

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

Blue Sheet No. 20041706

1. REQUESTED MOTION:

ACTION REQUESTED: Accept a Petition to Vacate a 33-foot wide Right-of-Way Easement located at 21500/510 Three Oaks Parkway, Estero, Florida, and adopt a resolution setting a Public Hearing for 5:00 PM on the 22nd day of February, 2005. (Case No. VAC2003-00030)

WHY ACTION IS NECESSARY: To facilitate the development of the Estero Fire and Rescue District Station #3 with associated administrative offices. **The subject right-of-way is not constructed and the vacation of this right-of-way will not alter traffic conditions and the right-of-way is not necessary to accommodate any future traffic requirement.**

WHAT ACTION ACCOMPLISHES: Setting the time and date of the Public Hearing.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: 03

04

C4B

3. MEETING DATE:

01-25-2005

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE F.S. Ch. 336
- ORDINANCE
- ADMIN. CODE 13-8
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Community Development
- C. DIVISION Development Services
- BY: *[Signature]* 12/28/04

Peter J. Eckenrode, Director

7. BACKGROUND:

The completed petition to vacate, VAC2003-00030 was submitted by Cody Vaughan-Birch, agent for the owner.

The subject easement is recorded in OR Book 60 at Page 73 of the Public Records of Lee County, Florida. The easterly portion of the easement to be vacated is located on the site of the main fire station constructed in 2002. The vacation of the easement through this tract was required by Condition #4 of the Special Exception for the Fire Station approved under Case SE22000-00013. The westerly portion of the easement is located on the parcel immediately west of the main fire station. This tract was acquired by the Fire District for expansion of the existing facility and is now the subject of a pending rezoning under Case DC12003-00026. A permanent turn around at the end of Horne Lane has been approved by the County under Case LDO2004-00455 and will be constructed prior to conducting the Public Hearing to consider the vacation request.

LOCATION: The site is located at 21500/510 Three Oaks Parkway, Estero, Florida 33928.

Documentation pertaining to this Petition to Vacate is available for viewing at the Office of Lee Cares.

There are no objections to this Petition to Vacate. Staff recommends the scheduling of the Public Hearing.

Attached to this Blue sheet is the Petition to Vacate, Resolution to set Public Hearing, Notice of Public Hearing and Exhibits.

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
					OA	OM	Risk	GC	
<i>MAM</i>	N/A	N/A	N/A	<i>[Signature]</i>	<i>RK</i>	<i>RK</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
 Date: *1/3/05*
 Time: *2:40*
 Forwarded To:
Hamlin
1/6/05 4:15 pm

RECEIVED
 COUNTY CLERK
1/7/05
9:25 AM SL
 COUNTY ADMIN
 FORWARDED TO: *PL*
1/7/05
10:00



PETITION TO VACATE (AC 13-8)

Case Number: VAC2003-00030

Petitioner(s), Estero Fire Rescue requests the Board of County Commissioners of Lee County, Florida, to grant this Petition to Vacate and states as follows:

- 1. Petitioner(s) mailing address, 19850 Breckenridge Dr Suite A, Estero, FL 33928
2. In accordance with Florida Statute (F.S.) Chapter 336 and Lee County Administrative Code (LCAC) 13-8, Petitioner desires to vacate, abandon and discontinue the public's interest in the right-of-way or portion of right-of-way legally described in the attached Exhibit "A".
3. A sketch showing the area(s) the Petitioner desires to vacate is attached as Exhibit "B".
4. Notice concerning the intent of this Petition will be provided in accordance with LCAC 13-8.
5. In accordance with letters of review and recommendation provided by the various governmental and utility entities, there is no apparent impediment to granting Petitioner's request.

Wherefore, Petitioner respectfully requests that the Board of County Commissioners adopt a Resolution granting the Petition to Vacate.

Respectfully Submitted by:

[Signature]
Petitioner Signature

Petitioner Signature

Dennis F. Merrifield
Printed Name As Fire Chief

Printed Name

Banks Engineering, Inc.
Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

DESCRIPTION OF A PARCEL LYING IN
SECTION 34, T-46-S, R-25-E,
LEE COUNTY, FLORIDA.

(ESTERO FIRE AND RESCUE - 3 OAKS ROADWAY EASEMENT)

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, BEING A PART OF THE PARCELS AS DESCRIBED IN OFFICIAL RECORDS BOOK 3795, PAGE 3873, AND OFFICIAL RECORDS BOOK 3234, PAGE 1877, AS DESCRIBED IN LEE COUNTY PUBLIC RECORDS AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF TRACT E, COLONIAL OAKS, PLAT BOOK 71, PAGE 60, SAID PUBLIC RECORDS; THENCE S.89°24'11"W., ALONG THE NORTH LINE OF SAID TRACT E, FOR 200.02 FEET; THENCE N.00°58'25"E., ALONG THE WEST LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 3795, PAGE 3873, FOR 35.88 FEET; THENCE S.88°31'07"E., ALONG THE NORTH LINE OF A 33 FOOT WIDE ROADWAY EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 60, PAGE 73, SAID PUBLIC RECORDS, FOR 180.01 FEET; THENCE CONTINUE S.88°31'07"E., ALONG SAID NORTH EASEMENT LINE AND THE NORTH LINE OF LOT C-30, FLORIDA GULF COAST LAND COMPANY'S SUBDIVISION, PLAT BOOK 1, PAGE 59, SAID PUBLIC RECORDS, FOR 230.00 FEET TO THE NORTHEAST CORNER OF SAID LOT C-30; THENCE S.00°58'25"W., ALONG THE EAST LINE OF SAID LOT AND THE WEST LINE OF THREE OAKS PARKWAY, FOR 33.00 FEET; THENCE N.88°31'07"W., FOR 207.01 FEET TO THE WESTERLY LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 3234, PAGE 1877; THENCE N.33°43'43"W., ALONG SAID WESTERLY LINE OF SAID PARCEL, FOR 5.36 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 13374 SQUARE FEET OR 0.31 ACRE, MORE OR LESS.

BEARINGS ARE BASED THE NORTH LINE OF SAID TRACT E AS BEARING S.89°24'11"W.

BANKS ENGINEERING, INC.
FLORIDA LICENSED BUSINESS NO. LB6690

SEPTEMBER 8, 2004

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

EXHIBIT "A"

Tax Roll Search - Real Property



To make a payment, review payment history, or find detailed information on a parcel, you will need to first search the tax roll for the parcel in question. To streamline your search, various criteria are available for selection below. A summary of your results will be displayed. To view details, just click on the Account Number or Details button. The downloadable data provided to the Public is in standard, industry accepted, either Tab or Comma Delimited format. The Tax Collector's Office is not responsible for assisting or training the public in how to use these files.

*The results to your tax search are based upon information provided to the Lee County Tax Collector by the Lee County Property Appraiser. **This website should not be relied upon for a title search.** Amounts due are subject to change without notice due to statutory compliance (i.e. tax deed application, county held tax certificates, errors & insolvencies (E&I), bankruptcy, litigation, etc.)*

View **Search By:**

Save as File **Tax Year:**

View file format. **Account:** Extensive Search



**Page 1 of 1
8 matches**

Account	Tax Year	Name/ Address	Status/ Outstanding Balance	
34-46-25-00-00023.0010	2004	ESTERO FIRE PROTECTION + 21500/510 THREE OAKS PKWY	PAID	Details
34-46-25-00-00023.0010	2003	ESTERO FIRE PROTECTION AND 21500/510 THREE OAKS PKWY	PAID	Details
34-46-25-00-00023.0010	2002	ESTERO FIRE PROTECTION AND 21500/510 THREE OAKS PKWY	ZEROTAX	Details
34-46-25-00-00023.0010	2001	ESTERO FIRE PROTECTION AND 21500/510 THREE OAKS PKWY	ZEROTAX	Details
34-46-25-00-00023.0010	2001	LONG BAY PARTNERS LLC 0 ACCESS UNDETERMINED	PAID	Details
34-46-25-00-00023.0010	2000	LONG BAY PARTNERS LLC 0 ACCESS UNDETERMINED	PAID	Details
34-46-25-00-00023.0010	1999	LONG BAY PARTNERS LLC 0 ACCESS UNDETERMINED	PAID	Details
34-46-25-00-00023.0010	1998	LONG BAY PARTNERS LLC		

Tax Roll Search - Real Property

To make a payment, review payment history, or find detailed information on a parcel, you will need to first search the tax roll for the parcel in question. To streamline your search, various criteria are available for selection below. A summary of your results will be displayed. To view details, just click on the Account Number or Details button. The downloadable data provided to the Public is in standard, industry accepted, either Tab or Comma Delimited format. The Tax Collector's Office is not responsible for assisting or training the public in how to use these files.

*The results to your tax search are based upon information provided to the Lee County Tax Collector by the Lee County Property Appraiser. **This website should not be relied upon for a title search.** Amounts due are subject to change without notice due to statutory compliance (i.e. tax deed application, county held tax certificates, errors & insolvencies (E&I), bankruptcy, litigation, etc.)*


View

Save as File
View file format.

Search By:

Tax Year:

Account: Extensive Search





Page 1 of 1 2 matches			
Account	Tax Year	Name/ Address	Status/ Outstanding Balance
34-46-25-00-00023.0030	2004	ESTERO FIRE PROTECTION + ACCESS UNDETERMINED	ZEROTAX <input type="button" value="Details"/>
34-46-25-00-00023.0030	2003	ESTERO FIRE AND RESCUE ACCESS UNDETERMINED	ZEROTAX <input type="button" value="Details"/>

Page 1 of 1
2 matches

1/19/00
1190-0005

INSTR # 4839512

OR BK 03234 PG 1877
RECORDED 03/23/00 03:26 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.50
DOC TAX PD(F.S.201.02) 1,190.00
DEPUTY CLERK B Cruz

Prepared By:
David L. Cook, Esq.
TARPON TITLE SERVICES LLC
3461 Bonita Bay Blvd., Suite 105
Bonita Springs, FL 34134

Parcel ID Number:

Warranty Deed

This Indenture, Made this 1st day of March, 2000 A.D., Between Long Bay Partners LLC, a FL Limited Liability Co., By: Bonita Bay Properties, Inc., a FL Corp., Managing Member of the County of Lee, State of Florida, grantor, and Estero Fire Protection & Rescue Service District

whose address is: 19850 Breckenridge Dr., Suite A, Estero, FL 33928

of the County of Lee, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

TEN DOLLARS (\$10) DOLLARS, and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Lee, State of Florida to wit:

See Exhibit "A" attached hereto.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Long Bay Partners LLC, a FL Limited Liability Co., By: Bonita Bay Properties, Inc., a FL Corp., Managing Member

Shirley M. Thompson
Printed Name: Shirley M. Thompson
Witness

Dennis E. Gilkey (Seal)
By: Dennis E. Gilkey, President
P.O. Address: 3451 Bonita Bay Blvd., Suite 202
Bonita Springs, FL 34134

Marsha Stachler
Printed Name: MARSHA STACHLER
Witness

(Corporate Seal)

STATE OF Florida
COUNTY OF Lee

The foregoing instrument was acknowledged before me this 1st day of March, 2000 by Dennis E. Gilkey, President of Long Bay Partners LLC, a FL Limited Liability Co., By: Bonita Bay Properties, Inc., a FL Corp., Managing Member on behalf of the corporation he is personally known to me.



Marsha Stachler
Printed Name: MARSHA STACHLER
Notary Public
My Commission Expires:

EXHIBIT "A"

Parcel 7A:

The West 120.00 feet of the East 230.00 feet of that part of the North half of the Northeast quarter of the Northeast quarter of the Southeast quarter of Section 34, Township 46 South, Range 25 East, Lee County, Florida, lying South of the centerline of the Estero River; and

Parcel 7A-1:

The East 110.00 feet of that part of the North half of the Northeast quarter of the Northeast quarter of the Southeast quarter of Section 34, Township 46 South, Range 25 East, Lee County, Florida, lying South of the centerline of the Estero River.

Parcel 7B:

The West 120.00 feet of the East 230.00 feet of the South half of the Northeast quarter of the Northeast quarter of the Southeast quarter of Section 34, Township 46 South, Range 25 East, Lee County, Florida; and

Parcel 7B-1:

The East 110.00 feet of the South half of the Northeast quarter of the Northeast quarter of the Southeast quarter of Section 34, Township 46 South, Range 25 East, Lee County, Florida.

Parcel 8:

That part of Lot C-30 of Florida Gulf Coast Land Company's Subdivision according to the plat thereof recorded in Plat Book 1 at Page 59 of the Public Records of Lee County, Florida, lying East of a line running from the Southeast corner of said Lot C-30, Northwesterly to a point on the North line of said Lot C-30, said point being 230.00 feet West of the Northeast corner of said Lot C-30 of Section 34, Township 46 South, Range 25 East, Lee County, Florida.

INSTR # 5650692
OR BK 03795 PG 3873
RECORDED 12/11/2002 03:51:42 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.00
DEED 000 700.00
DEPUTY CLERK S. Sheppard

THIS INSTRUMENT PREPARED BY:
GUARDIAN TITLE SERVICES CORPORATION
Toni L. Contessa
9311 COLLEGE PARKWAY, SUITE 2
FORT MYERS, FLORIDA 33919

STRAP NO: 34-46-25-00-00023.0000
GRANTEE'S SOCIAL SECURITY NO:

THIS WARRANTY DEED Made this 27th day of November, 2002

by **William Jackson Crews and Joan Crews, CoTrustees of the Crews Family Trust dated June 28, 1994.**

whose post office address is: 15200 Shamrock Drive
Fort Myers, FL 33912

herein after called the grantors, to

Estero Fire and Rescue, a political subdivision of the State of Florida.

whose post office address is:

19850 Brokenridge Drive Suite A
Estero, FL 33728

hereinafter called the grantee:

(wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida:

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2001, restrictions, reservations and easements of record, if any.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year above written.

Signed, sealed and delivered in our presence:

Carolyn A. Wood
Witness #1
Also Print: **CAROLYN A. WOOD**

Toni L. Contessa
Witness #2
Also Print: **TONI L. CONTESSA**

William Jackson Crews
William Jackson Crews, Individually
and as Trustee

Joan Crews
Joan Crews, Individually and as
Trustee

STATE OF FLORIDA

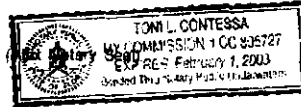
COUNTY OF Lee

EXECUTION OF the foregoing instrument was acknowledged before me this 27th day of November, 2002 by William Jackson Crews and Joan Crews, individually and as trustees who is/are personally known to me or who has produced sufficient evidence of identification (described below) and who did not take an oath.

Description of identification produced: DRIVER'S LICENSE


NOTARY PUBLIC SIGNATURE ABOVE

NOTARY NAME - TONI L. CONESSA



COMMISSION NO. - _____

COMMISSION EXP. DATE - _____

Notary Name/Commission No./Exp. Date - typed or printed
FILE NO: F98093R
BATCH.DOC

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, Being a part of the Parcel as described in Official Records Book 2517, page 2666, Public Records of Lee County, and Being further bounded and described as follows:

Commencing at the Northeast corner of the Southeast one quarter of said Section 34; thence N. 89 degrees 37'36" W., Along the North line of said Southeast one quarter, for 230.00 feet; thence S. 00 degrees 09'04" E., parallel with and 230.00 feet Westerly of (as measured on a perpendicular) the East line of said Southeast one quarter, for 330.10 feet to the Point of Beginning; thence continue S. 00 degrees 09'04" E., along said parallel line and along the Westerly line of the parcel as described in Official record Book 3234, Page 1877, said Public Records, for 330.14 feet; thence S. 34 degrees 51'12" E., along said Westerly line, for 35.03 feet to the Northeast corner of Colonial Oaks Subdivision, as shown in Plat Book 71, Page 60, said Public Records; thence S. 88 degrees 16'42" W., along the common boundary of said Colonial Oaks Subdivision and said parcel as described in Official Records Book 2517, Page 2666, for 200.02 feet; thence N. 00 degrees 09'04"W., for 366.04 feet; thence S. 89 degrees 38'06"E. along the Northerly line of said parcel as described in Official Records Book 2517, Page 2666, for 180.01 feet to the Point of Beginning

Bearings are based on the East line of said Southeast one quarter as bearing of S. 00 degrees 09'04"E.



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

479-8587 ext 14

Writer's Direct Dial Number: _____

Bob Janes
District One

December 28, 2004

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Mr. Cody Vaughan-Birch
Henderson Franklin
1715 Monroe Street
Fort Myers, Florida 33901

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

Re: VAC2003-00030 - Petition to vacate a right-of-way at the following locations: 1) 21500/510 Three Oaks Parkway, Estero, FL 33928; STRAP 34-46-25-00-00023.0010 and 2) the parcel immediately west of the above described parcel, access undetermined; STRAP 34-46-25-00-00023.0030, Lee County, Florida.

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

Dear Mr. Vaughan-Birch:

You have indicated that this vacation is being requested in conformance with SEZ2000-00013 and to facilitate the development of the Estero Fire and Rescue District Station #3 with associated administrative offices. In order to accommodate the vehicles on Horne Lane you have applied for and received an administrative deviation from the requirement to build a cul-de-sac to allow the construction of a hammerhead turn around on the adjacent property. You have also applied for and received a limited review development order for the construction of that hammerhead turn around. This turn around will be constructed and operational prior to this case going to Public Hearing. Based on a review of the information provided and our subsequent research, this office has no objection to the proposed vacation.

Should you have any questions, please call me at the above telephone number.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Peter J. Eckenrode
Director

PJE/mmr

H:\My Documents\Vacations\VAC2003-00030\1st bluesheet\Development Review Recommends.wpd



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: 479-8580

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

REVISED
September 29, 2004

Mr. Cody B. Vaughan-Birch
Henderson Franklin
1715 Monroe Street
Fort Myers, FL 33901

**RE: Request for Review and Recommendation on proposed
Right-of-way vacation at the following locations:
21500/510 Three Oaks Parkway, and additionally, a
Portion of property described as 34-46-25-00 00023 0030
(Estero Fire Station/Horne Lane)**

Dear Mr. Vaughan-Birch:

Lee County Department of Transportation has reviewed both the agreement and legal description of the property proposed for vacation. The agreement stipulates, in part, that the Estero Fire Station will construct a "T" intersection. Additionally, the vacating of the existing easement which encumbers the existing fire station property will solve any future title issues. Horne Lane is not a county maintained road.

DOT offers no objection to the vacation as proposed.

Very truly yours,

DEPARTMENT OF TRANSPORTATION

Margaret Lawson
Right-of-way Supervisor

MAL/mlb

cc: Melissa Roberts, Development Services
John Fredyma, Assistant County Attorney
DOT PTV File (Horne Lane)

S:\DOCUMENT\Petition To Vacate\2004\Horne Lane-Three Oaks Pkwy - Vaughan-Birch.doc



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number (239) 479-8124

Bob Janes
District One

Wednesday, September 29, 2004

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Mr. Cody B. Vaughn-Birch
Henderson Franklin
1715 Monroe Street
Fort Myers, FL 33901

Andrew W. Coy
District Four

John E. Albion
District Five

Re: Petition to Vacate a right-of-way at the following locations:

Donald D. Stilwell
County Manager

1) 21500/510 Three Oaks Parkway, Estero, FL 33928 STRAP# 34-46-25-00-00023.0010; and **2)** the parcel immediately west of the above described parcel, access undetermined; STRAP# 34-46-25-00-00023.0030, Lee County, Florida.

