of the Public Records of Lee County, Florida. Cynwyd Investments subsequently conveyed title to the property described in Exhibit "B" to Watermen.

WITNESSETH

WHEREAS, Lee County is willing to grant over their property described in Exhibit A a perpetual nonexclusive easement for ingress and egress and utility installation and/or repair of water, drainage, sewer, cable, electric, gas, and telephone lines to Watermen's property described in Exhibit "B".

Signed, sealed and delivered

WATERMEN AT DANIELS PKWY, a
Florida Limited Liability Company

Print Name: _____

By: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2004, by _____, as _____ of WATERMEN AT DANIELS PKWY LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification.

I am a Notary Public in and for the State of Florida, County of _____, and my Commission expires _____.

(SEAL)

NOTARY PUBLIC, STATE OF FLORIDA

Print Name: _____

Serial No.: _____

My Commission Expires: _____

Exhibit "A"

G:
REC: 1556 PG1272

LEGAL DESCRIPTION

ACQUISITION PARCEL (1)

SOUTHWEST FLORIDA REGIONAL AIRPORT

January 12, 1978

A parcel of land lying in the south half ($S\frac{1}{2}$) of the southeast quarter ($SE\frac{1}{4}$) of the northeast quarter ($NE\frac{1}{4}$), Section 23, Township 45 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Beginning at the east quarter corner of said Section 23, run $S 88^{\circ} 06' 12'' W$ along the south line of said northeast quarter ($NE\frac{1}{4}$) for 1349.72 feet to the southwest corner of said southeast quarter ($SE\frac{1}{4}$) of the northeast quarter ($NE\frac{1}{4}$); thence run $N 00^{\circ} 39' 21'' W$ along the west line of said fraction for 155.72 feet; thence run $N 88^{\circ} 06' 12'' E$ for 155.55 feet; thence run $N 54^{\circ} 36' 12'' E$ for 729.32 feet; thence run $N 86^{\circ} 10' 25'' E$ for 598.20 feet to an intersection with the east line of said fraction; thence run $S 00^{\circ} 17' 50'' E$ along said east line for 557.70 feet to the point of beginning.

Containing 13.11 acres more or less.

Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

OCT 30 12 33 PM '81
RECORDED
LEE COUNTY, FLORIDA
RECORD VERIFIED

SAL GERARDI
CLERK OF DISTRICT COURT

Exhibit "B"

(legal description)

The following described property located in Lee County Florida:

The East Half (E½) of the Northeast Quarter (NE¼) of Section 23, Township 45 South, Range 25 East, LESS the following part hereof:

Beginning at the East Quarter corner of said Section 23, run S 88°06'12" West along the South line of said Northeast Quarter (NE¼) for 1349.72 feet to the Southwest corner of said Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) thence run N 00°39'21" W along West line of said fraction for 155.72 feet; thence run N 88°06'12" E for 155.55 feet; thence run N 54°36'12" E for 729.32 feet; thence run N 88°10' 25" E for 598.20 feet to an intersection with the East line of said fraction; thence run S 00°17'50" E along said East line for 557.70 feet to the Point of Beginning.

AUGUST 19, 2004
JOB # 04-7052
FILE # 04-7052SK01LGL

SHEET 1 OF 2

CIVIL
AGRICULTURAL
WATER RESOURCES
WATER & WASTEWATER
TRANSPORTATION
SURVEYING & MAPPING
GIS

DESCRIPTION: INGRESS-EGRESS EASEMENT

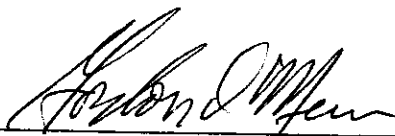
A PARCEL OF LAND LYING IN SECTION 23, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 23; THENCE N.00°17'50"W. ALONG THE EAST LINE OF SAID NORTHEAST ¼ FOR 94.00 FEET TO THE INTERSECTION WITH THE NORTH RIGHT OF WAY OF DANIELS PARKWAY; THENCE ALONG SAID NORTH RIGHT OF WAY FOR THE FOLLOWING 3 CALLS:
(1) N.89°52'40"W. FOR 0.55 FEET; (2) THENCE S.88°39'26"W. FOR 622.42 FEET; (3) THENCE S.88°06'12"W. FOR 627.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT OF WAY S.88°06'12"W. FOR 60.00 FEET; THENCE N.01°53'48"W. FOR 55.68 FEET TO A POINT ON THE SOUTH LINE OF A PARCEL OF LAND RECORDED IN O.R. 1659, PAGE 38 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.88°06'12"E. ALONG THE SOUTH LINE OF SAID O.R. 1659, PAGE 38 FOR 60.00 FEET; THENCE S.01°53'48"E. FOR 55.68 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.08 ACRES MORE OR LESS

