**SPECTRUM ENGINEERING, INC.**
6244 St. Andrews Cir N
Fort Myers, FL 33919
239-277-1182
*www.SpectrumEngineering.net*
EB4618

November 12, 2020

Lee County Zoning Section
1500 Monroe Street
Fort Myers, Florida 33901

Attn: Peter C. Blackwell, AICP

Re: REZ2020-00007
22 Beth Stacey Blvd.

Dear Mr. Blackwell:

We have reviewed the comments in your letter of September 3, 2020, and offer the following responses:

*1. Legal Description:*
*Under Section 34-202.(a) of the Land Development Code, the Boundary Survey must be certified to Lee County. The survey must be tied to the state plane coordinate system for the Florida West Zone. The title insurance policy must be accompanied by an affidavit of no change covering the time period between the issuance of the policy and the date of submission.*
A corrected boundary survey accompanies this letter.

A Certificate of No Change prepared by the applicant's attorney John Jay Watkins accompanies this letter.

*2. Zoning:*
*a. Please provide a map of the Mixed Use Overlay for the subject property and the surrounding area.*
The Mixed Used Overlay for East Fort Myers published by Lee County Economic Development Office and Page 6 of 7 Mixed Use Overlay of the Lee Plan Future Land Use Map, both accompany this letter.

*b. Please provide a map showing the transit route and transit pedestrian shed for the area.*
The LeeTran System Map and a transit pedestrian shed map, prepared following consultation with LeeTran planning manager Levi McCollum, both accompany this letter.

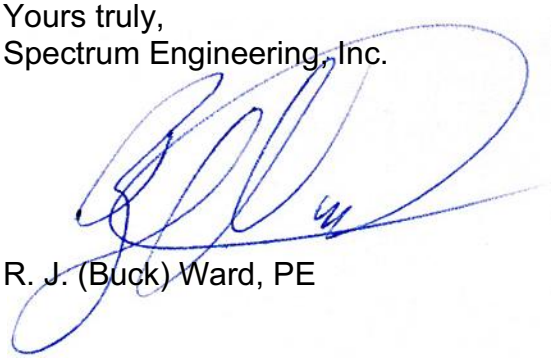
*c. Please provide a narrative addressing the issue of "leapfrog" development in that there are undeveloped areas between the subject property and the nearest commercial areas. The narrative must also address the impact of commercial traffic having to travel through residential areas.*

A separate narrative addressing these issues accompanies this letter.

Accompanying this letter please find the following:

- A corrected boundary survey
- A Certificate of No Change
- A map of the Lee County Economic Development Office Mixed Use Overlay for East Fort Myers
- Lee Plan Future Land Use Map, page 6 of 7, Mixed Use Overlay
- LeeTran System Map
- A transit pedestrian shed map
- A narrative addressing the issues of "leapfrog" development and traffic through residential areas

Yours truly,
Spectrum Engineering, Inc.



R. J. (Buck) Ward, PE

22 Beth Stacey Blvd.
REZ2020-00007

**Additional Narrative**
Requested by Zoning staff Peter Blackwell

*c. Please provide a narrative addressing the issue of "leapfrog" development in that there are undeveloped areas between the subject property and the nearest commercial areas. The narrative must also address the impact of commercial traffic having to travel through residential areas.*

The Central Urban land use category in the Lee Plan encourages future development to be mixed-use. The Lee Plan, regarding properties in the Mixed Use Overlay within which the subject property lies, ***strongly*** encourages property to be developed with two or more of the following uses: residential, commercial including office, and light industrial (including research and development use). The requested C-2 zoning permits mixed uses. The current zoning of the property, RM-2, does not permit mixed uses. This is true also of nearby undeveloped properties that are zoned RM-2. They are not compatible with the Goals, Policies and Objectives of the Lee Plan. The Lee Plan does not cite "leapfrogging" as a consideration in determining whether or not properties in the area should remain incompatible with the provisions of the Lee Plan. Rezoning to C-2 promotes compact growth patterns to contain urban sprawl.

The subject property lies within a designated commercial area, that is, the Commercial area of the Commercial Overlay Zones on the Lehigh Acres Community Plan. The adjacent property to the south is zoned CF and is developed. The nearest property to the north, 128 Beth Stacey Boulevard, was rezoned from RM-2 to C-2 on November 4, 2020, the same rezoning request as the subject property. Refer to REZ2019-00021. The Staff Report for that case contains the following statements:

"Policy 5.1.5 of the Lee Plan intends to protect the existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of residential development. The nearest residential uses are separated by Beth Stacey Boulevard to the west and are separated by a canal to the east... Staff finds the request consistent with Policy 5.1.5."

"Policy 6.1.4 of the Lee Plan requires that commercial uses be approved only when compatible with adjacent existing and proposed land uses as well as existing and programmed services and facilities. The subject property is located on an arterial roadway, and in an urban area of Lehigh Acres. Staff finds that the request is consistent with Policy 6.1.4."