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

Dear Mr. Vaughn-Birch:

Based on the review of the documents submitted with your request, Lee County Division of Natural Resources has no objection to the vacation of a portion of the subject right of way.

Should you have any questions, please call me at the above telephone number.

Regards,

LEE COUNTY PUBLIC WORKS DEPARTMENT

Allen L. Davies, Jr.
Natural Resources Division

S:\NATRES\SURFACE\DOCUMENT\vac458.doc



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239)479-8531

Bob Janes
District One

September 29, 2004

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

Cody B. Vaughan-Birch
Henderson, Franklin - Attorneys at Law
Post Office Box 280
Fort Myers, FL 33902

**SUBJECT: REVIEW & RECOMMENDATION
PROPOSED RIGHT-OF-WAY VACATION
STRAP #S: 34-46-25-00-00023.0010 & .0030**

Dear Mr. Vaughan-Birch:

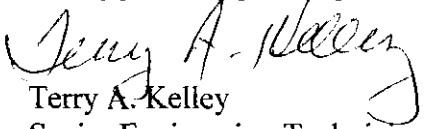
Lee County Utilities is in receipt of your letter and associated attachments concerning the proposed Petition to Vacate a portion of the existing Horne Lane right-of-way.

Lee County Utilities has reviewed your request and has **NO OBJECTION** to the proposed vacation. Even though the area in question is located within Lee County Utilities' service area, our records indicate that we have no potable water or sanitary sewer facilities within the area to be vacated.

If you should have any questions, or require further assistance, please do not hesitate to contact our office at 479-8531.

Sincerely,

LEE COUNTY UTILITIES


Terry A. Kelley
Senior Engineering Technician
Utilities Engineering Division

Via Facsimile #334-4100
Original Mailed 09/29/04

cc: Correspondence File

S:\Eng\TAK\LETTERS\VAC\FY 2004\Henderson-Franklin - Horne Lane - Partial R-O-W Vacation - No Objection.doc



26430 Old Us 41
Bonita Springs, Florida 34135
Fax: 1-941-947-7345

October 11, 2004

Henderson/Franklin
Attorney at Law
Attention: Cody B. Vaughan-Birch
P.O. Box 280
Fort Myers, Florida 33902-0280

Re: Three Oaks Parkway Strap# 34-46-25-00-00023.0030

Dear Mr. Vaughan-Birch;

In reply to your recent request, FPL Company has no objection to the vacation of the right of way easement as described in O.R. Book 3795 page 3873 and O.R. Book 3234 page 1877 in Lee County Public Records of S34, T46S, R25E.

If you have any questions regarding this matter, please contact me at 239-947-7361.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Merriam". The signature is fluid and cursive, with a large loop at the beginning and a long tail.

Jim Merriam
Senior Systems Project Manager

cc:file



P.O. Box 2469
Naples, Florida 34106-2469

September 23, 2004
Revised: September 29, 2004

Mr. Cody B. Vaughan-Birch
Henderson/Franklin
PO Box 280
Fort Myers, Florida 33902

RE: Petition to Vacate - Right-Of-Way

1. 21500/510 Three Oaks Parkway, Estero FL 33928

STRAP# 34-46-25-00-00023.0010

2. Parcel immediately W of the above described parcel, access undetermined

STRAP# 34-46-25-00-00023.0030

Sec 36 Twp 4S Rng 25E County - Lee

Dear Mr. Vaughan-Birch:

Sprint-Florida, Inc. has no objection to your petition to vacate the easement described on the enclosed letter.

If I can be of any further assistance, please contact me at 239-263-6342.

Sincerely,

A handwritten signature in cursive script that reads "John T. Reynolds".

John T. Reynolds
Network Engineer I - E&C

JTR:ns

Attach.

cc: Easement File
Chron File



Henderson|Franklin
ATTORNEYS AT LAW

Lehner R

1715 Monroe Street • Fort Myers, FL 33902
Post Office Box 280 • Fort Myers, FL 33902
Tel: 239.334.4121 • Fax: 239.334.4100 • www.henlaw.com

received
9/20/04

Bonita Springs • Sanibel

Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

Mr. Rick Twitchell
Sprint United Telephone of Florida
2820 Cargo Street
Fort Myers, FL 33916

Re: Request for a Letter of Review and Recommendation on a proposed right-of-way vacation at the following locations:
1) 21500/510 Three Oaks Parkway, Estero, FL 33928
STRAP# ~~36~~-46-25-00-00023.0010; and
2) the parcel immediately west of the above described parcel, access undetermined; STRAP# ~~36~~-46-25-00-00023.0030

Dear Mr. Twitchell

I intend to submit a Petition to the Lee County Board of Commissioners seeking to vacate Lee County's and the public interest in the right-of-way at the location identified above in order to vacate a portion of the right-of-way upon which the Estero Fire Protection and Rescue Service District has built a portion of its existing fire station. This vacation request will allow the District to meet the terms of a conditional Certificate of Occupancy and comply with a request for it to vacate the right-of-way from Lee County Development Services. The western edge of the area sought to be vacated will now constitute the eastern end of Horne Lane.

I have included a sketch of the easement that is the subject of my petition to vacate. Please provide us with a letter of review and recommendation so we can proceed with our petition submittal. If you have any questions, please do not hesitate to contact me directly, and thank you in advance for your consideration.

Very truly yours,

Cody B. Vaughan-Birch

CBV/jma

Enclosure Sketch



**26930 Old US 41
Bonita Springs, FL 34135
Phone: 239-732-3805
FAX: 239-498-4483**

October 1, 2004

Henderson/Franklin Attorneys at Law
C/O Cody B Vaughan-Birch
PO BOX 280
Ft Myers, Fl 33902

Re: 21500 & 21510 Three Oaks Parkway, Estero, Fl
Vacate easement

Dear Cody B Vaughan-Birch,

This letter will serve to inform you that Comcast has no objection to your proposed vacation of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 732-3805.

Cordially,

A handwritten signature in black ink, appearing to read "Mark Cook".

Mark Cook
Design Coordinator



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

October 5, 2004

Mr. Pete Eckenrode
Director, Lee County Development Services

Re: Estero Fire Petition to Vacate - VAC 2003-00030
STRAP# 34-46-25-00-00023.0010; and STRAP# 34-46-25-00-
00023.0030

Dear Mr. Eckenrode:

We have submitted this Petition to the Lee County Board of Commissioners seeking to vacate Lee County's and the public interest in the right-of-way at the location identified above. Our purpose is to vacate a portion of the right-of-way upon which the Estero Fire Protection and Rescue Service District has built a portion of its existing fire station. This vacation request will allow the District to meet the terms of a conditional Certificate of Occupancy. In order to accommodate vehicles on Horne Lane, the District has an agreement in place with the landowner to the west, Mr. William J. Crews, to construct a "hammerhead" turnaround that will allow for adequate space for emergency vehicle turnarounds and avoid any vehicular problems associated with dead-end streets. The applicant will enter into a Turnaround Agreement with Lee County, providing 110% bonding of the proposed improvements.

As you know, historically there has never been a direct connection between Horne Lane and Three Oaks Parkway. In addition, Horne Lane is a private road not maintained by Lee County. In order to construct the hammerhead turnaround, the applicant will file for an Administrative Approval for a deviation from the Land Development Code's cul-de-sac standards, providing an ample turnaround area for emergency vehicles. If you have any questions, please do not hesitate to contact me directly and thank you in advance for your consideration.

Very truly yours,

Cody B. Vaughan-Birch

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as real property having STRAP numbers: 34-46-25-00-00023.0010 and 34-46-25-00-00023.0030 and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate Henderson, Franklin, Starnes & Holt, P.A. and Cody B. Vaughan-Birch, Esq. as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

[Signature]
Owner* (signature)

Dennis J Merrifield
Printed Name

Fire Chief
Title

Owner* (signature)

Printed Name

Title

Owner* (signature)

Printed Name

Owner* (signature)

Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 30th day of September, 2004, by DENNIS J. MERRIFIELD, as FIRE CHIEF who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

(SEAL)

[Signature]
Notary Public

LINDA L. CONWAY
(Name typed, printed or stamped)



Linda L. Conway
My Commission DD185005
Expires March 14, 2007



Estero FIRE RESCUE

19850 Breckenridge Drive, Suite A
Estero, Florida 33928

Phone: (239) 947-FIRE (3473)

Fax: (239) 947-9538

web site: www.esterofire.org

June 17, 2003

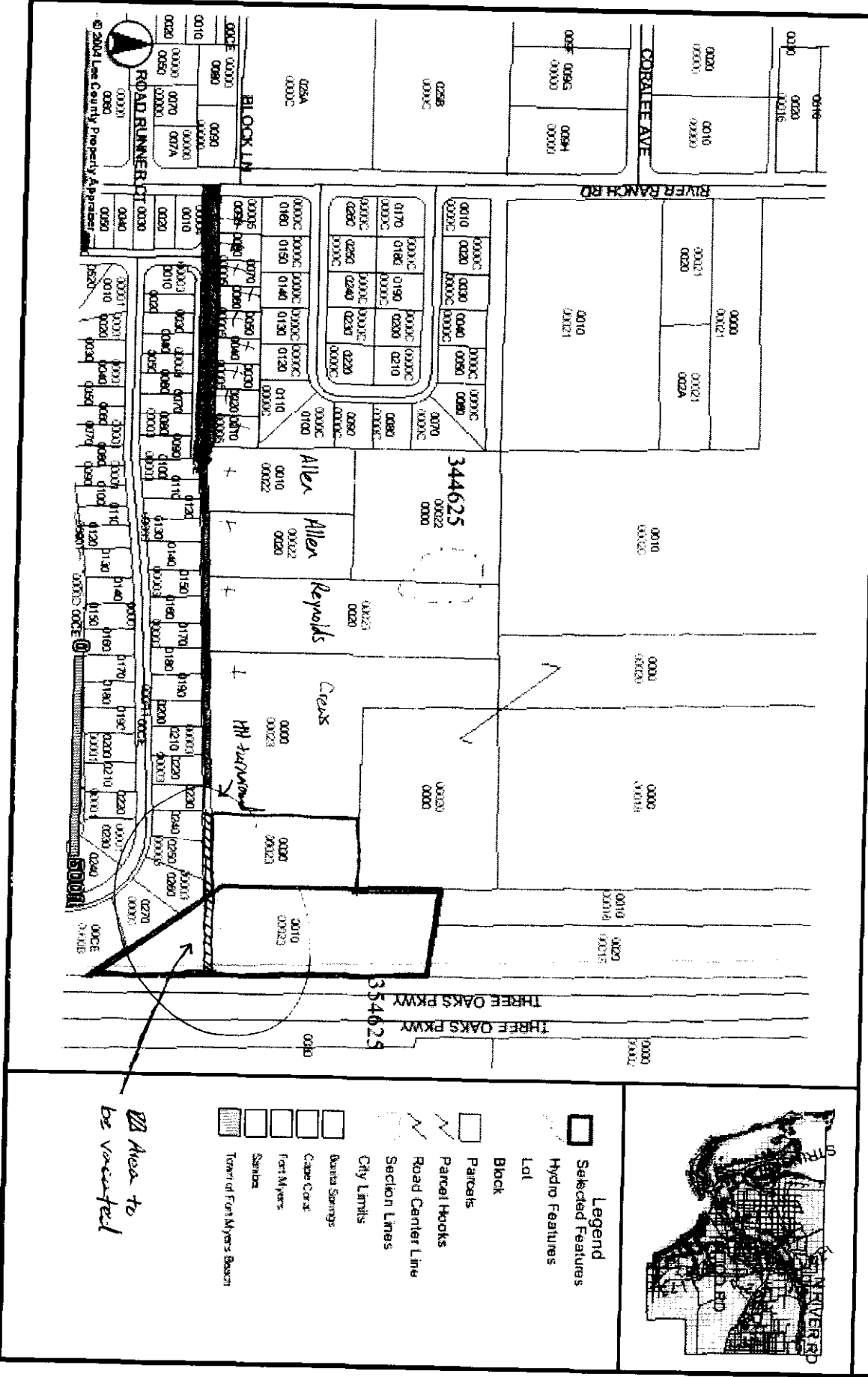
To Whom It May Concern:

This letter will confirm that Dennis J. Merrifield, as Fire Chief, has full authority to sign all documents necessary to obtain re-zoning and permitting for development of real property on behalf of Estero Fire Rescue.

Sincerely,

RICHARD G. SCHWEERS
Chairman, Estero Fire Rescue Board of Commissioners

Horne Lane Map



Area to be vacated

LIST OF AFFECTED PROPERTY OWNERS

1. 34-46-25-00-00023.0000
CREWS WILLIAM J TR +
CREWS JOAN TR
15200 SHAMROCK DR
FORT MYERS FL 33912
2. 34-46-25-00-00023.0020
REYNOLDS GARY + PAULETTE
8951 BONITA BEACH RD 525-202
BONITA SPRINGS FL 34135
3. 34-46-25-00-00022.0020
ALLEN G R JR + BARBARA S
9800 HORNE LN
ESTERO FL 33928
4. 34-46-25-00-00022.0010
ALLEN GIDEON R JR + BARBARA
9800 HORNE LANE
ESTERO FL 33928
5. 34-46-25-09-00005.0010
RAKE DANIEL G + LESLIE J
9668 HORNE LANE
ESTERO FL 33928
6. 34-46-25-09-00005.0020
PRADO FRANCISCO JOSE+ TRICIA
9664 HORNE LN
ESTERO FL 33928
7. 34-46-25-09-00005.0030
GILEHRIST DAVID R + CHRYSANTHE
9658 HORNE LN
ESTERO FL 33928
8. 34-46-25-09-00005.0040
ITEBEJAC IVAN S+JENNIFER A
9652 HORNE LN
ESTERO FL 33928

9. 34-46-25-09-00005.0050
RHOADS COLLEEN A +
SOIFER VIRGINIA M J/T
9646 HORNE LN
ESTERO FL 33928

10. 34-46-25-09-00005.0060
RAUSCH ROBERT J + CHARITY A
9840 HORNE LANE
ESTERO FL 33928

11. 34-46-25-09-00005.0070
VOUGHT KEVIN E + JILL M
9634 HORNE LN
ESTERO FL 33928

12. 34-46-25-09-00005.0080
DEGOLLADO SANTOS + LUZ O
9628 HORNE LN
ESTERO FL 33928

13. 34-46-25-09-00005.0090
BRADY TIMOTHY E +
BRADY FRANCES K +
KONAR BARBARA A J/T
9622 HORNE LN
ESTERO FL 33928



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Timothy E. Brady,
Frances K. Brady,
and Barbara A. Konar, J/T
9622 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0090

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

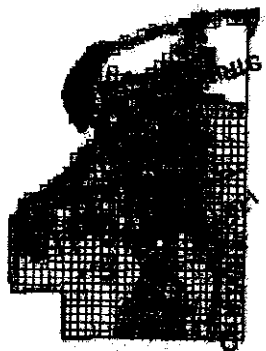
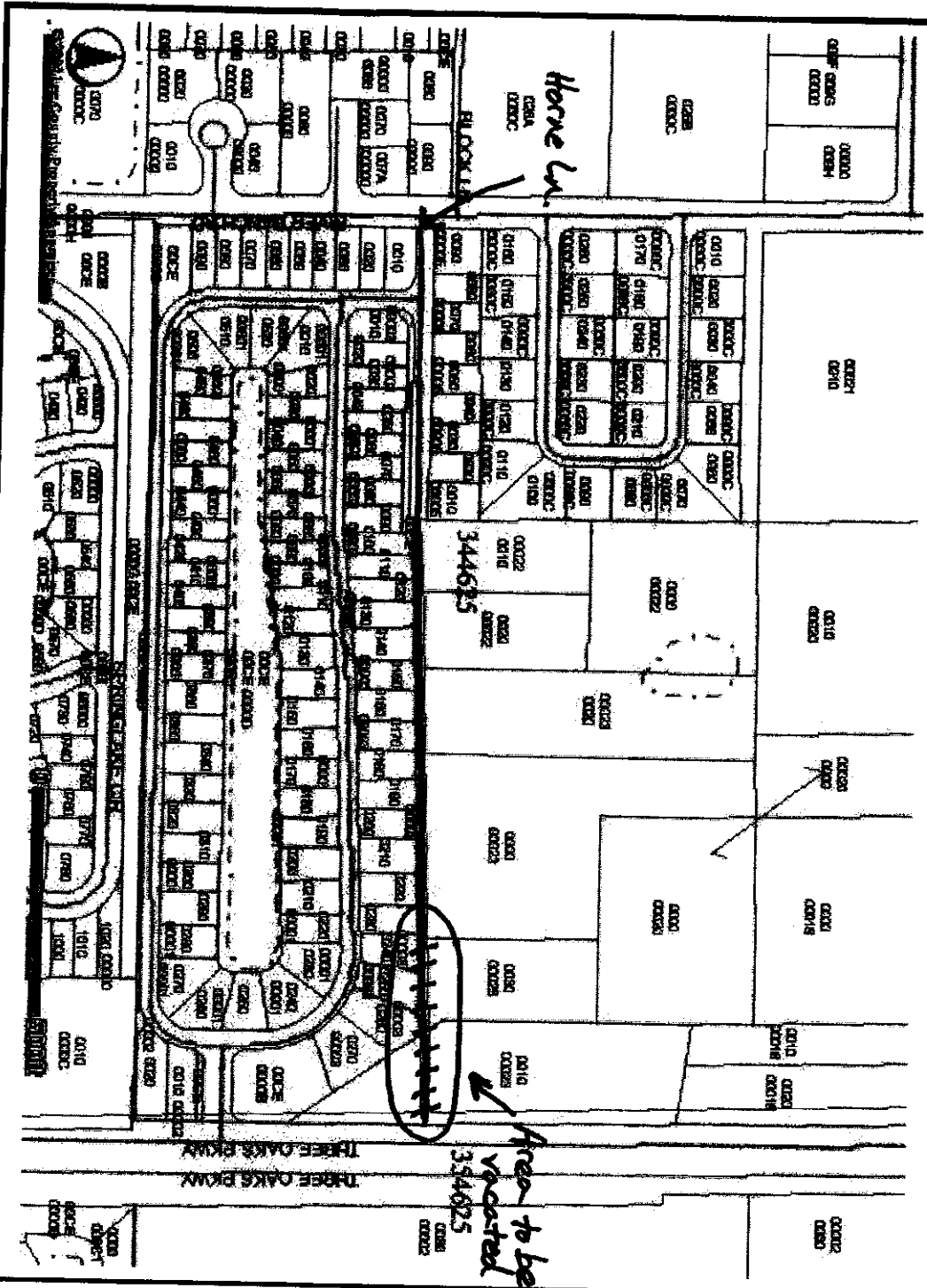
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Home Lane Map



- Legend**
- Hydro Features
 - LOT
 - Block
 - Parcels
 - Parcel Hooks
 - Road Center Line
 - Section Lines
 - City Limits
 - Barra Spruce
 - Cape Coral
 - Fort Myers
 - Sanibel
 - Town of Fort Myers Beach