SEE SHEET 2 OF 2 FOR SKETCH

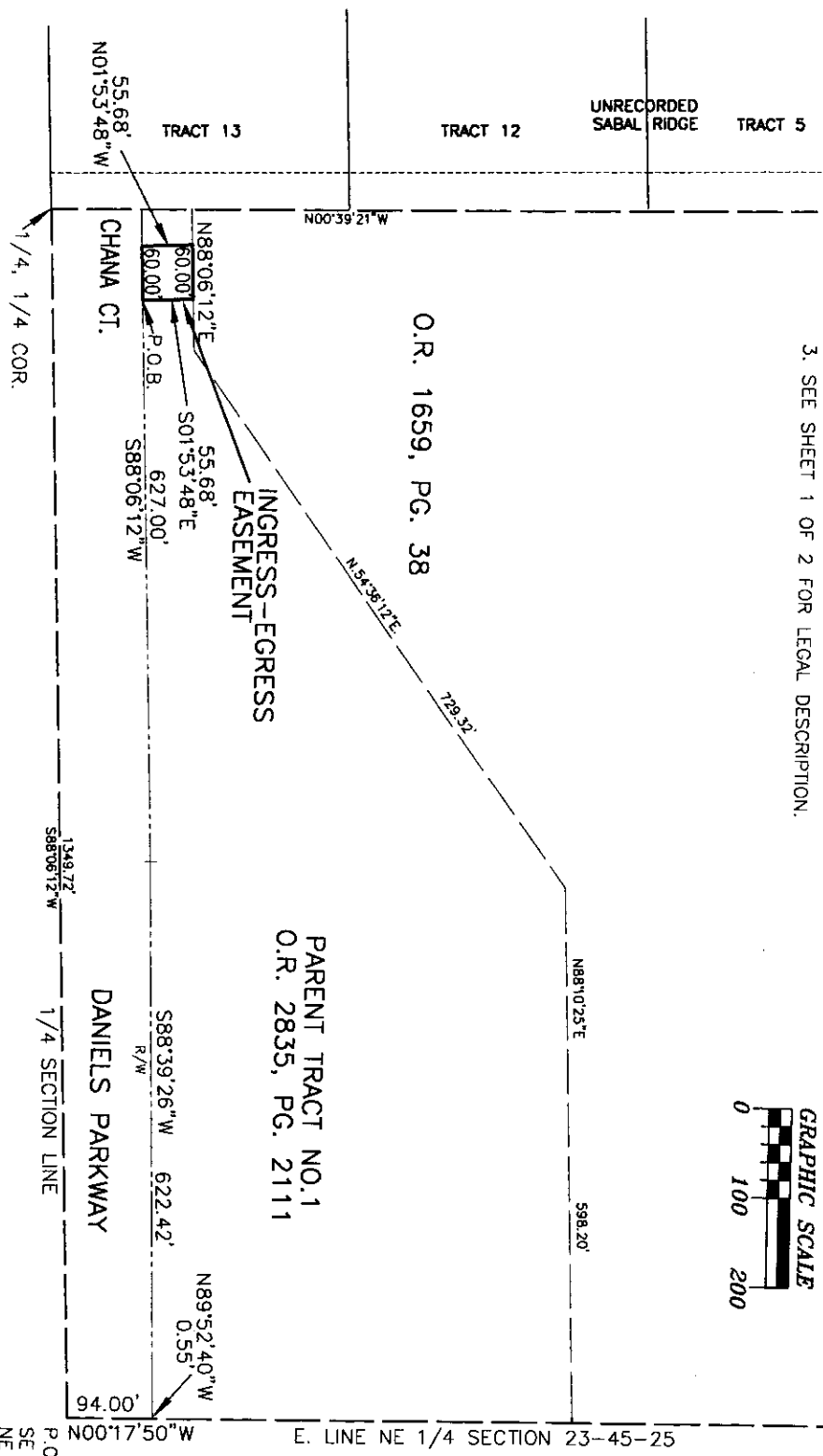
"Partners for Results
Value by Design"



