

Lee County Board Of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20070159

(2.5 acres)

**1. ACTION REQUESTED/PURPOSE:** Authorize: (1) approval of the purchase of Parcel 298-A, Conservation 20/20 Land Acquisition Program, Project No. 8800, in the amount of \$250,000; (2) the Chairman on behalf of the Board of County Commissioners to execute the Purchase Agreement; (3) payment of necessary costs and fees to close; and (4) the Division of County Lands to handle and accept all documentation necessary to complete this transaction.

**2. FUNDING SOURCE:** Fund-Capital Improvement Fund; Program: Conservation 20/20; Project: Capital Improvement Conservation 20/20, Land Purchase.

**3. WHAT ACTION ACCOMPLISHES:** The acquisition of one of the properties recommended by the Conservation Land Acquisition and Stewardship Advisory Committee (CLASAC) on August 10, 2006.

**4. MANAGEMENT RECOMMENDATION:** Approve

**5. Departmental Category:** 06

AGA

**6. Meeting Date:** DATE CRITICAL  
3/13/07

**7. Agenda:**  
 Consent  
 Administrative  
 Appeals  
 Public  
 Walk-On

**8. Requirement/Purpose: (specify)**  
 Statute 125  
 Ordinance  
 Admin. Code  
 Other

**9. Request Initiated:**  
 Commissioner \_\_\_\_\_  
 Department Independent  
 Division County Lands  
 By: Karen Forsyth, Director

**10. Background:** Parcel 298-A totals 2.5 acres. Parcel 298-A is zoned AG-2 Agriculture and is located on the West side of Morgan Hill Road approximately 500 feet North of Penzance Blvd. in the eastern arm of the Six Mile Cypress Slough.

**Interest to Acquire:** Fee Simple.

**Property Details:**

Owner: Keith A. Johns  
 Address: North half of 10-45-25-00-00006.0150

**Purchase Details:**

**Purchase Price:** The property owner originally required \$385,000 for the property. However, through negotiations, they have now agreed to accepting \$250,000.

**Costs to Close:** Closing costs estimated to be \$200. Seller to pay documentary stamps, title insurance and attorney fees.

**Account:** 20880030103.506110

**Appraisal Information:**

A copy of the appraisal executive summary by William E. Stewart, Jr., MAI of Stewart and Company is attached.

**Attachments:** Purchase Agreement, Title Commitment, Appraisal, and Location Map

**11. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Other	
K. Forsyth				Robert Spitzer 2-5-07	elbow 2-6-07	MP 2/6/07	MP 2/6/07	MP 2/6/07	2-7-07

**12. Commission Action:**  
 Approved  
 Deferred  
 Denied  
 Other

RECEIVED BY  
 COUNTY ADMIN:  
 2/ 3:45 MP  
 15 to EV  
 COUNTY ADMIN  
 FORWARDED TO:  
 2/9/06  
 1:10 pm

Rec. by CoAtty  
 Date: 2/15/07  
 Time: 11:45 AM  
 Forwarded To:  
 Admin 2/9/07 2:30 pm

This document prepared by  
County Lands Division  
Project: Conservation Lands Program, Project 8800  
Parcel: 298A  
STRAP No.: Part of 10-45-25-00-00006.0150

BOARD OF COUNTY COMMISSIONERS

LEE COUNTY

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT for purchase and sale of real property is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between **KEITH A. JOHNS**, a \_\_\_\_\_ person, hereinafter referred to as SELLER, whose address is 1458 Xavier Avenue, Fort Myers, FL 33919, and **LEE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as BUYER.

WITNESSETH:

1. **AGREEMENT TO PURCHASE AND TO SELL:** SELLER hereby agrees to sell and BUYER hereby agrees to purchase, subject to the terms and conditions hereinafter set forth, all of that certain parcel of land consisting of 2.5 acres more or less, Lee County, Florida and being more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called the "Property". This property will be acquired for the Conservation Lands Program, Project 8800, hereinafter called the "Project".

2. **PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be **Two Hundred Fifty Thousand Dollars (\$250,000)**, payable at closing by County Warrant.

## AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

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3. **EVIDENCE OF TITLE:** SELLER will provide at SELLER's expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of \$250,000, from a title company acceptable to BUYER. Such commitment will be accompanied by one copy of all documents which constitute exceptions to the title commitment. Such commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the Property and, except as is otherwise provided herein, accepts the Property in the condition inspected. Any loss and/or damage to the Property occurring between the date of this offer and the date of closing or date of possession by BUYER, whichever occurs first, will be at SELLER's sole risk and expense. However, BUYER may accept the damaged property and deduct from the purchase price any expenses required to repair the damage, or BUYER may cancel this Agreement without obligation.

5. **SELLER'S INSTRUMENTS AND EXPENSES:** SELLER will pay for and provide:

- (a) A statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;
- (b) documentary stamps on deed;
- (c) utility services up to, but not including the date of closing;
- (d) taxes or assessments for which a bill has been rendered on or before the date of closing, if closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year;
- (e) payment of partial release of mortgage fees, if any;
- (f) SELLER's attorney fees, if any.

## AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

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6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:
- (a) Recording fee for deed;
  - (b) Environmental Audit, (if desired by BUYER).

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing. BUYER is exempt from ad valorem taxation. SELLER will pay all taxes determined to be legally due and payable by the County Tax Collector. If closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year without proration.

8. **DEFECTS IN TITLE AND LEGAL ACCESS:** Prior to closing, BUYER will have a reasonable time to examine the title and documents establishing legal access to the property. If title or legal access is found to be defective, BUYER will notify SELLER in writing of the defects and SELLER will make a prompt and diligent effort to correct such defects. If SELLER fails to make such corrections within 60 days after notice, BUYER may elect to accept the Property in its existing condition with an appropriate reduction to the purchase price, or may terminate this Agreement without obligation.

9. **SURVEY:** At least 30 days prior to closing, SELLER will obtain, at SELLER's expense, a boundary survey. The survey must have a certification date subsequent to the date of this agreement, be certified to the BUYER, and be provided in both printed and digital formats. If such survey shows a discrepancy in the size or dimensions of the Property, or shows encroachments onto the Property or that improvements located on the Property encroach onto adjacent lands, or if the survey identifies violations of recorded covenants and/or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat such discrepancies, violations and/or encroachments as a title defect.

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE  
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10. **ENVIRONMENTAL AUDIT:** BUYER may perform or have performed, at BUYER's expense, an environmental audit of the Property. If the audit identifies environmental problems unacceptable to the BUYER, BUYER may elect to accept the Property in its existing condition with an appropriate abatement to the purchase price or BUYER may terminate this Agreement without obligation.

11. **ABSENCE OF ENVIRONMENTAL LIABILITIES:** The SELLER hereby warrants and represents that the Property is free from hazardous materials and does not constitute an environmental hazard under any federal, state or local law or regulation. No hazardous, toxic or polluting substances have been released or disposed of on the Property in violation of any applicable law or regulation. The SELLER further warrants that there is no evidence that hazardous, toxic or polluting substances are contained on or emitting from the property in violation of applicable law or regulation. There are no surface impoundments, waste piles, land fills, injection wells, underground storage areas, or other man-made facilities which have or may have accommodated hazardous materials. There is no proceeding or inquiry by any governmental agency with respect to production, disposal or storage on the property of any hazardous materials, or of any activity which could have produced hazardous materials or toxic effects on humans, flora or fauna. There are no buried, partially buried, or above-ground tanks, storage vessels, drums or containers located on the Property. There is no evidence of any release of hazardous materials onto or into the Property.

The SELLER also warrants that there have been no requests from any governmental authority or other party for information, notices of claim, demand letters or other notification that there is any potential for responsibility with respect to any investigation or clean-up of hazardous substance releases on the property. All warranties described herein will survive the closing of this transaction.

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE  
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In the event the SELLER breaches the warranties as to environmental liability, SELLER agrees to indemnify and hold the BUYER harmless from all fines, penalties, assessments, costs and reasonable attorneys' fees resulting from contamination and remediation of the property.

