

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

Blue Sheet No. 20041466

1. REQUESTED MOTION:

ACTION REQUESTED: Approve a request to reconvey those rights held by the County in that portion of an unbuilt Viewer's Road located in Section 5, Township 46 South, Range 24 East, to the current property owner, authorize the Chairman to execute a County Deed for this purpose and authorize the County Attorney's Office to handle and complete all documentation necessary.

WHY ACTION IS NECESSARY: Board approval is necessary to reconvey the County's rights in an unbuilt portion of a Viewer's Road in accordance with §255.22, F.S.

WHAT ACTION ACCOMPLISHES: Releases to the requesting property owner any right, title or interest held by the County in an unbuilt portion of the Viewer's Road at this location.

2. DEPARTMENTAL CATEGORY: 12
COMMISSION DISTRICT # 3

C12C

3. MEETING DATE:

11-16-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED: 5 min

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE §255.22, F.S.
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Atty's Office
- C. DIVISION Land Use
- BY: *John J. Fredyma*
John J. Fredyma, Assistant County Atty

7. BACKGROUND: On September 14, 2004, the Board tabled indefinitely Blue Sheet 20041032. This was a request by Tibco, Inc., the owner of property located at 10900 Old South Way and 10551 Kelly Road (STRAP Nos.: 05-46-24-01-00004.0050 & 05-46-24-01-00004.001A). Pursuant to §255.22, F.S., Tibco had requested the reconveyance of the County's rights in that portion of a 66-foot wide, unbuilt Viewer's Road as described in County Commission Minutes Book 5, Page 645 (January 6, 1926), located in Section 5, Township 46 South, Range 24 East.

The unbuilt Viewer's Road runs in a north/south direction and bisects four parcels of land then owned by Tibco. According to staff, Parcel 1 comprises approximately 18.5 acres and is zoned RV-3 and MH-2. Parcel 2 comprises approximately 20 acres and is zoned MH-2. Parcel 3 comprises approximately 12.6 acres and is zoned MH-2. Parcel 4 comprises approximately 40 acres and is zoned MH-2. All four parcels, including the Viewer's Road, are located in the Urban Community Future Land Use Category of the Lee Plan and are also located in the Coastal High Hazard area. A copy of the September 10, 2004 memo of Peter J. Eckenrode, Director, Development Services Division, is attached with additional detail in this regard.

(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. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY
FORWARDED
TO CO. ADMIN.
11/16/04

RECEIVED BY
COUNTY ADMIN: *[Signature]*
11/2/04
COUNTY ADMIN
FORWARDED TO: *[Signature]*
11/2/04
[Signature]

Subject: Summerlin Investment, LLC (Request for Reconveyance)

Tibco has subsequently sold their interest in the property to Summerlin Investment, LLC, (Summerlin), a Florida limited liability company. Summerlin has renewed the request for reconveyance; however, Summerlin has also executed and delivered to the Office of the County Attorney (to be held in trust) a Restrictive Covenant in favor of the County, limiting the future use and development of the property by excluding the placement or construction of mobile homes, manufacture housing or RV's on the tracts currently bisected by the Viewer's Road. A copy of the Restrictive Covenant is attached to this Blue Sheet.

Florida Statute, §255.22, authorizes the County to reconvey property donated for a specific purpose if a request is received from an adjacent property owner, and the County has not used the property for such purposes for a period of sixty (60) consecutive months. A review of the documents concerning these parcels indicates the statutory requirements for reconveyance have been met. County Staff recommends the Board approve the requested reconveyance.

Attachments: (1) County Deed;
(2) Sketch of the unbuilt Viewer's Road to be reconveyed;
(3) Restrictive Covenant; and
(4) Memo dated 9/10/04, prepared by Peter J. Eckenrode, Dir., Dev. Services Div.

This Instrument Prepared by:

Lee County Attorney's Office
Post Office Box 398
Fort Myers, Florida 33902-0398

STRAP Nos. 05-46-24-01-00004.0050 &
05-46-24-01-00004.001A

THIS SPACE FOR RECORDING

COUNTY DEED (Statutory)

THIS DEED, executed this ____ day of _____, 2004, 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 **SUMMERLIN INVESTMENT, LLC**, a Florida Limited Liability Company, whose address is 1325 S.E. 47th Street, Suite G, Cape Coral, Florida 33904 (Grantee).

WITNESSETH: 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 and its assigns forever, a portion of the County's interest established in a Viewer's Road, so-called, in Lee County, Florida, as described in County Commission Minutes Book 5, Page 645, being more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

In accordance with Florida Statutes s. 270.11, the County hereby reserves an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the subject land and an undivided one-half interest in all the petroleum that is or may be in, on, or under the subject land with the privilege to mine and develop each interest. Provided, however, the right of entry with respect to any interest in phosphate, minerals, metals or petroleum reserved in favor of the County is hereby released if the subject parcel being conveyed is or has always been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

This grant conveys only the interest of the County and its Board of County Commissioners in the portion of the Viewer's Road, so-called, as may have been created in County Commission Minutes Book 5, Page 645 and described in attached Exhibit "A," but not releasing or conveying any other right, title or real property interest held by Lee County in any other easement, road or Iona Drainage Ditch (I.D.D.) canal. The County and its Board of County Commissioners do not warrant the title or represent any state of facts concerning the title of the conveyance herein.

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

[Type or print name]

APPROVED AS TO LEGAL FORM:

Office of County Attorney
John J. Fredyma
Assistant County Attorney

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors

DESCRIPTION OF A PARCEL
LYING IN SECTION 5, T-46-S, R-24-E,
LEE COUNTY, FLORIDA.