"Policy 6.1.7 of the Lee Plan prohibits commercial developments from locating in a way that opens new areas to premature, scattered, or strip development. Development of the subject property as a commercial use will not open new areas to premature, scattered, or strip development, as it is located in an urban and developed area of the County. Staff finds this request consistent with Policy 6.1.7."

"This property is surrounded by a mixture of residential and commercial uses which is consistent with this rezoning request.'

REZ2019-00021, cited above, was recommended by the Hearing Examiner for approval of rezoning to C-2. The title page of the Hearing Examiner Recommendation in that case contains the following remarks: "The proposed rezoning permits a mix of uses consistent with the Mixed Use Overlay designation. Allowing an array of uses furthers the community vision for Lehigh Acres." Further, in the body of the recommendation, the Hearing Examiner states "The requested C-2 district allows mixed use development consistent with area development patterns."

The Board of County Commissioners approved the rezoning of 128 Beth Stacey Blvd on November 4, 2020. The resolution, Z-20-026, in its Findings and Conclusions section states that that property "Is compatible with existing and planned uses in the surrounding area. *See* Lee Plan Objective 2.1, 11.1, Policies 1.1.3, 2.1.1, 5.1.5, 6.1.4, 11.2.4;"

The rezoning of 128 Beth Stacey Boulevard to C-2 makes the question of leapfrogging moot.

A development plan has not yet been created for this property and is not mandated for this conventional rezoning process. Without specific uses and intensities a standard traffic impact analysis cannot be performed. When a plan to develop the property is proposed, the Lee County Land Development Code will require a traffic impact statement to be prepared and any impacts that would cause Beth Stacey Boulevard to fall below its level-of-service standard would be required to be removed or mitigated or the development would not be permitted.

Beth Stacey Boulevard is a two-lane arterial road that travels past existing residential developments, rather than through them. It already carries traffic to and from commercial areas located elsewhere. Requiring the subject property to be developed as an apartment complex or condominium as dictated by its existing RM-2 zoning will not change this. If this property were to be developed in accordance with its present RM-2 zoning, the peak traffic generated by that multi-family development would tend to coincide with the peak traffic times of the arterial roadway Beth Stacey Blvd. A mixed use development could tend to soften this peak hour impact since the peak traffic wouldn't necessarily be generated by people leaving for work in the morning and arriving home from work in the afternoon. This is already a problem in Lehigh Acres overall which is one of the reasons why the Lee Plan promotes mixed use development and commercial uses in this area.

Traffic impacts can't be determined definitively at this point, but impacts generated by development of the property as permissible under the C-2 zoning could actually be lower than if it were to be developed under the existing RM-2 zoning. Regarding the next property to the north the Hearing Examiner stated: "The property's placement along an arterial road with substantial urban services renders it appropriate for commercial and mixed-use development." and "Beth Stacey Boulevard is a county-maintained arterial road bordering the site to the west. Unlike many Lehigh arterials, Beth Stacey Boulevard is not a constrained road."

# JOHN JAY WATKINS, P.A.

**Attorney and Counselor At Law**
150 South Main Street
P.O. Box 250
LaBelle, Florida 33975
Telephone 863-675-4424
Facsimile 863-675-4521
Email: jw@jjwlaw.com


September 21, 2020

Lee County Board of County Commissioners
Department of Community Development
P.O. Box 398
Fort Myers, FL 33902

IN RE: Certificate of No Change for 22 Beth Stacey Blvd., Lehigh Acres, FL
REZ2020-00007

Dear Honorable Commissioners:

I have examined the public records of Lee County, Florida, through July 10, 2020, regarding the real property described as:

> A tract or parcel of land lying in Section 31, Township 44 South, Range 27 East, Lee County, Florida, being more particularly described as follows: Commencing at the intersection of the Northerly right-of-way line of Woodward Court and the Easterly right-of-way line of Beth Stacey Boulevard, as shown on the plat of Parkwood III, Section 31, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, Lee County, Florida, recorded in Plat Book 28, at Page 94, of the Public Records of Lee County, Florida; thence South 00° 20' 28" West, a distance of 60.00 feet, to the Southerly right-of-way line of Woodward Court, and the Point of Beginning of a parcel of land herein described; thence North 89° 45' 00" East, along Woodward Court, a distance of 200.01 feet, to the Westerly right-of-way line of Yellowtail Canal Extension; thence South 00° 20' 28" West, along said Yellowtail Extension, a distance of 789.09 feet, to the South Section line of said Section 31; thence South 89° 45' 00" West, along the South Section line, a distance of 200.01 feet, to the Easterly right-of-way line of Beth Stacey Boulevard; thence North 00° 20' 28" East, along Beth Stacey Boulevard, a distance of 789.09 feet to the Point of Beginning.

I issued Owner's Title Insurance Policy No. OF6-8766561 as agent for Old Republic Title Insurance Company, Inc., with an effective date of April 28, 2020, for the above-described property, a copy of which is attached hereto.

