

LEE COUNTY ORDINANCE NO. 16-16
(RSW Noise Zone Update)
(CPA2016-00004)

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 RSW NOISE ZONE UPDATE (CPA2016-00004) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF "THE LEE PLAN"; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; 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 June 27, 2016; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on August 3, 2016. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to RSW Noise Zone Update (CPA2016-00004) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the August 3, 2016 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on October 5, 2016, the Board held a public hearing and adopted the proposed amendment 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 map and 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 "RSW Noise Zone Update Ordinance (CPA2016-00004)."**

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, which updates Lee Plan Map 1, Page 5 of 8 Titled "Special Treatment Areas" (Airport Noise Zone Map) and related Lee Plan Policy 1.7.1, known as RSW Noise Zone Update (CPA2016-00004).

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as 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: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIVE: 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 SIX: 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 SEVEN: 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 EIGHT: 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, an 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 Manning, who moved its adoption. The motion was seconded by Commissioner Hamman. The vote was as follows:

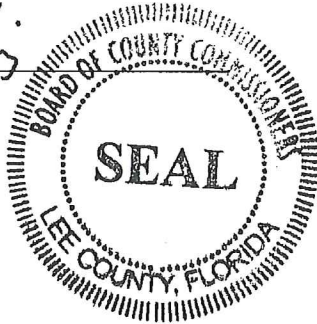
| | |
|---------------------|-----|
| John E. Manning | Aye |
| Cecil L Pendergrass | Aye |
| Larry Kiker | Aye |
| Brian Hamman | Aye |
| Frank Mann | Aye |

DONE AND ADOPTED this 5th day of October 2016.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: *Linda Doggett*
Deputy Clerk



BY: *Franklin B. Mann*
Franklin B. Mann, Chair

DATE: 10/5/2016

Approved as to Form for the
Reliance of Lee County Only

[Signature]
County Attorney's Office

Exhibit A: Adopted revisions to text and Lee Plan Map 1, Page 5 of 8 "Special Treatment Areas" (Airport Noise Zone Map) (Adopted by BOCC October 5, 2016)



EXHIBIT A

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

CPA2016-00004 RSW Noise Zone Update

Policy 1.7.1: Airport Noise Zones

The proposed amendment to Policy 1.7.1 is shown below in strikethrough/underline format:

POLICY 1.7.1: The Airport Noise Zones cover areas subject to varying levels of airport related noise. ~~By 2006 and every 5 years thereafter,~~ In conformance with Airport Noise Compatibility Planning outlined in Title 14 of the Code of Federal Regulations (CFR) Part 150, the Port Authority will update the aviation forecasts and associated noise contours for the Southwest Florida International Airport when warranted by operational changes and will initiate an amendment to the Airport Noise Zone Overlay Map to reflect the findings of this study the updates as applicable. In addition to meeting the requirements of the underlying Future Land Use Map categories, properties within the Noise Zone Overlay must meet the following:

Airport Noise Zone A/Airport Property is limited to uses that are compatible with airports and air commerce, including but not limited to those necessary to provide services and convenience goods to airline passengers, those generally associated with airport operation, and related development. Upon disposition of any Port Authority property, the land is then subject to the Noise Zone as applicable based on the most recent Composite Day-Night Average Noise Level (DNL) Noise Contours map for Southwest Florida International Airport approved by the Federal Aviation Administration.

Airport Noise Zone B does not permit any residential units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes. However, residential units, including mobile or manufactured homes, that were lawfully existing as of June 27, 2000 will be treated as legally permitted uses and may be replaced with a new mobile or manufactured home or conventional single family construction as long as such replacement would be otherwise allowed by the Land Development Code. However, an existing conventional home may not be replaced with a new mobile or manufactured home. One conventional single family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. Airport Noise Zone B requires formal notification as provided for in the Land Development Code. ~~through recording of the Airport Noise Zone in the official County records of potential noise and over flights and applies to all development, both existing and new, within the zone.~~