(66' WIDE ROADWAY)

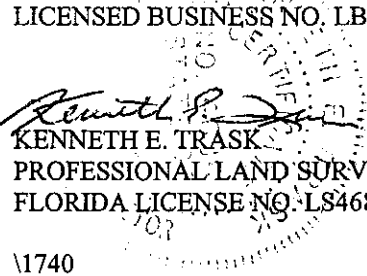
A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PART OF THE 66.00 FOOT WIDE ROADWAY AS DESCRIBED IN COUNTY COMMISSIONERS MINUTES BOOK 5, PAGE 645, LEE COUNTY PUBLIC RECORDS, RUNNING ALONG THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 5; THENCE S.01°31'48"E., ALONG SAID NORTH-SOUTH QUARTER SECTION LINE OF SECTION 5, FOR 36.00 FEET TO THE SOUTH LINE OF A 36.00 FOOT WIDE ROADWAY AS SHOWN ON THE RECORD PLAT OF E.P. BATES' PINE RIDGE TRUCK FARMS SUBDIVISION, PLAT BOOK 3 PAGE 68, SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE CONTINUE S.01°31'48"E., ALONG SAID QUARTER SECTION LINE, FOR 626.03 FEET; THENCE N.88°56'26"E., ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, FOR 33.00 FEET; THENCE S.01°31'48"E., PARALLEL WITH AND 33.00 FEET EASTERLY OF (AS MEASURED ON A PERPENDICULAR) SAID NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 5, FOR 1986.25 FEET; THENCE S.88°55'06"W., ALONG THE EAST-WEST QUARTER SECTION LINE OF SAID SECTION 5, FOR 66.00 FEET; THENCE N.01°31'48"W., PARALLEL WITH AND 33.00 FEET WESTERLY OF (AS MEASURED ON A PERPENDICULAR) SAID NORTH-SOUTH QUARTER SECTION LINE OF SECTION 5, FOR 2612.37 FEET; THENCE N.89°03'04"E., ALONG SAID SOUTH LINE OF A 36.00 FOOT WIDE ROADWAY, FOR 33.00 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE WEST LINE OF SECTION 5 AS BEARING N.01°38'54"W.

BANKS ENGINEERING, INC.
LICENSED BUSINESS NO. LB7136

MAY 26, 2004


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

\1740

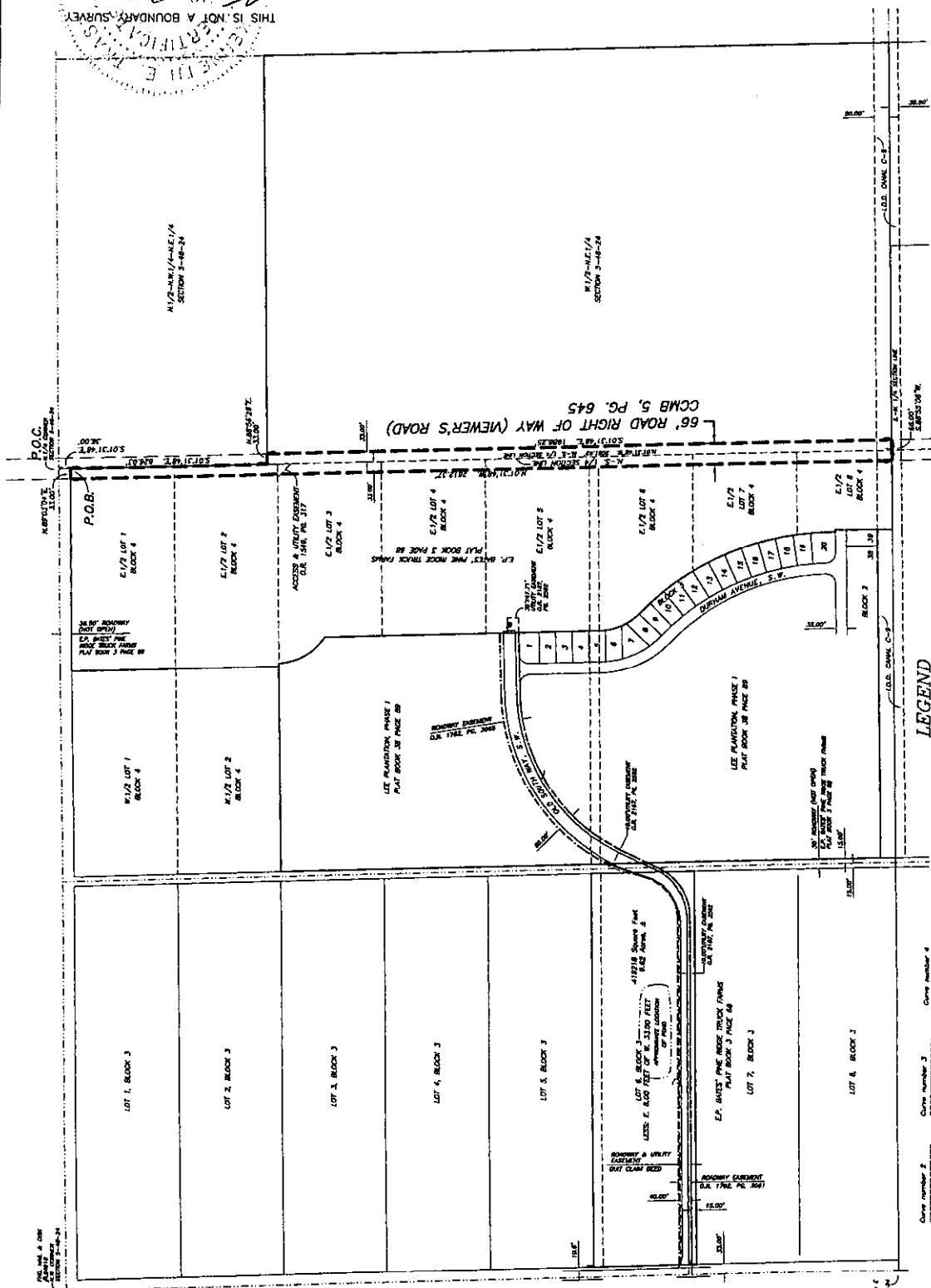
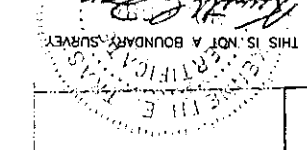
SHEET 1 OF 2