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Santos and Luz O. Degollado
9628 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0080

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

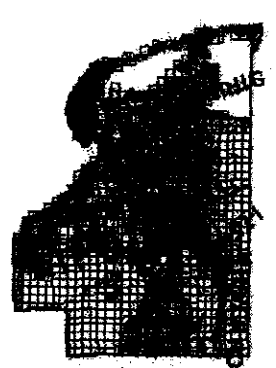
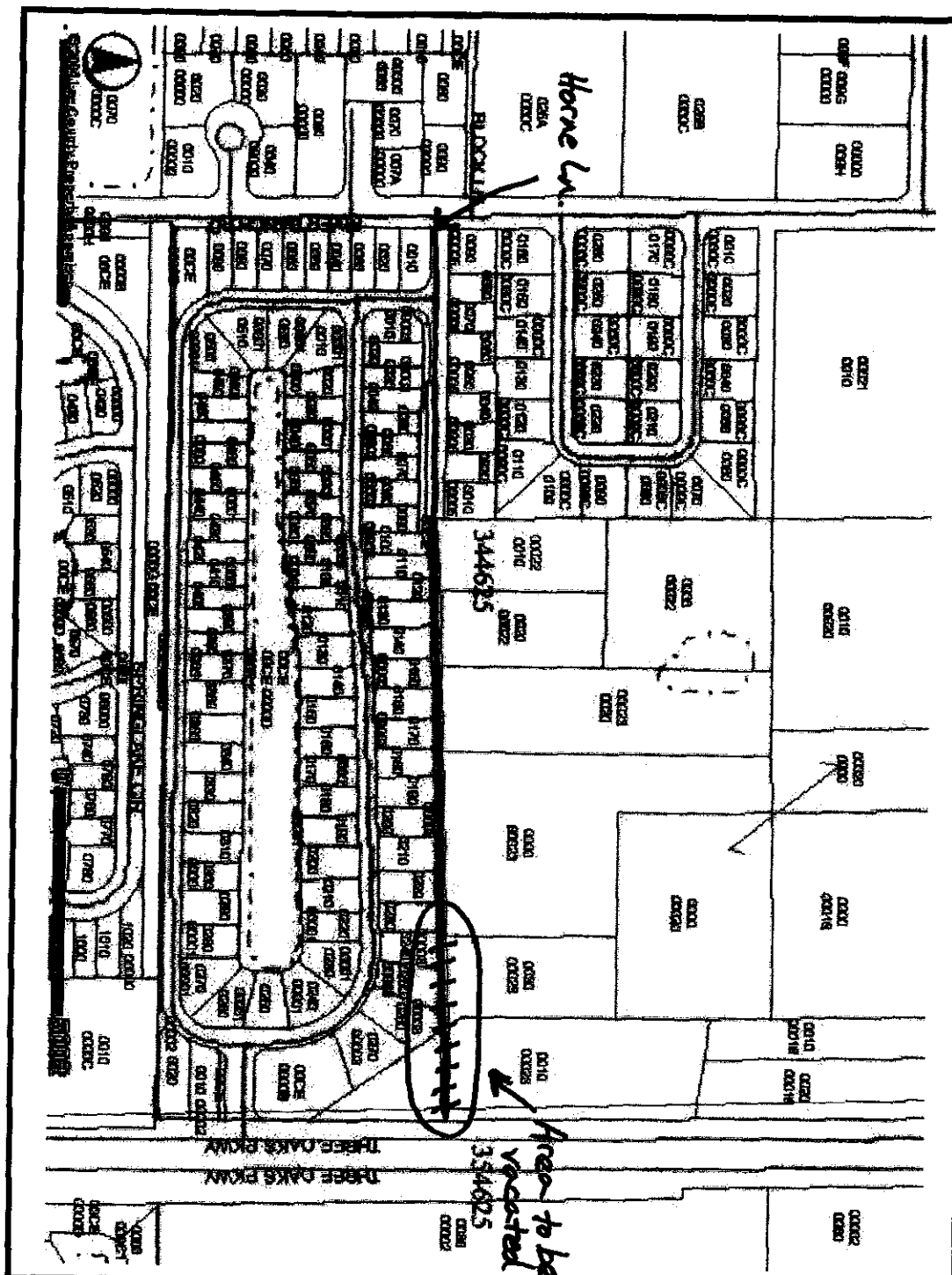
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Horne Lane Map



- Legend**
- Hydro Features
 - Lot
 - Block
 - Parcels
 - Parcel Hooks
 - Road Center Line
 - Section Lines
 - City Limits
 - Bundle Storage
 - Cape Coast
 - Foot Byers
 - Sandal
 - Town of Fort Myers Beach



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Kevin E. and Jill M. Vought
9634 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0070

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

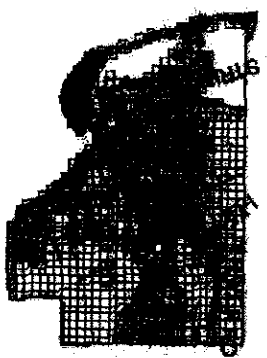
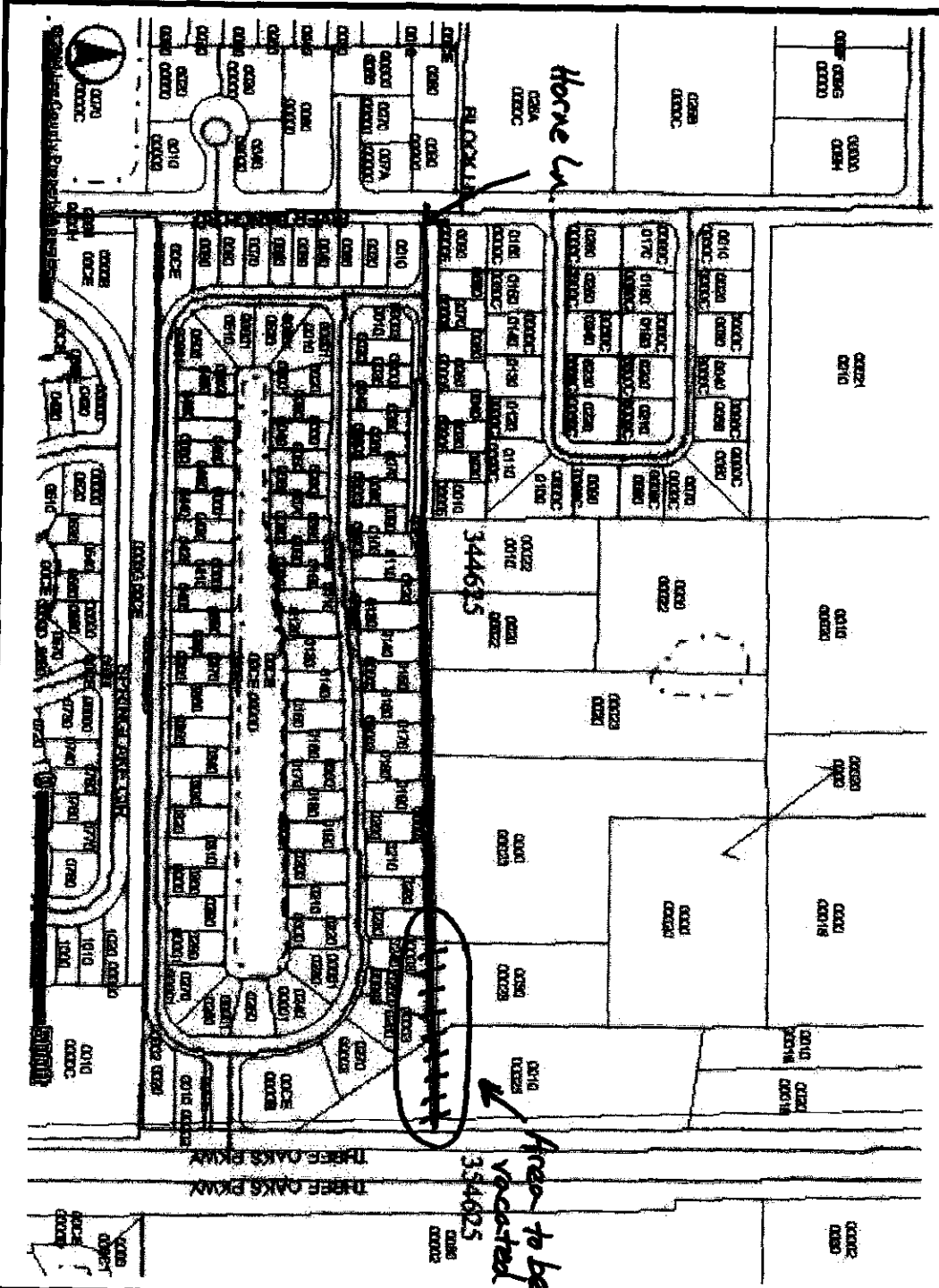
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Home Lane Map



- Legend**
- Hydro Features
 - LX
 - Block
 - Parcels
 - Parcel Hoops
 - Road Center Line
 - Section Lines
 - City Limits
 - Brush Sprays
 - Cape Coral
 - Fort Myers
 - Sanibel
 - Town of Fort Myers Beach



Henderson|Franklin
ATTORNEYS AT LAW

1715 Monroe Street • Fort Myers, FL 33901
Post Office Box 280 • Fort Myers, FL 33902
Tel: 239.334.4121 • Fax: 239.334.4100 • www.henlaw.com

Bonita Springs • Sanibel

Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Robert J. and Charity A. Rausch
9840 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0060

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

CBV/cbv

Enclosure: map

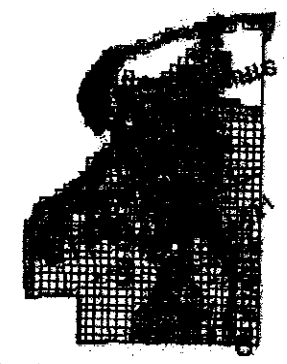
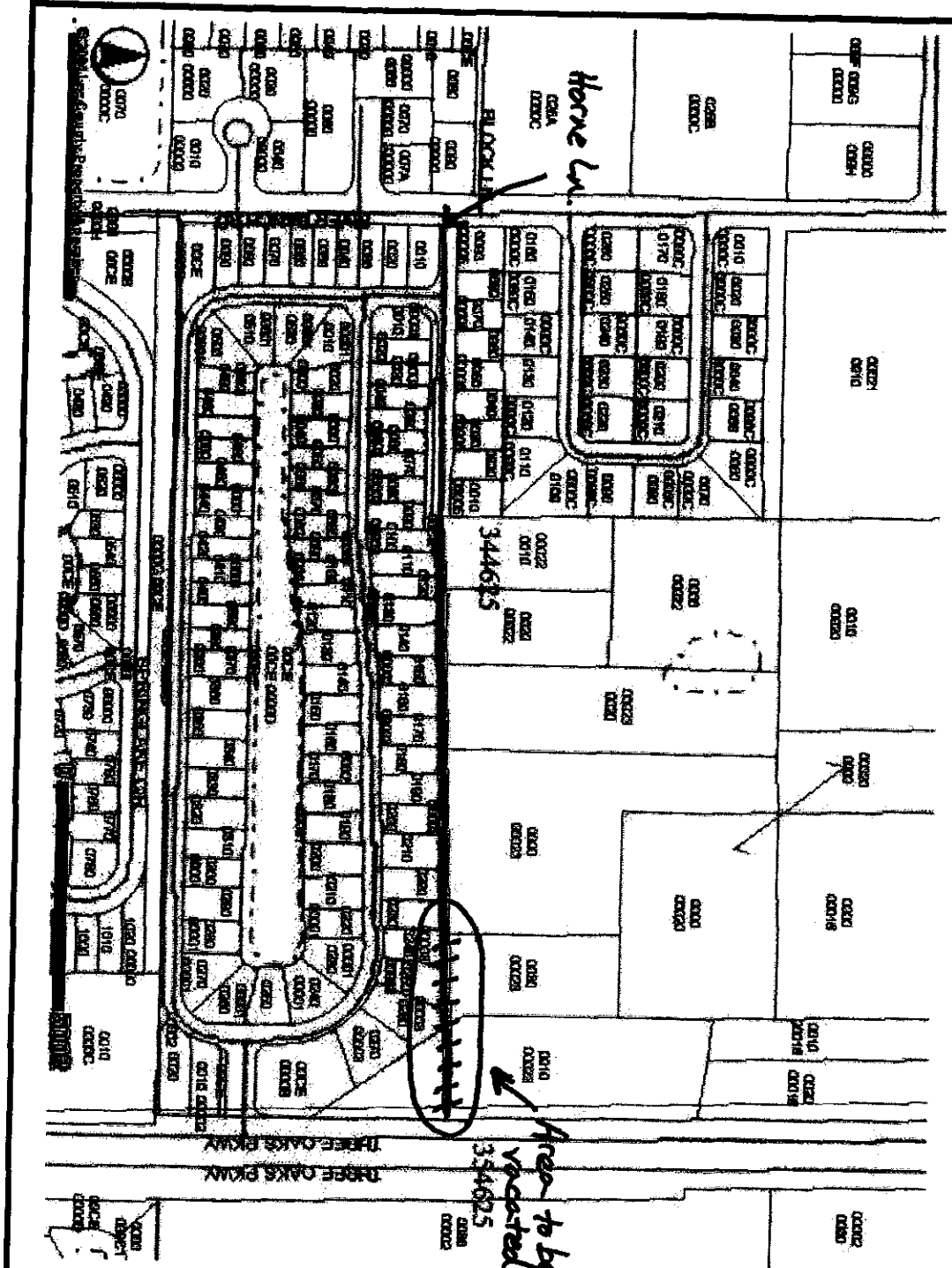
7160 3901 9842 7463 7654

US Postal Service Certified Mail Receipt Domestic Mail Only No Insurance Coverage Provided	Postage	\$ 37	SEP 16 2004 ESTERO, FL Postmark Here
	Certified Fee		
	Return Receipt Fee (Endorsement Required)		
	Restricted Delivery Fee (Endorsement Required)		
	Total Postage & Fees	\$ 442	

Sent To:

Robert J. and Charity A. Rausch
9840 Horne Lane
Estero, FL 33928

Horne Lane Map



- Legend**
- Hydro Features
 - Lik
 - Block
 - Parcels
 - Parcel Hatches
 - Road Center Line
 - Section Lines
 - City Limits
 - Water Sprays
 - Capit Canal
 - Footholds
 - Shaded
 - Threat of Fast Moving Beach



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Colleen A. Rhoads
and Virginia M. Soifer, J/T
9646 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0050

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

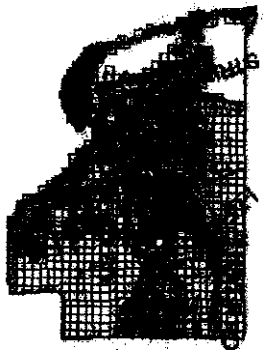
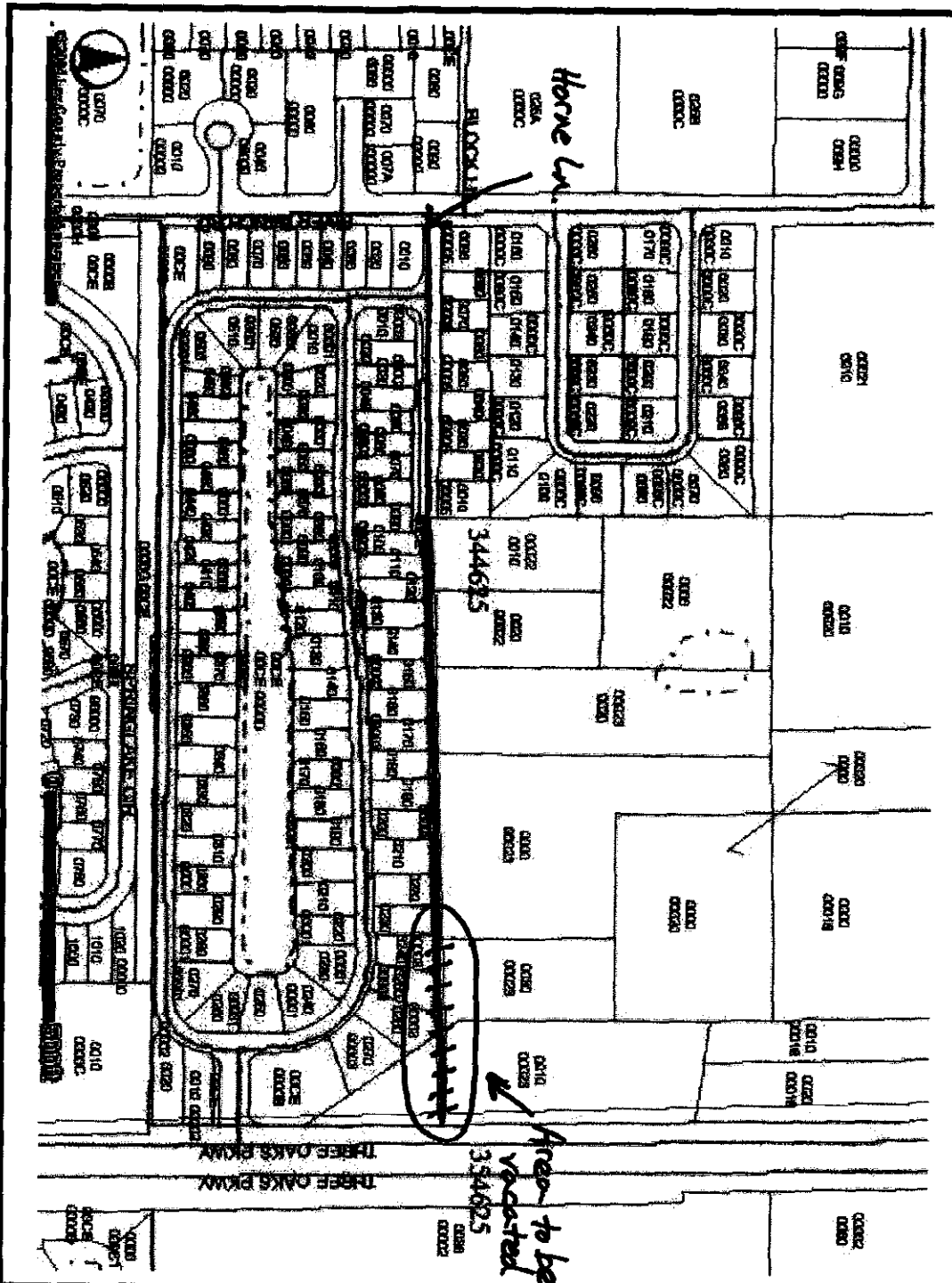
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Home Lane Map



- Legend**
- Hydro Features
 - Lot
 - Block
 - Parcels
 - Parcel Hooks
 - Road Center Line
 - Section Lines
 - City Limits
 - Block Streets
 - Case Deal
 - Foot Meters
 - Shaded
 - Turn of Foot Meters Switch



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Ivan S. and Jennifer A. Itebejac
9652 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0040