Airport Noise Zone C and D allows existing and new construction and land uses as would otherwise be permitted by the Land Development Code. However, ~~this~~ These



~~zones requires formal notification as provided for in the Land Development Code through recording of the Airport Noise Zone in the official County records of potential noise and over flights and applies to all development, both existing and new, within the zone.~~






~~Airport Noise Zone D allows existing and new construction and land uses as would otherwise be permitted by the Land Development Code. However, this zone requires formal notification through recording of the Airport Noise Zone in the official County records of potential noise and aircraft over flights associated with future training activity and applies to all development, both existing and new, within the zone.~~

The proposed changes do not create any substantive differences to this policy. The added reference to Title 14 of the Code of Federal Regulations simply notes the authority under which the noise study is conducted. The change to Zone A clarifies the status of any land that is no longer owned by the Port Authority in regards to Noise Zone regulations. The changes to Zones B, C, and D do not change any of the existing permitted uses for any of the zones. The proposed changes simplify the language and preclude potential future regulatory conflicts by removing a specific process and replacing it with a general requirement. The process is provided for in the Lee County Land Development Code. The applicant proposed to remove the reference to training activity in the language for Zone D making the description identical to that of Zone C; staff has combined the descriptions of the two zones in order to reduce redundancy within the Lee Plan.



SPECIAL TREATMENT AREAS

Legend

-  Airport Noise Zone A
-  Airport Noise Zone B
-  Airport Noise Zone C
-  Airport Noise Zone D
-  City Limits

