

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM  
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 11-18  
(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: COMPREHENSIVE PLANNING

SECONDARY KEYFIELD

DESCRIPTOR: PLANNING

OTHER KEYFIELD

DESCRIPTOR: LAND USE PLANNING

ORDINANCE DESCRIPTION: Commercial Site Loc Standard Exceptions in  
the Mixed-Use Overlay

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: 89-02 AMENDMENT #2: \_\_\_\_\_

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: \_\_\_\_\_ ; REPEAL #3: \_\_\_\_\_

REPEAL #2: \_\_\_\_\_ ; REPEAL #4: \_\_\_\_\_

(Others Repealed: List All That Apply): \_\_\_\_\_

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: \_\_\_\_\_

KEYFIELD 1 CODE: \_\_\_\_\_ KEYFIELD 2 CODE: \_\_\_\_\_

KEYFIELD 3 CODE: \_\_\_\_\_

**LEE COUNTY ORDINANCE NO. 11-18**  
(Commercial Site Location Standard Exceptions in the Mixed-Use Overlay)  
(CPA2010-00014)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT PERTAINING TO THE COMMERCIAL SITE LOCATION STANDARD EXCEPTIONS IN THE MIXED-USE OVERLAY (CPA2010-00014) APPROVED DURING A PUBLIC HEARING DURING THE COUNTY'S 2010/2011 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT AND MAP; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on April 25, 2011; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on June 13, 2011. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to the Commercial Site Location Standard Exceptions in the Mixed-Use Overlay Land Use Category (CPA2010-00014) to the reviewing agencies set forth in 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the June 13, 2011 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on September 28, 2011, the Board held a public hearing and adopted the proposed text amendments to the Lee Plan set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

## SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "Commercial Site Location Standard Exceptions in the Mixed-Use Overlay Land Use Category Ordinance (CPA2010-00014)."**

## SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, known as CPA2010-00014 (Commercial Site Location Standard Exceptions in the Mixed-Use Overlay Land Use Category).

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan.

The substance of the amendment attached as Exhibit 1 hereto:

- (1) Amends Lee Plan Objective 4.3.1 to reference Land Development Code Chapter 32: Compact Communities;
- (2) Adopts Lee Plan Policy 4.2.7 and revises Objective 6.1 to exempt commercial development within the Mixed Use Overlay from the site location standards of Lee Plan Policy 6.1.2 when implementing the provisions of Chapter 32;
- (3) Amends Lee Plan Map 1, Page 6 "Mixed Use Overlay" to match the Lehigh Acres Downtown Specialized Mixed-Use Node.

The substance of the amendment is set forth in the attached Exhibit "A".

## SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, and amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner Tammara Hall, who moved its adoption. The motion was seconded by Commissioner John Manning. The vote was as follows:

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DONE AND ADOPTED this 28th day of September 2011.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Marcia Wilson  
Deputy Clerk

BY: Frank Mann  
Frank Mann, Chair

DATE: 9/28/11



Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office

Exhibit A: Amendments to Lee Plan Policies 4.2.7, 6.1.2, 4.3.1, Objective 6.1 and Map 1, Page 6 "Mixed Use Overlay" (Adopted by BOCC 9-28-11)

## EXHIBIT A

**Note:** Text depicted with underscores represents additions to the Lee Plan. ~~Strike-through~~ text represents deletions from the Lee Plan.

**Policy 4.2.7:** Development located in the Mixed-Use Overlay applying Chapter 32 - Compact Communities of the Lee County Land Development Code will not be subject to the site location standards listed in Policy 6.1.2 and 6.1.2.7.

**OBJECTIVE 6.1:** ~~All~~dDevelopment approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan.

**Policy 6.1.2:** ~~All~~cCommercial development must be consistent with the location criteria in this policy except where specifically excepted by this policy or by Policy 6.1.7, ~~or in Lehigh Acres by Policy 32.2.4 Policies 1.8.1 through 1.8.3,~~ or located in the Mixed Use Overlay utilizing Chapter 32 – Compact Communities of the Land Development Code.

No changes in numbers 1 through 6.