Bankus Engineering, Inc.
 Professional Engineers, Planners & Land Surveyors
 FORT MYERS • MAPLES • SARASOTA
 10111 96th MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33912
 PHONE: (239) 939-4960 FAX: (239) 838-2223
 ENGINEERING LICENSE # EB 6469
 SURVEY LICENSE # LS 9880

DATE	5-28-2004
PROJECT	1740
DRAWING	DESIGN
CHECKED	SCALE
SHEET	2
OF	2
FILE NO. (S-1-R)	5-46-24

VICOTT, INC.
 LEE COUNTY, FLORIDA
 SKETCH TO ACCOMPANY DESCRIPTION

DATE SIGNED: 5-28-04
 KENNETH E. TRASK
 PROFESSIONAL LAND SURVEYOR
 FLORIDA CERTIFICATE NO. LS4684



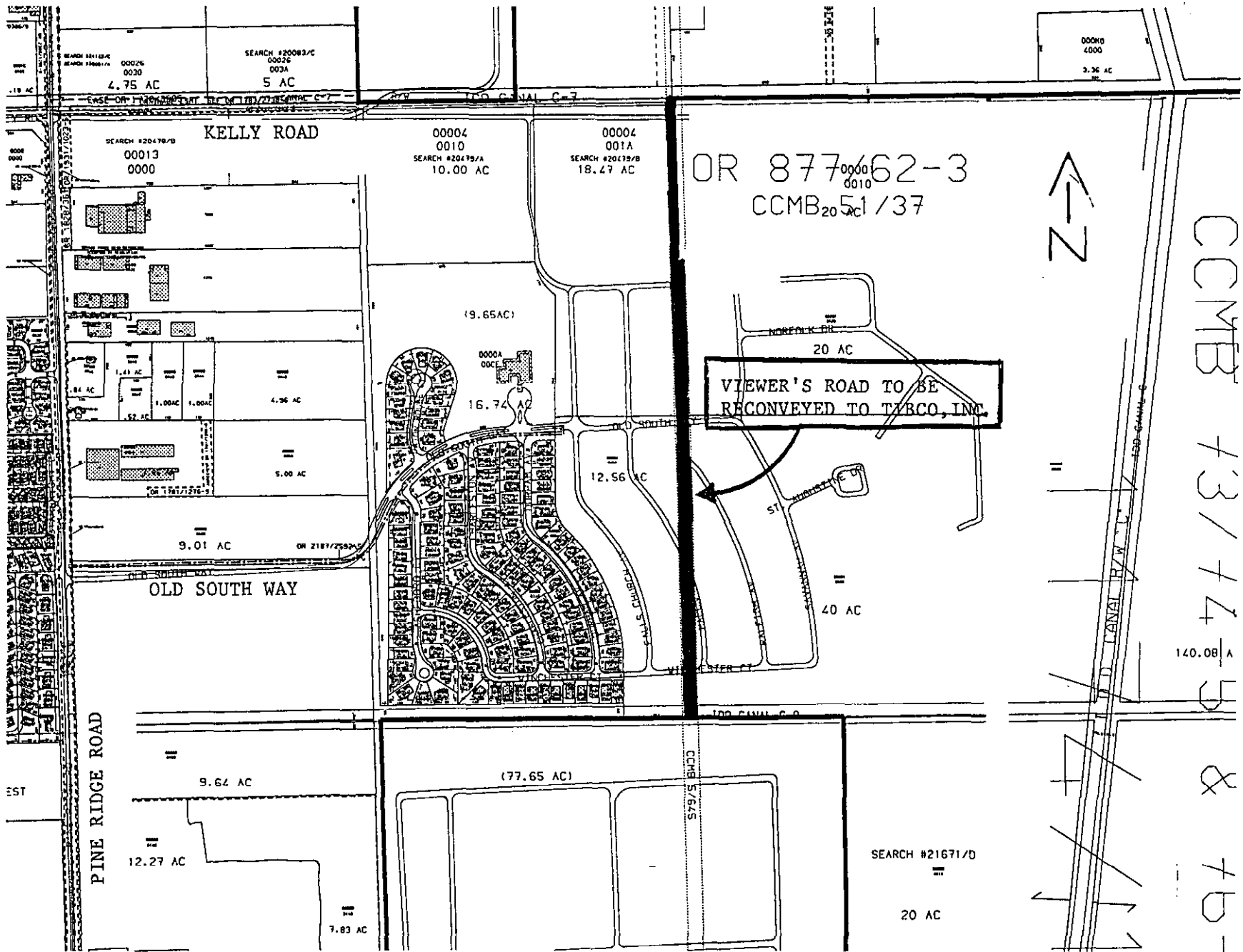
LEGEND
 P.B. PLAT BOOK, LEE COUNTY PUBLIC RECORDS
 O.R. OFFICIAL RECORDS BOOK
 LEE COUNTY PUBLIC RECORDS
 P.C. PAGE
 P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCEMENT

Curve number 2
 Station 1+00.00'
 Radius 150.00'
 Delta 27.2734°
 Tangent 45.9873'
 Chord 80.15'
 Offset 10.4147028734' Chord Ang = 14.0278725°

Curve number 3
 Station 1+50.00'
 Radius 150.00'
 Delta 27.2734°
 Tangent 45.9873'
 Chord 80.15'
 Offset 10.4147028734' Chord Ang = 14.0278725°

Curve number 4
 Station 2+00.00'
 Radius 150.00'
 Delta 27.2734°
 Tangent 45.9873'
 Chord 80.15'
 Offset 10.4147028734' Chord Ang = 14.0278725°

SEE SHEET 5-46-24
 FOR THE CONTINUED
 DESCRIPTION



OR 877-62-3
CCMB₂₀ 51/37

VIEWER'S ROAD TO BE
RECONVEYED TO TIBCO, INC.