IN RE: Certificate of No Change for 22 Beth Stacey Blvd., Lehigh Acres, FL
REZ2020-00007

I hereby certify that there has been no change in the ownership or documents affecting title to the above described real property in the Lee County Official Records between April 28, 2020 and July 10, 2020.

Please call if I may be of further assistance in this matter.

Respectfully submitted,

John Jay Watkins

REZ2020-00007 Lee County ePlan Additional Info Dated 11-12-2020



# OWNER'S POLICY OF TITLE INSURANCE

# OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

**Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.**

## COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Florida corporation (the "Company") insures, as of Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
   (a) A defect in the Title caused by
      (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
      (ii) failure of any person or Entity to have authorized a transfer or conveyance;
      (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
      (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
      (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
      (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
      (vii) a defective judicial or administrative proceeding.
   (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
   (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (a) the occupancy, use, or enjoyment of the Land;
   (b) the character, dimensions, or location of any improvement erected on the Land;
   (c) the subdivision of land; or
   (d) environmental protection

   if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce but only to the extent of the violation or enforcement referred to in that notice.

*(Covered Risks continued)*

*In Witness Whereof,* OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory of the Company.

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

A Stock Company

400 Second Avenue South, Minneapolis, Minnesota 55401

(612) 371-1111

By: C Monroe, President

Attest: David Wold, Secretary

**SERIAL**

**OF6 - 8766561**

REZ2020-00007 Lee County ePlan Additional Info Dated 11-12-2020

# OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

## OWNER'S POLICY

## Schedule A

Policy No.: **OF6-8766561**
Agent's File Reference: **HOLDING OUTFIT**
Date of Policy: **04/28/20** **03 : 18 . p.m.**
Amount of Insurance: **$185,000.00**
Premium: **$585.00**

Address Reference: **22 Beth Stacey Blvd.**
**Lehigh Acres, Florida 33936**

1. Name of Insured:
**DELACRUZ PROPERTIES, LLC**

2. The estate or interest in the Land that is insured by this policy is: **Fee Simple**

3. Title is vested in:
**DELACRUZ PROPERTIES, LLC**

4. The Land referred to in this policy is described as follows:

**A tract or parcel of land lying in Section 31, Township 44 South, Range 27 East, Lee County, Florida, being more particularly described as follows:**
**Commencing at the intersection of the Northerly right-of-way line of Woodward Court and the Easterly right-of-way line of Beth Stacey Boulevard, as shown on the plat of Parkwood III, Section 31, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, Lee County, Florida, recorded in Plat Book 28, at Page 94, of the Public Records of Lee County, Florida; thence South 00° 20' 28" West, a distance of 60.00 feet, to the Southerly right-of-way line of Woodward Court, and the Point of Beginning of a parcel of land herein described; thence North 89° 45' 00" East, along Woodward Court, a distance of 200.01 feet, to the Westerly right-of-way line of Yellowtail Canal Extension; thence South 00° 20' 28" West, along said Yellowtail Extension, a distance of 789.09 feet, to the South Section line of said Section 31; thence South 89° 45' 00" West, along the South Section line, a distance of 200.01 feet, to the Easterly right-of-way line of Beth Stacey Boulevard; thence North 00° 20' 28" East, along Beth Stacey Boulevard, a distance of 789.09 feet to the Point of Beginning.**

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
400 Second Avenue South, Minneapolis, Minnesota 55401, (612) 371-1111

**JOHN JAY WATKINS, ESQ.**
ISSUING AGENT

**7985**
AGENT NO.

AGENT'S SIGNATURE

**P.O. BOX 250**
**150 S. MAIN STREET, STE3**
MAILING ADDRESS

**LA BELLE** CITY , **Florida** STATE **33975** ZIP

FORM OF6-SCH-A (rev. 12/10) (With Florida Modifications)
(01/14 DisplaySoft 01-WIN-FL-OWNA-06)

REZ2020-00007 Lee County ePlan Additional Info Dated 11-12-2020

# OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

*OWNER'S POLICY*

## Schedule B

Policy No.: **OF6-8766561** Agent's File Reference: **HOLDING OUTFIT**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes for the year of the Date of Policy and taxes or special assessments which are not shown as existing liens by the Public Records.
2. Rights or claims of parties in possession not recorded in the Public Records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
4. Easements, or claims of easements, not recorded in the Public Records.
5. Any lien, or right to a lien, for services, labor, or material furnished, imposed by law and not recorded in the Public Records.