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

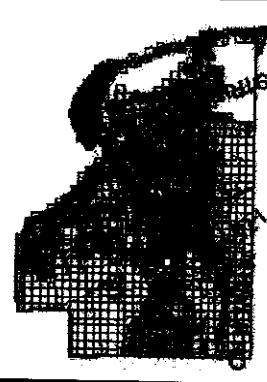
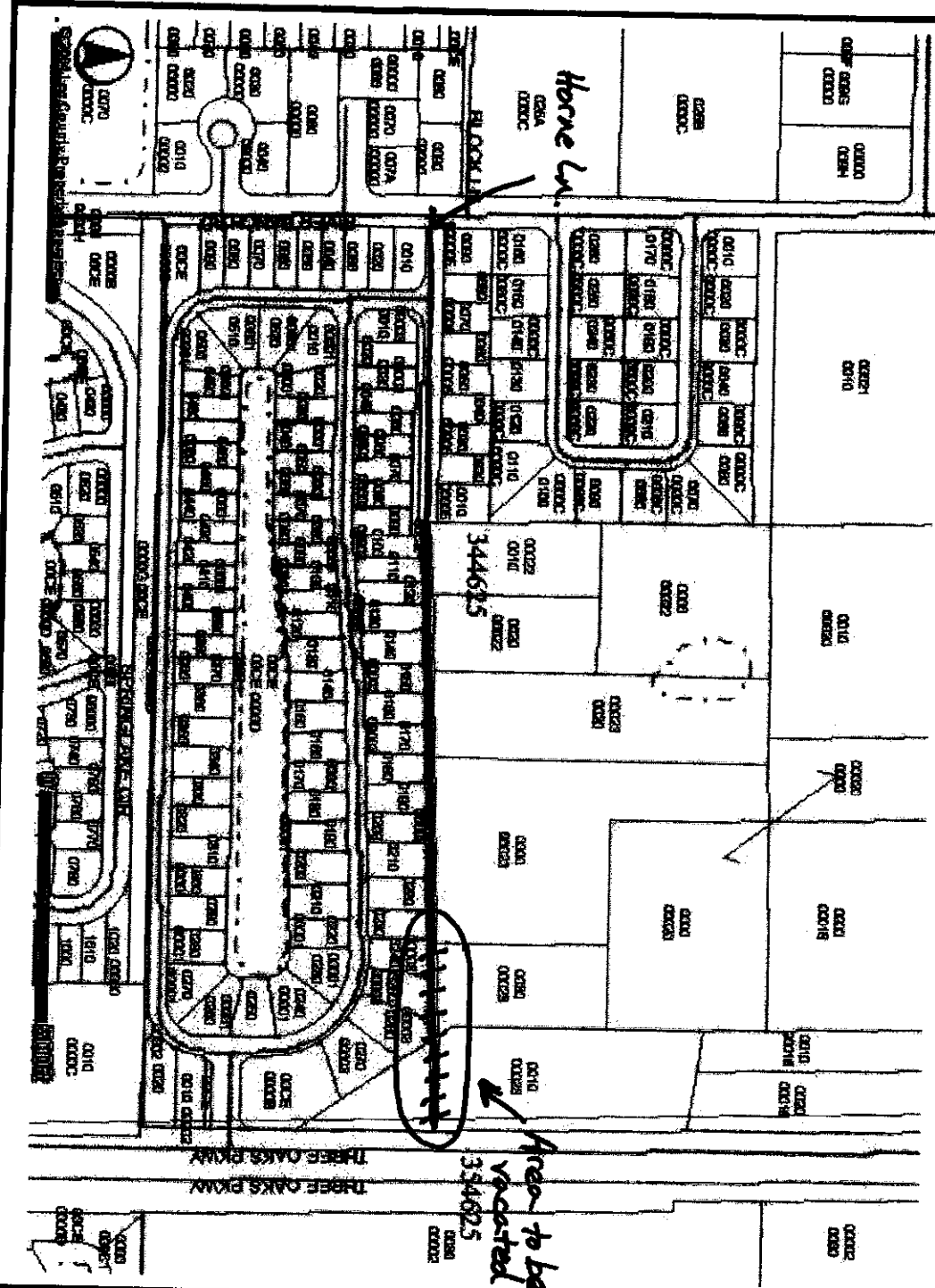
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Home Lane Map



- Legend**
- Hydro Features
 - Lot
 - Block
 - Parcels
 - Parcels/Hooks
 - Road Center Line
 - Section Lines
 - City Limits
 - Block Sprays
 - Open Canal
 - Foot Meters
 - Shaded
 - Town of Fort Myers Beach



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

David R. and Chrysanthe Gilehrst
9658 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0030

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

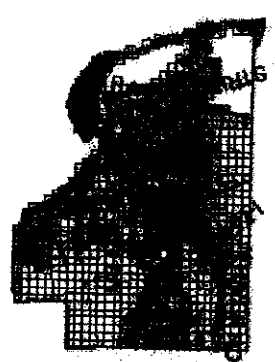
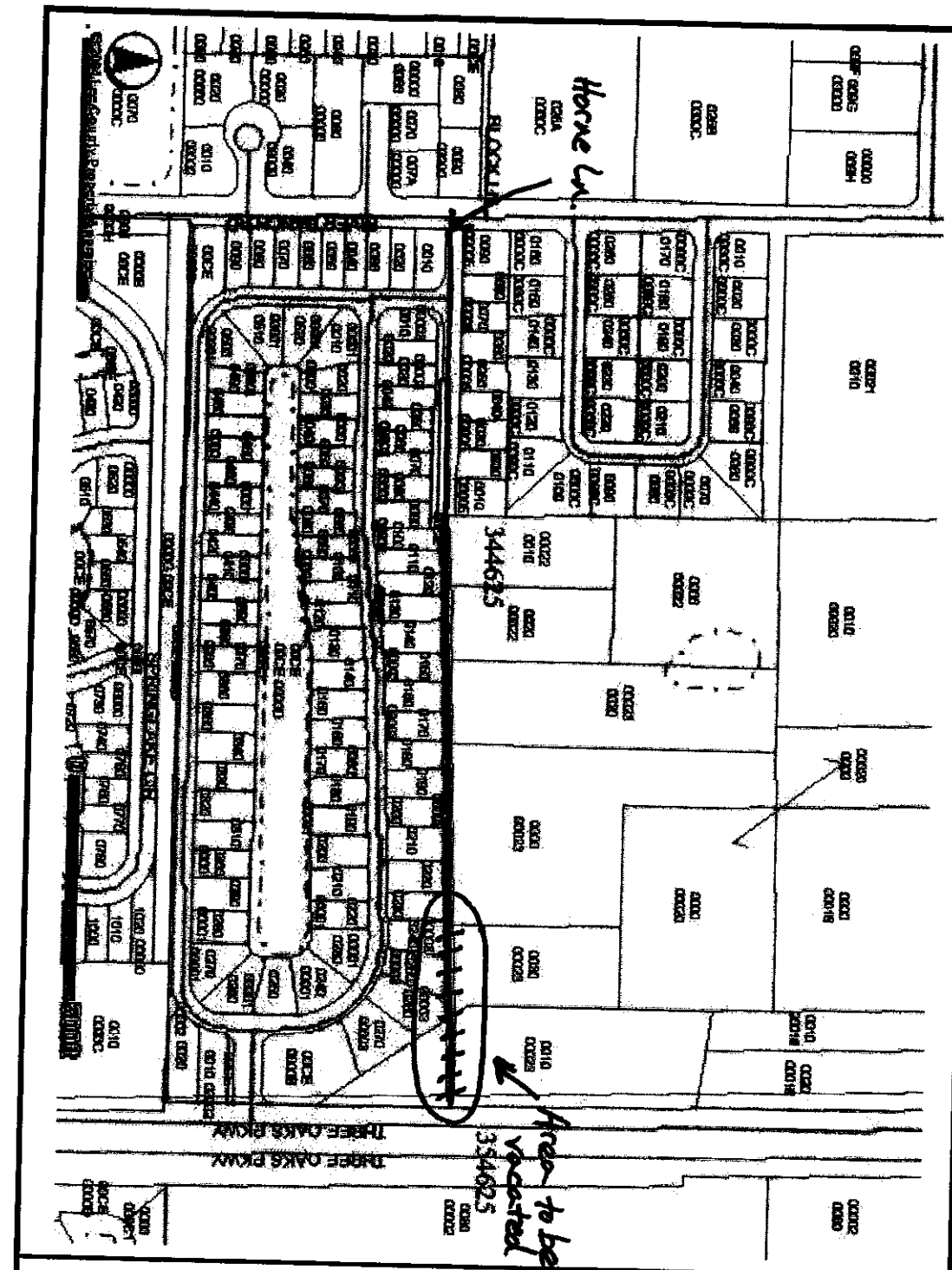
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Home Lane Map



- Legend**
- Hydro Features
 - Lot
 - Block
 - Parcels
 - Parcels Hoooks
 - Road Center Line
 - Section Lines
 - City Limits
 - Burial Springs
 - Cape Coral
 - Fort Myers
 - Shaded
 - Town of Fort Myers Bound



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Francisco Jose and Tricia Prado
9664 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0020

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

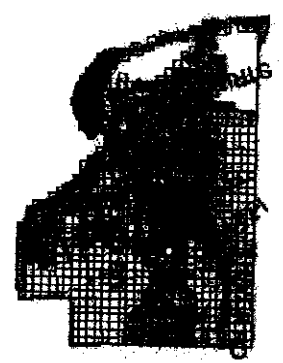
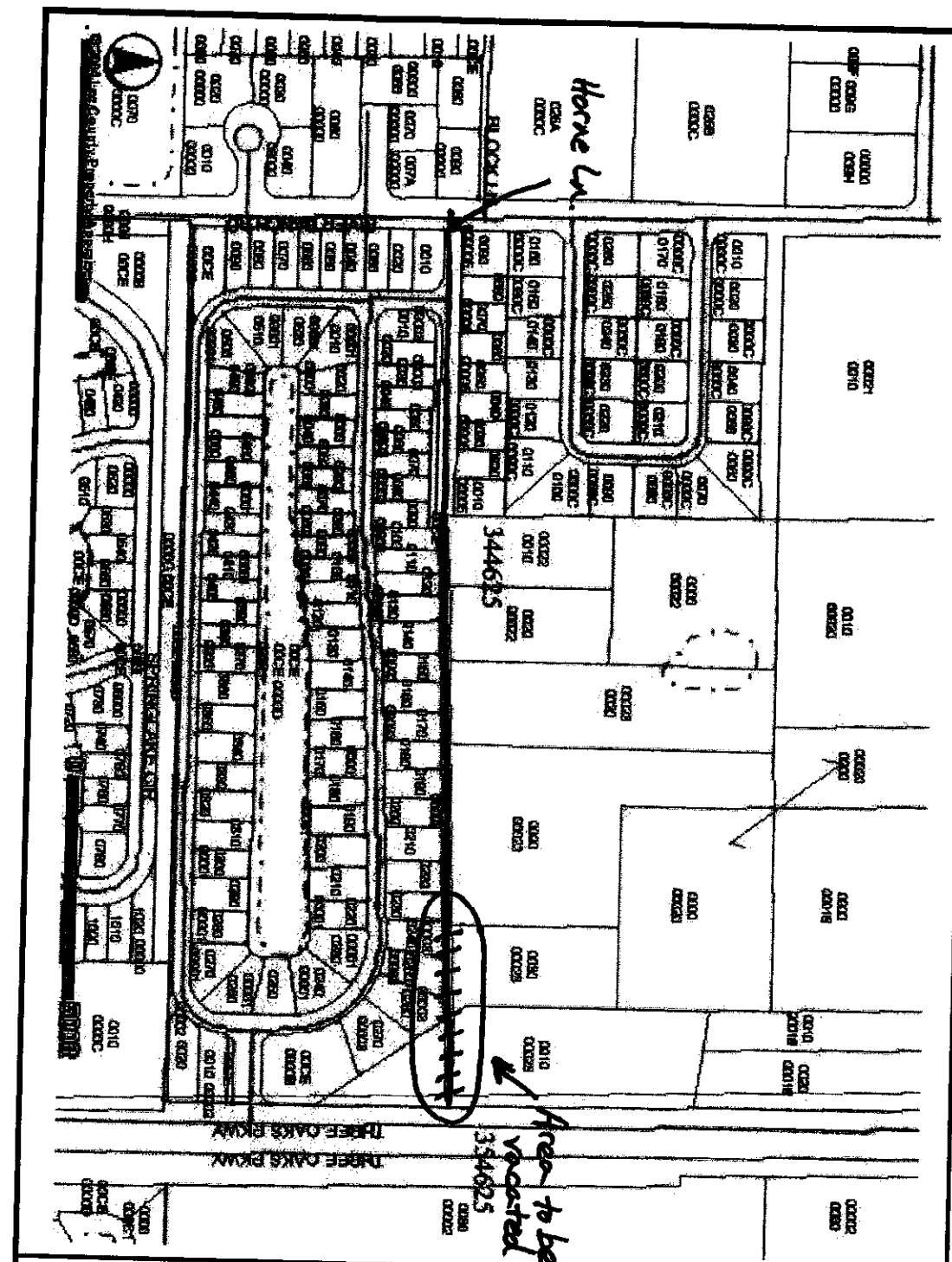
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Horne Lane Map



- Legend**
- Hydro Features
 - LVA
 - Block
 - Parcels
 - Parcel Hatches
 - Road Center Line
 - Section Lines
 - City Limits
 - Water Springs
 - Open Canal
 - Foot Paths
 - Arterial
 - Territorial Highways



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Daniel G. and Leslie J. Rake
9668 Horne Lane
Estero, FL 33928

Strap No. 34-46-25-09-00005.0010

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

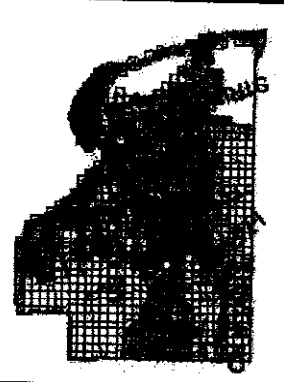
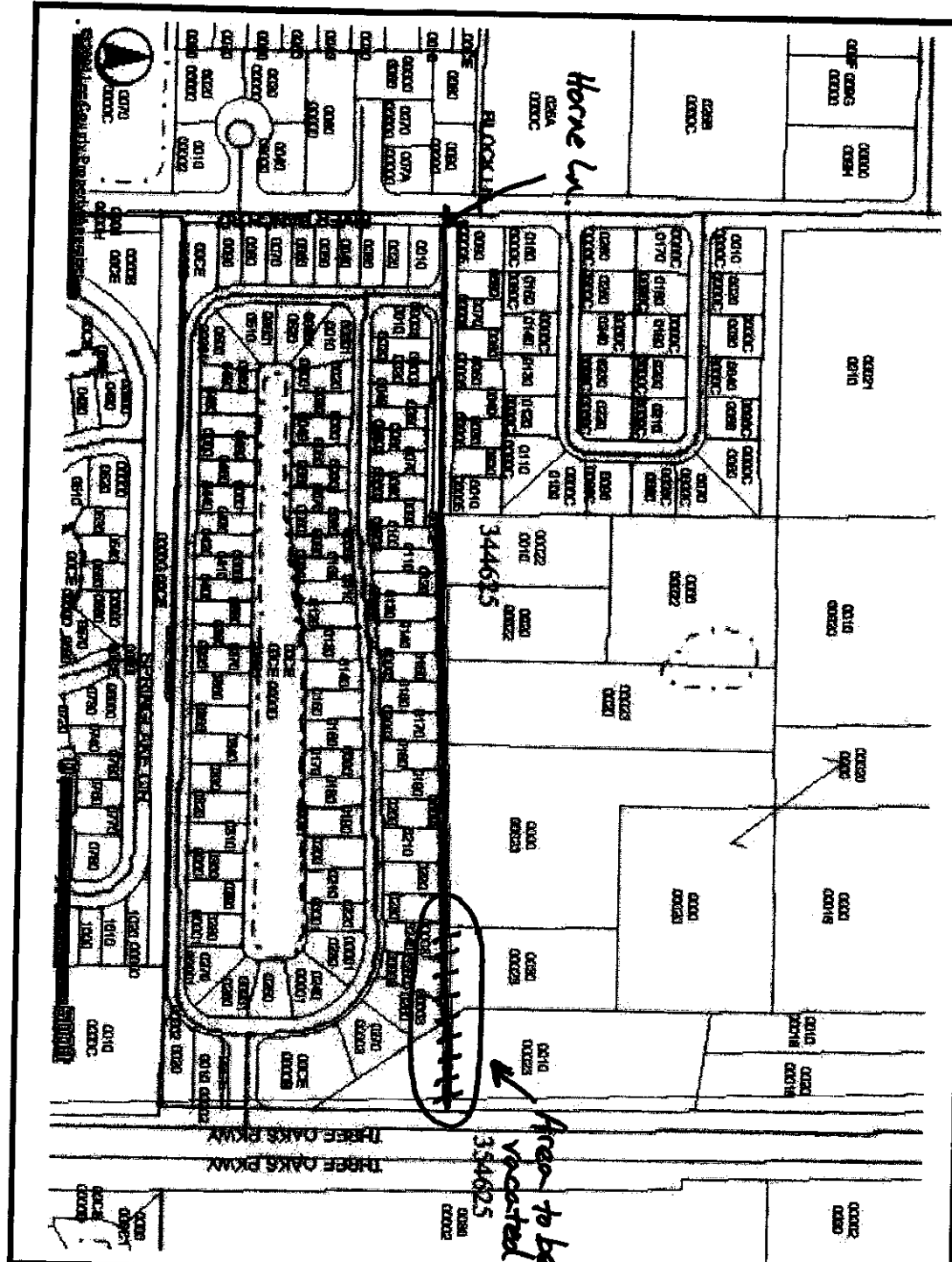
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Home Lane Map



- Legend**
- Hydro Features
 - Lot
 - Block
 - Parcels
 - Parcel Hooks
 - Road Center Line
 - Section Lines
 - City Limits
 - Boards Sprays
 - Capex Drawl
 - Font Myers
 - Shaded
 - Town of Fort Myers Beach



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Barbara S. and Gideon R. Allen, Jr.
9800 Horne Lane
Estero, FL 33928