CPA2016-00004
EXISTING

 **LEE COUNTY**
SOUTHWEST FLORIDA
DIVISION OF PLANNING

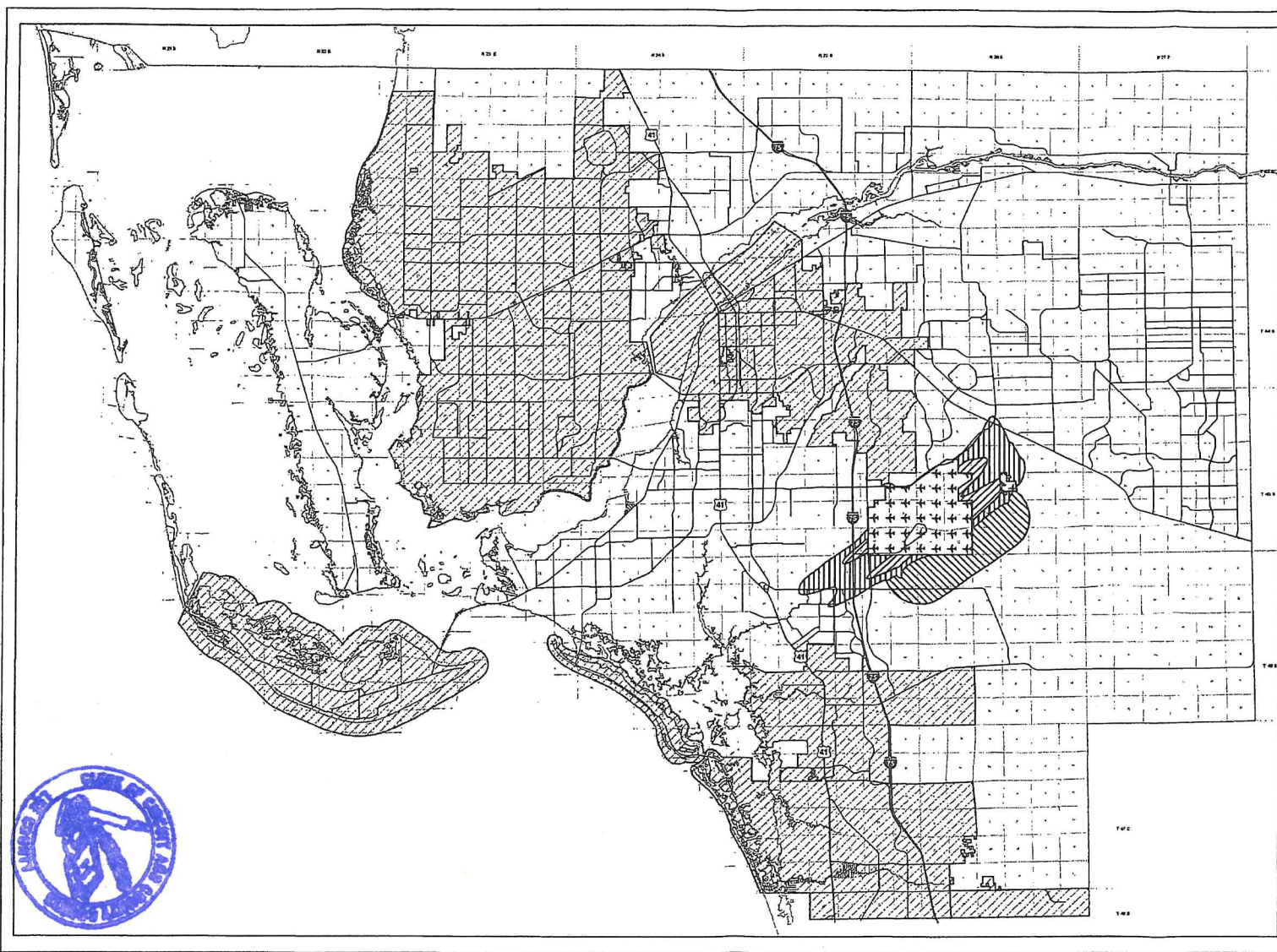


Map Generated: May 2018

City Limits current to date of map generation






Last Amended: August 13, 2007
Amended by Ordinance No.
00-22, 03-15, & 07-09

Lee Plan Map 1
Page 5 of 8



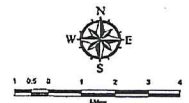
SPECIAL TREATMENT AREAS

Legend

-  City Limits
- NOISE_ZONE**
-  Airport Noise Zone A
-  Airport Noise Zone B
-  Airport Noise Zone C
-  Airport Noise Zone D