6. **Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.**
7. **Riparian and littoral rights are not insured.**
8. **Sewer and water covenants in Miscellaneous Book 58, Page 266; O.R. Book 10, Page 695; and O.R. Book 41, Page 264, Public Records of Lee County, Florida.**
9. **East County Water Control District as recorded in C.O. Book 38, Page 330, Final Judgment validating Bonds in O.R. Book 2173, Page 469, Public Records of Lee County, Florida.**
10. **Stipulated Final Judgment recorded August 7, 1992 in O.R. Book 2319, Page 1488, amended in O.R. Book 2332, Page 148 and re-recorded in O.R. Book 2385, Page 857, Public Records of Lee County, Florida.**
11. **Developer's Agreement by and between Lehigh Corporation and Cliffside Properties, Inc. and Lehigh Utilities, Inc. recorded in O.R. Book 2357, Page 2973, and Modification to Developer's Agreement recorded in O.R. Book 2551, Page 833, Assignments recorded in O.R. Book 3632, Page 1562, O.R. Book 3632, Page 1699, Public Records of Lee County, Florida.**
12. **Oil, gas, mineral, or other reservations as set forth in deed by Lehigh Corporation recorded in O.R. Book 2532, Page 2879, Public Records of Lee County, Florida. No determination has been made as to the current record owner for the interest excepted herein.**
13. **Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281; and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.**
14. **Rights of the lessees under unrecorded leases.**

*(Covered Risks continued)*

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective

   (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or

   (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
   (i) to be timely, or
   (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to

   (i) the occupancy, use, or enjoyment of the Land;

   (ii) the character, dimensions, or location of any improvement erected on the Land;

   (iii) the subdivision of land; or

   (iv) environmental protection;

   or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.

   (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters

   (a) created, suffered, assumed, or agreed to by the Insured Claimant;

   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

   (c) resulting in no loss or damage to the Insured Claimant;

   (d) attaching or created subsequent to Date of Policy; or

   (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is

   (a) a fraudulent conveyance or fraudulent transfer; or

   (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Insured": The Insured named in Schedule A.

(i) the term "Insured" also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) with regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) "Insured Claimant": An Insured claiming loss or damage.

(f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A.

(k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

**5. DEFENSE AND PROSECUTION OF ACTIONS**

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

**6. DUTY OF INSURED CLAIMANT TO COOPERATE**

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

**7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) to pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

**8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

## 9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

## 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

## 11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

## 12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

## 13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

## 14. ARBITRATION

Unless prohibited by applicable law, arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association may be demanded if agreed to by both the Company and the Insured at the time of the controversy or claim. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, and service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the Insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the Land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

## 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim whether or not based on negligence shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

REZ2020-00007 Lee County ePlan Additional Info Dated 11-12-2020

**16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**17. CHOICE OF LAW; FORUM**

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 400 Second Avenue South, Minneapolis, Minnesota 55401-2499, Phone: (612) 371-1111.



**Old Republic National Title Insurance Company**

OWNER'S TITLE INSURANCE POLICY

**For information about coverage or assistance in resolving complaints, call (612) 371-1111.**

Offices at
400 Second Avenue South
Minneapolis, Minnesota 55401

## LEGEND
## LEYENDA

### Map Symbols - Símbolos del Mapa

- Bus Route — Línea de Autobús
- Select Trips Only — Viajes Seleccionados
- Route Direction — Dirección de Línea
- Collier Area Transit Route — Línea de Tránsito del Área Collier
- Seasonal Trolley Route — Línea de Tranvía de Temporada

- Transfer Locations — Lugares de transferencia
- Publix - Buy Passes Here — Publix - Comprar pases aquí
- Clinic/Hospital — Hospital
- Park & Ride — Parqueo público
- College/University — Universidad
- Shopping Center — Centro comercial
- Library — Biblioteca
- Place of Interest — Lugar de interés

### Routes - Líneas

- 5 Edison Mall/Forum
- 10 Edison Mall/Dunbar
- 15 Rosa Parks/Tice
- 20 Dunbar/Rosa Parks
- 30 Bell Tower/Camelot Isles
- 40 Cape Transfer Ctr./Coralwood Mall
- 50 Airport/Beach Park & Ride
- 60 San Carlos Park/Gulf Coast Town Ctr.
- 70 Rosa Parks/Cape Transfer Ctr.
- 80 Edison Mall/Bell Tower
- 100 Rosa Parks/Riverdale
- 110 Edison Mall/Lehigh Acres
- 120 Edison Mall/Cape Transfer Ctr.
- 130 Edison Mall/Beach Park & Ride
- 140 Merchants Crossing/Bell Tower
- 150 Bonita Grande/Lovers Key
- 160 Pine Island/Coralwood Mall
- 240 Coconut Point Mall/Bell Tower
- 400 Beach Park & Ride/Lovers Key
- 410 Bowditch Park/Lovers Key
- 420 Beach Tram - SEASONAL SERVICE
- 490 Beach Park & Ride/Bowditch Park
- 515 Lehigh Acres Circulator
- 590 Merchants Crossing/Suncoast
- 595 Merchants Crossing/Pondella Rd.
- 600 Coconut Point/Immokalee Rd.