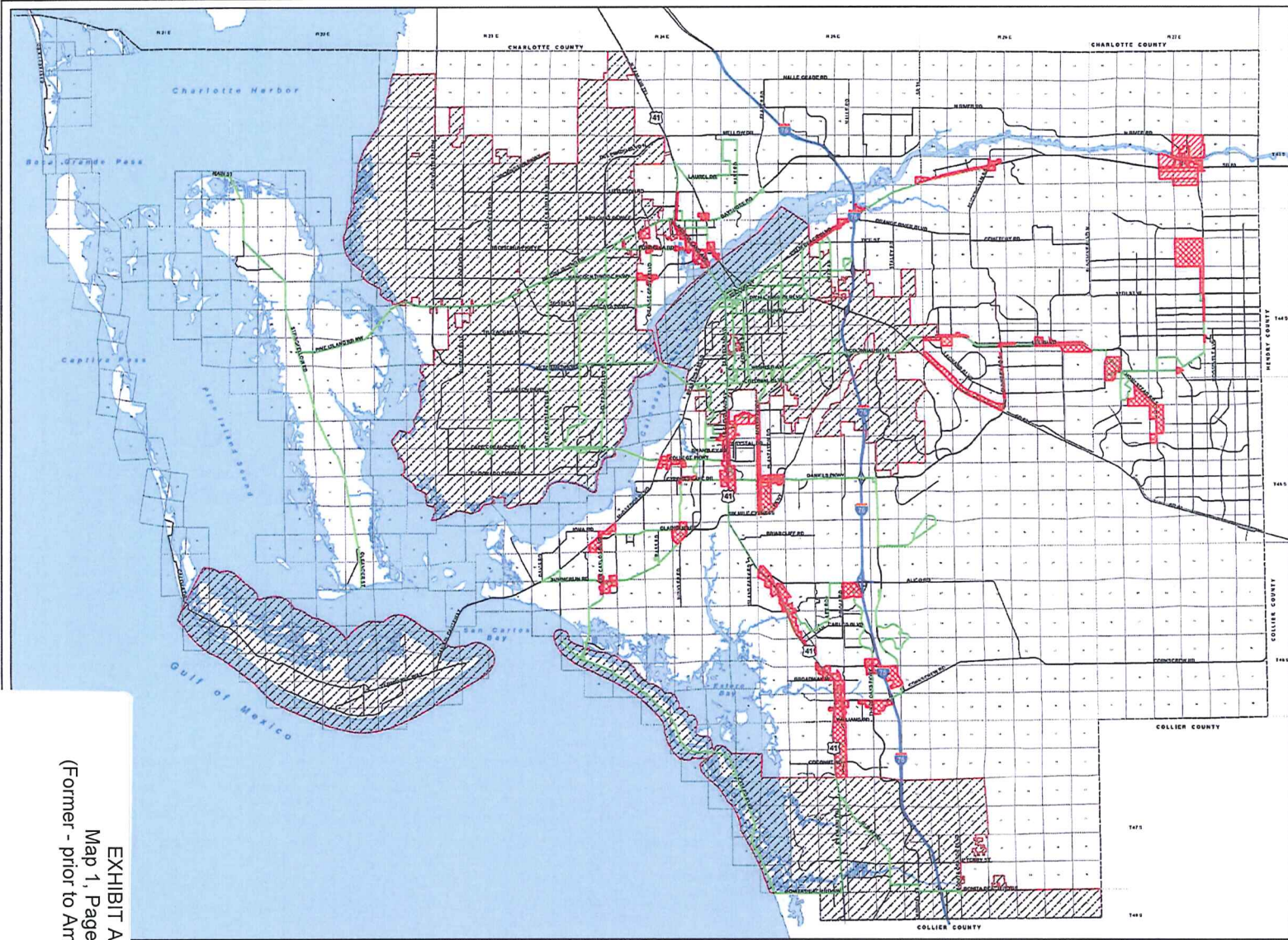
7. The location standards specified in Subsections 1-4 will apply to the following commercial developments: shopping centers; free-standing retail or service establishments; restaurants; convenience food stores; automobile dealerships; gas stations; car washes; and other commercial development generating large volumes of traffic. These location standards will not apply to the following: banks and savings and loan establishments without drive-in facilities; hotels or motels; marinas; general, medical, or professional offices; industrial, warehouse, or wholesale development; clubs, as defined in Chapter 34 of the Land Development Code (commercial clubs excepted); and other similar development. The distinction in this subsection between these two major types of commercial uses does not apply in Lehigh Acres, where commercial uses are permitted in accordance with ~~Policies 1.8.1 through 1.8.3~~Policy 32.2.4. These location standards will not apply to property in the Mixed Use Overlay when Chapter 32 - Compact Communities of the Land Development Code is applied.
8. No change.
9. The location standards in this policy are not applicable in the Interchange land use category, or in Lehigh Acres where commercial uses are permitted in accordance with Goal 32, within the Captiva community in the areas identified by Policy 13.2.1, or within the Commercial Future Land Use category when appropriate site development regulations are incorporated into the planned development, ~~or in Area 9 of the University Community~~