CCMB #3/74-5 & 76-

140.00 A

SEARCH #21671/D

20 AC

EST

PINE RIDGE ROAD

OLD SOUTH WAY

KELLY ROAD

4.75 AC

5 AC

00004
0010
SEARCH #20479/A
10.00 AC

00004
001A
SEARCH #20478/B
18.47 AC

SEARCH #20478/B
00013
0000

(9.65 AC)

0000A
000C
16.74 AC

12.56 AC

20 AC

40 AC

9.64 AC

12.27 AC

7.83 AC

(77.65 AC)

CCMB
576/545

0000
4000
3.36 AC

This Instrument Prepared by
and Return to:
George L. Consoer, Jr.
Knott, Consoer, Ebelini,
Hart & Swett, P.A.
1625 Hendry Street, Suite 301
Fort Myers, FL 33901
239/334-2722

RESTRICTIVE COVENANT

Restrictive Covenant made this 22nd day of October, 2004, by Summerlin Investment, LLC, a Florida Limited Liability Company, whose address is 10950 Old South Way, Fort Myers, Florida 33908.

BACKGROUND

Summerlin Investment, LLC is the owner of the real property described on Exhibit "A" attached to this Restrictive Covenant. Located upon the real property described on Exhibit "A" is what is referred to as a "Viewers Road Easement". A description of said Viewers Road Easement is derived on Exhibit "B" attached to this Restrictive Covenant. In consideration of Lee County, a Political Subdivision of the State of Florida, terminating and otherwise releasing any and all rights which it may have in and to said Viewers Road Easement in favor of Summerlin Investment, LLC, Summerlin Investment, LLC has agreed to place a restrictive covenant on the real property described on Exhibit "A" which would forever prohibit the use of said real property for mobile home development.

OPERATIVE PROVISIONS

For good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the undersigned does hereby place upon the real property described on Exhibit "A" attached to this Agreement and does covenant for itself and all future owners of said real property the following or any portion thereof, the following:

1. That in consideration of Lee County, Florida, releasing all rights it may have in and to the property described on Exhibit "B" as a Viewers Road Easement and conveying said property to the undersigned, the undersigned does hereby covenant for itself and all future owners of the real property described on Exhibit "A", and any portion thereof, that the real property described on Exhibit "A" shall not be utilized for any of the following: (i) placement of free standing mobile homes, mobile home subdivisions, and/or mobile parks; (ii) development of recreational vehicle parks or subdivisions, including what is generally referred to as "park model" mobile homes, and (iii) development of mobile home campgrounds or recreational vehicle campgrounds. For all purposes of this instrument, the term

mobile home shall be as defined in the Lee County Land Development Code at Section 34-2.

2. That notwithstanding the foregoing restrictions it is understood that such restrictions shall not prohibit the real property as described on Exhibit "A" to be used for dwelling constructed in what is generally referred to as "modular" type of construction. In addition, said restrictions shall not restrict the ability of the undersigned, or any future owner, of utilizing a mobile home on the real property described on Exhibit "A" for the limited purposes of a temporary sale facility to be utilized in connection with the overall development and marketing of any future development project to be located on the real property described on Exhibit "A". Provided, however, that any such temporary sales facility must otherwise be in accordance with Lee County, Florida regulations.

3. This Covenant is enforceable by any future owners of, or any portion thereof, of the real property described on Exhibit "A" and Lee County, Florida.

WITNESSED:

Arlene M. Verissimo
 1st Witness
ARLENE M. VERISSIMO
 Printed Name

George Consoer, JR
 2nd Witness
George Consoer, JR
 Printed Name

SUMMERLIN INVESTMENT, LLC,
 a Florida Limited Liability Company

By: *A. Rudolph Maul*
 A. Rudolph Maul, Managing Member

STATE OF FLORIDA)
) SS.
 COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 22 day of OCTOBER, 2004 by A. Rudolph Maul, Managing Member of Summerlin Investment, LLC. He is personally known to me or has produced _____, as identification.

MY COMMISSION EXPIRES:

Arlene M. Verissimo
 Notary Public
ARLENE M. VERISSIMO
 Printed Name

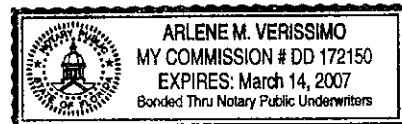


EXHIBIT "A" – Page 1

1. Lot 6, Block 3, of that certain subdivision known as E.P. BATES PINE RIDGE TRUCK FARMS, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, page 68.

LESS AND EXCEPT the East 8 feet of the West 33 feet of said Lot 6, Block 3, which was conveyed to Lee County in OR Book 1931, page 1052, Public Records of Lee County, Florida, and

LESS AND EXCEPT the roadway parcel legally described in the attached Exhibit "A", page 2, and graphically depicted in the attached Exhibit "A", page 3.

2. The East 1/2 of Lots 1 and 2, Block 4, of that certain subdivision known as E.P. BATES PINE RIDGE TRUCK FARMS, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, page 68.

3. All of Lots 3, 4, 5, 6, 7 and 8, Block 4, of that certain subdivision known as E.P. BATES PINE RIDGE TRUCK FARMS, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, page 68.