12. **TIME AND BINDING AGREEMENT:** Time is of the essence for closing this transaction. The BUYER's written acceptance of this offer will constitute an Agreement for the purchase and sale of the Property which will bind the parties, their successors and assigns. However, SELLER understands and agrees BUYER'S ability to close will be contingent on the timing and availability of designated funds. In the event the BUYER abandons this project after execution of this Agreement, but before closing, BUYER may terminate this Agreement without obligation.

13. **DATE AND LOCATION OF CLOSING:** The closing of this transaction will be held at the office of the insuring title company on or before 90 days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties. SELLER agrees BUYER is entitled to an extension of the closing date upon written notice that sufficient Conservation 2020 funds will not be available on the stated closing date; BUYER agrees that this notice will advise as to the earliest date funds are anticipated to be available and include a suggested closing date that is as soon thereafter as is appropriate.

14. **ATTORNEYS' FEES:** The prevailing party in any litigation concerning this Agreement will be entitled to recover reasonable attorneys' fees and costs.

15. **REAL ESTATE BROKERS:** SELLER hereby agrees to indemnify and hold the BUYER harmless from and against any claims by a real estate broker claiming by or through SELLER.

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

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16. **POSSESSION:** SELLER warrants that there are no parties in possession other than SELLER unless otherwise stated herein. SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein.

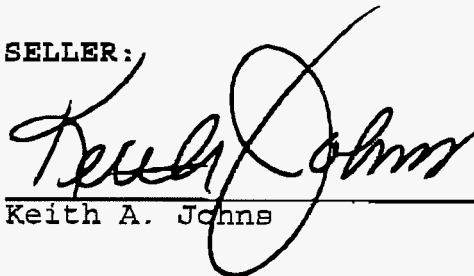
17. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

18. **SPECIAL CONDITIONS:** Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

SELLER:

  
\_\_\_\_\_  
Keith A. Johns

CHARLIE GREEN, CLERK

**BUYER:**  
LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
DEPUTY CLERK (DATE)

BY: \_\_\_\_\_  
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

\_\_\_\_\_  
COUNTY ATTORNEY (DATE)

**SPECIAL CONDITIONS**

1. The purchase price of \$250,000 is based upon a stated acreage by SELLER of 2.5 acres. Said acreage shall be verified by the boundary survey obtained by SELLER pursuant to Paragraph 9 of the Agreement and if the actual net acreage is less than 2.5 acres the purchase price will be adjusted downwards accordingly at the agreed per acre price.

2. SELLER warrants that the property is in substantially the same condition as existed when the application for the nomination of the property for the Conservation Land Program Project was received on January 13, 2006. In this regard, SELLER warrants that no logging, clear cutting, mining or other significant impacts have occurred to or on, the property. BUYER shall inspect the property prior to closing and if, in BUYER'S opinion, significant detrimental activity has occurred on the property with or without the SELLER'S knowledge and consent, since the time it was nominated, BUYER may elect to accept the damaged property in its existing condition with an appropriate reduction in the purchase price, or may terminate this agreement without obligation.

3. BUYER intends to purchase this property as part of the Conservation 2020 project. The purpose of this project is preservation and conservation of environmentally sensitive and, desirable property. The existence of severed oil, gas and mineral rights conflicts with the BUYER'S purpose. Therefore, BUYER will deem the existence of oil, gas and mineral rights or leases in a third party as a defect in the chain of title. SELLER agrees to clear or obtain releases for each of these separate oil, gas and mineral rights or leases. In the alternative, SELLER agrees to provide a title commitment and title insurance owner's policy that does not list the separate oil, gas and mineral rights or leases as an exception or otherwise exclude these rights or leases from coverage. If SELLER fails to have the separate rights or leases released of record, or if the title commitment and owner's title insurance policy provided by SELLER excludes the separate rights or leases from coverage, as stipulated in Paragraph 8 of the Agreement, BUYER may elect to accept the property in its existing condition with an appropriate reduction to the purchase price, or may terminate this Agreement without obligation.