Conceptual Master Plan, or within the Mixed Use Overlay when utilizing Chapter 32 - Compact Communities of the Land Development Code.

Lee Plan Policy 4.3.1 states that the county will make amendments to the Land Development Code to create a mechanism to implement the development form criteria listed in Policies 4.3. 2 through 4.3.7 under Objective 4.3. On June 8, 2010 the Land Development Code was amended to include Chapter 32 - Compact Communities which satisfied the requirements of Lee Plan Policy 4.3.1. Since these amendments were completed, the Lee Plan language in Policy 4.3.1 should be revised.

**POLICY 4.3.1:** ~~During 2008, adopt amendments to Developments within the Mixed Use Overlay conforming to Chapter 32 - Compact Communities of the Land Development Code, will be deemed as meeting the principles listed in this objective, that support New Urbanism principles and address issues including: building placement, volume, and facade; pedestrian amenity requirements; parking location and requirements; open space and buffer requirements; creating inviting, human-scale streetscapes; and concurrent phasing of residential and non-residential uses. The amendments will include diagrams and visual examples that explain concepts contained in the regulations and that show clearly examples of elements that are desirable and those that are not. Minimum densities and non-residential Floor Area Ratios (FAR's) will be established.~~



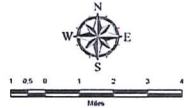


# SPECIAL TREATMENT AREAS

## Mixed Use Overlay

### Legend

- Mixed Use Overlay**
- Mixed Use Overlay
- See Also Specific Community Plan Policies
- Transit Route
- City Limits