LESS AND EXCEPT those portions of said lots platted as Lee Plantation, Phase 1, per Plat in Plat Book 38, pages 89 through 94, Public Records of Lee County, Florida.

4. The West 1/2 of the Northeast 1/4 of Section 5, Township 46 South, Range 24 East, Lee County, Florida.

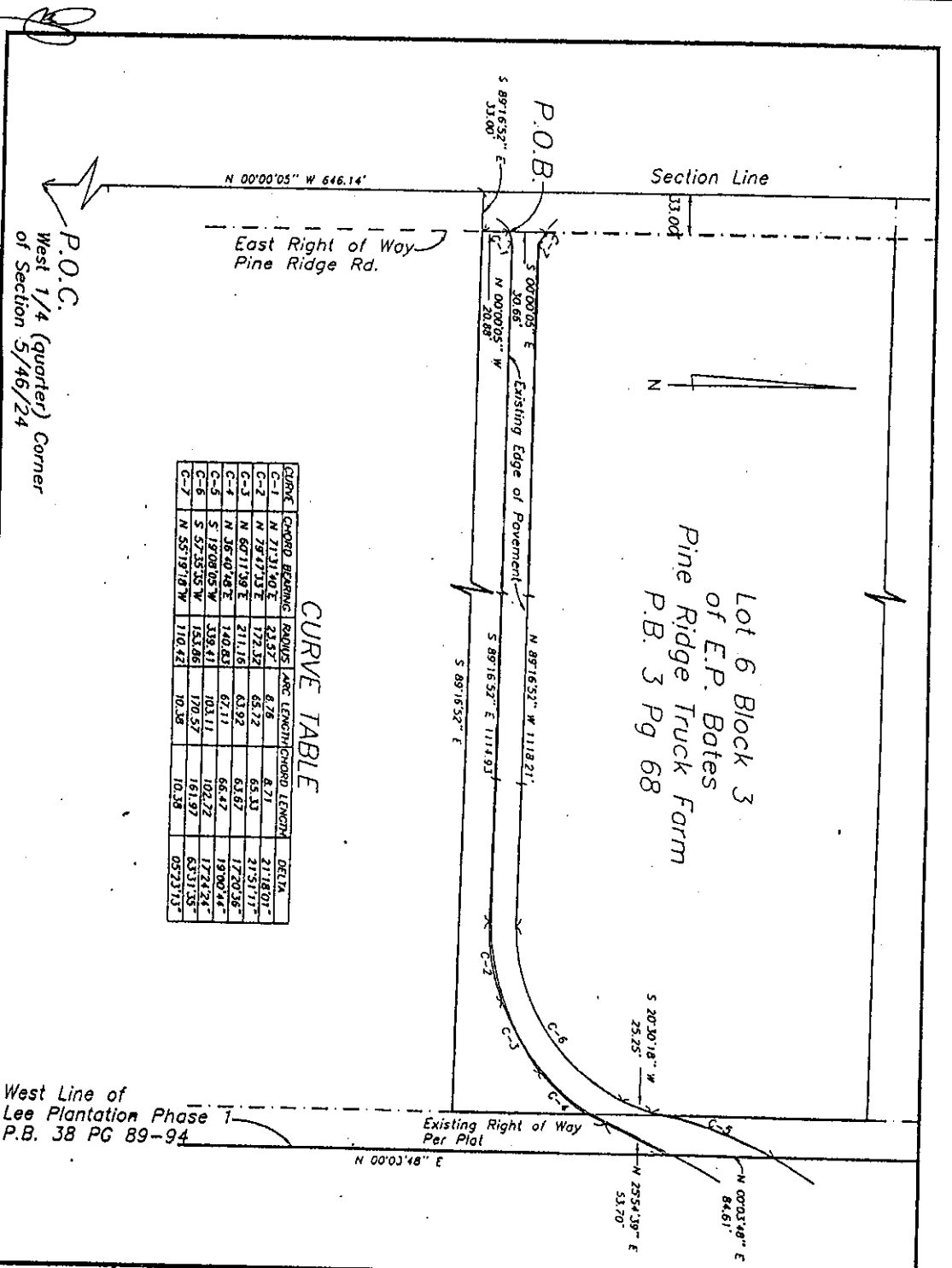
LESS AND EXCEPT the North 1/2 of the Northwest 1/4 of the Northeast 1/4 of Section 5, Township 46 South, Range 24 East, Lee County, Florida.

ALL OF THE ABOVE PROPERTY IS BEING CONVEYED TOGETHER WITH ALL APPURTENANT EASEMENTS, AND ANY OTHER EASEMENTS OWNED BY THE GRANTOR IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA.

A parcel of land lying in Section 5, Township 46 South, Range 24 East, Lee County Florida, more particularly described as follows:

Commencing at the West 1/4 (quarter) corner of Section 5, Township 46 South, Range 24 East, thence;