Strap Nos. 34-46-25-00-00022.0020 and 34-46-25-00-00022.0010

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

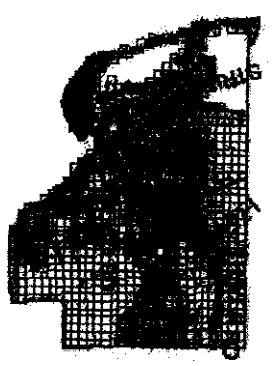
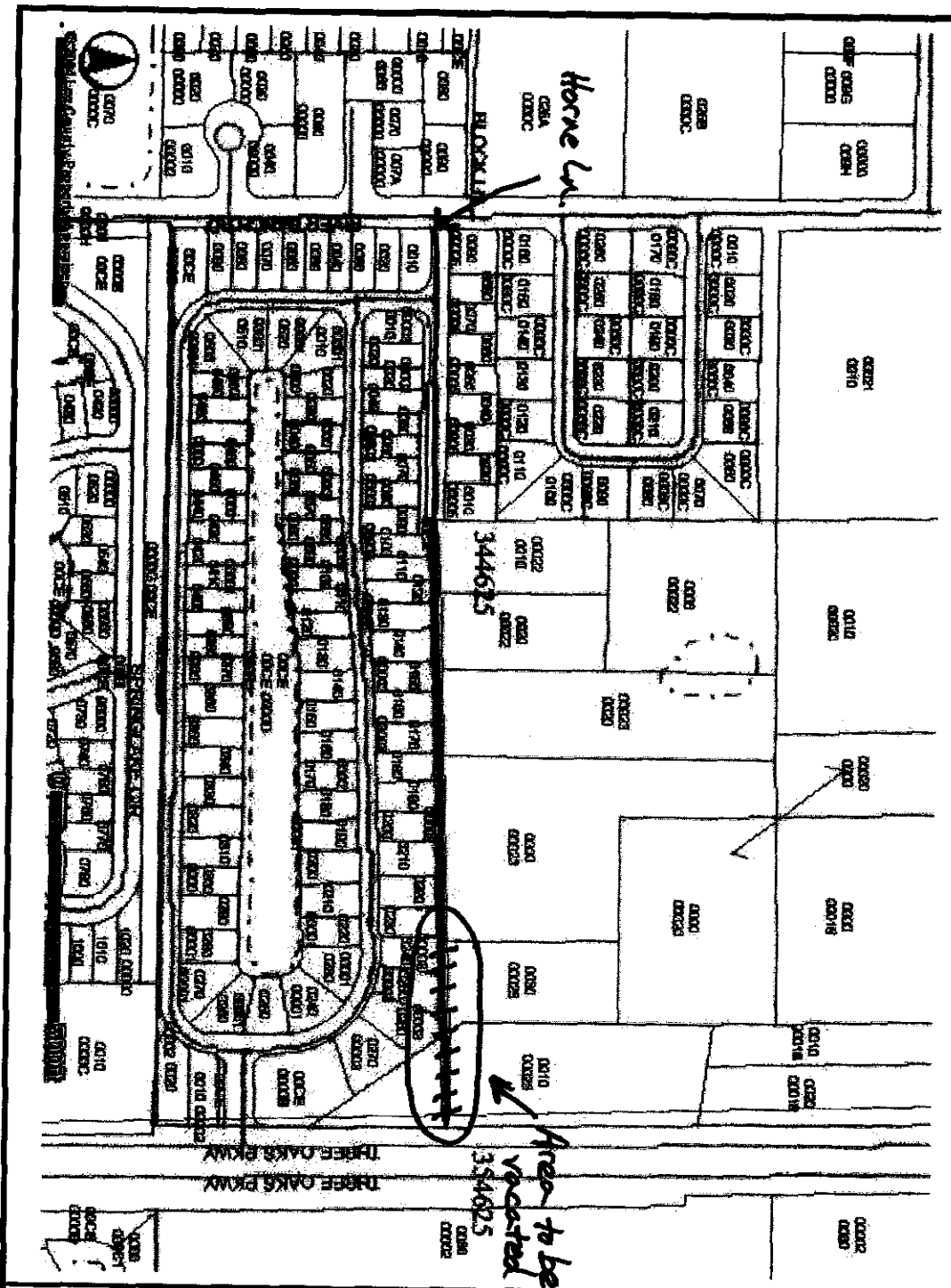
Sincerely yours,

Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Home Lane Map



- Legend**
- Hydro Features
 - LN
 - Block
 - Parcels
 - Parcels
 - Parcels
 - Parcels
 - Road Center Line
 - Section Lines
 - City Limits
 - North Arrows
 - Case Canal
 - Fold Myres
 - Swales
 - Town of Fort Myres Bound



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

William J. Crews, Trustee
and Joan Crews, Trustee
15200 Shamrock Drive
Fort Myers, FL 33912

Strap No. 34-46-25-00-00023.0000

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

Sincerely yours,

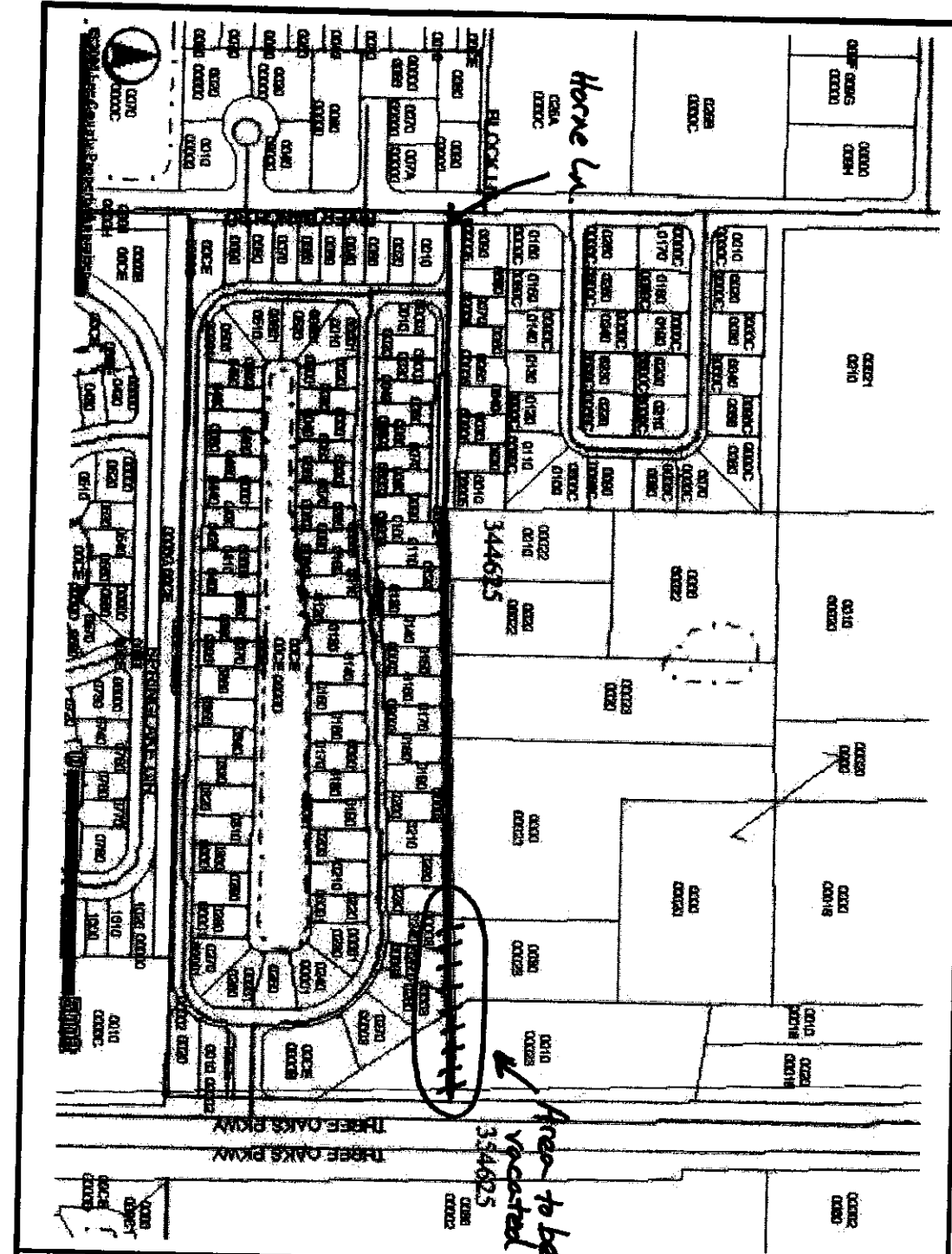
Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

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Horne Lane Map



- Legend**
- Hydro Features
 - Lot
 - Block
 - Parcels
 - Parcel Hatches
 - Road Center Line
 - Section Lines
 - City Limits
 - Bound Springs
 - Cable Canal
 - Foot Paths
 - Shaded
 - Town of Fort Myers Beach



Reply to
Cody B. Vaughan-Birch
E-Mail: cody.vaughan-birch@henlaw.com

September 16, 2004

VIA CERTIFIED MAIL

Gary and Paulette Reynolds
8951 Bonita Beach Road
525-202
Bonita Springs, FL 34135

Strap No. 34-46-25-00-00023.0020

Re: Horne Lane Vacation Notice

Dear Property Owner:

Please accept this letter as formal notice that the Estero Fire Protection and Rescue Service District is proposing to vacate a portion of Horne Lane to the east of your property. Lee County requires the applicant to serve this notice on all "affected property owners." Although your property located along Horne Lane has been determined to be an "affected property," the proposed vacation will not affect your personal access to your property. The Fire District's application **only affects the eastern 400 feet of Horne Lane**, as indicated in the enclosed map. In addition, a new turnaround area will be provided at the new terminus of Horne Lane. If you have any questions, please feel free to contact Lee County at **479-8587**.

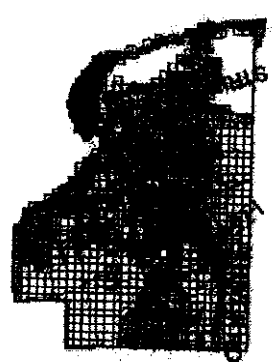
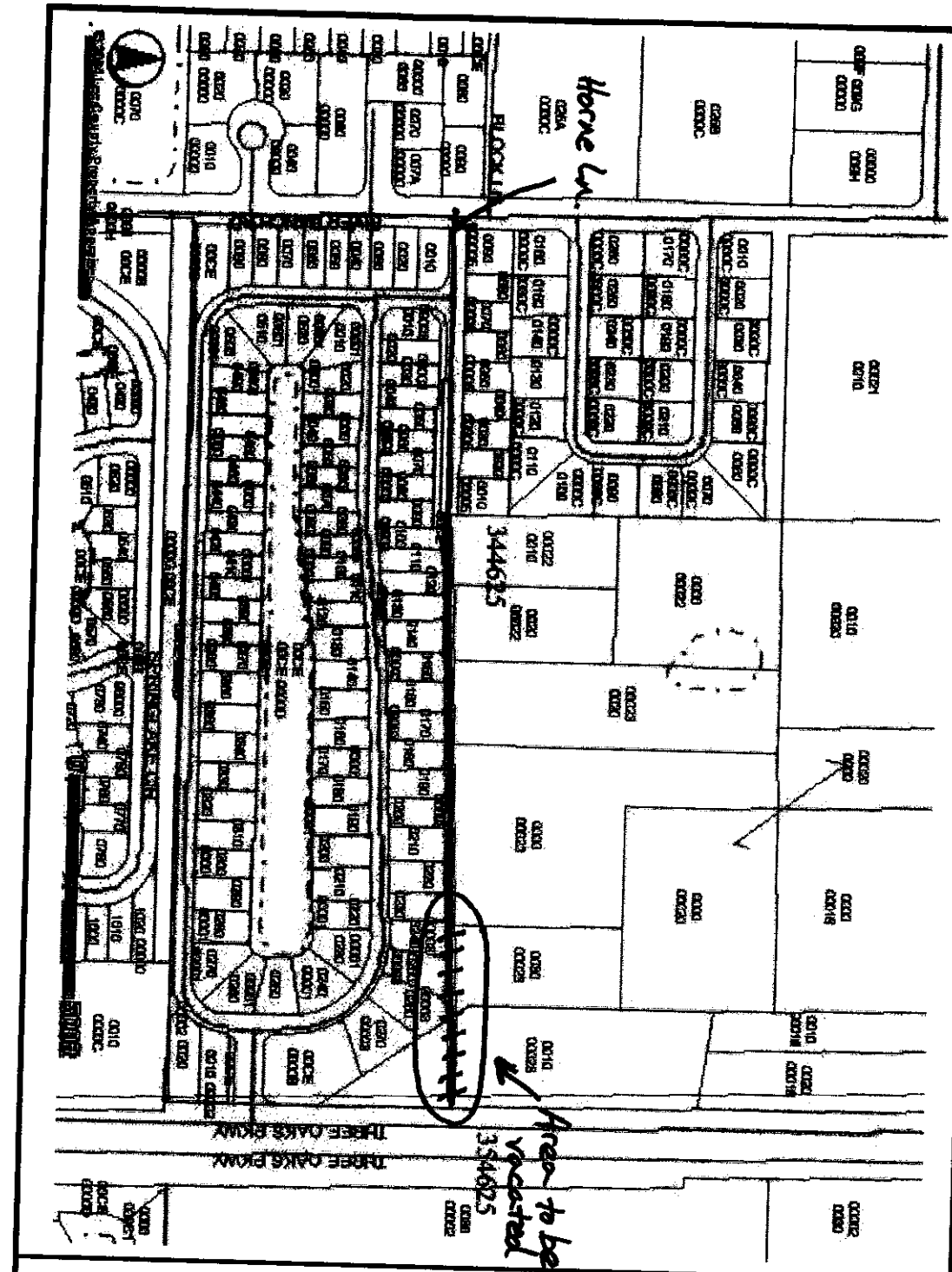
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Cody B. Vaughan-Birch

CBV/cbv

Enclosure: map

Horne Lane Map



- Legend**
- Hydro Features
 - Lot
 - Block
 - Parcel
 - Parcel Hatches
 - Road Center Line
 - Section Lines
 - City Limits
 - Scale Springs
 - Cable Canal
 - Foot Paths
 - Shaded
 - Turn of Foot Paths Branch

**RESOLUTION NO. _____ TO SET PUBLIC HEARING
FOR PETITION TO VACATE Case Number: VAC2003-00030**

WHEREAS, a Petition to Vacate was filed with the Board of County Commissioners;
and

WHEREAS, the Petitioner seeks to abandon, discontinue, close or vacate a portion
of a plat, easement, parcel or right-of-way legally described in the attached Exhibit "A".

WHEREAS, under Florida Statute and the Lee County Administrative Code, the
Board must hold a Public Hearing in order to grant a vacation affecting a public easement,
public right-of-way or platted lands.

BE IT THEREFORE RESOLVED by the Board of County Commissioners of Lee
County, Florida, as follows:

1. A Public Hearing on Petition to Vacate No. VAC2003-00030 is set for the
_____ in the Lee County Commission Chambers.

2. A Notice of Public Hearing on this Petition to Vacate will be published in
accordance with the Lee County Administrative Code.

THIS RESOLUTION passed by voice and entered into the minutes of the Board of
County Commissioners of Lee County, Florida this _____ .

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY
COMMISSIONERS OF
LEE COUNTY, FLORIDA

Deputy Clerk Signature

Chairman Signature

Please Print Name

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

Banks Engineering, Inc.
Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

DESCRIPTION OF A PARCEL LYING IN
SECTION 34, T-46-S, R-25-E,
LEE COUNTY, FLORIDA.

(ESTERO FIRE AND RESCUE - 3 OAKS ROADWAY EASEMENT)

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, BEING A PART OF THE PARCELS AS DESCRIBED IN OFFICIAL RECORDS BOOK 3795, PAGE 3873, AND OFFICIAL RECORDS BOOK 3234, PAGE 1877, AS DESCRIBED IN LEE COUNTY PUBLIC RECORDS AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF TRACT E, COLONIAL OAKS, PLAT BOOK 71, PAGE 60, SAID PUBLIC RECORDS; THENCE S.89°24'11"W., ALONG THE NORTH LINE OF SAID TRACT E, FOR 200.02 FEET; THENCE N.00°58'25"E., ALONG THE WEST LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 3795, PAGE 3873, FOR 35.88 FEET; THENCE S.88°31'07"E., ALONG THE NORTH LINE OF A 33 FOOT WIDE ROADWAY EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 60, PAGE 73, SAID PUBLIC RECORDS, FOR 180.01 FEET; THENCE CONTINUE S.88°31'07"E., ALONG SAID NORTH EASEMENT LINE AND THE NORTH LINE OF LOT C-30, FLORIDA GULF COAST LAND COMPANY'S SUBDIVISION, PLAT BOOK 1, PAGE 59, SAID PUBLIC RECORDS, FOR 230.00 FEET TO THE NORTHEAST CORNER OF SAID LOT C-30; THENCE S.00°58'25"W., ALONG THE EAST LINE OF SAID LOT AND THE WEST LINE OF THREE OAKS PARKWAY, FOR 33.00 FEET; THENCE N.88°31'07"W., FOR 207.01 FEET TO THE WESTERLY LINE OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 3234, PAGE 1877; THENCE N.33°43'43"W., ALONG SAID WESTERLY LINE OF SAID PARCEL, FOR 5.36 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 13374 SQUARE FEET OR 0.31 ACRE, MORE OR LESS.

BEARINGS ARE BASED THE NORTH LINE OF SAID TRACT E AS BEARING S.89°24'11"W.

BANKS ENGINEERING, INC.
FLORIDA LICENSED BUSINESS NO. LB6690

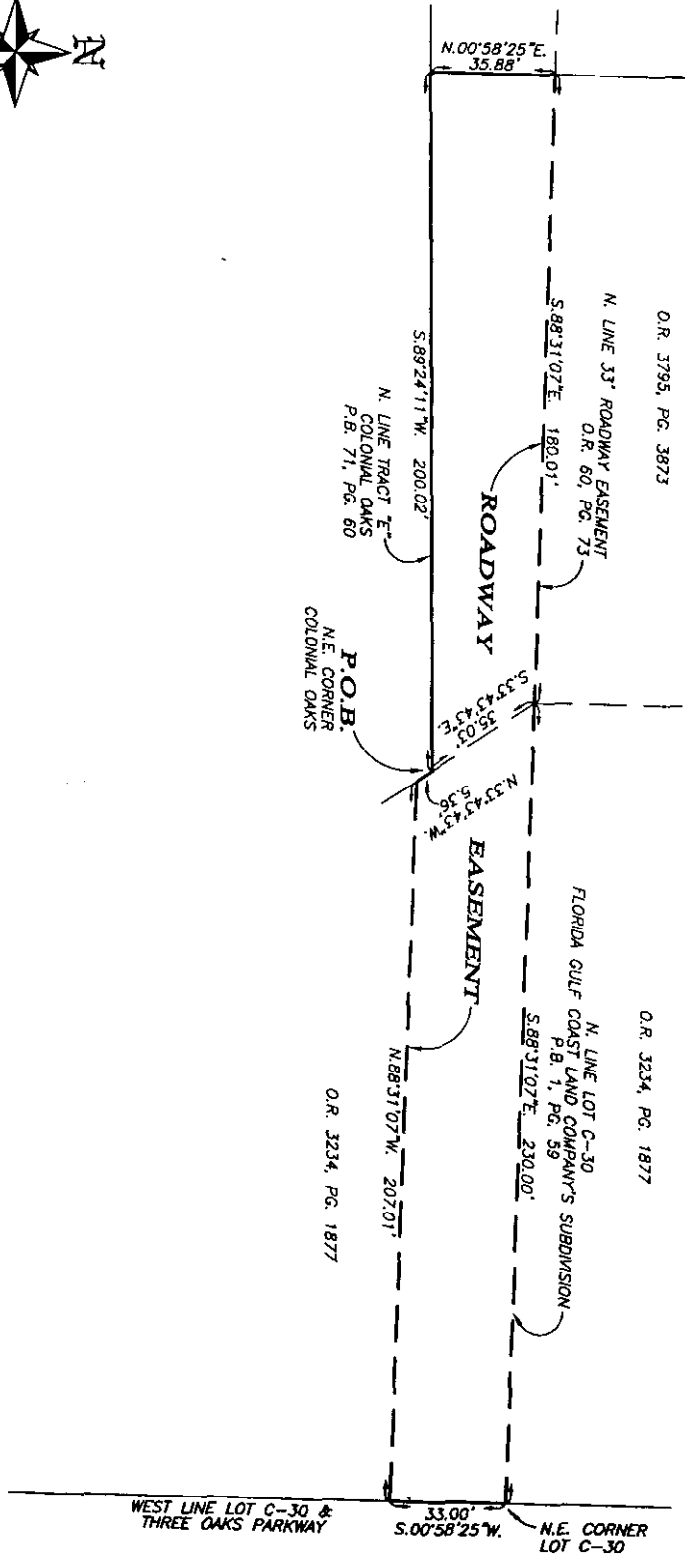
SEPTEMBER 8, 2004

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

EXHIBIT "A"



LEGEND
 O.R. LEE COUNTY OFFICIAL RECORDS
 P.G. AT PAGE
 P.B. LEE COUNTY PLAT BOOK
 P.O.B. POINT OF BEGINNING



THIS IS NOT A BOUNDARY SURVEY

KENNETH E. TRASK
 FLORIDA CERTIFICATE NO. LS4684

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
 FORT MYERS • CHARLOTTE • NAPLES • SARASOTA
 10001 SIX MILE CYPRESS PARKWAY - SUITE 101
 FORT MYERS, FLORIDA 33912
 PHONE: (239) 830-8460 FAX: (239) 830-2883
 ENGINEERING LICENSE # EB 9498
 SURVEY LICENSE # LB 6890

SKETCH TO ACCOMPANY DESCRIPTION

EASEMENT IN SECTION 34, T-46-S, R-25-E
 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
8-8-2004	1921	1921SK-RD	KT	KT	1"=50'	2 of 2	34-46-25

EXHIBIT "B"

NOTICE OF PUBLIC HEARING FOR PETITION TO VACATE

Case Number: VAC2003-00030

TO WHOM IT MAY CONCERN:

NOTICE is hereby given that on the 22nd day of February 2005 @5:00 PM in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider and take action on a Petition vacating, abandoning, closing and discontinuing the public's interest in the right-of-way or portion of a right-of-way, legally described in the attached Exhibit "A".