CPA2016-00004
PROPOSED

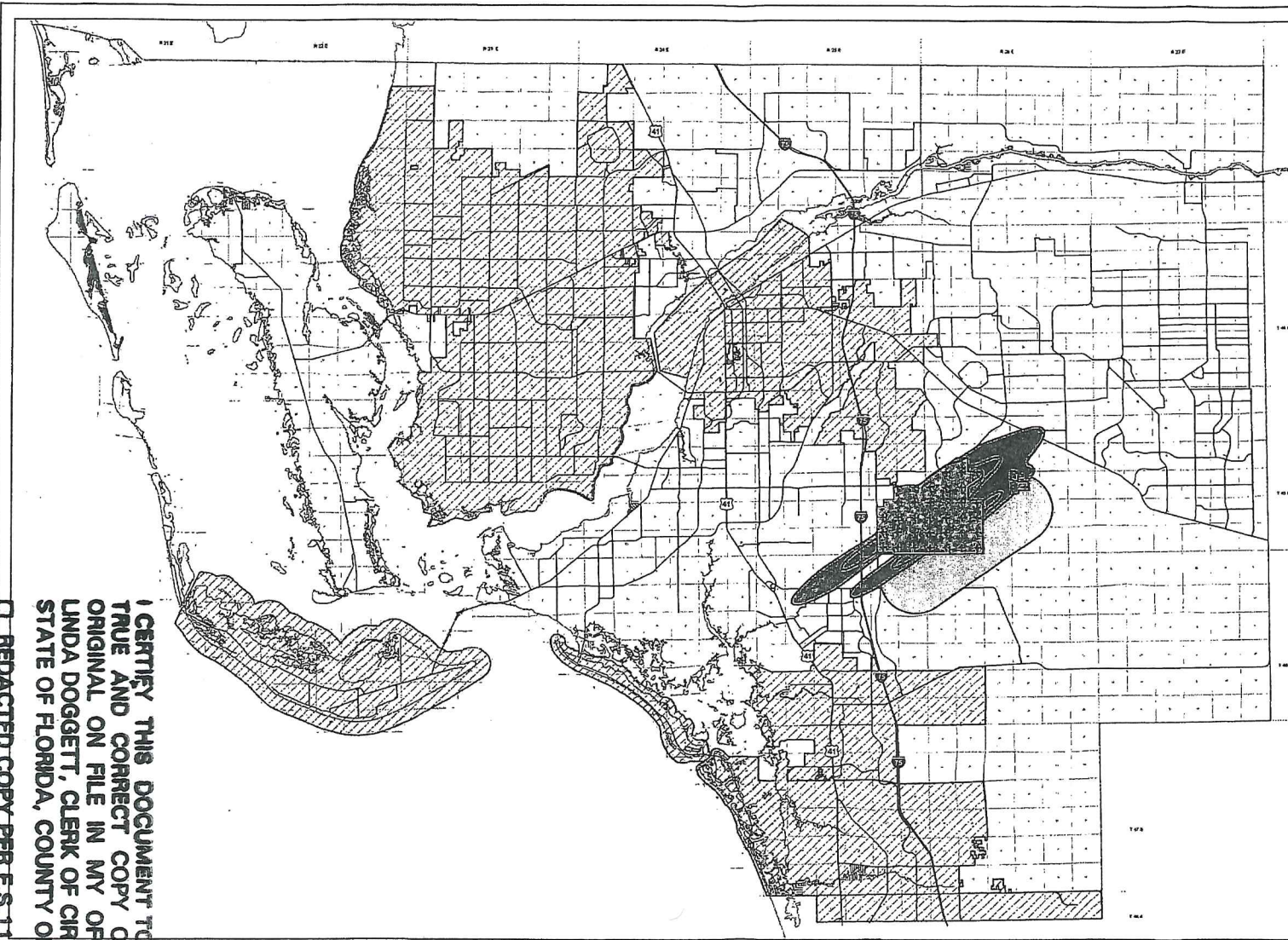
 **LEE COUNTY**
SOUTHWEST FLORIDA
DIVISION OF PLANNING



Map Generated: June 2016
City Limits current to date of map generation

Last Amended: August 13, 2007
Amended by Ordinance No.
00-22, 03-15, & 07-09

Lee Plan Map 1
Page 5 of 8