**Downtown River District Trolley**
SEASONAL SERVICE

- BLUE Oasis/McGregor
- GOLD Rosa Parks/North Fort Myers

## FOLLOW YOUR RIDE ...IN REAL TIME

Download the Transit app

## POINTS OF INTEREST
## LUGARES DE INTERES

- A Lee County Public Works
- B Lee County Justice Center
- C Lee County Administration
- D Ft. Myers City Hall
- E US Courthouse
- F Harborside Event Center

## DOWNTOWN FORT MYERS
## CENTRO DE FORT MYERS

# SPECIAL TREATMENT AREAS

# MIXED USE OVERLAY

## Legend

**Mixed Use Overlay (MUO)**

- Mixed Use Overlay
- Mixed Use Overlay with Specific Community Plan Policies
- City Limits
- Transit Route

Lee County Southwest Florida

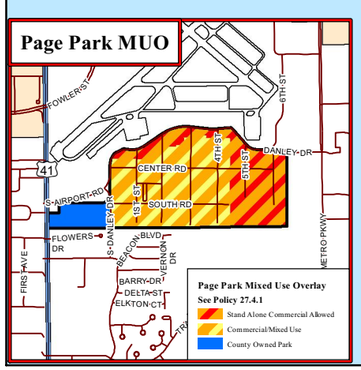
N W E S

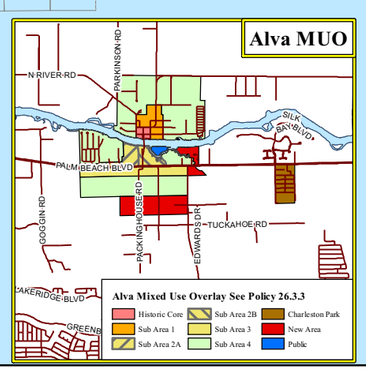
0 0.5 1 2 3 4 5 Miles

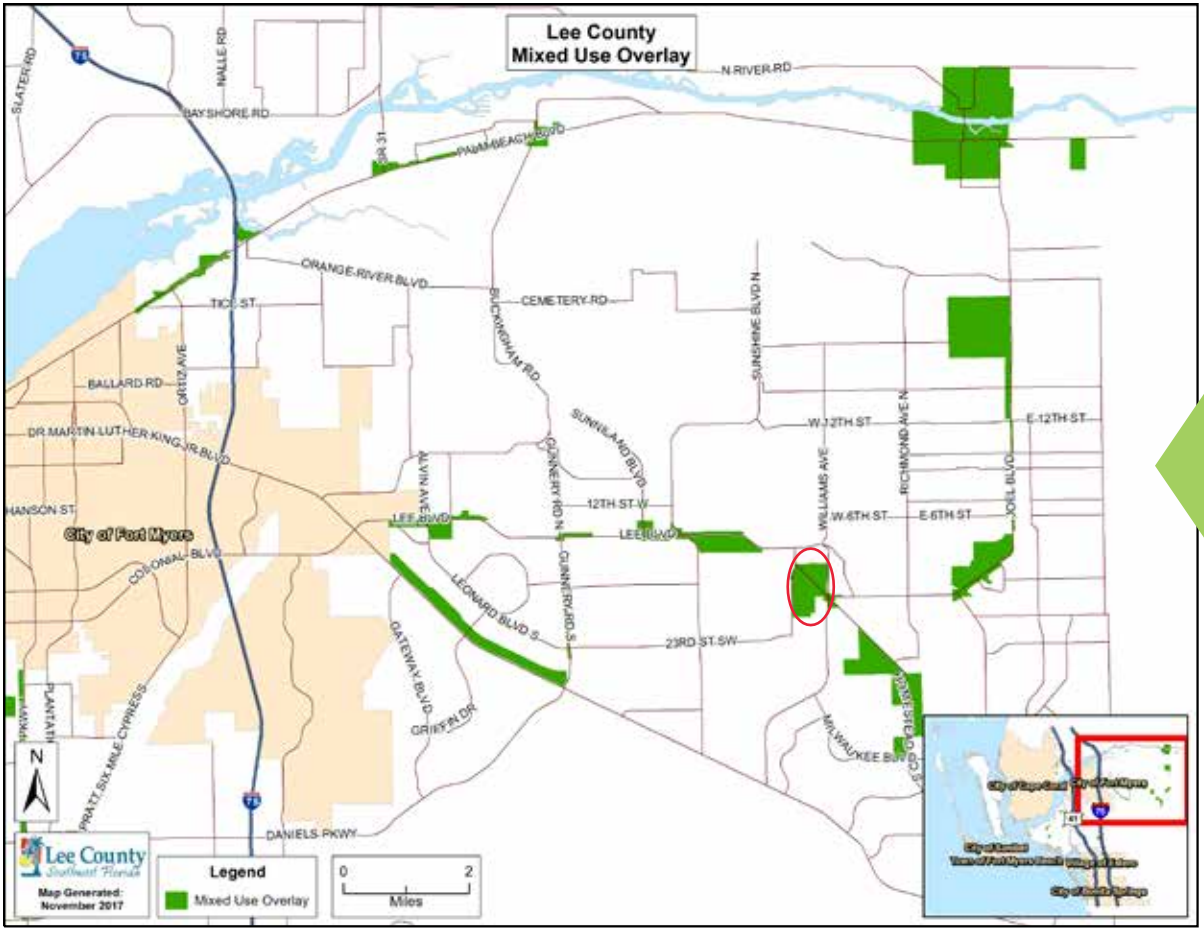
Map Generated: April 2018
City Limits current to date of map generation