Interested parties may appear in person or through a representative and be heard with respect to the Petition to Vacate.

Anyone wishing to appeal the decision made by the Board with respect to any matter considered at this meeting will need a record of the proceeding for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

A copy of the Petition to Vacate is on file in the Office of the Clerk of the Circuit Court of Lee County, Florida, Minutes Office, 2115 Second Street, Fort Myers, Florida.

CHARLIE GREEN, CLERK

Deputy Clerk Signature

Please Print Name

APPROVED AS TO FORM

County Attorney Signature

Please Print Name

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors

FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

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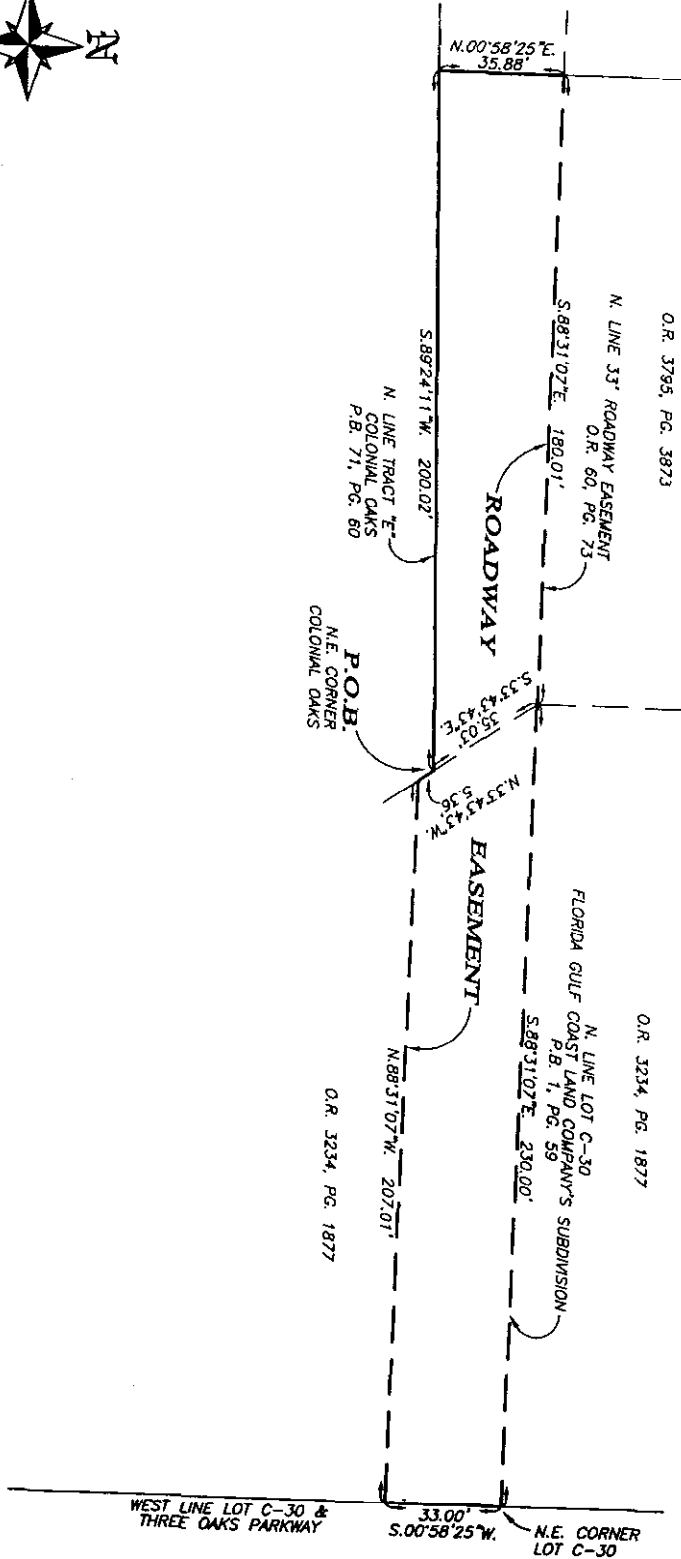
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EXHIBIT "A"



LEGEND
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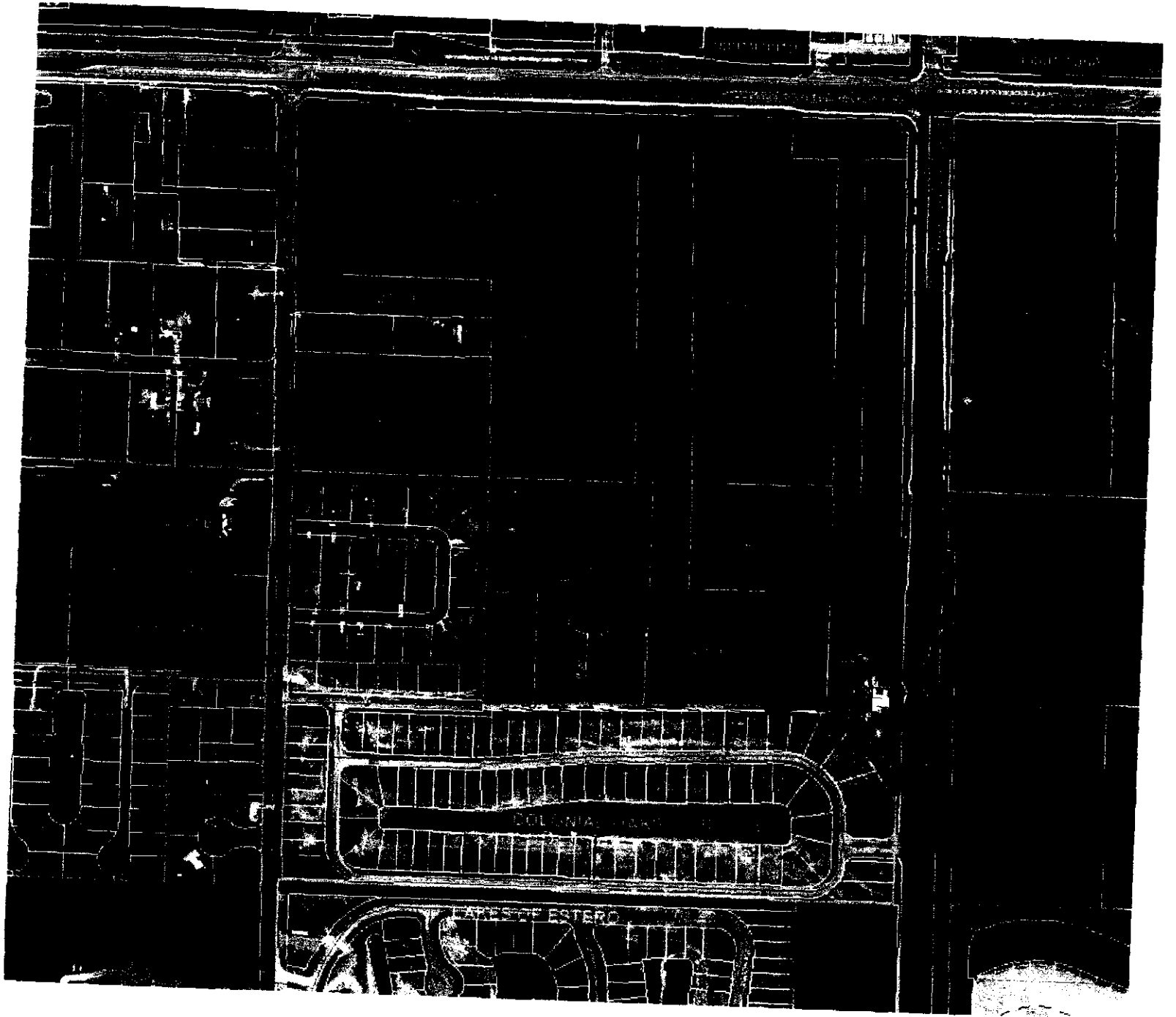
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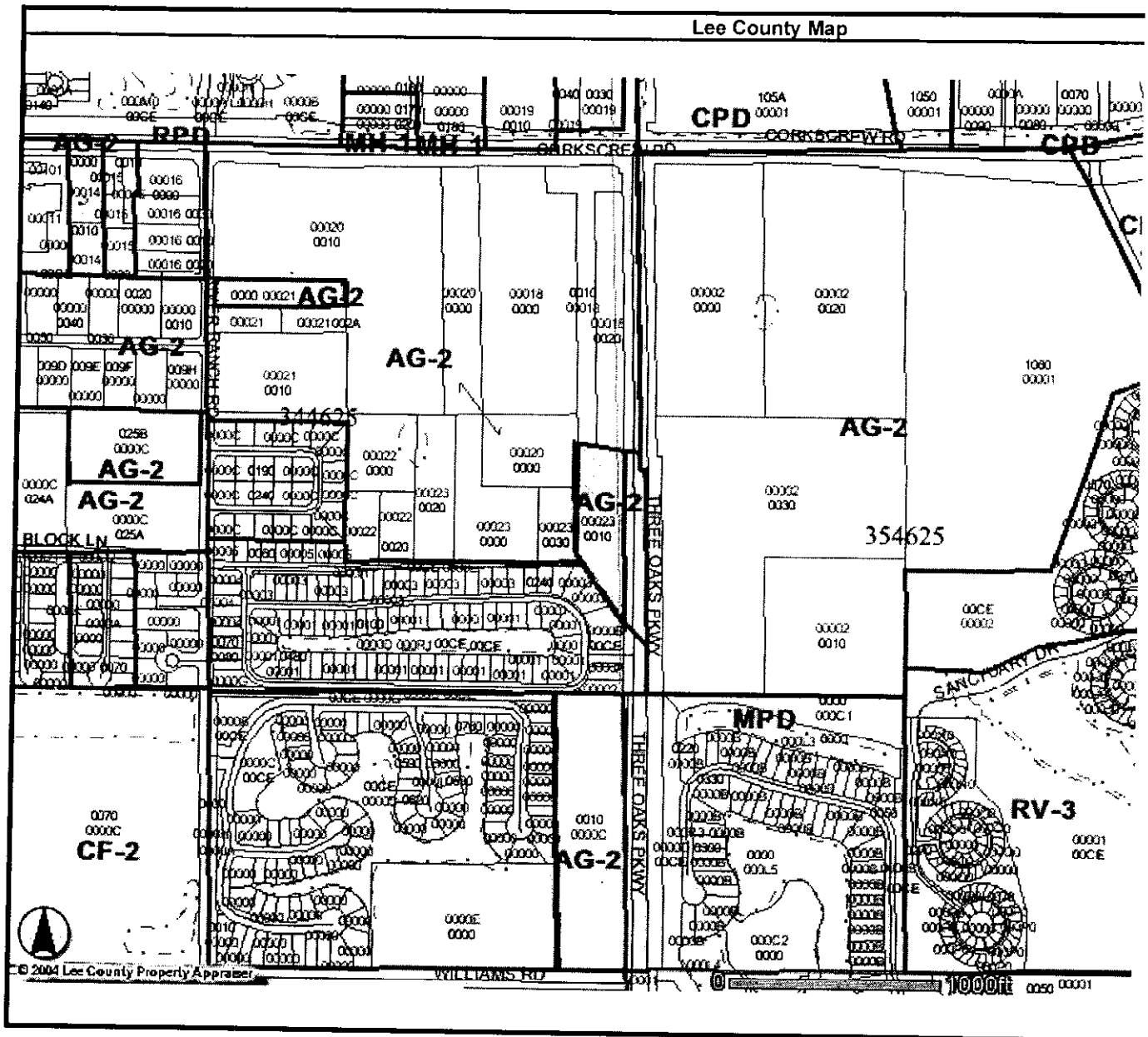
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 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (P-T-R)
9-8-2004	1921	1921SK-RD	KT	KT		1"=50'	2 of 2	34-46-25

EXHIBIT "B"





OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

SPECIAL EXCEPTION: CASE SEZ2000-00013
APPLICANT: ESTERO FIRE RESCUE FIRE STATION NO. 3
HEARING DATE: JULY 6, 2000

I. APPLICATION:

Filed by ESTERO FIRE RESCUE, ATTN: CHIEF DENNIS MERRIFIELD, 19850 Breckenridge Drive, Suite A, Estero, FL 33928 (Applicant/Owner); MATTHEW DUBOIS, P.E., % TKW CONSULTING ENGINEERS, INC., 1400 Colonial Blvd., Suite 250, Ft. Myers, FL 33907 (Agent).

Request is for a Special Exception for a fire station in the Agricultural (AG-2) zoning district

The subject property is located east of River Ranch Road, north of Williams Road, south of Corkscrew Road, west of the future Three Oaks Parkway Extension, in S34-T46S-R25E, Lee County, FL. (District #3)

The Strap # as furnished by the Applicant is: 34-46-25-00-00023.0010

II. STAFF RECOMMENDATION: APPROVE WITH CONDITIONS

The Department of Community Development Staff Report was prepared by Michael Pavese. The Staff Report is incorporated herein by this reference.

III. HEARING EXAMINER DECISION:

The undersigned Lee County Hearing Examiner APPROVES the Applicant's request and GRANTS a Special Exception for a fire station for the real estate described in Section VIII. Legal Description WITH THE FOLLOWING CONDITIONS:

1. Access from the subject property to the Three Oaks Parkway Extension is subject to approval by the Lee County Department of Transportation (LCDOT).

2. Until such time as a flood plain/floodway map covering the area of the subject property is adopted or utilized by Lee County Division of Natural Resources Management, no fill or above-ground structures, excluding those devoted to passive recreational uses, are permitted within 150 feet of the top of the south bank of the Estero River (i.e., the bank located on the subject property) unless a HEC-2 hydrolic model is submitted to the Lee County Division of Natural Resources Management and Lee County Building Department demonstrating that the proposed improvements will not cause any rise in the effective base flood elevation.

3. A Type "C" buffer, a minimum of 25 feet wide, and consisting of a solid wall or combination berm and solid wall not less than eight feet in height with a minimum of five trees and 18 shrubs (planted between the wall and abutting property) per 100 linear feet,

must be installed along the boundary of the subject property contiguous to the Residential Planned Development (RPD) to the southwest. If relocated, Horne Lane must be located on the fire station side of the required wall.

4. Unless vacated, including the termination of any private interest, and/or relocated, the existing 33-foot-wide road easement known as Horne Lane and recorded in Official Record Book 60, Page 73, must be incorporated into the design of the proposed fire station as part of the application for local Development Order Approval.

5. The subdivision of this parcel must be approved in accordance with Lee County Land Development Code (LDC) Section 10-296 prior to approval of a local development order for construction of the proposed fire station.

IV. HEARING EXAMINER DISCUSSION:

This is a request for a Special Exception in the AG-2 zoning district to allow the construction of a 5,000+-square-foot fire station. The subject property is located on the west side of the proposed Three Oaks Parkway Extension, between Corkscrew Road and Williams Road. It is currently accessed from River Ranch Road through Horne Lane, a 33-foot-wide unimproved east-west roadway. It is surrounded on the north, east, southeast, and west by agricultural zoning, with some scattered single-family residences. To the southwest is RPD and PUD zoning. Further west is a small RS-1 zoned residential subdivision, fronting on River Ranch Road. Approximately 95 percent of the property is designated Suburban, and the other five percent is designated Urban Community. The proposed fire station is acceptable under either land use category, as set out in Lee Plan Policy 2.1.3.

The subject property lies in the Estero Fire District, which consists of the lands south of Koreshan Boulevard, north of the Bonita Springs City limits, west of the Lee/Collier County line, and east of Estero Bay. The Estero Fire Chief explained that they had one fire station located just south of Koreshan Boulevard and east of U.S. 41, but needed at least two more stations to provide adequate service to the rapidly expanding population in this area. He commented that this area is one of the fastest growing areas in Lee County, and they needed to keep up with that growth.

Chief Merrifield stated that the proposed location of the new fire station would be more centralized than the existing station, and would allow a faster response time to the lands lying south, east and west of Corkscrew Road. Once the Three Oaks Parkway Extension is completed, the proposed station will have access to Corkscrew Road, Williams Road, The Brooks DRI, and to U.S. 41 and then to southeast and southwest Lee County. The Lee County Department of Transportation anticipates having the Three Oaks Parkway Extension abutting the subject property completed sometime before or by mid-2001 and, if this request is approved, the Fire District intends to have the new firehouse operational when that expansion is completed.

Staff recommended approval of the Special Exception, with conditions, finding that it was consistent with the intent and provisions of the Lee Plan and Land Development Code, and would be compatible with the zoning and uses in the surrounding area. They agreed with Applicant that the subject property was a good location for a fire station, provided Applicant complies with the proposed conditions of approval. These conditions relate to such things as access to Three Oaks Parkway Extension; a buffer between this site and the RPD property

to the southwest; the vacation or relocation of Horne Road; and County approval of the lot split which created the subject property.