1. North 00°00'05" West 646.14 feet, along the West line of Section 5, also being the centerline of Pine Ridge Rd., to a point of intersection with the Westerly extension of the South line of Lot 6 Block 3 of E.P. Bates Pine Ridge Truck Farm as recorded in Plat Book 3 Page 68 in Lee County Fl. thence;
2. South 89°16'52" East 33.00 feet to the East Right of Way of Pine Ridge Rd. thence;
3. North 00°00'05" West 20.88 feet, along said Right of Way to a point on a curve, also being the TRUE POINT OF BEGINNING, thence;
4. Northeasterly along a curve to the Right with a radius of 23.57 feet, a delta of 21°18'01", and a chord bearing North 71°31'40" East 8.71 feet, a distance of 8.76 feet, to a point of tangency, thence;
5. South 89°16'52" East 1114.93 feet, parallel to the South line of said Lot 6 to a point of curvature, thence ;
6. Northeasterly along a curve to the Left with a radius of 172.32 feet, a delta of 21°51'11"; and a chord bearing North 79°47'33" East 65.33 feet, a distance of 65.72 feet to a point, thence;
7. Northeasterly along a curve to the Left with a radius of 211.16 feet, a delta of 17°20'36", and a chord bearing North 60°11'39" East 63.67 feet, a distance of 63.92 feet, to a point, thence;
8. Northeasterly along a curve to the Left with a radius of 140.83 feet, a delta of 27°18'09", and a chord bearing North 36°40'48" East 66.47 feet, a distance of 67.11 feet, to a point, thence;
9. North 25°54'39" East 53.70 feet, to a point on the West line of Lee Plantation, Phase 1, as recorded in Plat Book 38 Pages 89-93, in Lee County Fl., thence;
10. North 00°03'48" East a distance of 84.61 feet, along said West line to a point, thence;
11. Southwesterly along a curve to the Left with a radius of 339.41 feet, a delta of 17°24'24", and a chord bearing South 19°08'05" West 102.72 feet, a distance of 103.11 feet, thence;
12. South 20°30'18" West 25.25 feet, to a point of curvature, thence;
13. Southeasterly along a curve to the Right with a radius of 153.86 feet, a delta of 63°31'09", and a chord bearing South 57°35'35" West 161.97 feet, a distance of 170.57 feet, thence;
14. North 89°16'52" West a distance of 1118.21 feet, parallel to the South line of said lot 6 to a point of curvature, thence;
15. Northwesterly along a curve to the Right with a radius of 110.42 feet, a delta of 05°23'13", and a chord bearing North 55°19'18" West 10.38 feet, a distance of 10.38 feet, to a point on the of the East Right of Way of Pine Ridge Rd., thence;
16. South 00°00'05" East 30.66 feet, along said East Right of Way line to the TRUE POINT OF BEGINNING.



Lot 6 Block 3
of E.P. Bates
Pine Ridge Truck Farm
P.B. 3 Pg 68

CURVE TABLE

CURVE	COORD BEARING	RADIUS	ARC LENGTH	CHORD LENGTH	DELTA
C-1	N 71°31'40\" E	23.57	8.76	8.21	211.60°
C-2	N 79°17'33\" E	172.32	45.72	65.33	31°51'17\"
C-3	N 60°11'39\" E	211.16	43.92	63.67	17°20'36\"
C-4	N 36°40'48\" E	140.43	67.11	66.42	19°00'44\"
C-5	S 19°08'05\" W	339.41	103.11	102.72	17°24'24\"
C-6	S 52°33'35\" W	153.06	170.57	161.97	63°31'35\"
C-7	N 55°19'18\" W	110.42	10.38	10.38	05°23'13\"

West Line of
Lee Plantation Phase 1
P.B. 38 PG 89-94

<p>JOB NUMBER: 850095 00</p> <p>Prepared by _____</p> <p style="text-align: center;">LEE COUNTY ENGINEERING, INC.</p> <p style="text-align: center;">12661 METRO PARKWAY FORT MYERS, FLORIDA 33912 PHONE (813)768-0077</p> <p>BEARINGS SHOWN HEREBY ARE BASED ON THE PLAT OF LEE PLANTATION PHASE 1, AS RECORDED IN PLAT BOOK 38, PAGES 89-93 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.</p>	<p style="text-align: center;">LEGEND</p> <p>PG. = PAGE RGE = RANGE SEC = SECTION TWP = TOWNSHIP P.B. = PLAT BOOK D.B. = DEED BOOK R/W = RIGHT OF WAY POB = POINT OF BEGINNING POC = POINT OF COMMENCEMENT</p>	<p style="text-align: center;">SKETCH OF DESCRIPTION, NOT A SURVEY</p> <p style="text-align: center;">(SEE ATTACHMENT FOR LEGAL DESCRIPTION)</p> <p>SCALE: 1"=NONE DATE DRAWN: 1/98</p> <p>DRAWN BY: MW</p> <p>CHECKED BY: EEN</p> <p>FILE = LEEPLA.DWG</p>
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A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PART OF LOTS 1, 2 & 3, BLOCK 4, E.P. BATES' PINE RIDGE TRUCK FARMS, PLAT BOOK 3, PAGE 68, AND A PART OF THE PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 1872, PAGE 2819, LEE COUNTY PUBLIC RECORDS, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 5; THENCE S.01°31'48"E., ALONG THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 5 AND THE EAST LINE OF SAID BLOCK 4, E.P. BATES' PINE RIDGE TRUCK FARMS, FOR 36.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 01°31'48"E., ALONG SAID QUARTER SECTION LINE AND SAID EAST LINE, FOR 666.29 FEET; THENCE S.89°07'59" W., FOR 644.41 FEET TO THE EAST LINE OF LEE PLANTATION, PHASE I, PLAT BOOK 38 PAGE 89, SAID LEE COUNTY PUBLIC RECORDS, BEING A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 185.00 FEET, A CENTRAL ANGLE OF 02°24'13", A CHORD BEARING OF N.03°58'20" W. AND A CHORD LENGTH OF 7.76 FEET; THENCE ALONG SAID EAST LINE AND THE ARC OF SAID CURVE, AN ARC LENGTH OF 7.76 FEET TO THE END OF SAID CURVE; THENCE S.89°03'34" W., ALONG THE NORTH LINE OF SAID LEE PLANTATION, PHASE 1, FOR 10.06 FEET; THENCE N.01°33'34" W., ALONG THE WEST LINE OF THE EAST HALF OF LOTS 1 & 2, BLOCK 4, E.P. BATES' PINE RIDGE TRUCK FARMS, FOR 657.63 FEET; THENCE N.89°03'04"E., PARALLEL WITH AND 36 FEET SOUTHERLY OF (AS MEASURED ON A PERPENDICULAR) THE NORTH LINE OF SAID SECTION 5 AND ALONG THE SOUTH LINE OF A 36-FOOT WIDE ROADWAY, ACCORDING TO SAID RECORD PLAT OF E.P. BATES' PINE RIDGE TRUCK FARMS, FOR 655.13 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 435988 SQUARE FEET OR 10.01 ACRES, MORE OR LESS.