Adopted by Ord. No. 07-15, 5/26/2007
Amended by Ord Nos. 09-07, 09-08, 10-33, 11-18, 11-21, 17-20

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



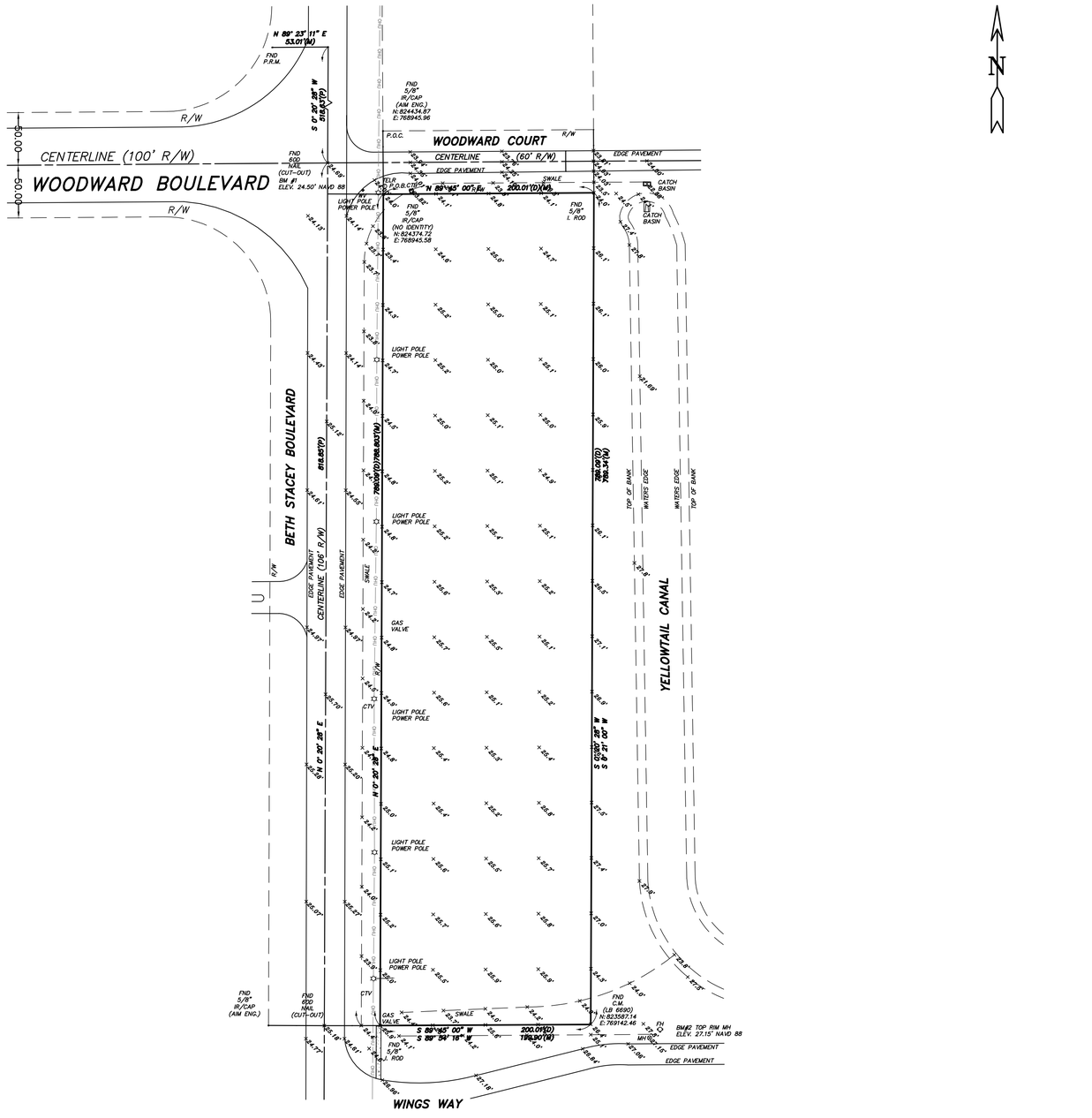



EAST FORT MYERS

# BOUNDARY AND LOCATION SURVEY OF
# 22 BETH STACEY BOULEVARD
# LEHIGH ACRES, FLORIDA 33936

**LEGAL DESCRIPTION:**

*A tract or parcel of land lying in Section 31, Township 44 South, Range 27 East, Lee County, Florida, being more particularly described as follows: Commencing at the intersection of the Northerly right-of-way line of Woodward Court and the Easterly right-of-way line of Beth Stacey Boulevard, as shown on the Plat of Parkwood III, Section 31, Township 44 South, Range 27 East, a Subdivision of LEHIGH ACRES, Lee County, Florida, recorded in Plat Book 28, at Page 94, of the Public Records of Lee County, Florida; thence South 00°20'28" West, a distance of 60.00 feet; to the Southerly right-of-way line of Woodward Court; and the Point of Beginning of the parcel of land herein described; thence North 89°45'00" East, along Woodward Court; a distance of 200.01 feet; to the Westerly right-of-way line of Yellowtail Canal extension; thence South 00°20'28" West, along said Yellowtail extension, a distance of 789.09 feet, to the South section line of said Section 31; thence South 89°45'00" West, along the South section line, a distance of 200.01 feet; to the Easterly right-of-way line of Beth Stacey Boulevard; thence North 00°20'28" East, along Beth Stacey Boulevard, a distance of 789.09 feet, to the Point of Beginning.*




| | |
|---|---|
| A/C | AIR CONDITIONER |
| B.M. | BENCHMARK |
| (C) | CALCULATED |
| CB | CABLE BOX |
| CLF | CHAIN LINK FENCE |
| CONC | CONCRETE |
| CSW | CONCRETE SIDEWALK |
| (D) | DEED |
| DE | DRAINAGE EASEMENT |
| DPUE | DRAINAGE/PUBLIC UTILITY EASEMENT |
| EB | ELECTRIC BOX |
| EOW | EDGE OF WATER |
| EP | EDGE OF PAVEMENT |
| FCIR | FIR CAPPED |
| FCM | FOUND CONC MONUMENT |
| FIP | FOUND IRON PIPE |
| FIR | FOUND IRON ROD |
| FN | FOUND NAIL |
| FND | FOUND NAIL AND DISK |