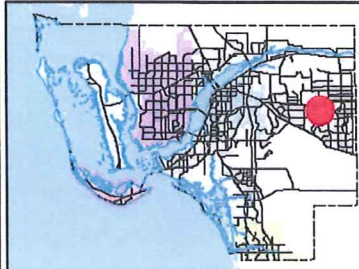
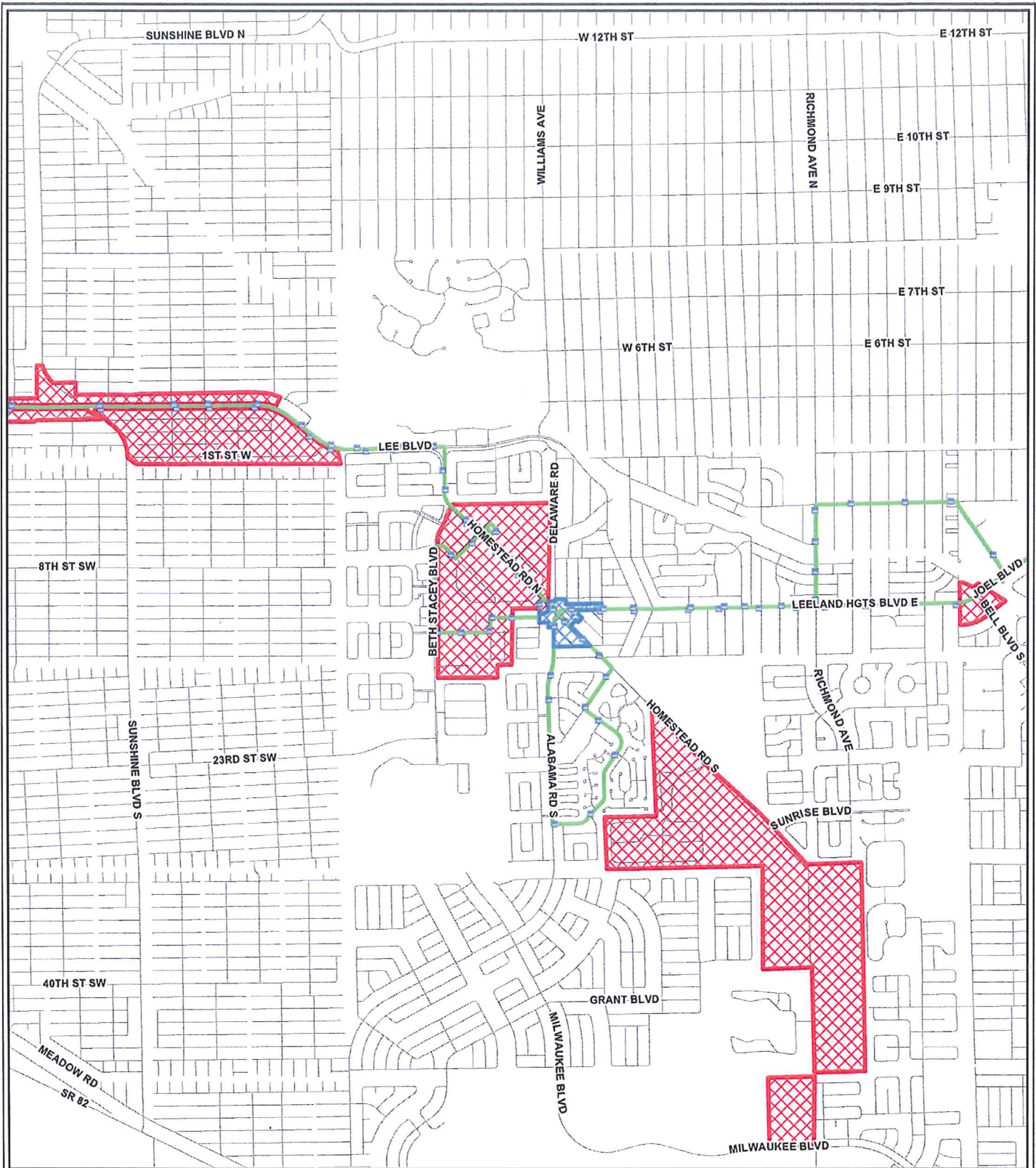
Map Generated: April 2011  
 City Limits and Transit Routes  
 current to date of map generation

Adoption Date: May 26, 2007  
 Effective Date: August 13, 2007  
 Latest Effective Date: January 11, 2011  
 Adopted by Ordinance No. 07-15  
 Amended by Ordinance Nos. 09-07,  
 09-08, 10-33

**Lee Plan Map 1**  
**Page 6 of 8**

EXHIBIT A  
 Map 1, Page 6  
 (Former - prior to Amendment)





# CPA2010-00014 - MIXED USE OVERLAY





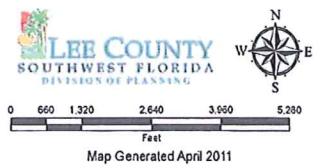
-  Mixed Use Overlay
-  Overlay Expansion
-  LeeTran Bus Route
-  LeeTran Bus Stop

EXHIBIT A  
 Map 1, Page 6  
 (Adopted by BOCC 9-28-11)



STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing, is a true and correct copy of Ordinance No. 11-18, adopted by the Board of Lee County Commissioners, at their meeting held on the 28<sup>th</sup> day of September, 2011 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 6<sup>th</sup> day of October, 2011.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By:

Marcia Wilson  
Deputy Clerk