4. SELLER, at their expense, are to remove all concrete slabs, pilings, and foundations, clean up areas where removal takes place, and dispose of said items and refuse off site in accordance with Governmental regulations. SELLER is also responsible for the removal of any waste piles, to include abandoned vehicles, farm machinery and equipment, or household appliances.

5. SELLER, at their expense, is to make application to Lee County Department of Community Development (DCD) for a Residential Lot Split and secure approval from DCD prior to closing. If SELLER does not or is unable to secure approval of a Residential Lot Split within 90 days of this agreement, BUYER may terminate this agreement without obligation.

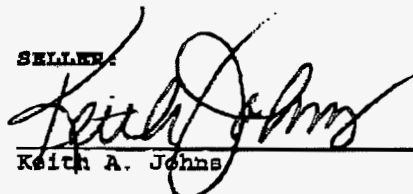
WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

CHARLIE GREEN, CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK (DATE)

SELLER:

  
\_\_\_\_\_  
Keith A. Johns

BUYER:

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

\_\_\_\_\_  
COUNTY ATTORNEY (DATE)



**Exhibit "A"**

**Parcel 298A  
Conservation Lands Program, Project 8800**

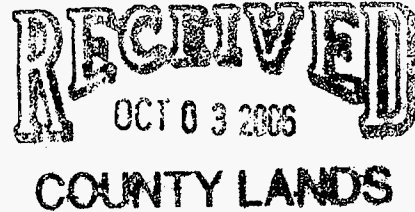
The North  $\frac{1}{2}$  of the following described property: Tract 18 - The North  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 10, Township 45 South, Range 25 East, Lee County, Florida.

# COMMITMENT SCHEDULE A

COMMITMENT NO.: C-2060514

FILE NO.: 2060514

EFFECTIVE DATE: 8/30/2006 at 5:00 PM.



Inquires should be directed to:  
Kathy Willson  
Executive Title Insurance Services, Inc.  
12800 University Drive Suite 175  
Fort Myers, Florida 33907

1. Policy to be issued: Amount  
  
ALTA Owner's Policy - (10-17-92) with Florida Modifications \_\_\_\_\_  
  
Proposed Insured:  
  
Lee County, a Political Subdivision of the State of Florida
2. The estate or interest in the land described or referred to in this Commitment and covered herein is:  
  
Fee Simple
3. Title to said estate or interest in said land is at the effective date hereof vested in:  
  
Keith A. Johns
4. The land referred to in this Commitment is described as follows:  
  
Tract 18: The North ½ of the Southwest ¼ of the Southeast ¼ of the Southwest ¼, Section 10, Township 45 South, Range 25 East, Lee County, Florida.

**END OF SCHEDULE A**

For Company Reference Purposes Only  
According to insured representation or vesting instrument(s), the street address of the property is:  
Street Name: 11910 Morgan Hill Road  
City/State/Zip: Fort Myers, Florida 33912  
County: Lee  
Pin/Tax#: 10-45-25-00-00006.0150  
The Company does not represent or insure the above address is accurate.

Reg. D 0012 Rev. 11-91 " This Commitment is not valid unless Schedule A, Schedule B Section-I and Schedule B Section-II are included."

This commitment is not an abstract, examination, report, or representation of fact or title and does not create and shall not be the basis of any claim for negligence, negligent misrepresentation or other tort claim or action. The sole liability of Company and its Title Insurance Agent shall arise under and be governed by paragraph 3 of the Conditions.

**STEWART TITLE  
GUARANTY COMPANY**

## COMMITMENT SCHEDULE B - SECTION I

COMMITMENT NO.: C-2060514

FILE NO.: 2060514

The following are the requirements to be complied with:

- A. Instruments necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record.
  - 1. Warranty Deed from Keith A. Johns to Lee County, a Political Subdivision of the State of Florida.
  - 2. Satisfaction of that certain Mortgage as recited in Instrument recorded in Official Record Book 4251, Page 2357, in the Public Records of Lee County, Florida.
  - 3. Affidavit executed by Pham Thi Minh Nguyet stating subject property was Non-Homestead at time of conveyance in Official Record Book 3454, Page 1681, Public Records of Lee County, Florida.
- B. Affidavit from the seller and the borrower stating:
  - 1. That there are no matters pending against them that could give rise to a lien that would attach to the subject property between the effective date of the Commitment and the recording of instruments giving rise to the interest to be insured.
  - 2. That the affiants have not executed and will not execute any instruments that would adversely affect the title to the subject property or the lien of any mortgage to be insured pursuant to the Commitment.
- C. The closing funds pertaining to the transaction must be disbursed by or at the direction of the insuror or its agent.
- D. An updated title examination, commencing as of the effective date of this Commitment, which shall be performed at or shortly prior to the closing of the transaction, should not reveal any title defects or other adverse matters appearing should be disposed of prior to closing to the satisfaction of the insuror or its agent.

**END OF SCHEDULE B - SECTION I**

## COMMITMENT SCHEDULE B - SECTION II

COMMITMENT NO.: C-2060514

FILE NO.: 2060514

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the Proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Standard Exceptions:
  - (a) Rights or claims of parties in possession not shown by the public records.
  - (b) Easements, or claims of easements, not shown by the public records.
  - (c) Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the premises.
  - (d) Any lien, or right to a lien, for services, labor, or material hereto or hereafter furnished, imposed by law and not shown by the public records.
  - (e) Rights of dower, homestead or other marital rights of the spouse, if any, of any individual insured.
  - (f) Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled, and artificially exposed lands and lands accreted to such lands.
3. Special Exceptions:
4. Taxes for the year 2006 and subsequent years, which are not yet due and payable.
5. NOTE: Taxes for 2006 become a lien as of January 1, 2006, and are due and payable November 1, 2006. Strap/Folio/Tax ID/Assessment/Parcel ID #10-45-25-00-00006.0150. 2005 Taxes are in the face amount of \$2975.08, paid.
6. Title to personal property is neither guaranteed nor insured.
7. Covenants, Conditions, Restrictions, Easements and all other matters, as contained in an instrument recorded in Official Record Book 1271, Page 2026, and as amended, of the Public Records of Lee County, Florida.
8. Reservation of the Easterly 30 feet for road right of way as set forth in Warranty Deed recorded in Official Record Book 1271, Page 2028, of the Public Records of Lee County, Florida.
9. A non-exclusive perpetual roadway easement as set forth in Deed recorded in Official Record Book 1954, Page 375 and Official Record Book 1954, Page 380, of the Public Records of Lee County, Florida.
10. Reservations of Oil, Gas and Mineral Rights by prior owners of the subject lands.

**END OF SCHEDULE B - SECTION II**

Reg. D 0012 Rev. 11-91 " This Commitment is not valid unless Schedule A, Schedule B Section -I and Schedule B Section-II are included."

**STEWART TITLE  
GUARANTY COMPANY**

## EXECUTIVE SUMMARY

PROJECT/PARCEL: Conservation Lands Program  
Project 8800, Nomination 298A

OWNER OF RECORD: According to the online information of the Lee County Property Appraiser, the owner of record is Keith A. Johns.

LOCATION: The subject property is located on the west side of Morgan Hill Road with a street address of 11910 Morgan Hill Road, Fort Myers, Florida 33912.

LAND AREA: The subject site contains a total land area of approximately 2.5 acres.

IMPROVEMENTS: None

ZONING/LAND USE: The subject property is currently zoned AG-2 (Agricultural) under the zoning ordinances of Lee County. The property is designated "Rural" under the Lee County Future Land Use Plan.