EXHIBIT "B"

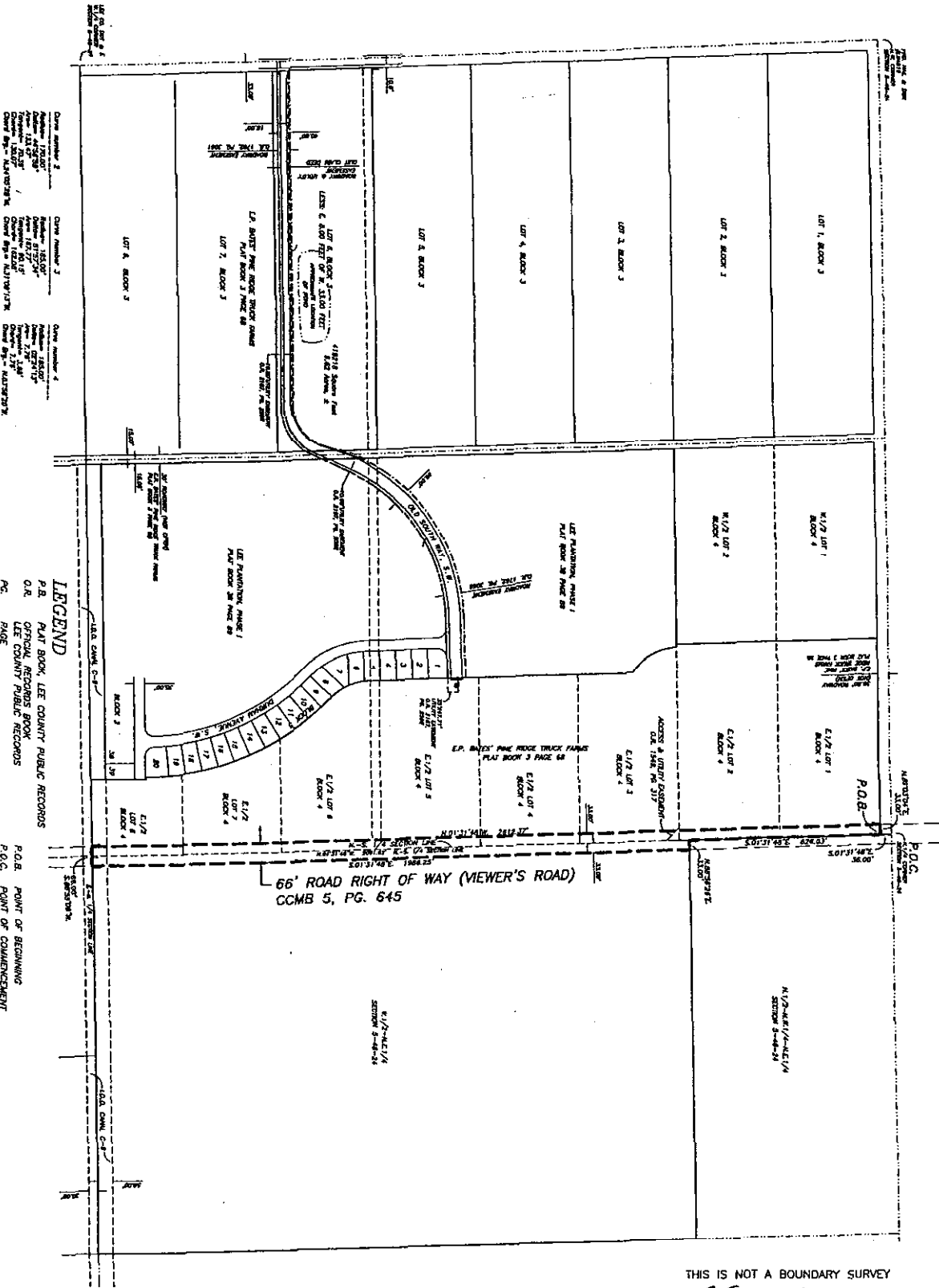
DESCRIPTION OF A PARCEL
LYING IN SECTION 5, T-46-S, R-24-E,
LEE COUNTY, FLORIDA.

(66' WIDE ROADWAY)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PART OF THE 66.00 FOOT WIDE ROADWAY AS DESCRIBED IN COUNTY COMMISSIONERS MINUTES BOOK 5, PAGE 645, LEE COUNTY PUBLIC RECORDS, RUNNING ALONG THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 5; THENCE S.01°31'48"E., ALONG SAID NORTH-SOUTH QUARTER SECTION LINE OF SECTION 5, FOR 36.00 FEET TO THE SOUTH LINE OF A 36.00 FOOT WIDE ROADWAY AS SHOWN ON THE RECORD PLAT OF E.P. BATES' PINE RIDGE TRUCK FARMS SUBDIVISION, PLAT BOOK 3 PAGE 68, SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE CONTINUE S.01°31'48"E., ALONG SAID QUARTER SECTION LINE, FOR 626.03 FEET; THENCE N.88°56'26"E., ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, FOR 33.00 FEET; THENCE S.01°31'48"E., PARALLEL WITH AND 33.00 FEET EASTERLY OF (AS MEASURED ON A PERPENDICULAR) SAID NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 5, FOR 1986.25 FEET; THENCE S.88°55'06"W., ALONG THE EAST-WEST QUARTER SECTION LINE OF SAID SECTION 5, FOR 66.00 FEET; THENCE N.01°31'48"W., PARALLEL WITH AND 33.00 FEET WESTERLY OF (AS MEASURED ON A PERPENDICULAR) SAID NORTH-SOUTH QUARTER SECTION LINE OF SECTION 5, FOR 2612.37 FEET; THENCE N.89°03'04"E., ALONG SAID SOUTH LINE OF A 36.00 FOOT WIDE ROADWAY, FOR 33.00 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE WEST LINE OF SECTION 5 AS BEARING N.01°38'54"W.