The north boundary of the property is delineated by a tributary branch of the Estero River, which measures 75 feet from the top of bank on the north side to the top of bank on the south side. Using the "rule of thumb" contained in LDC Chapter 6-472(4), *Floodways*, for computing the potential floodway when such is not specifically known, Staff has prohibited fill or above-ground structures within 150 feet of the river bank. Applicant was concerned about that requirement, since they had hoped to expand their facilities in the future - as the need in the area grows - and this condition could prevent them from doing that.

Staff explained that a floodway map is being compiled in Lee County, but is not expected to be completed until sometime next year, possibly after development of the subject property is approved or has occurred. Staff believed this condition was necessary to protect the properties and persons downstream (west of the site). They also noted that it would be possible for Applicant to amend the MCP in the event the floodway maps showed a narrower floodway corridor across the subject property. It was also suggested that Applicant could provide a HEC-2 model which would establish the floodway line, possibly allowing the developer to have a narrower setback.

One property owner expressed concerns about future access to his property, which lies south of the subject property, if Horne Lane was to be relocated or vacated. It was pointed out that, given the location of his property, he would probably have access directly to Three Oaks Parkway Extension, and would not need the access over Horne Lane.

The undersigned Hearing Examiner concurs with Staff's analysis, findings and recommendation of approval, with conditions, finding that the request, as conditioned, meets the criteria for approval set out in Section 34-145, Land Development Code, and is consistent with the intent and provisions of the Lee Plan and Land Development Code. The Hearing Examiner also finds that the proposed use is compatible with the surrounding uses and zoning districts, and will not be detrimental to the neighborhood. It is the opinion of the Hearing Examiner that compliance with Staff's imposed floodway setback - Condition 2 - or the setback determined to be necessary by the flood plain/floodway maps being compiled by Lee County, would provide protection of the adjacent properties and their owners, and would be consistent with the intent of the Lee Plan and Land Development Code.

The Hearing Examiner finds that a fire and rescue station in this location would be appropriate, and would be a benefit to the area and general public, and would protect the public health, safety and welfare.

It is the Hearing Examiner's opinion that the conditions imposed herein are reasonably related to the impacts anticipated from the proposed development, and will adequately safeguard the public's interests, and health, safety and welfare.

V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the continued residential and commercial growth in the vicinity of the subject property, and the changing conditions resulting from that growth, make approval of the request, as conditioned, appropriate.
- B. That the request, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, and meets or exceeds all performance and locational standards set forth for the proposed use.
- C. That the request, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.
- D. That the request, as conditioned, will be compatible with existing or planned uses.
- E. That the request, as conditioned, will not cause damage, hazard, nuisance or other detriment to persons or property.
- G. That the requested use, as conditioned, will comply with all general zoning provisions and supplemental regulations pertaining to the use set forth in Chapter 34, Land Development Code.
- H. That the conditions imposed herein are reasonably related to the impacts anticipated from the proposed use, and will be safeguard the public's interests.

VI. PRESENTATION SUMMARY:

After the Hearing Examiner placed all witnesses under oath, Dennis Merrifield, Fire Chief of the Estero Fire Rescue, explained why they had chosen this particular site for a fire station, and provided details as to their plans.

The Fire District underwent a planning process approximately about a year and a half to two years ago. Part of that planning process included an attempt to identify what growth would be in this area in the next several years, i.e., between now and 2005, and to understand, based on that projected growth and development of the community, what fire protection infrastructure would be required. They looked at the road system that is available to the District for navigating fire equipment and also any potential improvements of which they were aware.

They also researched all the approved DRIs and development orders in the area bordered on the north by Koreshan Boulevard and on the south by Coconut Road. He noted that the boundary actually went a little further to the south by approximately a half a mile - around the location of the Walden Center and the southern edge of The Brooks DRI. Additionally, The Brooks was within the District. The District boundaries extended to the west [sic] out to and including Wildcat Run, and then west to Estero Bay.

Just in this area alone, based on approved development orders and contact with various developers, the time schedules indicate that there will be in excess of 25,000 dwelling units. The Fire District's boundary actually continues another 15 miles to the east, all the way to the County line, where Collier County wraps up along the east side of Lee County. It is clear that intense development will be taking place within the District's boundaries.

Based on this and the road network, they developed station location criteria. One challenge they had to take into consideration was that U.S. 41 is the westernmost north-south corridor. They are faced with long runs such as 2.7 miles down Williams Road, 1.4 miles on Corkscrew Road, 1.8 miles on Broadway, etc., and U.S. 41 is their means of accessing each of these legs. With this in mind, and with the knowledge that everything between the water and I-75 was essentially going to be built upon, they identified a couple of station locations along the U.S. 41 corridor. Referencing his map exhibits, Chief Merrifield pointed out one potential site, halfway between Williams and Coconut Roads, and another site, halfway between Corkscrew Road and Broadway. A third station was initially targeted for Williams Road and Three Oaks Parkway Extension.

The idea behind this was that it would minimize travel time - which is their primary concern. It would also provide good access, not only for the initial responding unit but also for any additional units which might be responding to this incident or to multiple incidents in the primary response area of the single engine company.

They used nationally-accepted industry standards and practices in identifying these locations, such as criteria from the Insurance Services Office (ISO) and the National Fire Protection Association and certain published time constraints by the American Heart Association, which aid them in determining where these fire stations needed to be.

They also used an outside consulting firm (Emergency Services Consulting Group), which reviewed the District's ideas and proposals as to where to place these stations. The consultants concurred that these locations were appropriate and consistent with accepted practices.

The District initially wanted to address this issue in the southern part of the District, and started to look for property. Eventually they decided to put together a citizen's committee to gather input and look into this issue further. The committee was comprised of members from the Estero Civic Association and the Estero Chamber of Commerce, and a member-at-large who wasn't affiliated with either organization. They finally concluded that, at this time, there really wasn't anything available for the District to consider that would be appropriate for use as a fire station.

As a means to somewhat address this problem, even though they had recognized they wouldn't be able to address the entire problem, the committee recommended a site on the future extension of Three Oaks Parkway. Construction of this segment, between Corkscrew Road and Coconut Road, is significantly advanced at this point, particularly at the south end. Three Oaks Parkway, from approximately Williams Road to Coconut Road, must be constructed by The Brooks DRI as part of their development requirements, a significant portion of which has been completed. He noted that the curbs were in and the road beds were graded in readiness for asphalt, but there was no asphalt yet.

The northern end, between Williams Road and Corkscrew Road, is the responsibility of Lee County, which has gone through the process to acquire the right-of-way for this project. The Fire District ended up with the subject parcel when a 3½-acre parcel was "sliced off" from property owned by The Brooks, and sold to the District. The property was then recommended to District's Board of Commissioners, the governing authority of the Fire District, and the Board deemed that this site would provide optimum, efficient service in the designated area of the District.

What they ended up with were oblong response areas. Referencing the map exhibits, he pointed out these areas and station sites, noting that each site is expected to serve more than 5,000 dwelling units.

Chief Merrifield referenced the 4th page of one of the exhibits he was submitted [Applicant's Exhibit 1], noting that this was a page [11] from the Fire Impact Fee Study conducted by James Duncan on behalf of Lee County. He read a portion of this into the record:

Based on the range of existing district conditions in Lee County, it appears that a fire district with only one station is capable of serving approximately 5,000 fire service units of development before another station must be built.

This was based on the number of actual dwelling units. This did not take into consideration any calculations for the commercial square footage that would be served, and there are a number of commercial projects slated for development in this area.

Referencing the "Findings and Conclusions" section of the Staff Report, Chief Merrifield noted second paragraph of Finding #1, specifically the last half of the first sentence and the second sentence:

. . . having direct access onto a major north/south arterial road. The subject property will be an idea location for the proposed fire station in that it will provide easy, efficient access to the district which it serves.

This is the basis for choosing this particular location and drawing the conclusions they had.

Chief Merrifield referenced the conditions recommended by County Staff. The first condition addresses access to the Three Oaks Parkway Extension. They are working closely with the Lee County Department of Transportation (LCDOT), particularly with Comer Taylor on this matter. He has had many discussions with Mr. Taylor and has the preliminary design plans for Three Oaks Parkway. LCDOT has assured him that this roadway will be completed no later than the first quarter of 2001, but he believed it would actually be completed sooner. It was, nevertheless, important to "hedge" this bet as you never knew what might happen. They anticipate that this road will be done by around Christmas 2000, all the way from Corkscrew Road to Coconut Road. They are working closely with LCDOT and will continue to do so because this site will ultimately have more than 800 feet of frontage along Three Oaks Parkway (extension).

Chief Merrifield stated that he would let Matt Dubois, with TKW Consulting Engineers, address Condition 2 later.

Condition 3 requires a certain buffer. The District wants to ensure that they are compatible with surrounding properties. Chief Merrifield submitted a photograph [Applicant's Exhibit 2] of a new fire station facility that they are using as a model. This facility is 5,000 square feet and located in Palm Beach County. Palm Beach County has elected to use this model in constructing numerous other stations. It is the District's Board of Commissioners' desire, as well as his desire, to ensure that this facility is compatible with the neighborhood, and that they build something which is aesthetically pleasing. They want to maintain as much of the natural vegetation as possible on this site. Creating a buffer between the fire station and any adjacent RPDs (Residential Planned Developments) is certainly very appropriate. The District has always anticipated that they would compliment the neighborhood.

Condition 4 refers to an easement, and notes that access to the site is only achieved through Horne Lane, a roadway easement that runs southward to and terminates at the Tucker parcel. The District has no intention of cutting off Mr. Tucker's access to his property. They believe that, at some point, it might be appropriate for access to his parcel to be from Three Oaks Parkway extension. Until that time, they do not want to do anything that would inhibit his ability to access his property, or inhibit the access of any other owners to their properties.

Condition 5 addresses the subdivision of this parcel. It probably was the responsibility of the previous owner to have followed the proper County regulations and procedures in subdividing this parcel. It was his understanding that the overriding concern in dividing properties is to ensure that all the properties have access to a roadway meeting County standards. Since the District will have more than 800 feet of frontage on Three Oaks Parkway extension, he was sure they could satisfy these requirements. They would be more than happy to take care of this issue and ensure that it is addressed as requested by Staff.

The Hearing Examiner referenced Applicant's Exhibit 2, the photograph of the model station, and asked whether the proposed station would also be 5,000 square feet? Chief Merrifield indicated that the latest estimate from the architect was around 5,600 square feet; they were, therefore, close to this 5,000-square-foot figure. The Hearing Examiner asked how many personnel would be housed in this facility and about the shifts being worked. Chief Merrifield stated that it would be designed to handle six people, on shifts of 24 hours on and 48 hours off, as the facility would be manned around the clock. The Hearing Examiner noted that the photograph showed two bays, and asked if there would be two trucks/units? Chief Merrifield confirmed that there were two bays, but indicated that it would be designed to handle a single engine company, and potentially an additional specialty vehicle, such as a brush truck or some other specialized vehicle. Initially, the fire station will house only three people. They will have additional space to allow for growth, depending on what is finally built in this area. Chief Merrifield noted that there were many issues they would have to address in staffing and equipping this facility, such as how tall the buildings in this area would be and whether there was a need for a ladder truck. They need to have the ability to handle these types of needs.

The Hearing Examiner referenced Map A (the zoning map) attached to the Staff Report, noting that it seemed to indicate that the easement (Horne Lane) bisects the Fire District parcel and leaves a triangular remainder parcel. She asked if they were planning to relocate the easement, or what they were going to do with this triangular parcel if they did not relocate the easement? Chief Merrifield stated that, as late as the previous week, they had been trying to determine whether there was an easement through the property. They purchased title insurance from a very reputable company, and a neighboring project had also bought title insurance from the same company. The title company had given information to the adjacent project that there was an easement, but had advised the District there was no easement. They are still trying to resolve this issue. The District is not trying to deny the existence of an easement. There is an easement; it is 33 feet wide and runs east-west.

The District always knew about the north-south easement. They were also aware that the RPD to the south is required, by their zoning approval, to provide access for any lots along Horne Lane. This would, in turn provide access to River Ranch Road. There is the potential that the Fire District may come in and ask that one section of easement be vacated. They will try to build the station so that it isn't too far down. It will be partly down into this triangular area, but not too far in. The rest of the area would be kept in a natural vegetated state.

Mr. Dubois confirmed that the proposed fire station would be approximately 5,000 square feet and that it would eventually house six firemen. Gulf Environmental Services, which provides water and sewer service in this area, is planning to bring in a water line and a sanitary force main for the station. These lines will run down the extension of Three Oaks Parkway. They are planning their site access from Three Oaks Parkway.

The Estero River runs along the north side of the property. There is a small area of jurisdictional wetlands, as indicated on the site plan. Beyond that, the project will provide a 25-foot-wide upland buffer. The District does not intend to strip the site of all its vegetation, and plans to maintain as much as possible that will still allow the station to be constructed. As Chief Merrifield had indicated, one of the conditions (Condition 3) requires a buffer along the southern property line between the station and the adjacent, future RPD.

Condition 2 sets out that "no fill or above-ground structures, excluding those devoted to passive recreational uses, are permitted within 150 feet of the top of bank of the Estero River. . . ." unless hydrolic modeling is provided proving that this will not encumber the River's flood plain. The Hearing Examiner noted that the condition in the Staff Report did not contain any reference to hydrolic modeling, and Mike Pavese (Development Services Division) noted that he had a revised language for Condition 2 which he had been going to provide the Hearing Examiner during his presentation. He provided her with a copy at this time. [Staff's Exhibit 1]

The Hearing Examiner observed that they were proposing additional language to Condition 2 to allow the Applicant to use this area, if they can prove it will not have any effect on the flood plain. Mr. Dubois indicated that was correct. He stated that he wasn't aware that this reflected a current County ordinance, i.e., to require this type of setback or to be required to provide this type of information, and was concerned with the imposition of this condition if there was no ordinance requiring this. The Hearing Examiner asked that Staff respond to this question during their presentation.

The Hearing Examiner asked if the Applicant agreed with Staff's revised Condition 2, and Mr. Dubois responded that they would prefer to not have this condition imposed. The Hearing Examiner asked Staff to address this, noting that there has always been a setback required from the Estero River in this area, although it has varied from one project to another.

Mr. Pavese then presented the Staff Report, confirming that Staff is recommending approval of the Special Exception in the AG-2 zoning district to allow development of a fire station. Using the map and aerial exhibits, Mr. Pavese located Corkscrew Road, I-75, River Ranch Road, Williams Road (to the south of the property), Estero High School, and Horne Road, a dirt road extending to the east from River Ranch Road. He pointed out the location of the subject property.

For the most part, the zoning surrounding the subject property is agricultural with the majority of the area being vacant. There is a single-family house located approximately 370 feet to the west of the subject property. There are three other residential units located north of Horne Lane, and extending to the subject property. He pointed out another single-family home which uses Horne Lane for its access. The parcel to the south of the subject property is zoned RPD, and approved for 82 single-family units. The approved site plan depicts four or five residential lots which will be contiguous to the subject property.

With regard to compatibility with the surrounding zoning and land uses, the fire station is located such that it will be contiguous to the right-of-way for the Three Oaks Parkway Extension. It is anticipated that most of the property along the Parkway's right-of-way will be developed for uses other than residential. He pointed out where the required buffer would be located, on a line extending from the northwest to the southeast, adjacent to the RPD. The buffer will be required to have a minimum width of 25 feet and a wall, or combination berm and wall, of not less than eight feet of height. The required plantings will be located on the residential side of the wall. Staff is recommending this buffer, regardless of whether Horne Lane is relocated or vacated. If Horne Lane is relocated, then the road is to be located on the fire station side of the wall. The Hearing Examiner asked if the purpose of the wall was to provide protection for the adjacent residential units, and Mr. Pavese indicated that was correct. He noted that he had a copy of the approved final plan for the RPD, if the Hearing Examiner needed a copy. The Hearing Examiner asked what the lot sizes were in the RPD, i.e., were they standard sized, 75 feet by 100 feet? Mr. Pavese stated his belief that they were standard sized lots.

The request is consistent with the goals, objectives, and policies of the Lee Plan, and specifically two Lee Plan policies. Policy 2.1.3 provides that all land use categories shall permit the consideration of public facilities such as this. Goal 43 provides that Lee County will assist the local fire districts in providing the appropriate level of fire service throughout the County. Policy 43.1.6 sets out that Lee County will provide technical assistance to the fire districts, and continue to support these districts in the rezoning process.

There is one issue in this case, which Staff believes is an important issue; that issue deals with access. Chief Merrifield has briefly touched on this. Mr. Pavese explained that Horne Lane is a public easement which was recorded in O.R. Book 60, Page 73. As it relates to the subject property, it is a 33-foot-wide road easement, although it is wider on some of the properties adjacent to the subject property. Referencing Map A to the Staff Report, Mr. Pavese noted an area south of the Spring Ridge subdivision where, in 1989, a portion of the public interest was vacated. There are, however, still private interests in this easement. The Hearing Examiner asked who held these private interests, and Mr. Pavese stated his belief that it was held by the homeowners living along this road. He assumed that the owners of the planned development also had maintained some private interests in this road. The Hearing Examiner asked if it was correct that this didn't include the rest of the easement, and that this was still a public easement? Mr. Pavese replied "yes," noting that, other than the portion that was vacated in 1989, the remainder of the easement still has public interest.

He explained that this was why Staff's proposed condition states that, should the Fire District decide to vacate that portion of the easement lying across the subject property, they have to extinguish both the public and private interests.

He referenced the aerial photograph and noted that, if you compared it to Map A, it would appear that this road does not actually lie within this easement. He did not know what type of legal implication this might have, but it was very important at this point. Elaine Wicks (LCDOT) provided Mr. Pavese with a map that showed this. [Staff's Exhibit 2] Mr. Pavese pointed out the area of the easement where the public interest in the easement had been vacated. The Hearing Examiner noted that was where the easement decreased in width at a certain point, and Mr. Pavese agreed. The easement isn't the same width along its entire length from River Ridge Road to the east.

Roy Tucker, an adjoining property owner, commented that he had maintained this dirt road since 1977. In response to a question by the Hearing Examiner, Mr. Pavese pointed out the location of Mr. Tucker's property. Mr. Tucker noted that he had a citrus grove in addition to his home. He stated that he was concerned with what was going to happen to this easement as this was his only access, and he has maintained it all these years. He added that he had actually maintained the whole road because he was the only person who lived in this area for many years.

The Hearing Examiner referenced Mr. Pavese's comment that Horne Lane did not actually lie within the recorded easement. Mr. Tucker explained that this was first originally established as a farm road back in the late 1940's and 1950's.

Mr. Pavese noted that there was this issue with the road easement. Additionally, as Chief Merrifield had indicated, when the District purchased this property, it was conveyed without the benefit of any subdivision approval from the County. This type of approval has been required since January 1983. Although it isn't illegal for people to convey property in this manner, when either party comes in to obtain local development orders or building permits, the County is going to verify that there was approval for this subdivision of property. In the case of this property, no such approval was obtained. The implication is that this will be required prior to the Fire District being able to obtain a local development or building permit. One of the requirements of a "legal" lot subdivision, however, is that the parcel which is being subdivided must have access to and frontage on a road constructed to County standards. In this case, there is no such frontage, although the property will eventually have frontage on Three Oaks Parkway, a 4-laned, divided arterial roadway. This extension of Three Oaks Parkway does not currently exist, and Horne Lane does not appear to meet County standards. So this has become an issue which will have to be addressed prior to obtaining building permits or development orders.