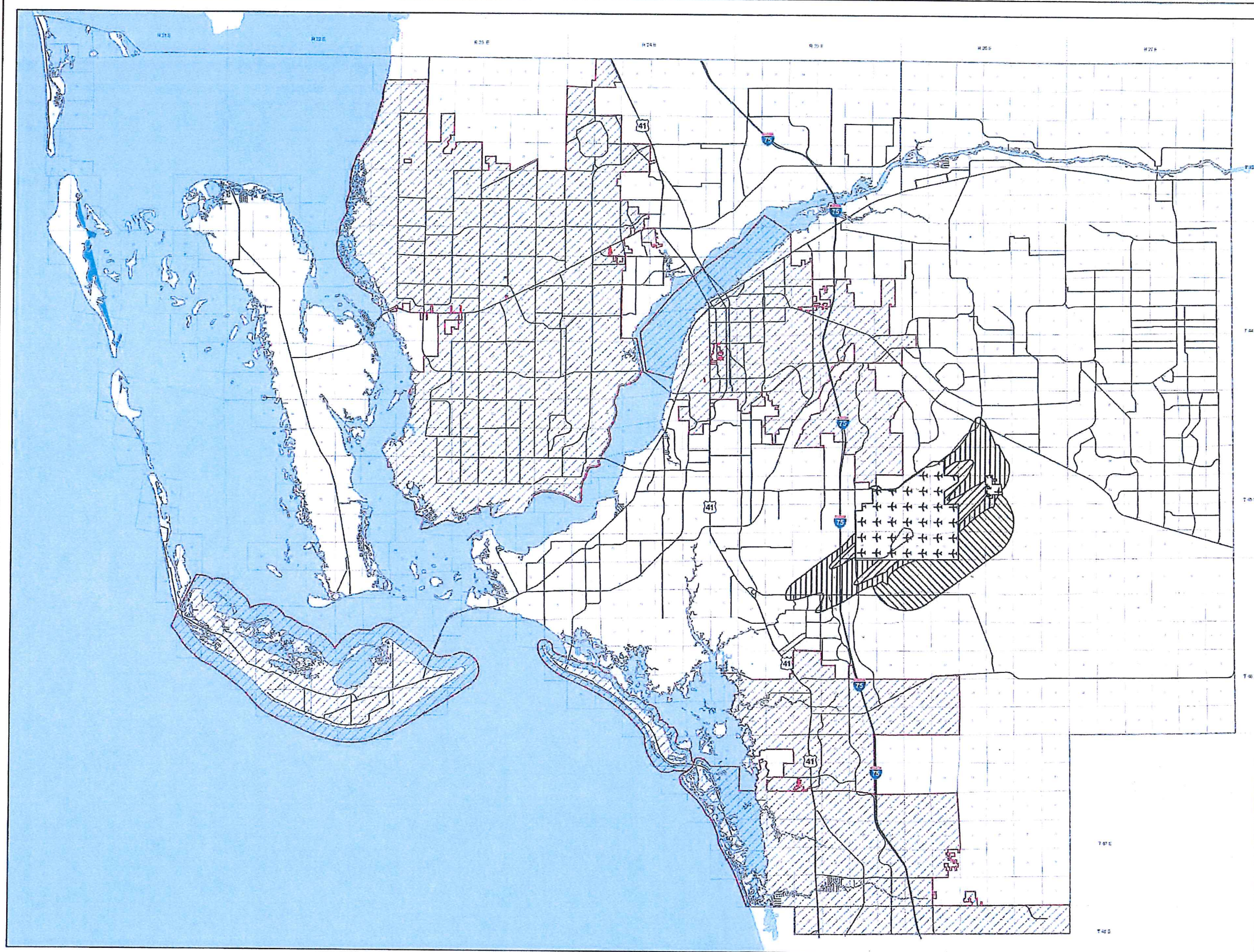
I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE UNDA DOGETT, CLERK OF CIRCUIT COURT, STATE OF FLORIDA, COUNTY OF LEE

REDACTED COPY PER F.S. 119.071

BY: *Hanna King*
DATED: *10/10/2016*








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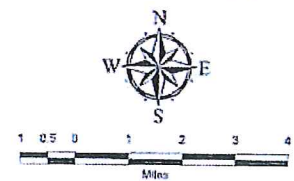