HIGHEST AND BEST USE: Residential Development

ESTIMATE OF VALUE -  
COST APPROACH: N/A

ESTIMATE OF VALUE -  
INCOME APPROACH: N/A

ESTIMATE OF VALUE -  
SALES COMPARISON APPROACH: \$272,500

FINAL VALUE ESTIMATE: \$272,500

UNIT VALUE: \$109,000 Per Acre

INTEREST APPRAISED: Fee Simple

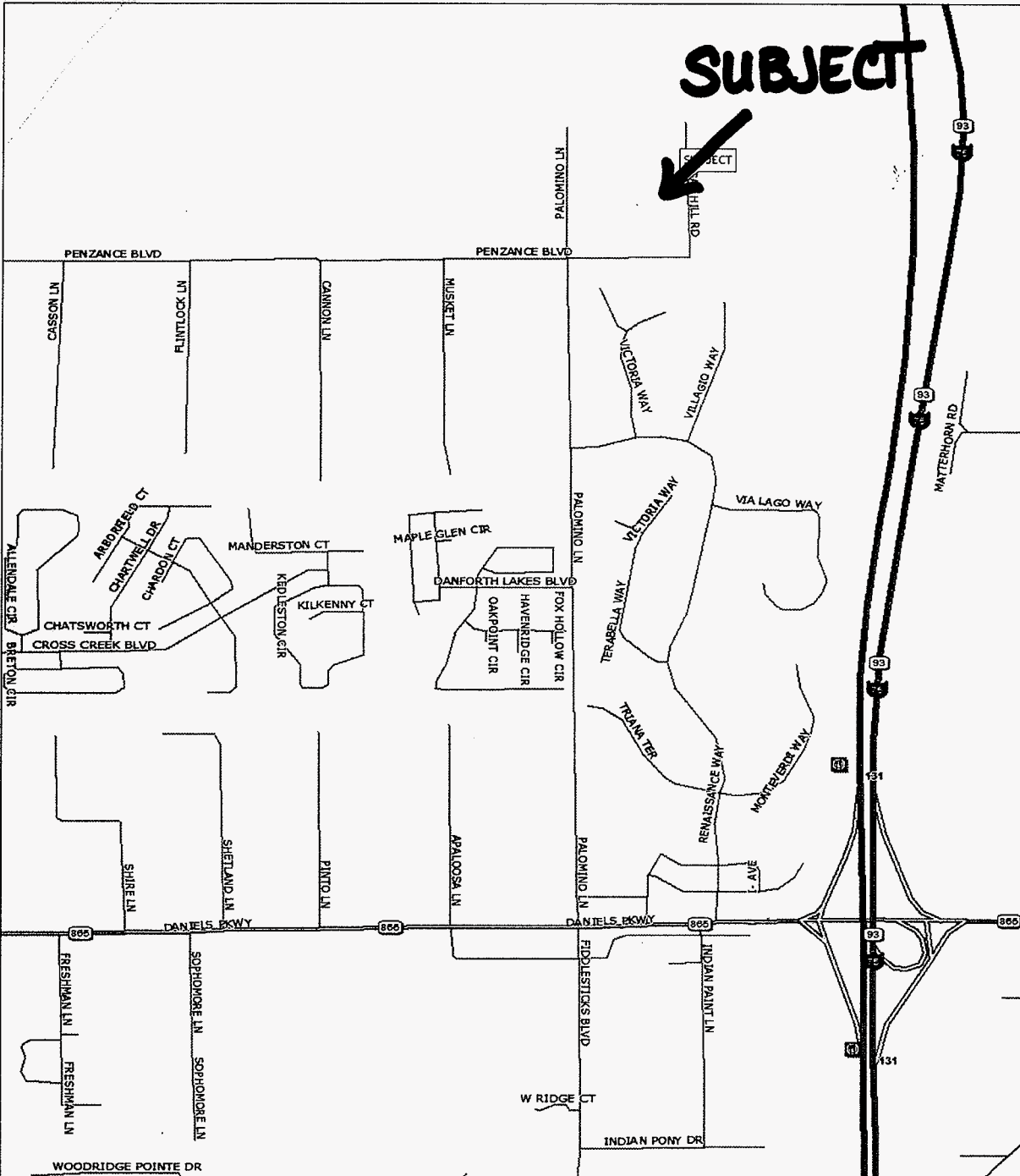
DATE OF VALUATION: November 14, 2006

APPRAISERS: STEWART & COMPANY, INC.  
William E. Stewart, Jr., MAI

# NEIGHBORHOOD MAP

DELORME

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