GORDON D. MEIERS
PROFESSIONAL SURVEY AND MAPPER
FL. CERT. NO 2858

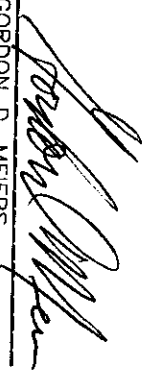
SURVEYOR'S NOTES:

1. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 45 S. RANGE 25 EAST, LEE COUNTY, FLORIDA BEING N.00°17'50"W.
2. NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION.



LEGEND

- | | |
|--------|-----------------------|
| COR. | CORNER |
| O.R. | OFFICIAL RECORD |
| P.O.B. | POINT OF BEGINNING |
| P.O.C. | POINT OF COMMENCEMENT |
| P.G. | PAGE |
| R/W | RIGHT OF WAY |
| SEC. | SECTION |


GORDON D. MEIERS
 PROFESSIONAL SURVEYOR & MAPPER
 FL. CERT. # 2858

LBFH Inc.

Ink Engineering A Division of LBFH, Inc. CONSULTING CIVIL ENGINEERS, SURVEYORS & MAPPERS <i>"Partners For Results, Value By Design"</i>	Scale: NOTED	PROJECT NAME: SKETCH (NOT A SURVEY) INGRESS-EGRESS EASEMENT LYING IN	
	Sheet 2 of 2	SECTION 23, TOWNSHIP 45 S., RANGE 25 E.	
1400 Colonial Blvd, Suite 31, Fort Myers, Florida 33907 (239) 931-0455 Fax: (239) 931-0456 BPR & FBPE License No: 959 www.lbfh.com	Computed: CP	Date: 8/19/04	FILE NO. 04-7052SK01.dwg
	Checked: GM		Project No. 04-7052