SPECIAL TREATMENT AREAS

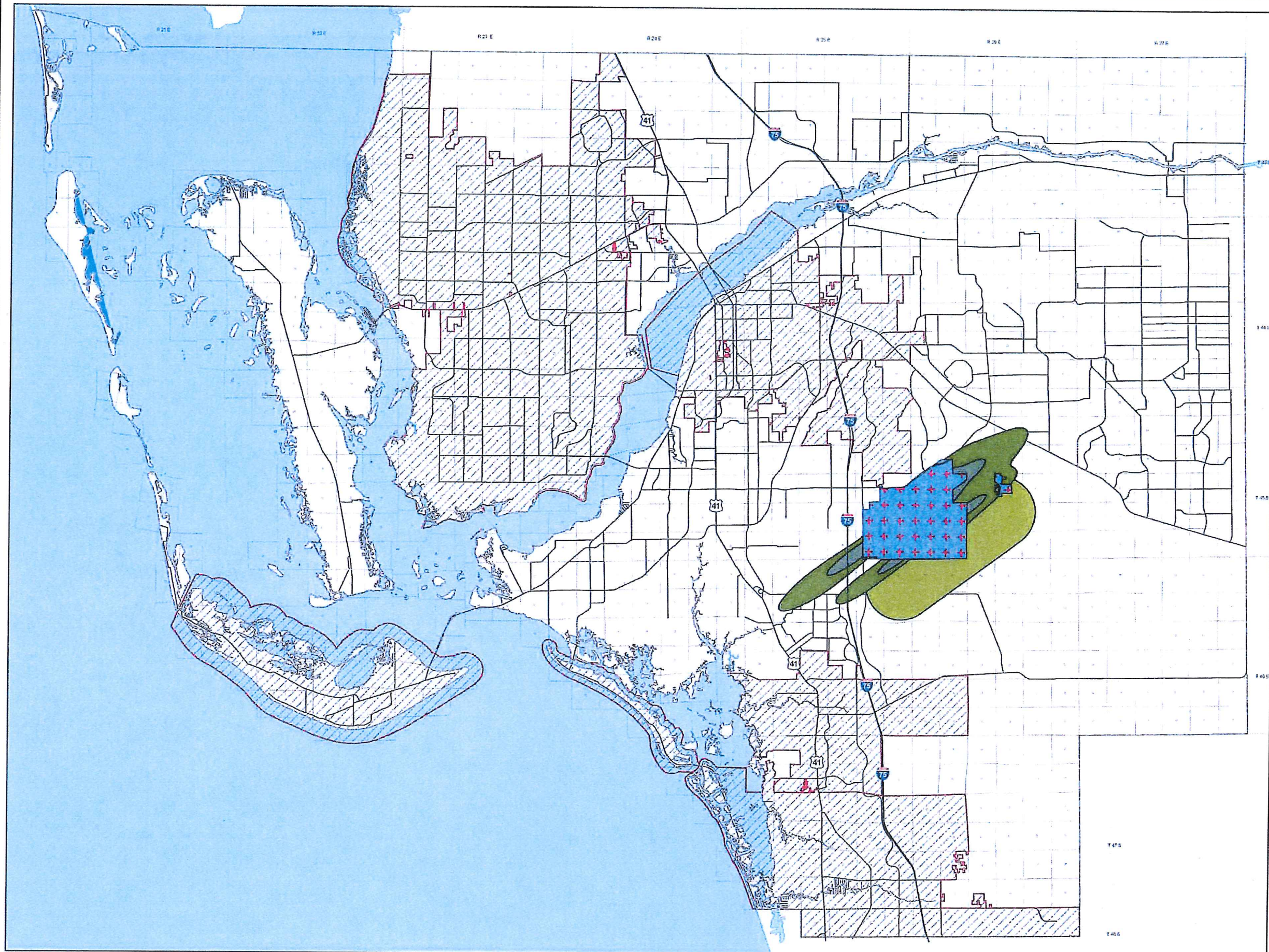
Legend

-  Airport Noise Zone A
-  Airport Noise Zone B
-  Airport Noise Zone C
-  Airport Noise Zone D
-  City Limits

CPA2016-00004
EXISTING








Map Generated: May 2016
City Limits current to date of map generation
Last Amended: August 13, 2007
Amended by Ordinance No. 00-22, 03-15, & 07-09

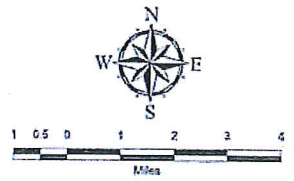


SPECIAL TREATMENT AREAS

Legend

-  City Limits
- NOISE_ZONE**
-  Airport Noise Zone A
-  Airport Noise Zone B
-  Airport Noise Zone C
-  Airport Noise Zone D

**CPA2016-00004
PROPOSED**



Map Generated: June 2016
 City Limits current to date of map generation
 Last Amended: August 13, 2007
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 00-22, 03-15, & 07-09



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 10, 2016

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Theresa King

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy for Lee County Ordinance No. 16-16, which was filed in this office on October 10, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

RECEIVED

By mmmiller at 4:20 pm, Oct 10, 2016