Owner number 1
 Name: [illegible]
 Address: [illegible]
 Date: [illegible]

Owner number 2
 Name: [illegible]
 Address: [illegible]
 Date: [illegible]

Owner number 3
 Name: [illegible]
 Address: [illegible]
 Date: [illegible]

Owner number 4
 Name: [illegible]
 Address: [illegible]
 Date: [illegible]

Owner number 5
 Name: [illegible]
 Address: [illegible]
 Date: [illegible]

Owner number 6
 Name: [illegible]
 Address: [illegible]
 Date: [illegible]

Owner number 7
 Name: [illegible]
 Address: [illegible]
 Date: [illegible]

LEGEND
 P.B. POINT OF BEGINNING
 O.R. OFFICIAL RECORDS BOOK
 L.C. LEE COUNTY PUBLIC RECORDS
 P.C. POINT OF COMMENCEMENT

THIS IS NOT A BOUNDARY SURVEY
Kenneth E. Trask
 KENNETH E. TRASK
 PROFESSIONAL LAND SURVEYOR
 FLORIDA CERTIFICATE NO. LS4684
 5-28-04
 DATE SIGNED:

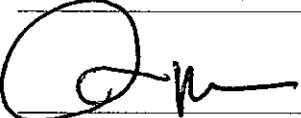
Banks Engineering, Inc.
 Professional Engineers, Planners & Land Surveyors
 FORT MYERS • NAPLES • SARASOTA
 10011 SIX MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33912
 PHONE: (239) 939-5480 FAX: (239) 939-2523
 ENGINEERING LICENSE # EB 848
 SURVEY LICENSE # LR 6180

SKETCH TO ACCOMPANY DESCRIPTION							
VICOTT, INC.							
LEE COUNTY, FLORIDA							
DATE	PROJECT	DRAWING	DESIGN	CHECKED	SCALE	SHEET	OF
5-26-2004	1740			KT	1"=400'	2	2
						FILE NO. (S-T-R)	
						5-46-24	

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: September 10, 2004

TO: Commissioner Ray Judah
District 3

FROM: 
Peter J. Eckenrode
Director

RE: **TIBCO, Inc.**
RECONVEYANCE OF VIEWER'S ROAD RIGHT-OF-WAY

This memorandum is provided in response to your request at the Board's September 7th meeting for an analysis of the impact the proposed reconveyance of a portion of an unbuilt Viewer's Road would have on potential development of properties owned by TIBCO, adjacent to the Viewer's Road.

The Viewer's Road, aligned north to south, bisects four parcels of land owned by TIBCO, Inc. (See attached map) Parcel 1 comprises approximately 18.5 acres and is zoned RV-3 and MH-2. Parcel 2 comprises approximately 20 acres and is zoned MH-2. Parcel 3 comprises approximately 12.6 acres and is zoned MH-2. Parcel 4 comprises approximately 40 acres and is zoned MH-2.

All parcels are located in the Urban Community Land Use Category of the Lee Plan and are also located in the Coastal High Hazard area. These parcels are undeveloped and are not subject to any active development orders. The County's GIS data base indicates the presence of a wetland soils on a portion of the properties, however in the absence of a jurisdictional determination, the extent of jurisdictional wetlands on the site cannot be verified.

In 1987 and 1988 a Final development order (#83-08-032.00D) was issued for a development known as Lee Plantation. The total project contained 519 mobile home/RV lots and 74 multiple family units. All of the subject parcels were included in this development order as phases of the overall project. Only the first phase containing 150 mobile home lots was developed. Street name approvals were obtained and mapped

Memo to Commissioner Judah
RE: TIBCO, Inc., Conveyance of Viewer's Rd. ROW
September 10, 2004
Page 2 of 2

and some clearing of street right-of-way commenced but was never completed. However, the development order has now expired and is of no legal effect.

Current regulations would permit the development of the properties for mobile homes or RV's as long as minimum lot sizes, as required by zoning, are met, the maximum standard Lee Plan density of 6 du/ac is not exceeded and development standards as provided in Chapter 10 of the Land Development Code are met. While these properties are located in the Coastal High Hazard Area, they are also located in a FEMA "A" zone where development intensities are not restricted as they are in "V" zones where expansions of existing mobile home or RV developments are prohibited.

As previously stated, the Viewer's Road Right-of-Way is not developed and does not provide at either end a connection to any existing or proposed public or private street right-of-way. Preservation of the public interest in the right-of-way would impact the development of these parcels only to the extent that the right-of-way would have to be accommodated on the site design. This accommodation might result in a slightly lower density but would not prevent the development of the property.

cc: Commissioner Bob Janes, District 1
Commissioner Doug St. Cerny, District 2
Commissioner Andy Coy, District 4
Commissioner John Albion, District 5
Donald D. Stilwell, County Manager
Mary Gibbs, Director, Community Development
Timothy Jones, Chief Assistant County Attorney
John Fredyma, Assistant County Attorney
Pam Houck, Zoning Director
Margaret Lawson, Lee County Dept. of Transportation