The Hearing Examiner asked Chief Merrifield if it was correct that the District wasn't planning to build the fire station until they had this access, and Chief Merrifield replied that their plan was to begin construction around October or November (2000). Completion of construction isn't estimated to be done until the first of June, long after the road is open and available for public use.

Mr. Pavese referred to Staff's revised language for Condition 2 [Staff's Exhibit 1], and addressed Mr. Dubois' stated concern with this condition. This condition requires the submittal of a hydrolic model, should the District decide to develop within 150 feet of the top of the bank of the Estero River. The requirement for the submission of that data is set out in LDC Chapter 6-472(4), *Floodways*:

Located within areas of special flood hazard established in section 6-408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwater, which carries debris and potential projectiles and has erosion potential, the following provisions shall apply:

Subsection 6-472(4)a states:

Encroachments, including fill, new construction, substantial improvements and other developments, are prohibited unless certification, with supporting technical data, by a registered professional engineer is provided

demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

This is where that requirement comes from. The 150-foot distance is one which, in this case, was derived by taking the measurement of the widest point of the bank (of the River) located on the subject property, i.e., top of bank to top of bank, and multiplying that by two. The Hearing Examiner observed that the River, at this point, must be 75 feet wide (from top of bank to top bank), and Mr. Pavese indicated that was correct. The current site plan does not show any development within this area. He believed that the District's concern is, should they desire to expand the facility in the future, they would have to comply with this provision.

The Hearing Examiner questioned what the level of the River was in relation to the bank, i.e., was it a 2-foot-high bank or a 4-foot-high bank, 25-foot-high bank? Mr. Pavese asked Mr. Dubois whether the survey showed this number? The Hearing Examiner noted that she had traveled along the Estero River, but wasn't sure she had gone past this property. Mr. Dubois indicated that the documents showed the bank at an elevation of around 11.5 to 12.5 feet. It did not indicate the elevation of the water. He added that this was actually a tributary off the main part of the River. When the road goes through, just upstream from this portion, the water will be channelized and brought through under the road.

With regard to the 150-foot distance, Mr. Dubois stated that the LDC section referenced by Mr. Pavese seemed almost arbitrary as to how they came up with the distance, i.e., from top of bank to top of bank. This is where his concern stemmed from. The Hearing Examiner asked Mr. Dubois to point out, on the site plan, where this 150-foot distance came to, and he indicated this distance. It was noted that this distance was measured from the top of the bank, not from the southernmost point of the bank, and the 150-foot setback would vary along the course of the River. Mr. Dubois referenced a line on the survey and on the site plan, noting the jurisdictional wetland line and how the top of the bank doesn't actually parallel that line.

John Fredyma, Assistant County Attorney, questioned whether any data from the FIRM (Flood Insurance Rate Map) map had been interpolated onto the site plan? This would show things such as the floodway based on elevations and the 100-year flood plain. He believed that this was what Chapter 6 of the LDC was trying to address in order to prevent floodways from being encroached upon. Mr. Dubois noted that this information wasn't interpolated on this map. Mr. Fredyma stated that the information, just for topographic purposes, in and of itself, is meaningless (noting that he did not mean this in a negative way). It doesn't help to know whether it is 11 feet or 16 feet or 14 feet, unless you know what the base flood elevation is and what the 100-year flood plain line would be. It could be 25 feet, but, at that particular location, if you're in the floodway or close to the floodway, it won't matter; you're still in the floodway.

The Hearing Examiner asked Mr. Fredyma for clarification of his statement, i.e., if they are in the floodway or close to the floodway, they were still in the floodway. If they were talking about 150 feet, was he saying that they still had to come up with the 150 feet, or . . . ? Mr. Fredyma stated that what he was saying was, the condition has set out a distance of 150 feet. He didn't know how this 150-foot distance related to the actual floodway based on the information contained on the FIRM map. The Hearing Examiner asked whether he was saying, if the FIRM map shows that the floodway is actually only 30 feet wide (from the top of bank), 150 feet would be too much? Mr. Fredyma agreed, adding that, on the other hand, if it shows that the floodway actually extends out 225 feet, then the 150-foot distance wasn't

adequate. This is what LDC Chapter 6 and the HEC-2 is trying to address to prevent encroachments within floodways. This is a legitimate purpose of flood plain management.

Ms. Wicks stated that she wanted to address several of Chief Merrifield's comments about the construction schedule for the extension of Three Oaks Parkway. He was correct that LCDOT is diligently working in trying to get this project pushed forward. It is a private-public partnership with Long Bay and Bonita Bay. As part of their DRI approvals, they have some proportionate share requirements, and this roadway extension might result in being one of the projects they help the County build. The County is looking to obtain a majority of the right-of-way from this developer. The County is also involved in "takings" from other properties along this area, and that is still in the process. Therefore, with reference to Chief Merrifield's comment about a December completion date, she believed this was somewhat unrealistic at this point.

They were just now to the point of getting the 60 percent plans, and these plans were being reviewed. The County still has to obtain all their environmental permits. They are trying to expedite the process and have looked into the possibility of having the contractor who is out there now, extend on for those phases. The south section of the extension has three phases, and they have obtained a development order to construct one of those phases, Phase 2, which is the center portion. They are now in the process of obtaining a development order for Phase 3, which is the northern portion that goes up to Williams Road. They have not even come in yet for the development order for the south section, which is the section south of the Coconut Road extension.

The construction schedule, therefore, might not be as "ambitious" as noted by Chief Merrifield. The County is looking at possibly the end of next year (2001), perhaps in the August-September range, before completion is anticipated.

The Hearing Examiner noted that the subdivision requirements require access to an improved roadway. She asked whether these regulations required access to a roadway that is completed at both ends? In other words, if the middle segment, where this project will have access, is completed up to Corkscrew Road, would this be sufficient for purposes of subdivision? Mr. Pavese stated that, in his opinion, the answer would be "yes."

Ms. Wicks stated that there was good news in this aspect because the development order for the extension of Williams Road (which will extend it to Three Oaks Parkway) has just been approved. She believed that construction of this would be beginning in the near future. It was possible that they would be able to get Williams Road built as well as the first phase (up to the River) in order to provide the District their access. The County wants to work with the District as they are aware that this is an important project. She just wanted to be sure that it was clear what the actual construction schedule might be.

Chief Merrifield noted that, in his conversations with LCDOT Staff, he had consistently been told that the road would be completed during the first quarter of next year. He asked Ms. Wicks if she was saying that they were now looking at the second quarter, and even possibly the third quarter, before completion? This was why he had made the statement that it would be done during the first quarter, but actually believed it would be completed by Christmas. He has been told this by LCDOT Staff. The District has based and conditioned their project time line on the completion of this road, and this is a very big concern.

Ms. Wicks stated that she would not want to go on the record saying that this road would be completed by Christmas, and Chief Merrifield noted that he wasn't asking her to do this; however, the first quarter is what he had been told was the date for completion. Ms. Wicks acknowledged that this might be doable, and the County was working towards that. She just didn't want to state that it was going to be completed by that date, and then not have that happen. She wanted to be sure they understood that certain things could arise which might delay the completion, such as the permitting required for cross the creek.

The Hearing Examiner noted that the condition required the Applicant to obtain proper subdivision approval, and that this would be tied into completion of the road. Therefore, whatever date that happened to be, this would be the operative date.

Brad Vance, Division of Natural Resources, indicated that he did wish to testify in this hearing. Mr. Fredyma asked Mr. Vance to explain the purpose behind Revised Condition 2, as offered by Staff, with regard to the distances and the floodway. Mr. Vance was placed under oath and stated that he had discussed the setbacks with Mr. Pavese. The Flood Plain Management Ordinance contains a provision for streams where a floodway has not been established. He noted that this guideline wasn't really scientific; it had merely evolved after numerous years of knowledge of what happens along various streams. This guideline is for areas where there are no established floodways, and it uses the distance from the top of bank to top of bank. The setback is twice that distance. Rather than a standard, this was really more of a minimum criteria that they used. Applicants have the option of doing the modeling, rather than using this guideline, in establishing their line of development or fill.

The Hearing Examiner asked if the HEC-2 modeling would eliminate the requirement for a 150-foot setback, and Mr. Vance indicated that it could possibly result in this. He felt that, more than likely in this particular location, it would have that same result. On small sites such as this, they were merely trying to get people used to what is coming in the next year. It is difficult dealing with this on smaller projects and sites. He explained that one of the reasons he was addressing this during the zoning stage for larger sites/projects was so they didn't create a Master Concept Plan and then later find out that it cannot be done. They would then have to amend the MCP. By the time that Three Oaks Parkway is extended to this area, or whenever the District is ready to go forward with their development plans, it would better if they did not suddenly find out that they had a problem in this regard. They were trying to address this issue early so that it could be accommodated. He believed that the 150-foot distance would probably be reduced as a result of these modeling efforts.

The Hearing Examiner observed, therefore, that Staff did not know, for a fact, the exact floodway boundary, and Mr. Vance replied "no." The Hearing Examiner asked if this information showed on any flood plain maps? Mr. Vance stated that it would in about a year as they are in the process of doing a restudy for the entire County. When they did the old flood plain maps, floodways were an option to the community. These are, however, no longer an option. When they do the restudy, a floodway automatically comes with it.

At this time public input was accepted. Roy Tucker confirmed that he owned the parcel located to the south of the subject property, and that his access was via Horne Lane. Mr. Tucker asked whether the District was going to begin construction of the fire station before Three Oaks Parkway is open? The Hearing Examiner indicated that this was part of what they had been discussing. They cannot begin construction until they have access to an improved roadway.

Mr. Tucker explained that the reason he was asking was that Horne Lane was very narrow, as was his driveway. In the past he has seen problems occur when construction of something began early, and he had ended up with problems in getting past construction equipment on this road. The Hearing Examiner noted that it might be possible for the Applicant to do some site clearing, or some preliminary site work, without a development order, but they could not begin construction. Mr. Tucker stated that he wanted to get some assurance that the road (Horne Lane) would be passable at all times. The Hearing Examiner asked Mr. Pavese if the Applicant would be able to begin any site development or construction, or get a development order, without subdivision approval. Mr. Pavese stated that the Applicant might be able to get an early work permit, however, he wasn't really familiar with the specifics of that type of permit to say whether they could get it or how much work it would allow. Because of the fact that this property was not subdivided in accordance with the County's regulations, he wasn't sure that even this type of privilege would be allowed. Preliminary site work was normally allowed when someone was in the process of having their development order application reviewed, etc.

Mr. Pavese clarified that, although the existing roadway was known as Horne Lane, the easement itself runs right through the property. He referred to Staff's Exhibit 2, pointing out that it did not actually go the south. Mr. Tucker's access to Horne Lane is via another recorded easement, which wasn't shown on this exhibit, but he thought it was shown on the survey. Mr. Tucker replied that his right-of-way (easement) went all the way up and made a "complete 90" [90-degree turn] into Horne Lane. Mr. Pavese indicated that this was correct. Mr. Tucker noted that Sweetwater Ranch had put this in a few years ago when they were running trucks in and out of this area. He indicated the "cut-off" across the subject property, and asked if they intended to change this cut-off, reroute it, etc.?

Chief Merrifield assured Mr. Tucker as well the Hearing Examiner that the District would do everything within their power to keep any of their contractors or anyone else under their control from blocking the roadway. They would not block Mr. Tucker's access, and would not park vehicles on the roadway.

He also advised that there would probably be some point when it would be appropriate for Mr. Tucker's access to be from Three Oaks Parkway. However, until that time, they have no intention of changing the roadway; as it is located outside of their proposed construction area. They would ensure that Mr. Tucker continued to have access, essentially just as he now had, and at all times. Mr. Tucker indicated that this was his main concern, and pointed out that the rescue units have been to his house a few times to take care of his wife. Additionally, he has a working citrus grove which is registered with three agencies. They haul fruit out, and chemicals and fertilizers in, etc. He needs to make sure that the road will remain open, as it has over all these years. Chief Merrifield stated that the Fire District wanted to be a good neighbor.

Dick Schweers, Chairman of the Board of Fire Commissioners for the Estero Fire Protection District, assured Mr. Tucker that they wanted to keep him as a friend and also to be a good neighbor. This is important to the District. A considerable amount of hours have been devoted to this project by volunteers and staff. They believe that the proposed facility is in a most appropriate location to serve the citizens of Estero. Their job deal in "seconds" and it is critical that they have good road access to reach their constituents. He hoped that the County would continue to work with them as further delays were not in the best interest of the community.

Chief Merrifield noted that it wouldn't make any sense to have a fire station if there wasn't a road; therefore, if LCDOT's estimated completion dates have been changed to the second or third quarter, the District will not start construction until well after the first of the year.

With regard to Revised Condition 2, the Hearing Examiner noted that she understood Staff's testimony and the Applicant's concerns and that she might modify the condition to indicate something such as "permitted within 150 feet, unless the HEC-2 model shows . . . , or 25 feet outside the designated flowway shown on the flood plain maps (when those maps became available)." If these flood plan maps became available while they were developing their plans, or had begun developing, she believed they still needed to be set back at least 25 feet from a known floodway boundary. The Hearing Examiner asked Staff if they had a comment or concern with this modification, and Mr. Pavese deferred to Mr. Vance. Mr. Vance remarked that, wherever the line is that's the line they will use.

Because the fire station will be located on the downstream side of the elevated roadway and culvert, he could probably move the line back toward the river without having a lot adverse effect on the property. He would not recommend that the Hearing Examiner require a 25-foot setback from the floodway boundary. The Hearing Examiner asked whether, if they were to move that line, they could move the line of development right up to the floodway line, and Mr. Vance replied "yes." He added that they would be able to fill all the way up to that line.

Mr. Fredyma referenced the requirements of LDC Chapter 6, noting that the Hearing Examiner needed to make a distinction between filling up to the floodway line versus the setback of structures from the floodway line. There would still be a separate setback for the latter purpose, even if they were allowed to fill up to the floodway line. It was important to keep anyone from filling in any area of the floodway. The Hearing Examiner stated her understanding of this point, and indicated that she would review Chapter 6 before modifying the condition.

Mr. Tucker asked Mr. Vance about the canal/drainage ditch which ran along side his property, along the Fire District's property, and then into the Estero River? Mr. Vance asked whether this was the Sweetwater Canal, and Mr. Tucker indicated that was correct, adding that it was his understanding that this was controlled by the Southwest Florida Water Management District. Was this canal going to be eliminated now that The Brooks no longer drains into it? The Hearing Examiner questioned whether this was a dedicated [drainage] easement? Mr. Vance noted that he was aware of the drainage canal that Mr. Tucker was referring to, but stated that he didn't know what the plans for it were. Mr. Tucker stated that his property drained into this canal, and the canal also ran along the Fire District's property. He was concerned about whether the canal was going to be eliminated, or was it going to be replaced with culverts? He pointed out that he would not be able to access Three Oaks Parkway without culverting this canal.

Chief Merrifield stated that he could only respond to this based on the preliminary road designs which he has seen. These plans indicate the relocation of this canal to the east side of Three Oaks Parkway. It will run up to the approximate location of the Estero River and then cross underneath the road at that point. This had also added to the District's concern, i.e., why the setback, inasmuch as the roadway would essentially serve as a "giant weir." There would not be a canal on their side of the roadway.

Mr. Tucker observed that, if this happened, he would lose all the drainage for pumping his groves. Several Staff members responded "no," and the Hearing Examiner explained that

they could not eliminate his drainage. Mr. Pavese noted that the existing drainage would have to be accommodated. Mr. Tucker stated that he had pumped into this canal for the past 15 years. If his grove flooded, he would lose his trees.

Ms. Wicks responded further to this issue, explaining that, during the permitting and design phases for the extension of Three Oaks Parkway, this would have been taken into consideration. Whatever type of permitted flowway/drainage Mr. Tucker had would have to be accommodated in the design of the road project, such as by placing some type of cross drainage under the road, etc. They would pick up whatever flow he was currently directing to the existing swale, and accommodate it in the new drainage design.

VII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Dick SCHWEERS, Chairman, Board of Fire Commissioners, Estero Fire Protection District, 22619 Forest View Dr., Estero, FL 33928

ADDITIONAL COUNTY STAFF:

1. John FREDYMA, Assistant County Attorney, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398

2. Elaine M. WICKS, Dept. of Transportation, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398

3. Brad VANCE, P.E. II, Division of Natural Resources Management/Environmental Services Department, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VI.):

For: NONE

Against: NONE

General:

1. Roy E. TUCKER, 9950 Horne Ln., Estero, FL 33928

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER DECISION:

For: NONE

Against:

1. Jim ANDERS, P. O. Box 870, Estero, FL 33928

General:

1. Mark S. KRZOS, % News-Press, 28340 Trails Edge Blvd., Bonita Springs, FL 34134

VIII. LEGAL DESCRIPTION:

See Exhibit 'A' (scanned legal).

IX. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any County Commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

X. APPEALS:

This Decision becomes final on the date rendered. A Hearing Examiner Decision may be appealed to the Circuit Court in Lee County. Appeals must be filed within thirty (30) days of the date the Hearing Examiner Decision is rendered. Appeal is by Petition for Writ of Certiorari in accordance with Lee County Land Development Code Section 34-146.

XI. COPIES OF TESTIMONY AND TRANSCRIPTS:

A. A complete verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

This decision is rendered this 26th day of July, 2000. Copies of this decision will be delivered to the offices of the Lee County Board of County Commissioners.

DIANA M. PARKER
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/479-8100
Facsimile: 941/479-8106



EXHIBIT II-A-1
LEGAL DESCRIPTION

RECEIVED
COUNTY CLERK
JUL - 3 AM 9:13

PARCEL 7A:

THE WEST 120.00 FEET OF THE EAST 230.00 FEET OF THAT PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, LYING SOUTH OF THE CENTERLINE OF THE ESTERO RIVER,

AND;

PARCEL 7A-1:

THE EAST 110.00 FEET OF THAT PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, LYING SOUTH OF THE CENTERLINE OF THE ESTERO RIVER,

AND;

PARCEL 7B:

THE WEST 120.00 FEET OF THE EAST 230.00 FEET OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA,

AND;

PARCEL 7B-1:

THE EAST 110.00 FEET OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA,

AND;

PARCEL 8:

THAT PART OF LOT C-30 OF FLORIDA GULF COAST LAND COMPANY'S SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 1 AT PAGE 59 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LYING EAST OF A LINE RUNNING FROM THE SOUTHEAST CORNER OF SAID LOT C-30, NORTHWESTERLY TO A POINT ON THE NORTH LINE OF SAID LOT C-30, SAID POINT BEING 230.00 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT C-30.

Applicant's Legal Checked
by Jm 7/3/2000

1400 Colonial Blvd., Suite 250, Fort Myers, Florida 33907 • (941) 278-1992 • (941) 643-3050 Naples • (941) 278-0922 Fax