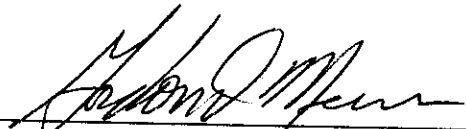
DESCRIPTION: INGRESS-EGRESS EASEMENT

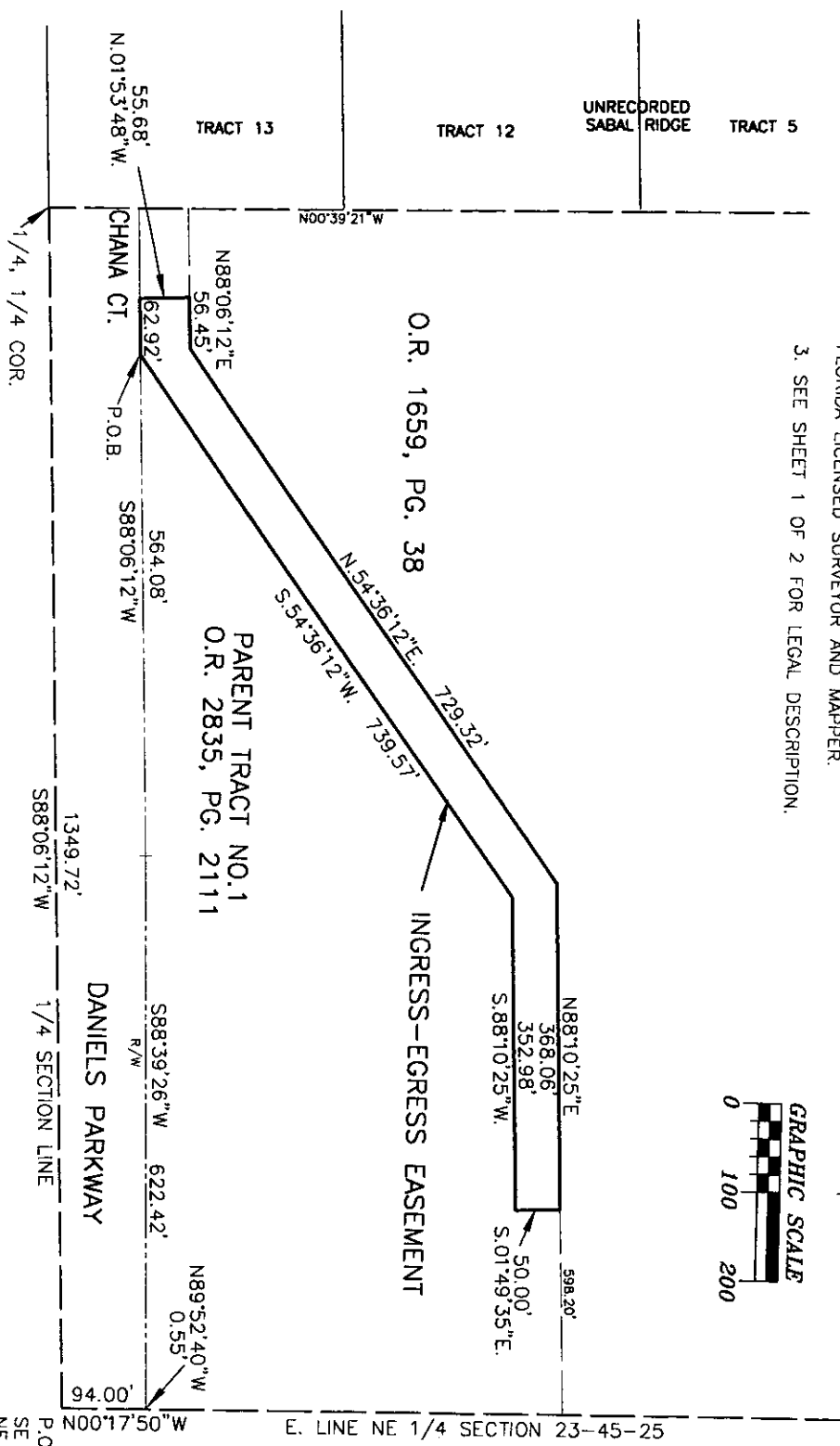
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CONTAINING 1.33 ACRES MORE OR LESS

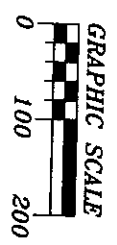
SEE SHEET 2 OF 2 FOR SKETCH


GORDON D. MEIERS
PROFESSIONAL SURVEY AND MAPPER
FL. CERT. NO 2858



SURVEYOR'S NOTES:

1. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 45 S. RANGE 25 EAST, LEE COUNTY, FLORIDA BEING N.00°17'50"W.
2. NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION.



LEGEND

COR.	CORNER
O.R.	OFFICIAL RECORD
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
PG.	PAGE
R/W	RIGHT OF WAY
SEC.	SECTION

Gordon D. Meiers
GORDON D. MEIERS
 PROFESSIONAL SURVEYOR & MAPPER
 FL. CERT. # 2858

P.O.C.
 SE CORNER
 NE 1/4
 SEC. 23-45-25

LBFH Inc.

Ink Engineering A Division of LBFH, Inc. CONSULTING CIVIL ENGINEERS, SURVEYORS & MAPPERS <i>"Partners For Results, Value By Design"</i> 1400 Colonial Blvd, Suite 31, Fort Myers, Florida 33907 (239) 931-0455 Fax: (239) 931-0456 BPR & FBPE License No: 959 www.lbfh.com	Scale: NOTED	PROJECT NAME: SKETCH (NOT A SURVEY) INGRESS-EGRESS EASEMENT LYING IN SECTION 23, TOWNSHIP 45 S., RANGE 25 E.	
	Sheet 2 of 2	Date: 8/19/04	FILE NO. 04-7052SK02.dwg
Computed: CP	Checked: GM	Project No. 04-7052	