| FXC | FOUND X CUT |
| LP | LIGHT POLE |
| (M) | MEASURED |
| MH | MANHOLE |
| NCF | NO CORNER FOUND |
| OHW | OVERHEAD WIRES |
| O/A | OVER-ALL |
| P.C.P. | PERMANENT CONTROL POINT |
| (P) | PLAT |
| PE | POOL EQUIPMENT |
| PP | POWER POLE |
| POB | POINT OF BEGINNING |
| POC | POINT OF COMMENCEMENT |
| R/W | RIGHT OF WAY |
| SIR | SET ½"IRON ROD WITH CAP– LB 6912 |
| SND | SET NAIL AND DISK LB 6912 |
| TOB | TOP OF BANK |
| TOS | TOE OF SLOPE |
| TP | TELEPHONE PEDESTAL |
| UE | UTILITY EASEMENT |
| WM | WATER METER |
| WOF | WOOD FENCE |

**FEMA MAP – 125124/12071C0475F**
**FLOOD ZONE – X**
**BASE ELEV. – N/A**

(C) 2020 COVERED ENTRANCE · SCREEN ENCLOSED AREA · SCREEN ENCLOSED WITH POOL

BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE

*FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR – IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY – OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.*

*LEGEND: (C) CALCULATED, CB CABLE BOX, LP LIGHT POLE, C/S CONCRETE SLAB, CLF CHAIN LINK FENCE, CONC CONCRETE, CSW CONCRETE WALK, (D) DEED, DE DRAINAGE EASEMENT, EB ELECTRIC BOX, EOW EDGE OF WATER, EP EDGE OF PAVEMENT, FCIR FIR CAPPED, FXC FOUND X CUT, FCM FOUND CONCRETE MONUMENT, FIP FOUND IRON PIPE, FIR FOUND IRON ROD, FN FOUND NAIL, FND FOUND NAIL AND DISK (M) MEASURED, MH MANHOLE, NCF NO MARKER FOUND, OHW OVERHEAD WIRE O/A OVERALL, (P) PLAT, PE POOL EQUIPMENT, PP POWER POLE, POB POINT OF BEGINNING, POC POINT OF COMMENCEMENT, R/W RIGHT OF WAY, SIR SET ½" IRON ROD WITH CAP #LB 6912, SND SET NAIL AND DISK LB 6912, TOB TOP OF BANK TP PHONE PEDESTAL UE UTILITY EASEMENT, WM WATER METER, WOF WOOD FENCE*

*(1)UNLESS STATED OTHERWISE THIS SURVEY IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND*

*NOTE:*
*BASED ON OWNERS TITLE POLICY NO.: OF6-8766561 DATED 04/28/2020 FROM OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY SIGNED BY JOHN JAY WATKINS, ESQ.*

0 30' 60' 120'
SCALE: 1"= 60'

*I HEREBY CERTIFY THAT THIS SURVEY IS TRUE AND CORRECT USING FIELD SURVEY UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE*

**DATE OF FIELD SURVEY: 06/04/2020**

Surveyor & Mapper Number 4636

FLORIDASURVEYOR@AOL.COM **BILL HYATT**

**AFFORDABLE SURVEYS**
239-283-1518 — 3366 STRINGFELLOW AVENUE — ST. JAMES CITY, FL 33956
727-415-8305 — 2011 HEIDELBERG AVENUE — DUNEDIN, FL 34698

Florida Business Certificate Of Authorization Number LB 6912
MAILING 1497 MAIN STREET, #321, DUNEDIN, FL 34698
*HTTP://WWW.KNOWITNOW.PRO* *HTTP://WWW.FLORIDA-SURVEYOR.COM*

CERTIFIED EXCLUSIVELY TO THE BELOW PARTIES:
DELACRUZ PROPERTIES, LLC
LEE COUNTY

BILL H HYATT
2020.11.11 14:13:47 05'00'

| NO. | DATE |
|---|---|
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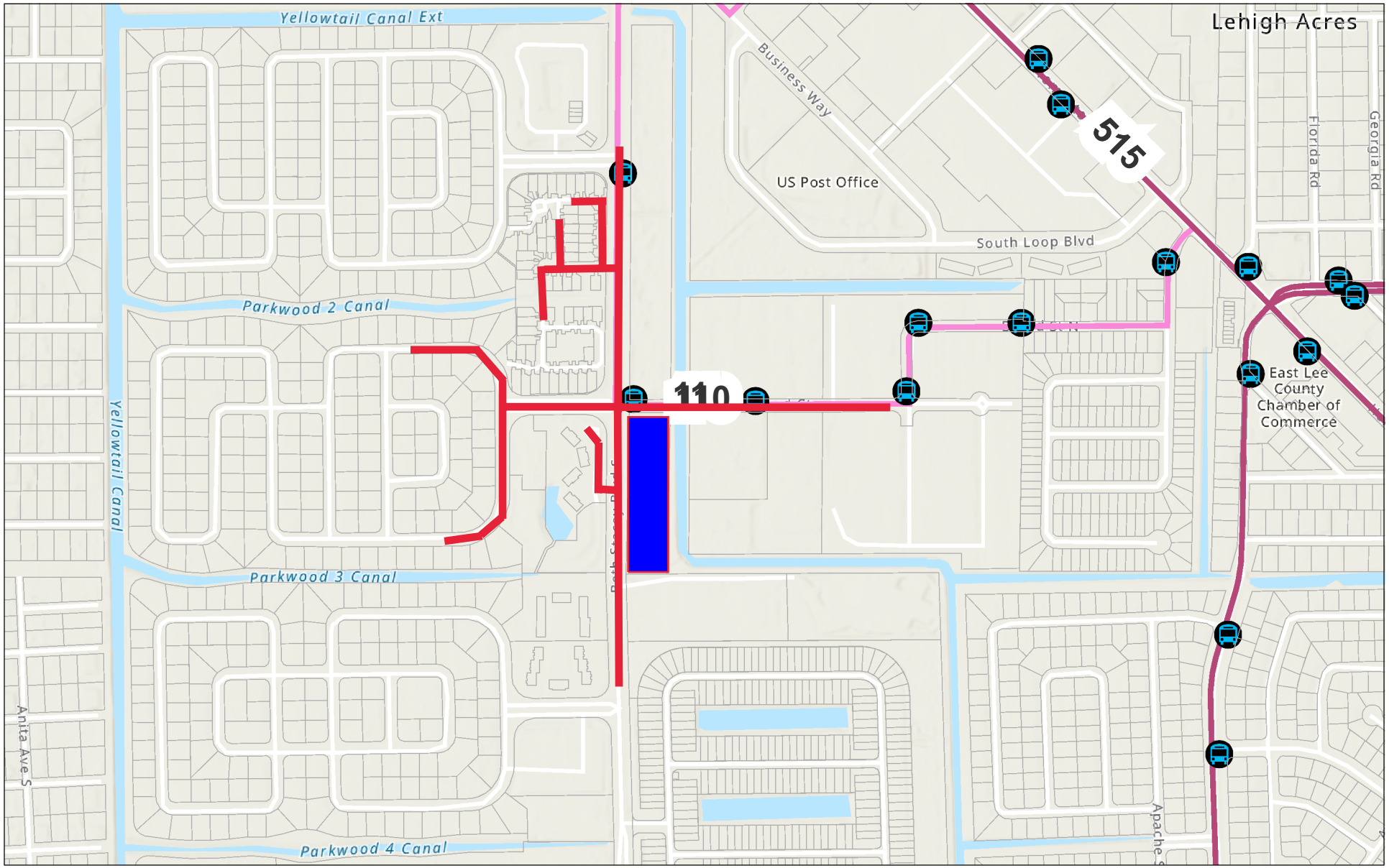


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Bus Routes 515

110

Bus Stops

Pedestrian Shed

0 0.05 0.1 0.2 mi

0 0.1 0.2 0.4 km

Lee County GIS

Esri Community Maps Contributors, University of South Florida, County of Lee, FL, FDEP, BuildingFootprintUSA, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA |