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Fund Affiliate Assembly

And the Survey Says . . .

Ordering & Reading Surveys

Linda Monaco, B.C.S.
Legal Education Attorney

1

Overview

- Residential
 - Ordering survey residential property
 - Reading boundary survey
 - Updating commitment
- Commercial
 - Ordering ALTA/NSPS survey
 - Reading ALTA/NSPS survey
 - Objections
 - Updating commitment



2

Residential Survey

3

Why Survey?

- 1) Verification property may be found
- 2) What is next to the property
- 3) Occupancy vs. description variations
- 4) Location of improvements
- 5) Unrecorded easements & other matters not of record
- 6) Water boundaries

7) Requirement to issue ALTA 9-06 series – REM

- See Sec. 627.7842, F.S.



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Order Proper Survey

48

- Rule 5J-17.050, F.A.C.
 - 1) As-built/Record Survey
 - 2) **Boundary Survey**
 - 3) Construction Layout Survey
 - 4) Condominium Survey
 - 5) Construction Control Survey
 - 6) Control Survey
 - 7) Elevation Survey
 - 8) Hydrographic/Bathymetric Survey
 - 9) Tidal or Non-tidal Water Boundary Survey
 - 10) Photogrammetric Survey including Orthorectified Imagery
 - 11) Quantity Survey
 - 12) Topographic Survey



5

Review Contract Requirements

- FR/Bar
 - 9.(b) survey costs paid by buyer (5.(b) CRSP-16)
 - 9.(d) complete prior to title evidence date; if seller has a survey of property to provide it to buyer within 5 days of effective date (10.(c) CRSP- 16)
 - 18. B. (10.(c) CRSP-16)
 - Buyer to review & give notice within 5 days of receipt, but no later than closing
 - Survey issues are title defects
 - Cure 18. A.



6

Fund Survey Requirements



- TN 25.03.06
- Must comply with Ch. 5J-17, F.A.C.
- For issuing a policy check:
 1. Survey was made by a Florida Registered Surveyor & Mapper
 2. Signed, dated & sealed
 3. Contains an adequate & accurate legal description which agrees with that in the deed or mortgage
 4. Boundaries of land, improvements, easements, utilities, etc.
 5. Any encroachments or discrepancies between description in recorded instrument & any markers on ground designating boundary as actually used & occupied



7

Ordering



- Send request with
 - Instructions
 - Copy of commitment, including supporting documentation

INSTRUCTIONS TO SURVEYOR

Enclosed is the Title Commitment and supporting documents ☐ (check box if applicable) as well as for ALTA/NSPS surveys a zoning report for inclusion on field work as well as the map. If any part of information provided is not legible, please notify us immediately so that we may provide a legible copy.

All surveys must show and comply with the following:

1. Comply with Rules 5J-17.051 and 5J-17.052, F.A.C.
2. Legend with all symbols used on the map.



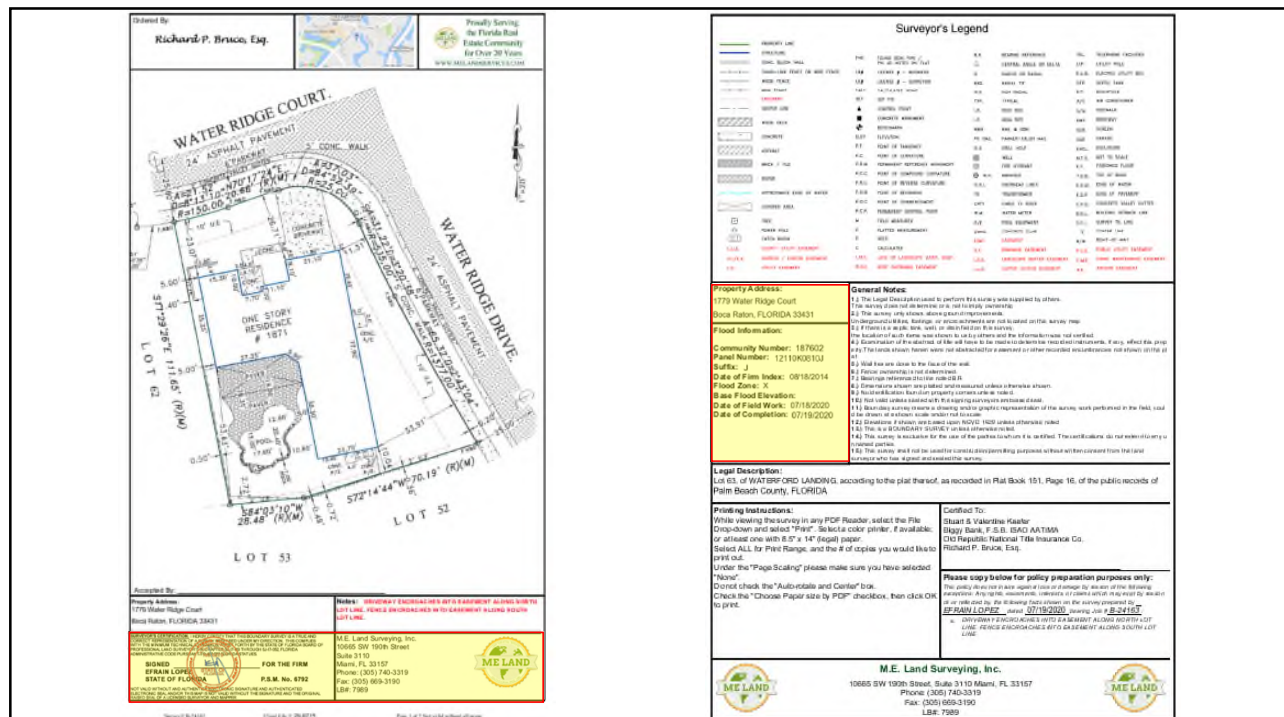
8

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<ul style="list-style-type: none"> <input type="checkbox"/> Technical Requirements <input type="checkbox"/> Includes surveyor's <ul style="list-style-type: none"> <input type="checkbox"/> Original embossed seal or <input type="checkbox"/> Electronic seal <ul style="list-style-type: none"> <input type="checkbox"/> Seal states "Florida Registered Surveyor & Mapper" <input type="checkbox"/> Survey is signed <input type="checkbox"/> Survey is dated <ul style="list-style-type: none"> <input type="checkbox"/> Field work done ___/___/___ (more than 90 days ago, comply with TN 25.03.06(B)) <input type="checkbox"/> Drawing signed ___/___/___ <input type="checkbox"/> Name <input type="checkbox"/> Address <input type="checkbox"/> Certificate of authorization number <input type="checkbox"/> License number 	<ul style="list-style-type: none"> <input type="checkbox"/> Drawing Identified Essential Features <input type="checkbox"/> Boundary lines <input type="checkbox"/> Any body of water <input type="checkbox"/> Other natural & manufactured objects affecting the property <input type="checkbox"/> Easements of any kind <input type="checkbox"/> Rights-of-way <input type="checkbox"/> Platted building setback lines <input type="checkbox"/> Improvements of any kind <input type="checkbox"/> Matters that may impact insurability: <ul style="list-style-type: none"> <input type="checkbox"/> Any encroachments of improvements from insured land
---	---

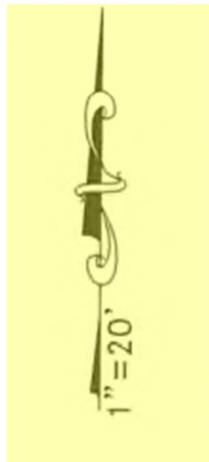


9



10

Community Number: 187602
Panel Number: 12110K0810J
Suffix: J
Date of Firm Index: 08/18/2014
Flood Zone: X
Base Flood Elevation:
Date of Field Work: 07/18/2020
Date of Completion: 07/19/2020



Certified To:

Stuart & Valentine Koefer
Biggy Bank, F.S.B. ISAO AATIMA
Old Republic National Title Insurance Co.
Richard P. Bruce, Esq.

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Surveyor's Legend

	PROPERTY LINE		FND	FOUND IRON PIPE / PIN AS NOTED ON PLAT		B.R.	BEARING REFERENCE		TEL.	TELEPHONE FACILITIES
	STRUCTURE		LB#	LICENSE # - BUSINESS		Δ	CENTRAL ANGLE OR DELTA		U.P.	UTILITY POLE
	CHAIN-LINK FENCE OR WIRE FENCE		LS#	LICENSE # - SURVEYOR		R	RADIUS OR RADIAL		E.U.B.	ELECTRIC UTILITY BOX
	WOOD FENCE		CALC	CALCULATED POINT		RAD.	RADIAL TIE		SEP.	SEPTIC TANK
	IRON FENCE		SET	SET PIN		N.R.	NON RADIAL		D.F.	DRAINFIELD
	EASEMENT		▲	CONTROL POINT		TYP.	TYPICAL		A/C	AIR CONDITIONER
	CENTER LINE			CONCRETE MONUMENT		I.R.	IRON ROD		S/W	SIDEWALK
	WOOD DECK			BENCHMARK		I.P.	IRON PIPE		DWY	DRIVEWAY
	CONCRETE		ELEV	ELEVATION		H&D	NAIL & DISK		SCR.	SCREEN
	ASPHALT		P.T.	POINT OF TANGENCY		PK NAIL	PARKER-KALON NAIL		GAR	GARAGE
	BRICK / TILE		D.H.	DRILL HOLE		WELL			ENCL.	ENCLOSURE
	WATER		P.C.	POINT OF CURVATURE					N.T.S.	NOT TO SCALE
	APPROXIMATE EDGE OF WATER		P.R.M.	PERMANENT REFERENCE MONUMENT		M.H.	MANHOLE		F.F.	FINISHED FLOOR
	COVERED AREA		P.C.C.	POINT OF COMPOUND CURVATURE		O.H.L.	OVERHEAD LINES		T.O.B.	TOP OF BANK
	TREE		P.R.C.	POINT OF REVERSE CURVATURE		TX	TRANSFORMER		E.O.W.	EDGE OF WATER
	POWER POLE		P.O.B.	POINT OF BEGINNING		CATV	CABLE TV RISER		E.O.P.	EDGE OF PAVEMENT
	CATCH BASIN		P.O.C.	POINT OF COMMENCEMENT		W.M.	WATER METER		C.V.G.	CONCRETE VALLEY GUTTER
	C.U.E. COUNTY UTILITY EASEMENT		P.C.P.	PERMANENT CONTROL POINT		P/E	POOL EQUIPMENT		B.S.L.	BUILDING SETBACK LINE
	I.E./E.E. INGRESS / EGRESS EASEMENT		M	FIELD MEASURED		CONC.	CONCRETE SLAB		S.T.L.	SURVEY TIE LINE
	U.E. UTILITY EASEMENT		P	PLATTED MEASUREMENT		ESMT	EASEMENT			CENTER LINE
			D	DEED		D.E.	DRAINAGE EASEMENT		R/W	RIGHT-OF-WAY
			C	CALCULATED		L.B.E.	LANDSCAPE BUFFER EASEMENT		P.U.E.	PUBLIC UTILITY EASEMENT
			L.N.E.	LAKE OR LANDSCAPE MAINT. ESMT.		L.A.E.	LIMITED ACCESS EASEMENT		C.M.E.	CANAL MAINTENANCE EASEMENT
			R.O.E.	ROOF OVERHANG EASEMENT					A.E.	ANCHOR EASEMENT

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Notes: DRIVEWAY ENCROACHES INTO EASEMENT ALONG NORTH LOT LINE. FENCE ENCROACHES INTO EASEMENT ALONG SOUTH LOT LINE.

Please copy below for policy preparation purposes only:

This policy does not insure against loss or damage by reason of the following exceptions: Any rights, easements, interests, or claims which may exist by reason of, or reflected by, the following facts shown on the survey prepared by

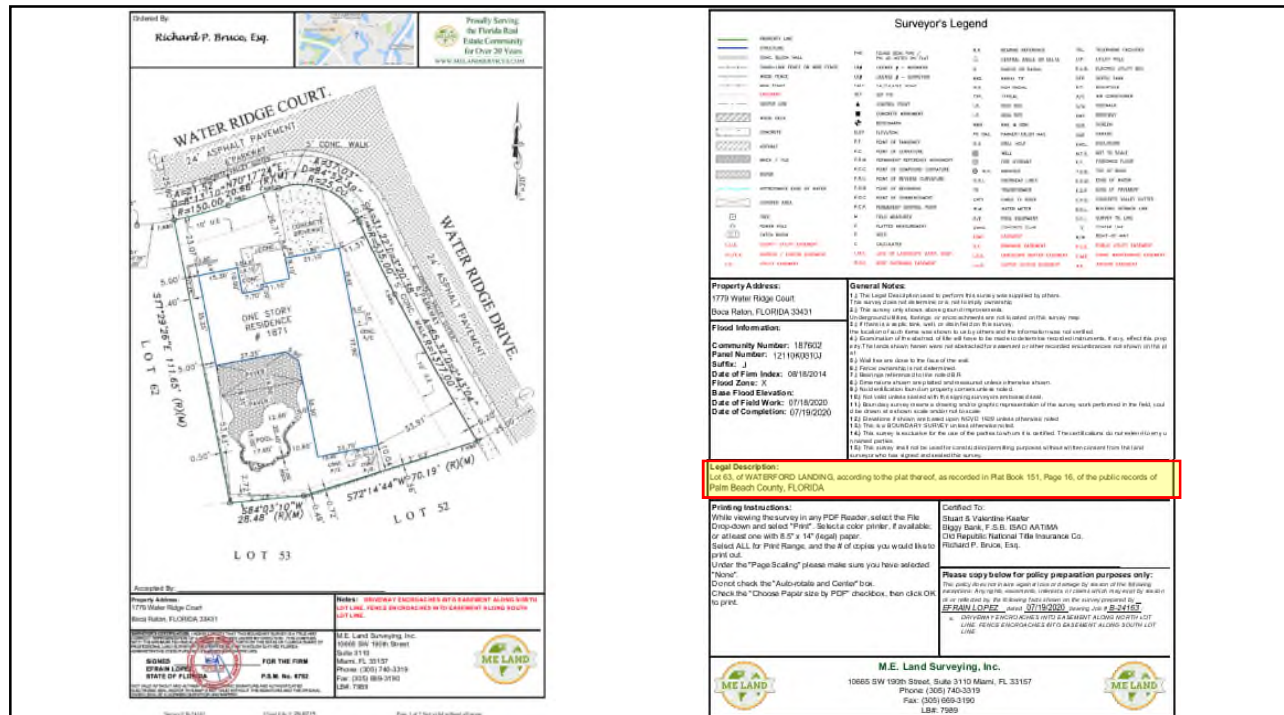
EFRAIN LOPEZ dated 07/19/2020 bearing Job # B-24163:

- a. DRIVEWAY ENCROACHES INTO EASEMENT ALONG NORTH LOT LINE. FENCE ENCROACHES INTO EASEMENT ALONG SOUTH LOT LINE.

Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by Efrain Lopez, dated July 19, 2020, bearing Job #B-24163:

- a. Driveway encroaches into easement on the north lot line;
- b. Fence encroaches into easement on the south lot line.

17



18

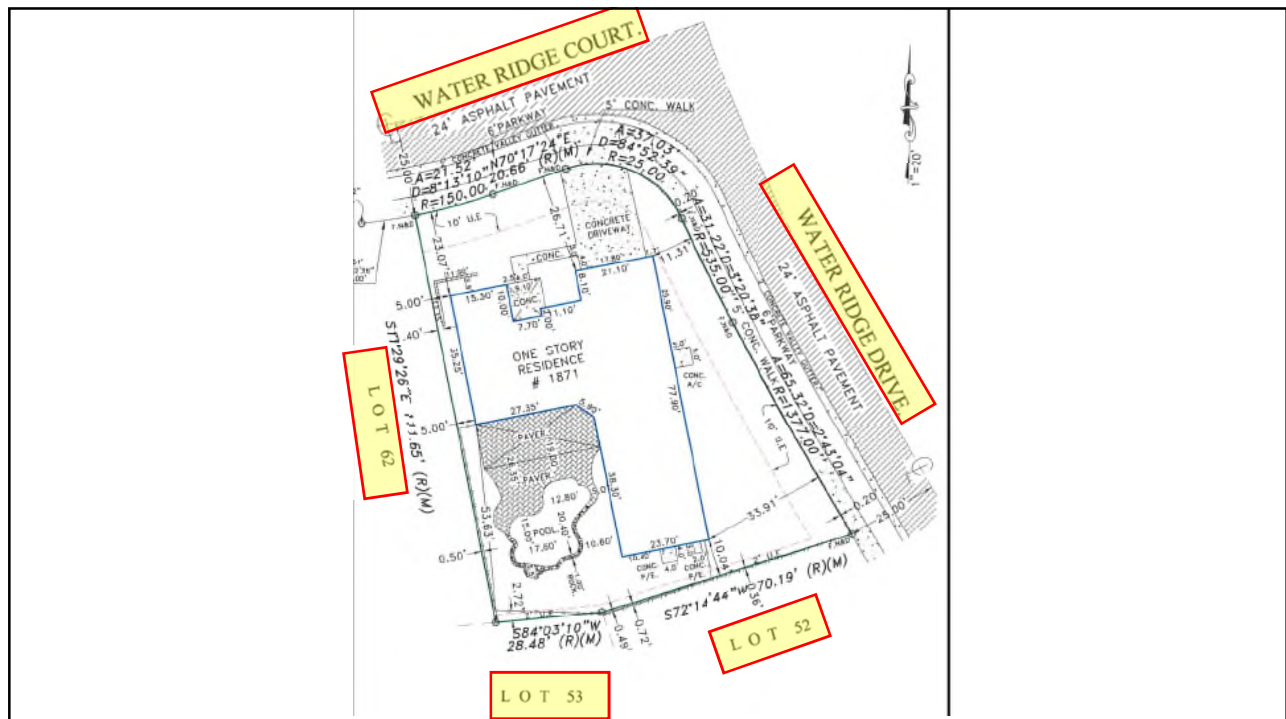
Legal Description

Legal Description:

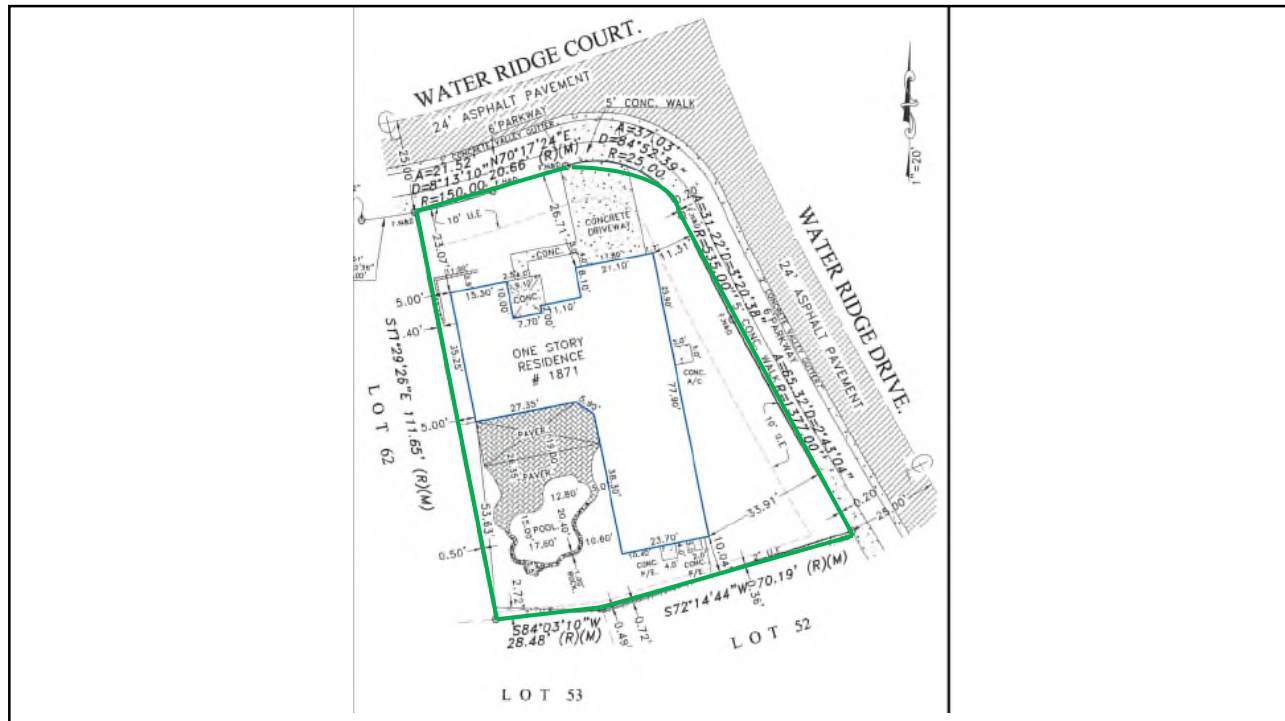
Lot 63, of WATERFORD LANDING, according to the plat thereof, as recorded in Plat Book 151, Page 16, of the public records of Palm Beach County, FLORIDA



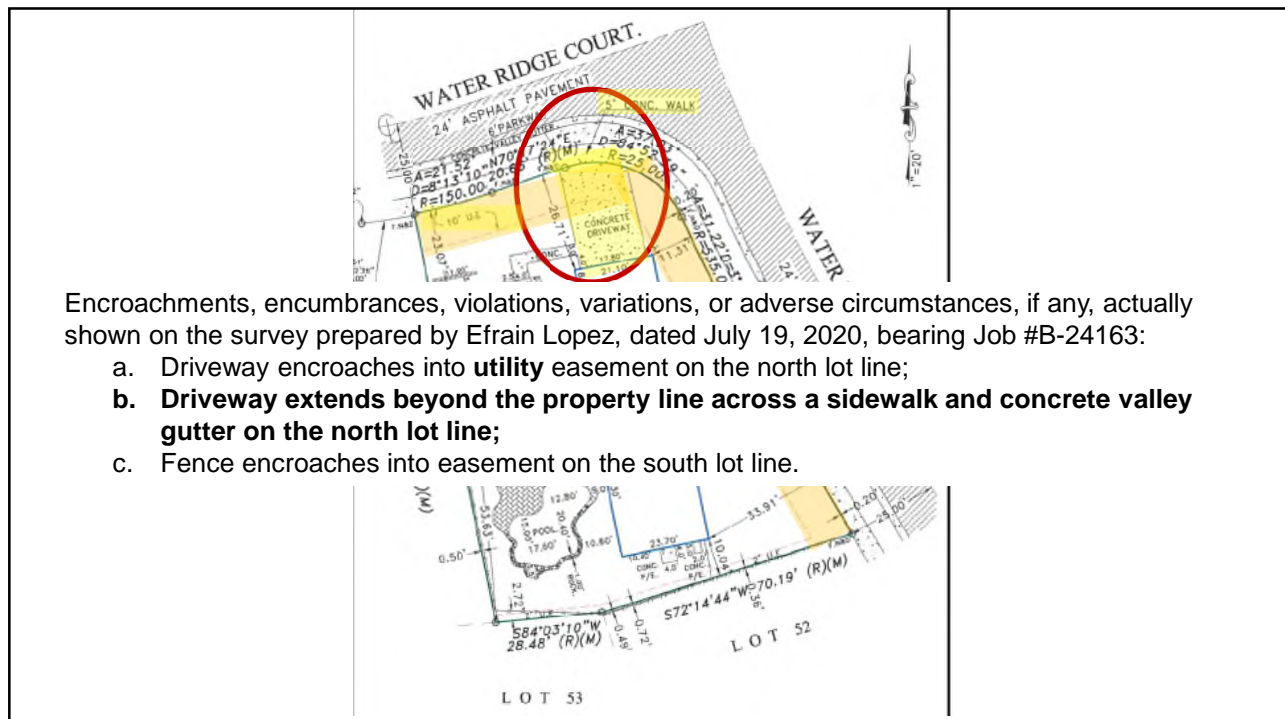
19



20



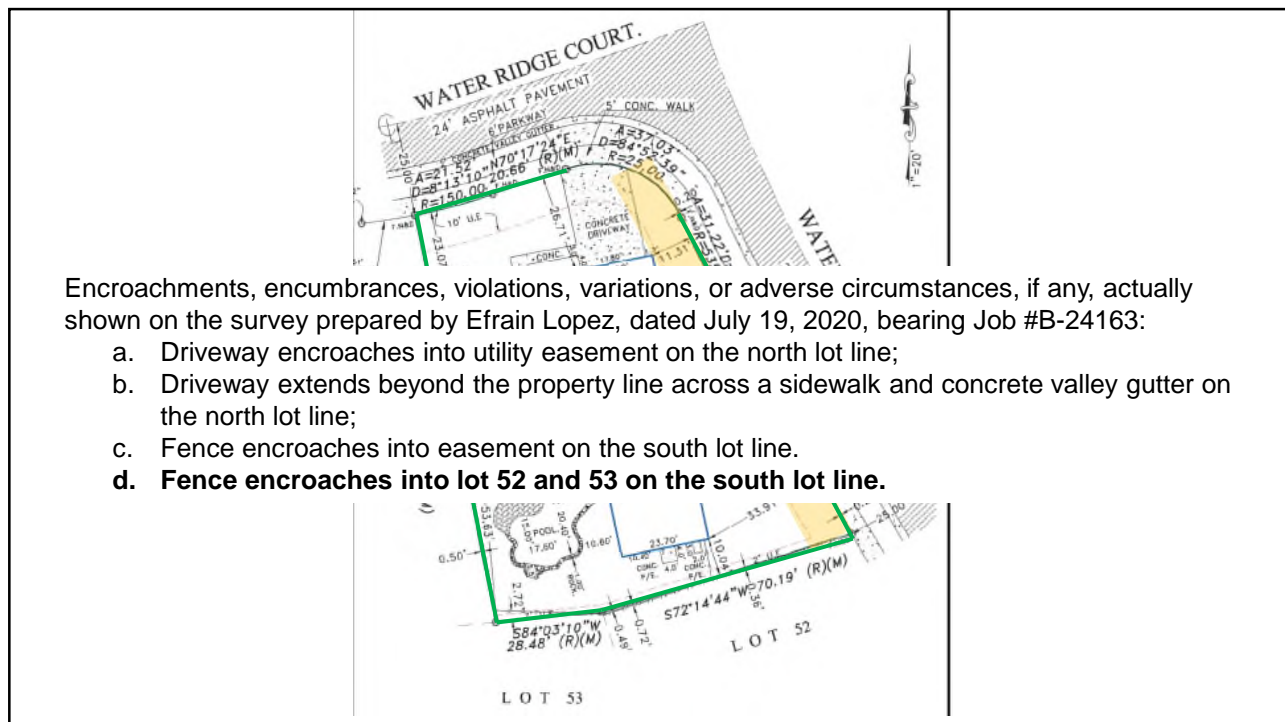
21



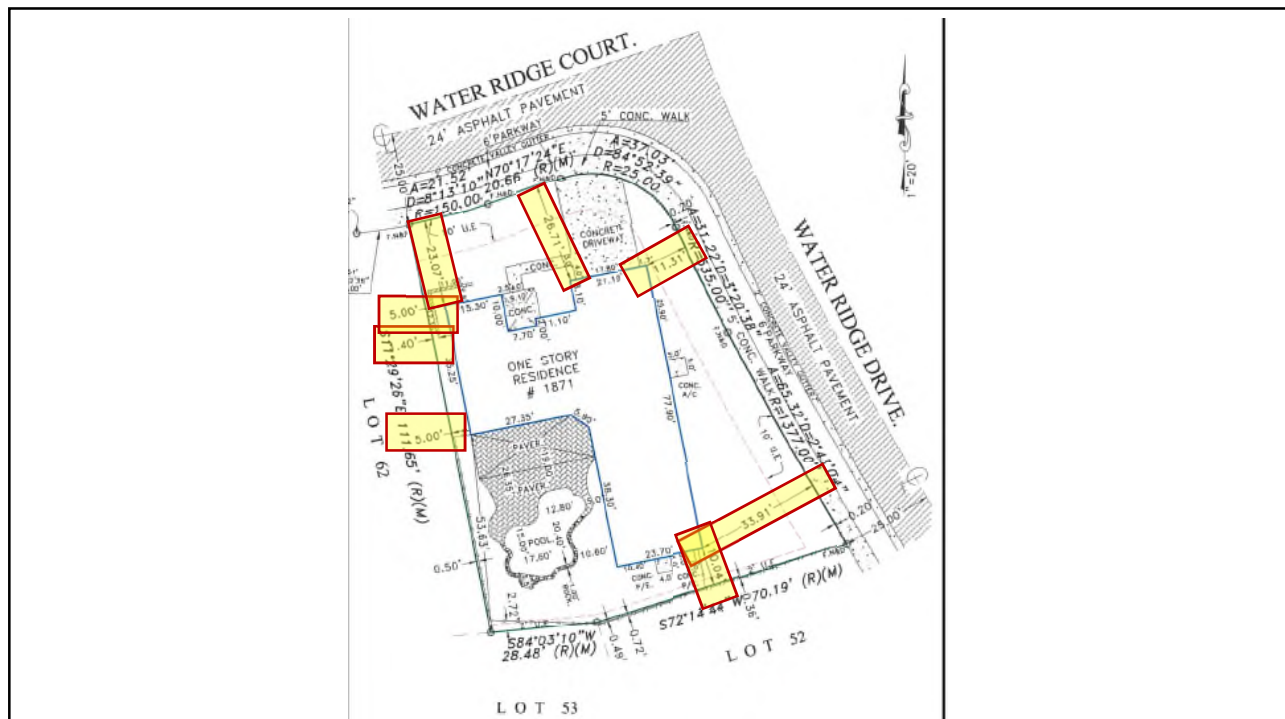
Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by Efrain Lopez, dated July 19, 2020, bearing Job #B-24163:

- Driveway encroaches into **utility** easement on the north lot line;
- Driveway extends beyond the property line across a sidewalk and concrete valley gutter on the north lot line;**
- Fence encroaches into easement on the south lot line.

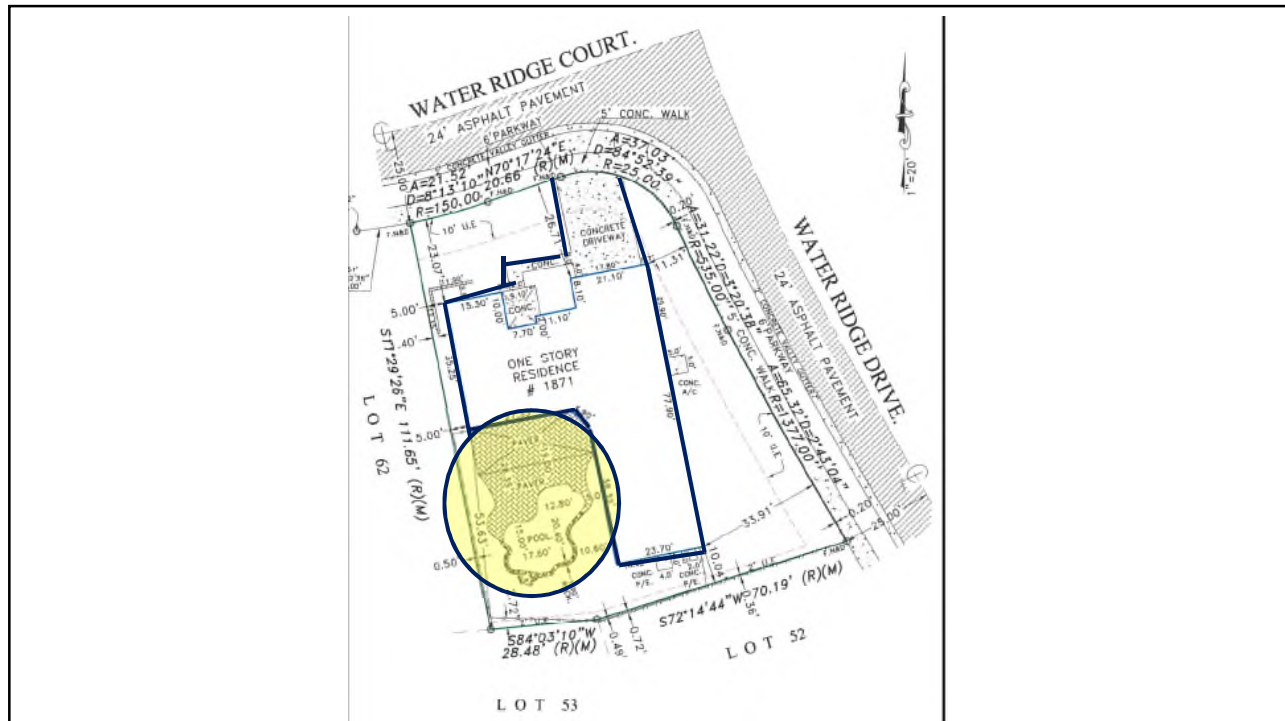
22



23



24



25

Updating Commitment

- Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by Efrain Lopez, dated July 19, 2020, bearing Job #B-24163:
 - a. Driveway encroaches into utility easement on the north lot line;
 - b. Driveway extends beyond the property line across a sidewalk and concrete valley gutter on the north lot line;
 - c. Fence encroaches into easement on the south lot line.
 - d. Fence encroaches into lot 52 and 53 on the south lot line.



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Commercial Survey

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ALTA/NSPS Land Survey

- ALTA – American Land Title Association
 - Title agents trade organization
 - Drafts standard title jackets & endorsement language
 - Lobbies on behalf of title industry
- NSPS – National Society of Professional Surveyors, Inc. is the legal successor organization to ACSM
- ACSM – American Congress on Surveying & Mapping



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ALTA/NSPS Survey Requirements

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- On-site fieldwork required pursuant to section 5*
- Preparation of a plat or map pursuant to section 6*
- Any information from Table A requested by client; &
- Certification outlined in section 7*
 - *Minimum Standard detail requirements for ALTA/NSPS Land Title Surveys (2016)

American Land Title Association® (ALTA®)
National Society of Professional Surveyors (NSPS)

Minimum Standard Detail Requirements
For ALTA/NSPS Land Title Surveys

MINIMUM STANDARD DETAIL REQUIREMENTS FOR
ALTA/NSPS LAND TITLE SURVEYS
(Effective February 23, 2016)

FAA

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Review Contract Prior to Ordering Survey

- Contract will have some provision
- Use same instructions
 - Include additional requirements of contract
 - Check the box for Table A items desired

INSTRUCTIONS TO SURVEYOR

Enclosed is the Title Commitment and supporting documents ☐ (check box if applicable) as well as for ALTA/NSPS surveys a zoning report for inclusion on field work as well as the map. If any part of information provided is not legible, please notify us immediately so that we may provide a legible copy.

If checked, the following optional items are to be included in the ALTA/NSPS LAND TITLE SURVEY, except as otherwise qualified (see note above):

FAA

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Review Contract Prior to Ordering Survey

- Contact lender for their requirements
 - Check the box for Table A items desired

Additional instructions for ALTA/NSPS surveys:

16. Comply with ALTA/NSPSN 2016 standards.

17. Confirm physical access (ALTA/NSPS surveys).

18. Age of monuments and structures if there are gaps or overlays found.

19. Identification of water features within 25 feet of the subject property.

20. Other items from ALTA/NSPS Table A

☐1. ☐2. ☐3. ☐4. ☐5. ☐6. ☐7.(a) ☐7.(b) ☐7.(c) ☐8. ☐9.

☐10.(a) ☐10.(b) ☐11. ☐12. ☐13. ☐14. ☐15. ☐16. ☐17. ☐18. ☐19. ☐20.

☐21. _____

21. ALTA/NSPS certification



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Ordering a Survey

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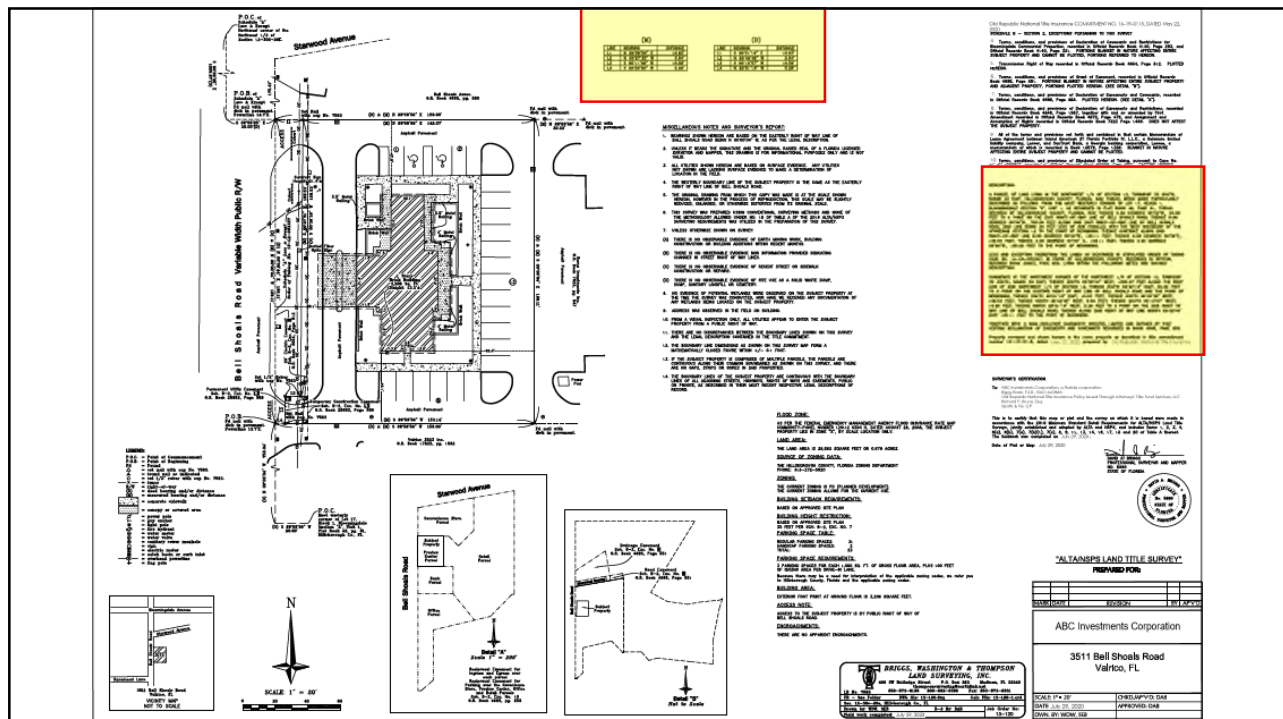
- Ordering a survey
 - Include the commitment exceptions (B-II) & supporting documentation
 - Request
 - All items in commitment exceptions (B-II) to be shown on the survey map
 - Label commitment items on map with commitment numbers
 - If item on commitment cannot be shown
 - Make a note of the same, including reason



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Fieldwork		Table A Requested	
<input type="checkbox"/>	Monuments – location, size character	<input type="checkbox"/>	Easements, servitudes, rights of way access & documents
<input type="checkbox"/>	Found	<input type="checkbox"/>	Location & width
<input type="checkbox"/>	Placed	<input type="checkbox"/>	Note if no access to public way observed
<input type="checkbox"/>	Location, description & character of any lines	<input type="checkbox"/>	Platted setback or building restrictions
<input type="checkbox"/>	Rights of way & access	<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Location	<input type="checkbox"/>	No less than 8.5 X 11
<input type="checkbox"/>	Roads, streets abutting, location & size	<input type="checkbox"/>	Vicinity map
<input type="checkbox"/>	Visible evidence of physical access	<input type="checkbox"/>	Necessary additional information
<input type="checkbox"/>	Location & character of other forms of access	<input type="checkbox"/>	Caption "ALTA/NSPS Land Title Survey"
<input type="checkbox"/>	Any potentially encroaching access ways	<input type="checkbox"/>	

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DESCRIPTION:

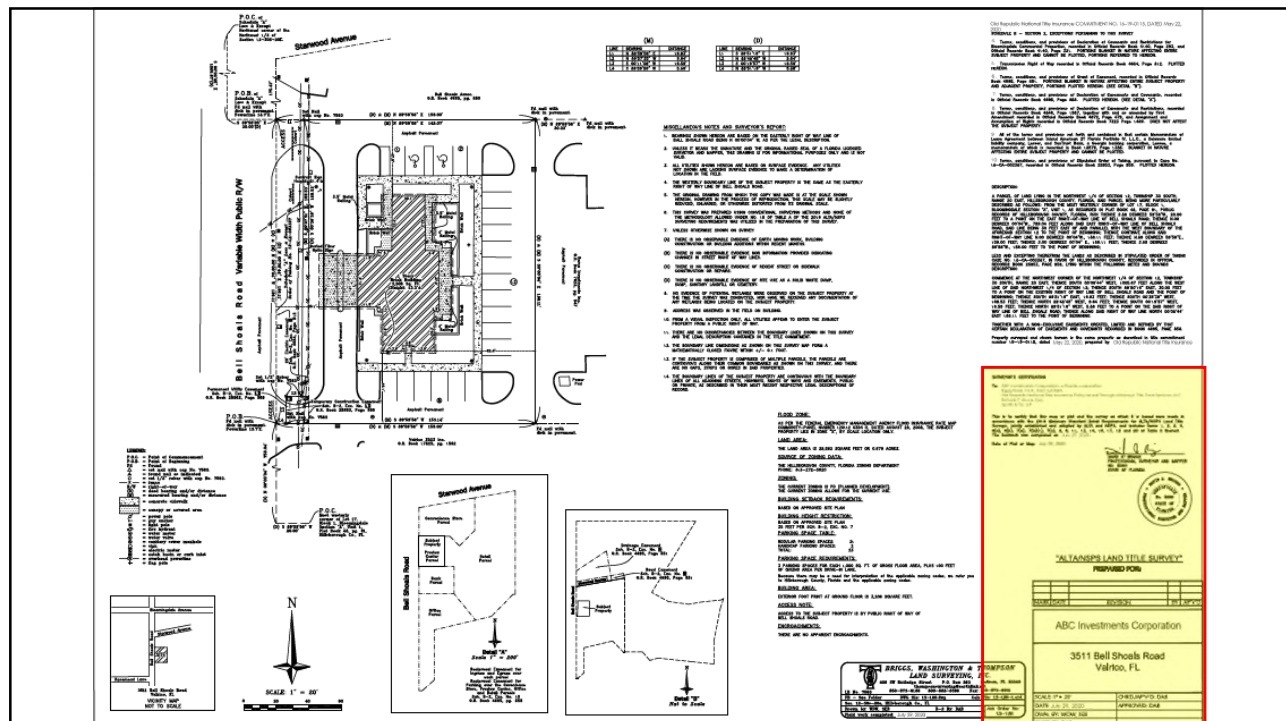
A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 30 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE MOST WESTERLY CORNER OF LOT 17, BLOCK 1, BLOOMINGDALE SECTION "A", UNIT 1, AS RECORDED IN PLAT BOOK 48, PAGE 91, PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA, RUN THENCE S 89 DEGREES 59'56"W., 20.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF BELL SHOALS ROAD; THENCE N 00 DEGREES 00'04"W., 759.04 FEET ALONG SAID EAST RIGHT-OF-WAY LINE OF BELL SHOALS ROAD, SAID LINE BEING 30 FEET EAST OF AND PARALLEL WITH THE WEST BOUNDARY OF THE AFORESAID SECTION 12 TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N 00 DEGREES 00'04"W., 186.11 FEET; THENCE N 89 DEGREES 59'56"E., 159.00 FEET; THENCE S 00 DEGREES 00'04"E., 186.11 FEET; THENCE S 89 DEGREES 59'56"W., 159.00 FEET TO THE POINT OF BEGINNING;

LESS AND EXCEPTING THEREFROM THE LANDS AS DESCRIBED IN STIPULATED ORDER OF TAKING CASE NO. 18-CA-003387, IN FAVOR OF HILLSBOROUGH COUNTY, RECORDED IN OFFICIAL RECORDS BOOK 25953, PAGE 959, LYING WITHIN THE FOLLOWING METES AND BOUNDS DESCRIPTION:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 30 SOUTH, RANGE 20 EAST; THENCE SOUTH 00°06'44" WEST, 1005.67 FEET ALONG THE WEST LINE OF SAID NORTHWEST 1/4 OF SECTION 12; THENCE SOUTH 89°50'16" EAST, 30.00 FEET TO A POINT ON THE EXISTING RIGHT OF WAY LINE OF BELL SHOALS ROAD AND THE POINT OF BEGINNING; THENCE SOUTH 89°51'16" EAST, 16.93 FEET; THENCE SOUTH 00°36'39" WEST, 169.53 FEET; THENCE NORTH 89°48'45" WEST, 9.64 FEET; THENCE SOUTH 00°19'57" WEST, 16.59 FEET; THENCE NORTH 89°51'16" WEST, 5.86 FEET TO A POINT ON THE SAID RIGHT OF WAY LINE OF BELL SHOALS ROAD; THENCE ALONG SAID RIGHT OF WAY LINE NORTH 00°08'44" EAST 186.11 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: A NON-EXCLUSIVE EASEMENTS CREATED, LIMITED AND DEFINED BY THAT CERTAIN DECLARATION OF EASEMENTS AND COVENANTS RECORDED IN BOOK 4695, PAGE 858.

Property surveyed and shown hereon is the same property as described in title commitment number 16-19-0115, dated May 22, 2020, prepared by Old Republic National Title Insurance



FLOOD_ZONE:

AS PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 120112 0394 H, DATED AUGUST 28, 2008, THE SUBJECT PROPERTY LIES IN ZONE "X", BY SCALE LOCATION ONLY.

LAND AREA:

THE LAND AREA IS 29,592 SQUARE FEET OR 0.679 ACRES.

SOURCE OF ZONING DATA:

THE HILLSBOROUGH COUNTY, FLORIDA ZONING DEPARTMENT
PHONE: 813-272-5920

ZONING:

THE CURRENT ZONING IS PD (PLANNED DEVELOPMENT).
THE CURRENT ZONING ALLOWS FOR THE CURRENT USE.

BUILDING SETBACK REQUIREMENTS:

BASED ON APPROVED SITE PLAN

BUILDING HEIGHT RESTRICTION:

BASED ON APPROVED SITE PLAN
35 FEET PER SCH. B-2, EXC. NO. 7

PARKING SPACE TABLE:

REGULAR PARKING SPACES:	21
HANDICAP PARKING SPACES:	2
TOTAL:	23

PARKING SPACE REQUIREMENTS:

3 PARKING SPACES FOR EACH 1,000 SQ. FT. OF GROSS FLOOR AREA, PLUS 100 FEET OF QUEING AREA PER DRIVE-IN LANE.

Because there may be a need for interpretation of the applicable zoning codes, we refer you to Hillsborough County, Florida and the applicable zoning codes.

BUILDING AREA:

EXTERIOR FOOT PRINT AT GROUND FLOOR IS 3,206 SQUARE FEET.

ACCESS NOTE:

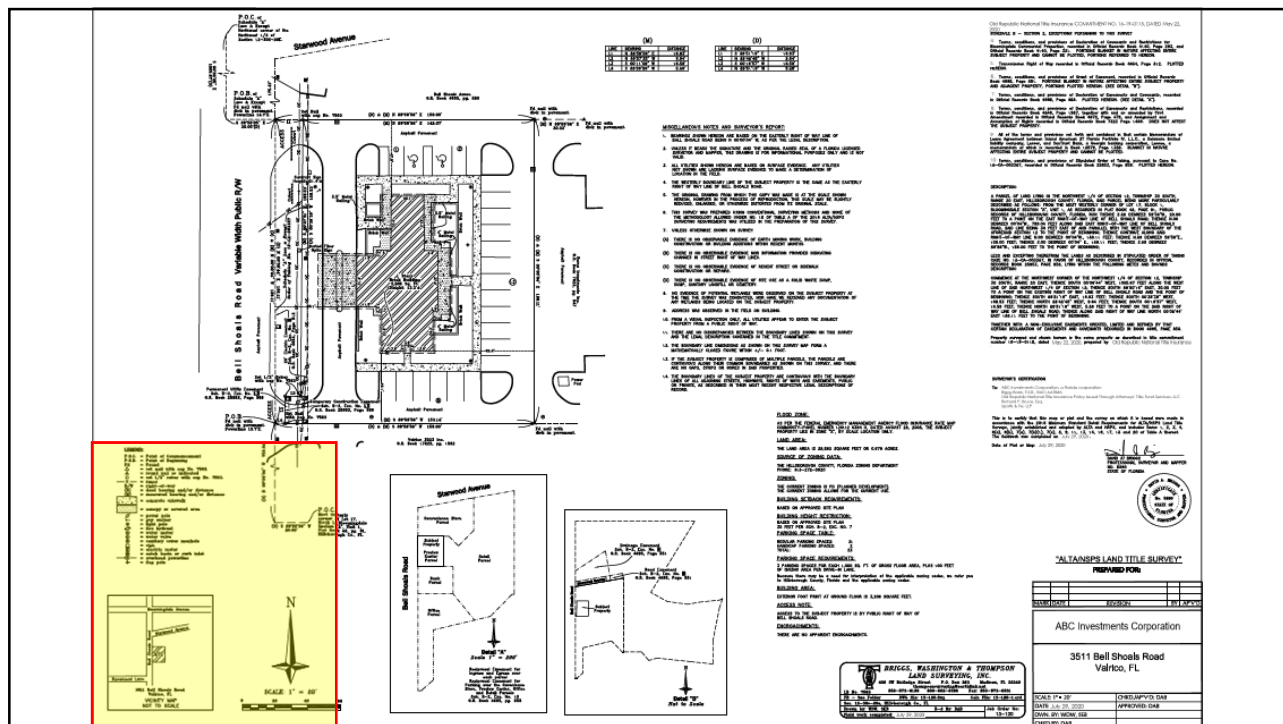
ACCESS TO THE SUBJECT PROPERTY IS BY PUBLIC RIGHT OF WAY OF
BELL SHOALS ROAD.

ENCROACHMENTS:

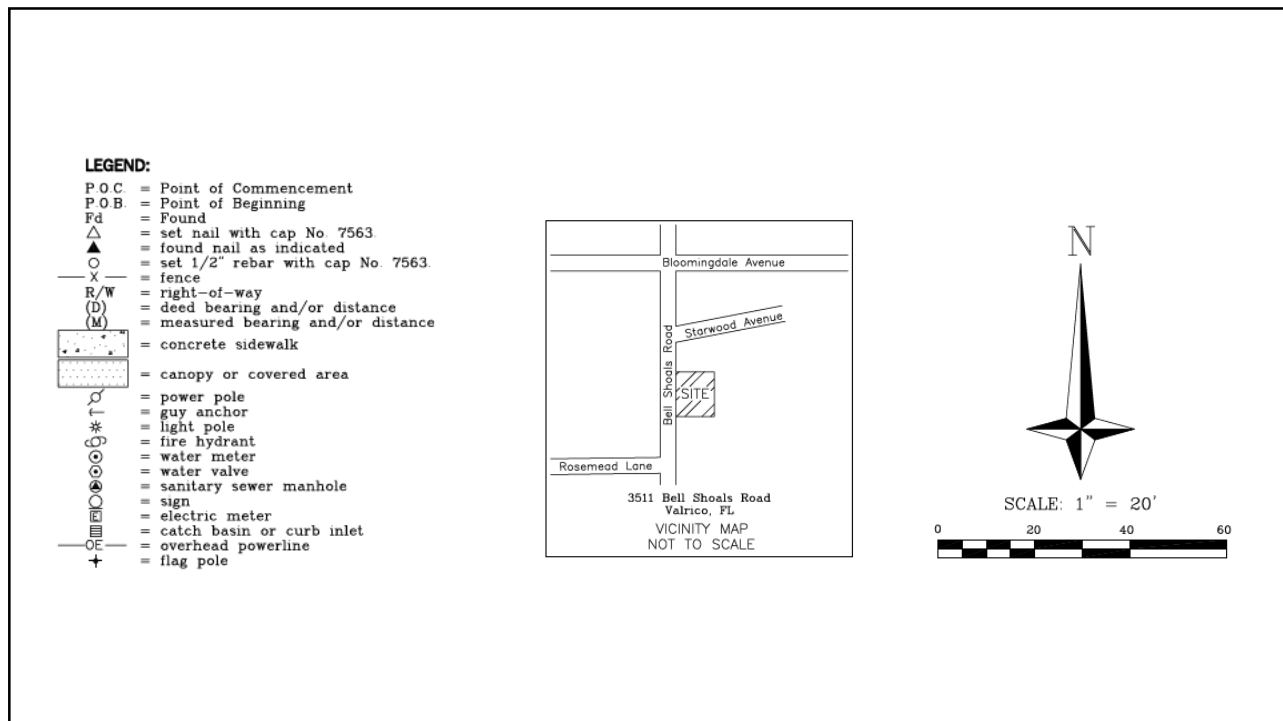
THERE ARE NO APPARENT ENCROACHMENTS.



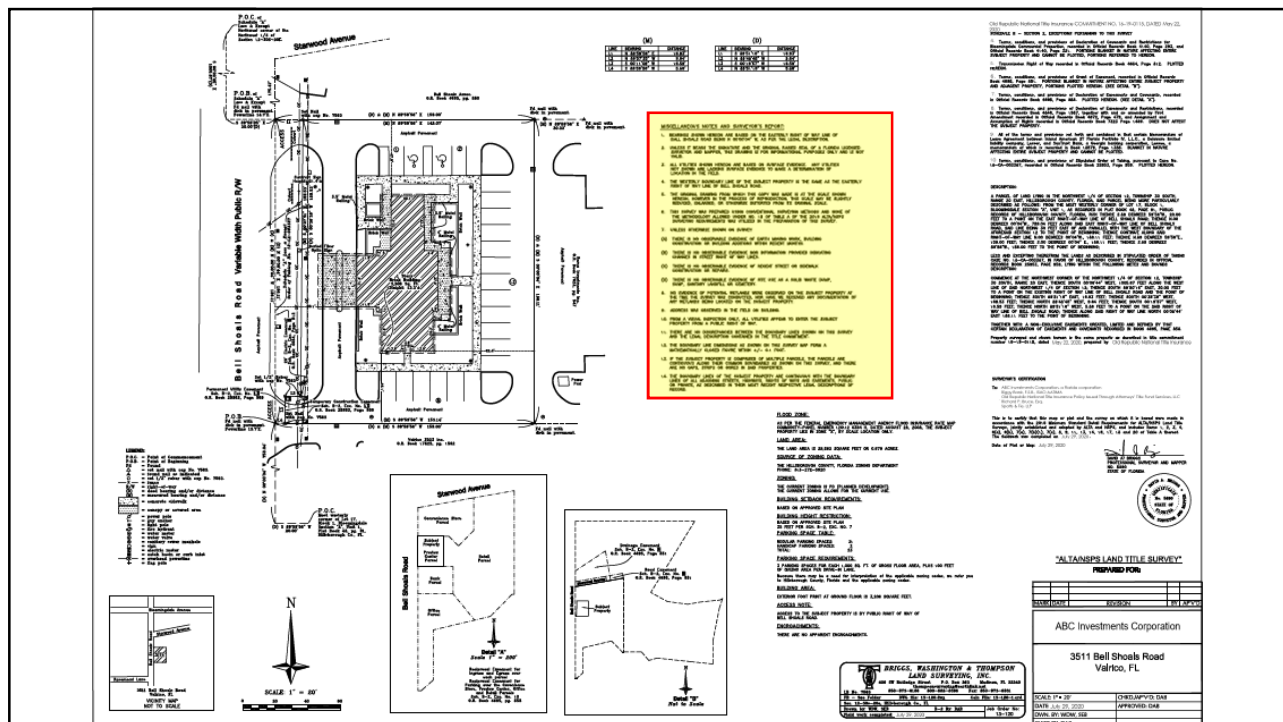
				BRIGGS, WASHINGTON & THOMPSON LAND SURVEYING, INC.			
406 SW Rutledge Street				P.O. Box 263		Madison, FL 32340	
thompsonsurveying@earthlink.net							
LB No. 7563		850-973-6186		800-882-8396		Fax: 850-973-6931	
FB - See Folder		DWG file: 13-120.dwg		Calc File: 13-120-1.crd			
Sec. 12-30s-20e, Hillsborough Co., FL							
Drawn by: WDW, SEB				B-2 By: DAB		Job Order No: 13-120	
Field work completed: July 29, 2020							



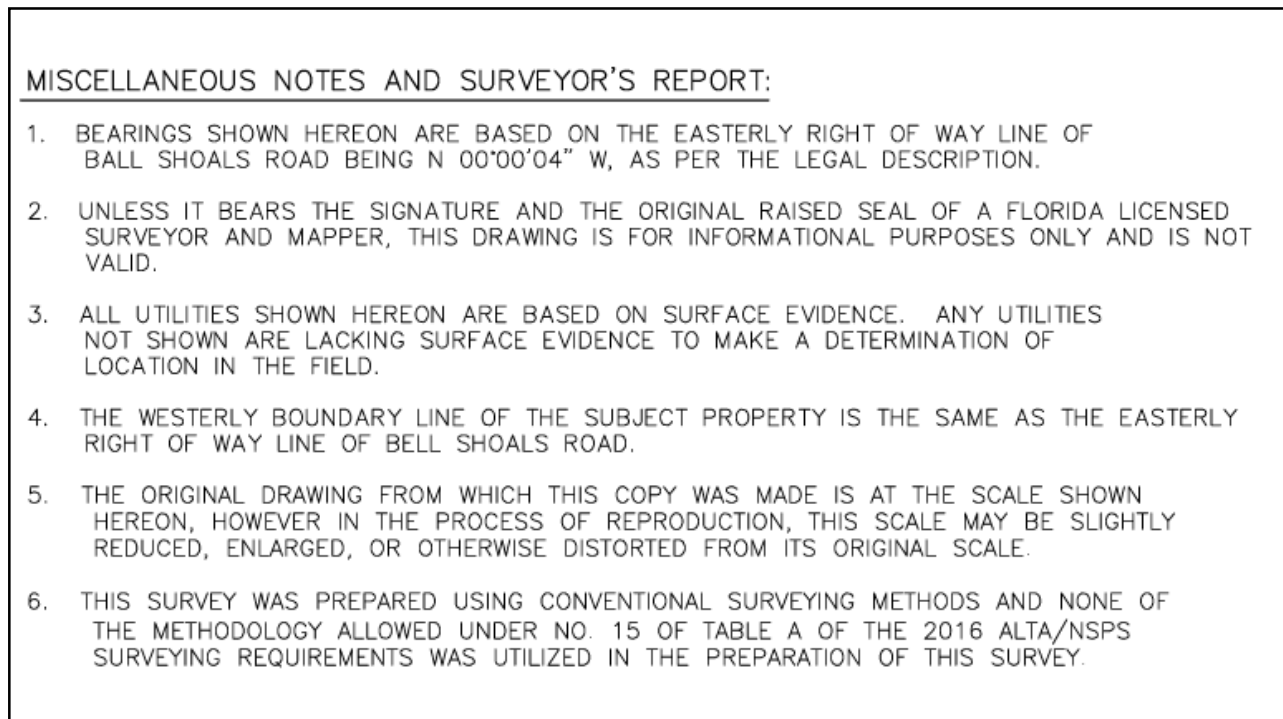
41



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MISCELLANEOUS NOTES AND SURVEYOR'S REPORT:

7. UNLESS OTHERWISE SHOWN ON SURVEY:

- (A) THERE IS NO OBSERVABLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS WITHIN RECENT MONTHS.
 - (B) THERE IS NO OBSERVABLE EVIDENCE NOR INFORMATION PROVIDED INDICATING CHANGES IN STREET RIGHT OF WAY LINES.
 - (C) THERE IS NO OBSERVABLE EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
 - (D) THERE IS NO OBSERVABLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP, SANITARY LANDFILL OR CEMETERY.
8. NO EVIDENCE OF POTENTIAL WETLANDS WERE OBSERVED ON THE SUBJECT PROPERTY AT THE TIME THE SURVEY WAS CONDUCTED, NOR HAVE WE RECEIVED ANY DOCUMENTATION OF ANY WETLANDS BEING LOCATED ON THE SUBJECT PROPERTY.

THE METHODOLOGY ALLOWED UNDER NO. 15 OF TABLE A OF THE 2016 ALTA/NSPS SURVEYING REQUIREMENTS WAS UTILIZED IN THE PREPARATION OF THIS SURVEY.

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- 9. ADDRESS WAS OBSERVED IN THE FIELD ON BUILDING.
- 10. FROM A VISUAL INSPECTION ONLY, ALL UTILITIES APPEAR TO ENTER THE SUBJECT PROPERTY FROM A PUBLIC RIGHT OF WAY.
- 11. THERE ARE NO DISCREPANCIES BETWEEN THE BOUNDARY LINES SHOWN ON THIS SURVEY AND THE LEGAL DESCRIPTION CONTAINED IN THE TITLE COMMITMENT.
- 12. THE BOUNDARY LINE DIMENSIONS AS SHOWN ON THIS SURVEY MAP FORM A MATHEMATICALLY CLOSED FIGURE WITHIN ± 0.1 FOOT.
- 13. IF THE SUBJECT PROPERTY IS COMPRISED OF MULTIPLE PARCELS, THE PARCELS ARE CONTIGUOUS ALONG THEIR COMMON BOUNDARIES AS SHOWN ON THIS SURVEY, AND THERE ARE NO GAPS, STRIPS OR GORES IN SAID PROPERTIES.
- 14. THE BOUNDARY LINES OF THE SUBJECT PROPERTY ARE CONTIGUOUS WITH THE BOUNDARY LINES OF ALL ADJOINING STREETS, HIGHWAYS, RIGHTS OF WAYS AND EASEMENTS, PUBLIC OR PRIVATE, AS DESCRIBED IN THEIR MOST RECENT RESPECTIVE LEGAL DESCRIPTIONS OF RECORD.

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Tying Commitment to Survey

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- Ordering a survey
 - Include the commitment exceptions (B-II) & supporting documentation
 - Request
 - All items in commitment exceptions (B-II) to be shown on the survey map
 - Label commitment items on map with commitment numbers
- If item on commitment cannot be shown
 - Make a note of the same, including reason



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Old Republic National Title Insurance Company AMERICAN LAND TITLE ASSOCIATION COMMITMENT Schedule B-II

Issuing Office File Number:

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared 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 Commitment 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. a. General or special taxes and assessments required to be paid in the year 2020 and subsequent years.
b. Rights or claims of parties in possession not recorded in the Public Records.
c. 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.
d. Easements or claims of easements not recorded in the Public Records.
e. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.
3. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: *Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*
4. Declaration and restrictions and all exhibits attached thereto and recorded in: O.R. Book 4140, Page 293, together with amendments thereto recorded in: O.R. Book 4140, Page 321, Public Records of Hillsborough County, Florida (hereinafter "Declaration"). Such Declaration may establish and provide without limitation for easements, liens, charges, assessments, an option to purchase, a right of first refusal, and/or the prior approval of a future purchaser or occupant.
5. Transmission Right of Way, recorded in O.R. Book 4684, Page 812, Public Records of Hillsborough County, Florida.
6. Terms and conditions of the easement contained in the instrument recorded in O.R. Book 4695, Page 851.
7. Terms and conditions of the easement and covenants contained in the instrument recorded in O.R. Book 4695, Page 858.
8. Terms, conditions, and provisions of Declaration of Easements and Restrictions, recorded in Official Records Book 4846, Page 1987, together with and as amended by First Amendment recorded in Official Records Book 4972, Page 479, and Assignment and Assumption of Rights recorded in Official Records Book 7323 Page 1469.
9. Lease from Inland American ST Florida Portfolio IV, L.L.C., a Delaware limited liability company to SunTrust Bank, a Georgia banking corporation, recorded O.R. Book 18379, Page 1385, Public Records of Hillsborough County, Florida.
10. Terms, conditions, and provisions of Stipulated Order of Taking, pursuant to Case No. 18-CA-003387, recorded in O.R. Book 25953, Page 959, Public Records of Hillsborough County, Florida.

This page is only a part of a 2016 ALTA Commitment by Title Insurance. This Commitment is not valid without the Notice, the Commitment in Data Policy, the Commitment Conditions, Schedule A, Schedule B, Part I - Requirements, and Schedule B, Part II - Exceptions.

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Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared 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 Commitment 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.
 - a. General or special taxes and assessments required to be paid in the year 2020 and subsequent years.
 - b. Rights or claims of parties in possession not recorded in the Public Records.
 - c. 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.
 - d. Easements or claims of easements not recorded in the Public Records.
 - e. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.
3. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: *Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*

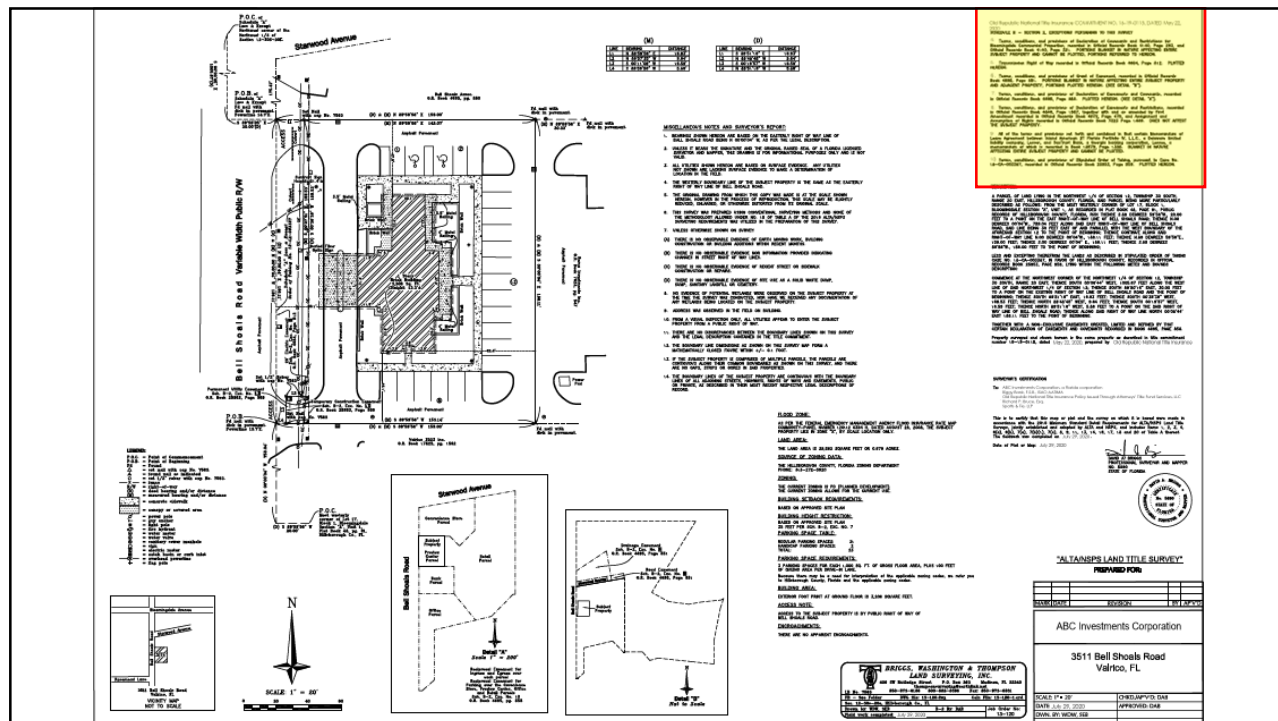
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4. Declaration and restrictions and all exhibits attached thereto and recorded in: O.R. Book 4140, Page 293, together with amendments thereto recorded in: O.R. Book 4140, Page 321, Public Records of Hillsborough County, Florida (hereinafter "Declaration"). Such Declaration may establish and provide without limitation for easements, liens, charges, assessments, an option to purchase, a right of first refusal, and/or the prior approval of a future purchaser or occupant.
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7. Terms and conditions of the easement and covenants contained in the instrument recorded in O.R. Book 4695, Page 858.

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8. Terms, conditions, and provisions of Declaration of Easements and Restrictions, recorded in Official Records Book 4846, Page 1987, together with and as amended by First Amendment recorded in Official Records Book 4972, Page 479, and Assignment and Assumption of Rights recorded in Official Records Book 7323 Page 1469.
9. Lease from Inland American ST Florida Portfolio IV, L.L.C., a Delaware limited liability company to SunTrust Bank, a Georgia banking corporation, recorded O.R. Book 18579, Page 1385, Public Records of Hillsborough County, Florida.
10. Terms, conditions, and provisions of Stipulated Order of Taking, pursuant to Case No. 18-CA-003387, recorded in O.R. Book 25953, Page 959, Public Records of Hillsborough County, Florida.

51



52

Old Republic National Title Insurance COMMITMENT NO. 16-19-0115, DATED May 22, 2020

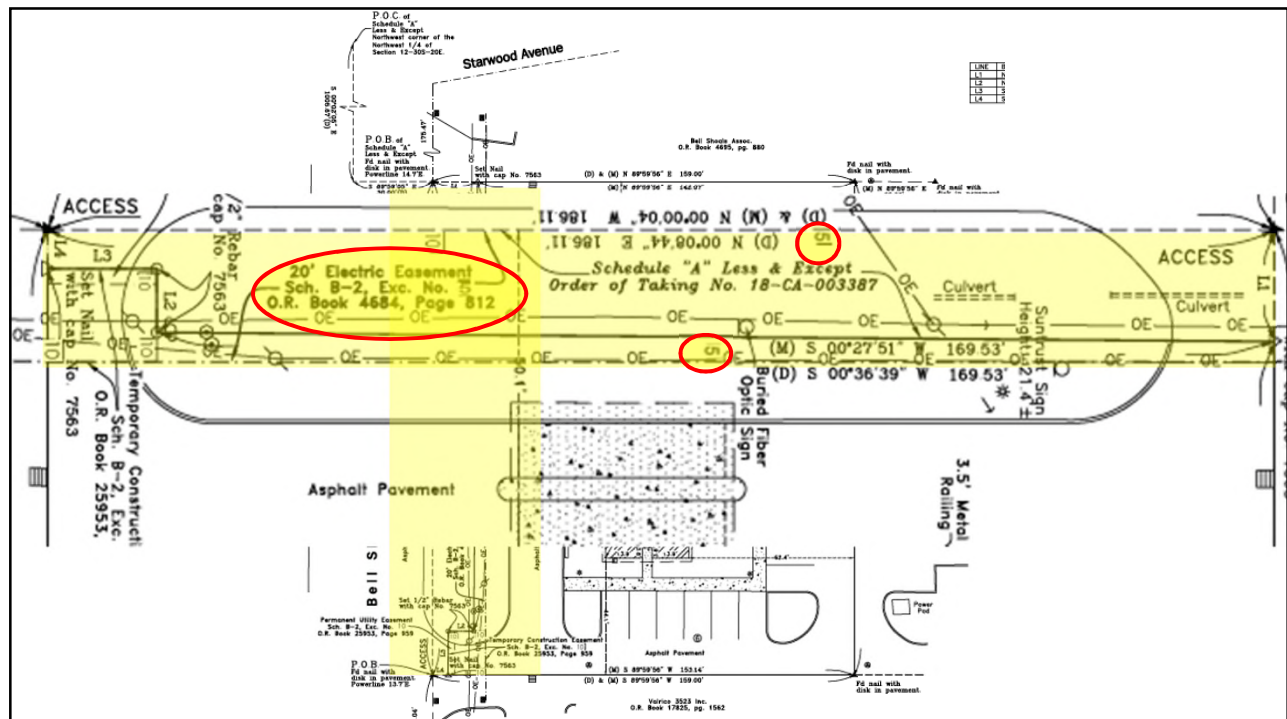
SCHEDULE B – SECTION 2, EXCEPTIONS PERTAINING TO THIS SURVEY

4. Terms, conditions, and provisions of Declaration of Covenants and Restrictions for Bloomingdale Commercial Properties, recorded in Official Records Book 4140, Page 293, and Official Records Book 4140, Page 321. PORTIONS BLANKET IN NATURE AFFECTING ENTIRE SUBJECT PROPERTY AND CANNOT BE PLOTTED, PORTIONS REFERRED TO HEREON.

5. Transmission Right of Way recorded in Official Records Book 4684, Page 812. PLOTTED HEREON.

6. Terms, conditions, and provisions of Grant of Easement, recorded in Official Records Book 4695, Page 851. PORTIONS BLANKET IN NATURE AFFECTING ENTIRE SUBJECT PROPERTY AND ADJACENT PROPERTY, PORTIONS PLOTTED HEREON. (SEE DETAIL "B").

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54

Old Republic National Title Insurance COMMITMENT NO. 16-19-0115, DATED May 22, 2020

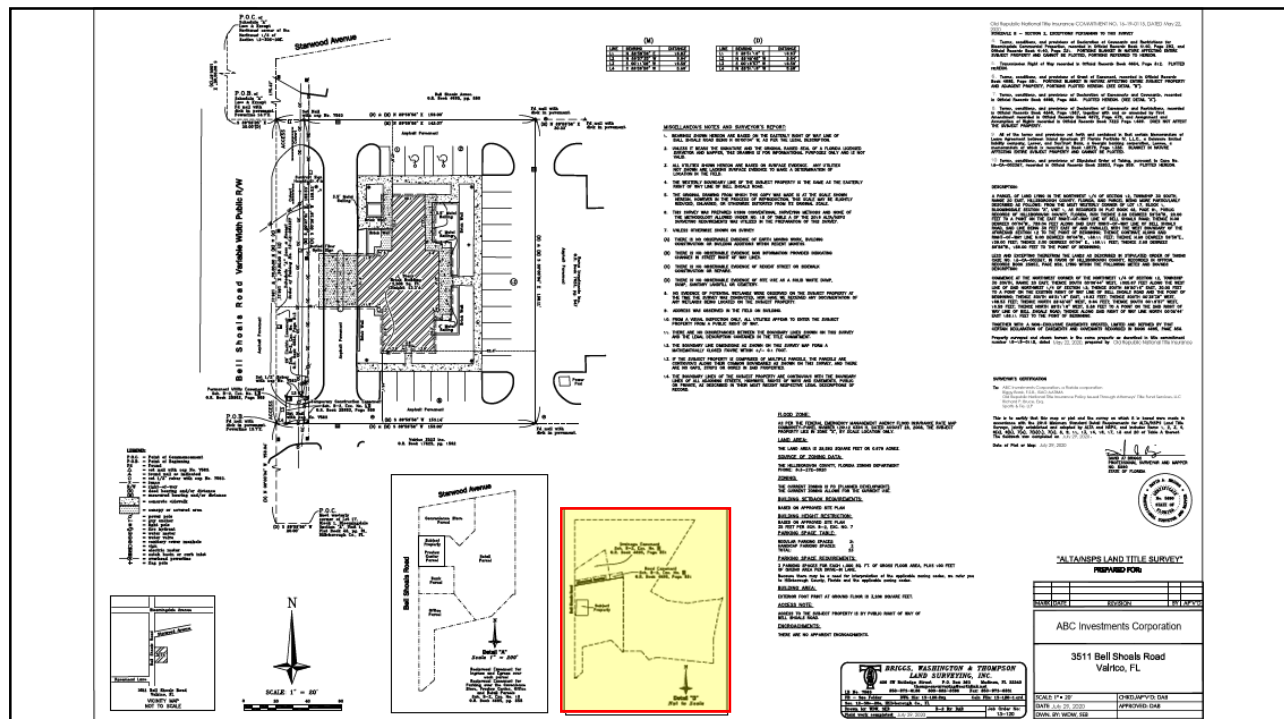
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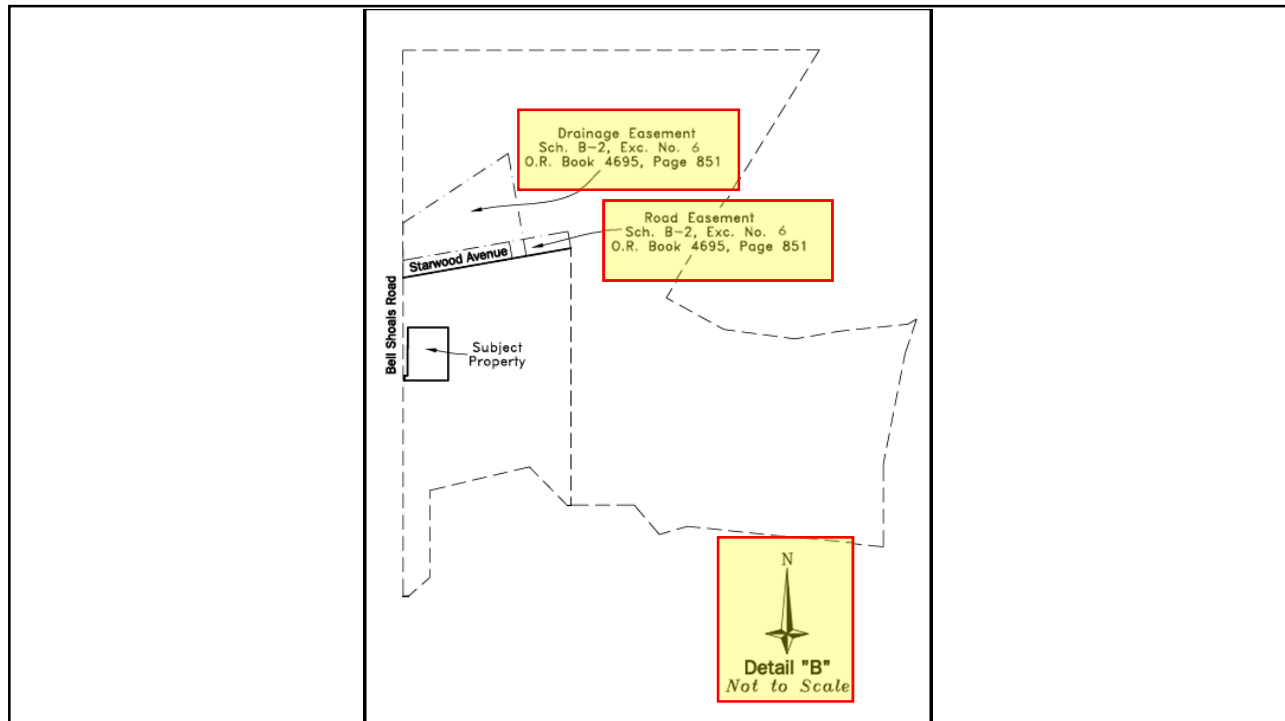
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6. Terms, conditions, and provisions of Grant of Easement, recorded in Official Records Book 4695, Page 851. PORTIONS BLANKET IN NATURE AFFECTING ENTIRE SUBJECT PROPERTY AND ADJACENT PROPERTY, PORTIONS PLOTTED HEREON. (SEE DETAIL "B").

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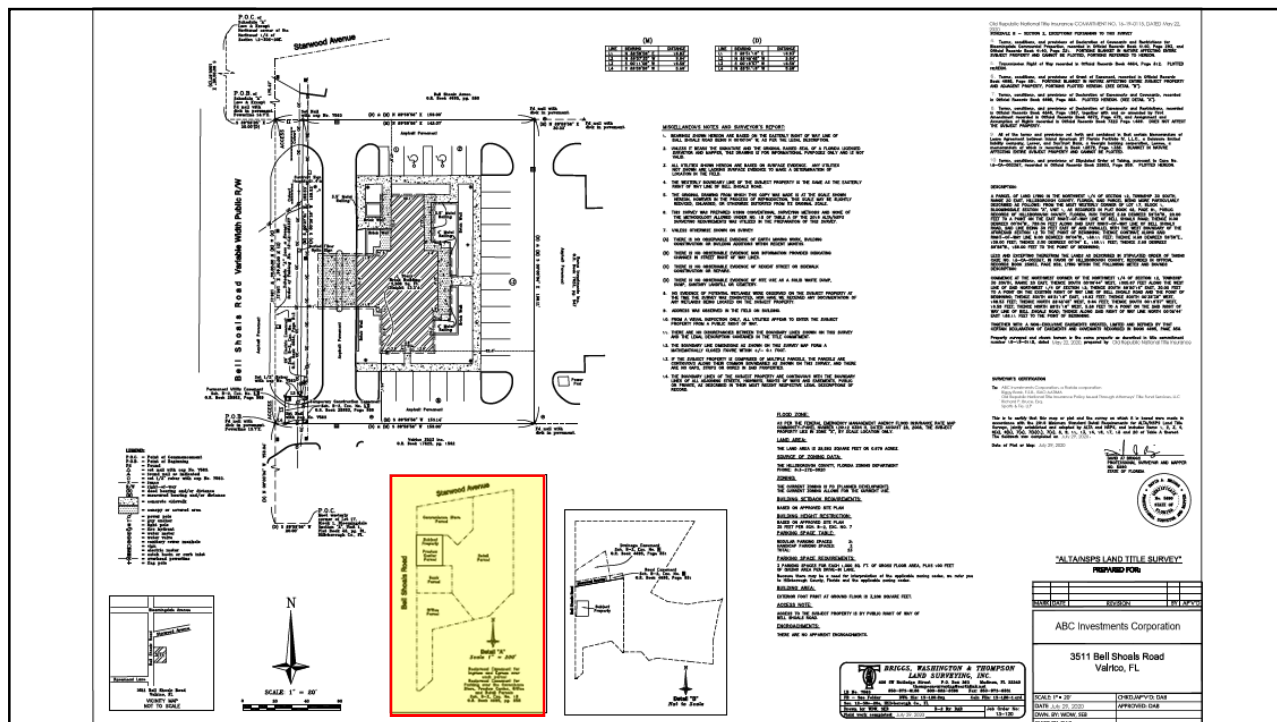
7. Terms, conditions, and provisions of Declaration of Easements and Covenants, recorded in Official Records Book 4695, Page 858. **PLOTTED HEREON. (SEE DETAIL "A").**

8. Terms, conditions, and provisions of Declaration of Easements and Restrictions, recorded in Official Records Book 4846, Page 1987, together with and as amended by First Amendment recorded in Official Records Book 4972, Page 479, and Assignment and Assumption of Rights recorded in Official Records Book 7323 Page 1469. **DOES NOT AFFECT THE SUBJECT PROPERTY.**

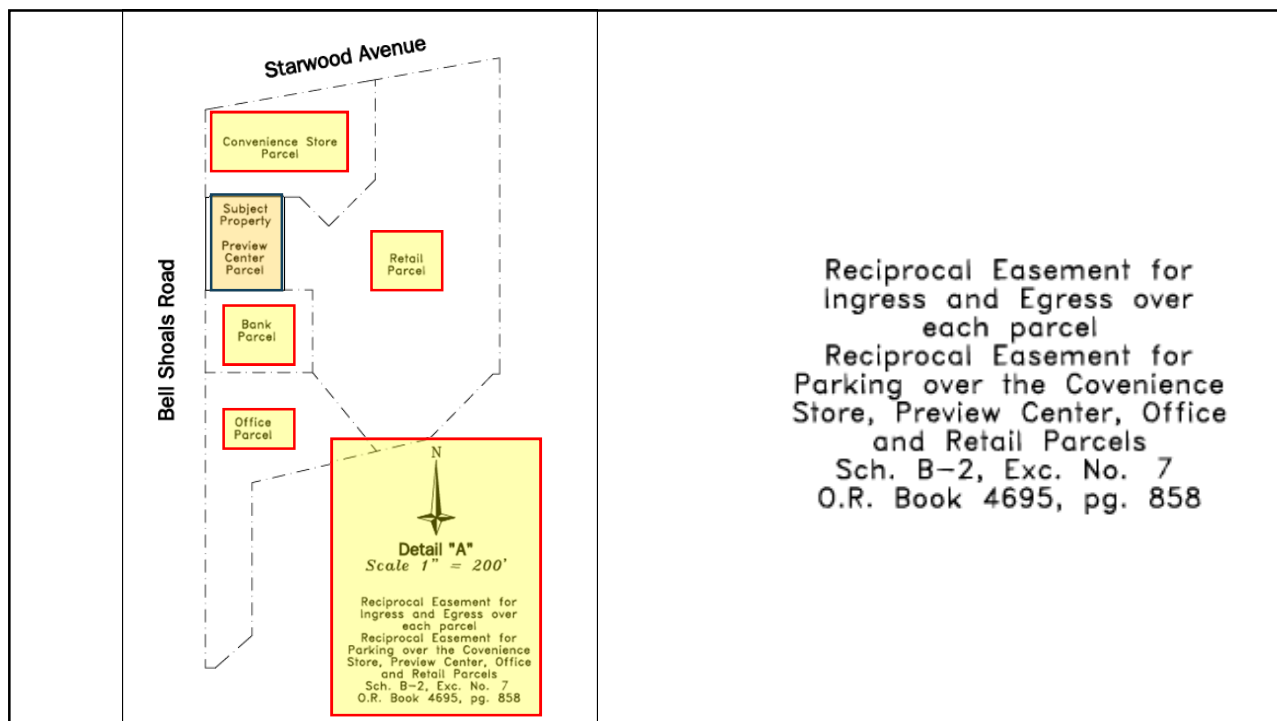
9. All of the terms and provisions set forth and contained in that certain Memorandum of Lease Agreement between Inland American ST Florida Portfolio IV, L.L.C., a Delaware limited liability company, Lessor, and SunTrust Bank, a Georgia banking corporation, Lessee, a memorandum of which is recorded in Book 18579, Page 1385. **BLANKET IN NATURE AFFECTING ENTIRE SUBJECT PROPERTY AND CANNOT BE PLOTTED.**

10. Terms, conditions, and provisions of Stipulated Order of Taking, pursuant to Case No. 18-CA-003387, recorded in Official Records Book 25953, Page 959. **PLOTTED HEREON.**

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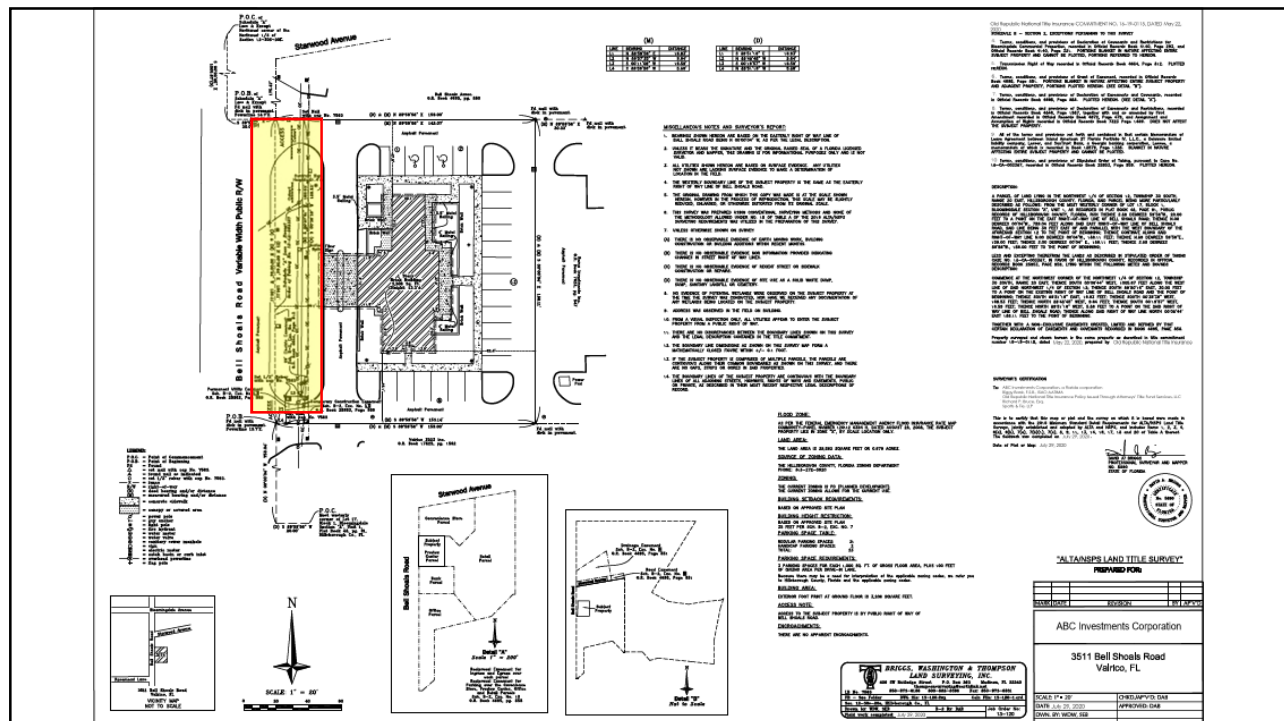
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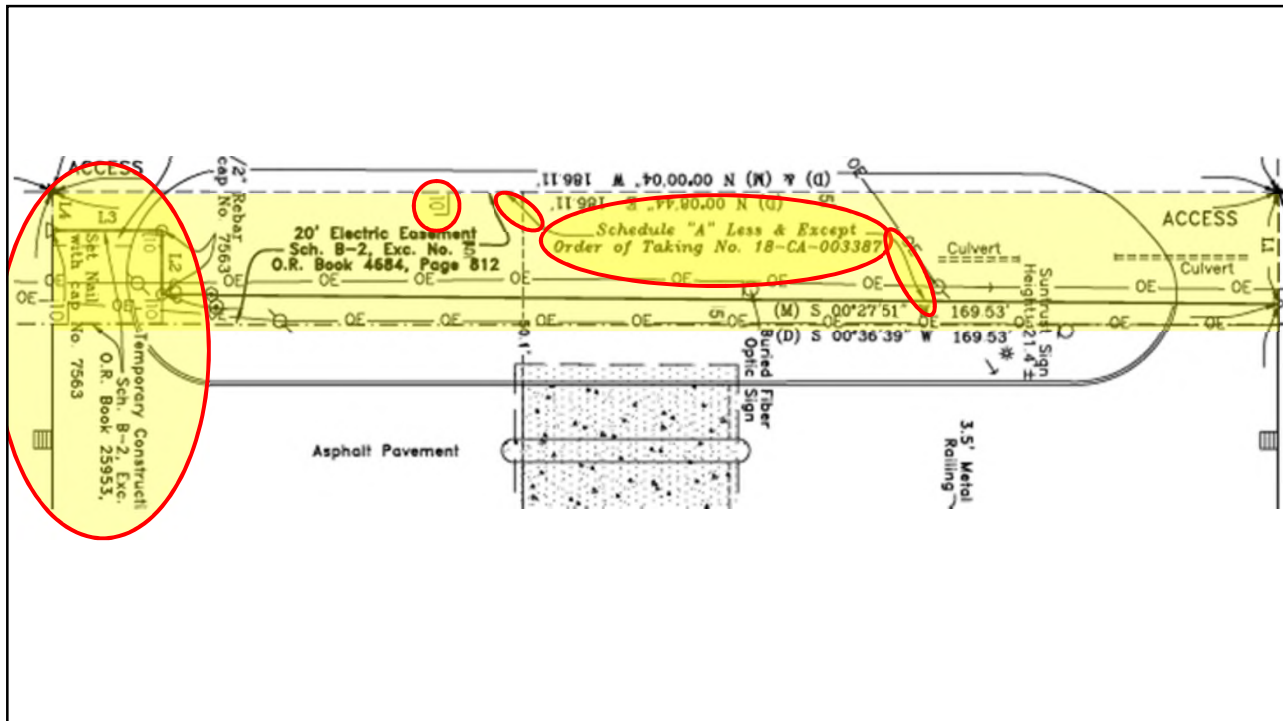
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7. Terms, conditions, and provisions of Declaration of Easements and Covenants, recorded in Official Records Book 4695, Page 858. **PLOTTED HEREON. (SEE DETAIL "A").**
8. Terms, conditions, and provisions of Declaration of Easements and Restrictions, recorded in Official Records Book 4846, Page 1987, together with and as amended by First Amendment recorded in Official Records Book 4972, Page 479, and Assignment and Assumption of Rights recorded in Official Records Book 7323 Page 1469. **DOES NOT AFFECT THE SUBJECT PROPERTY.**
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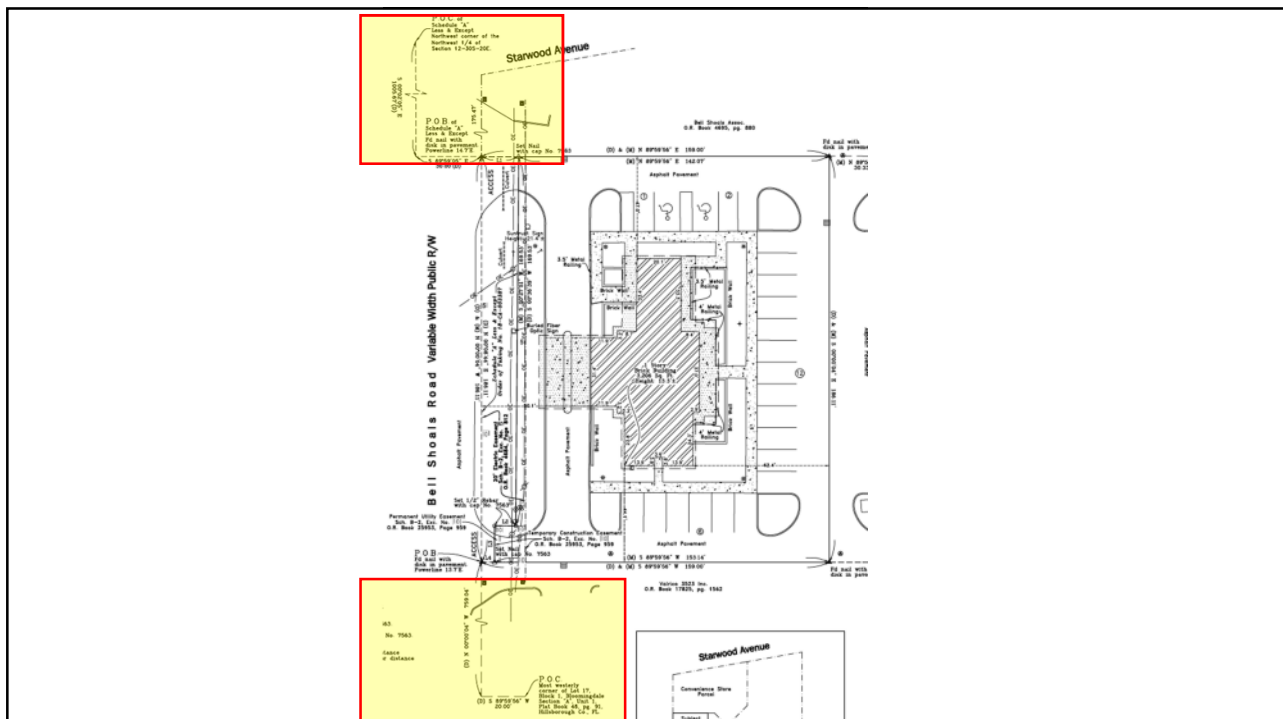
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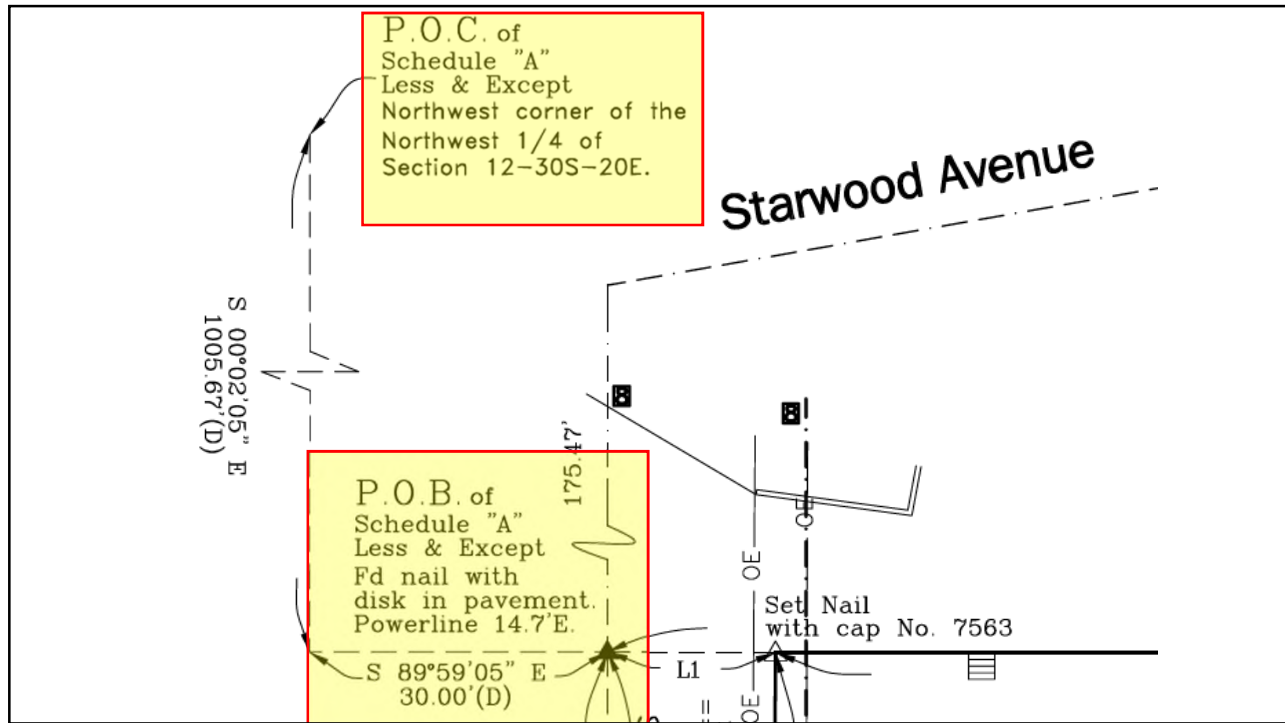
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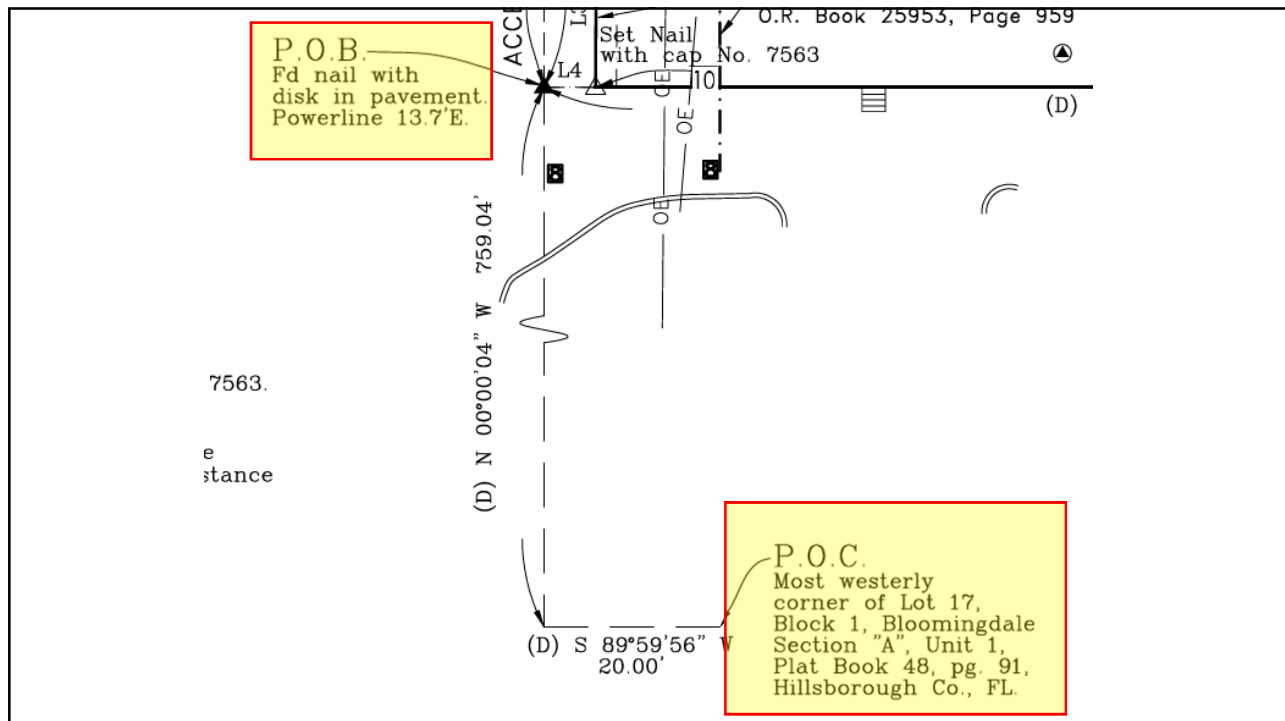
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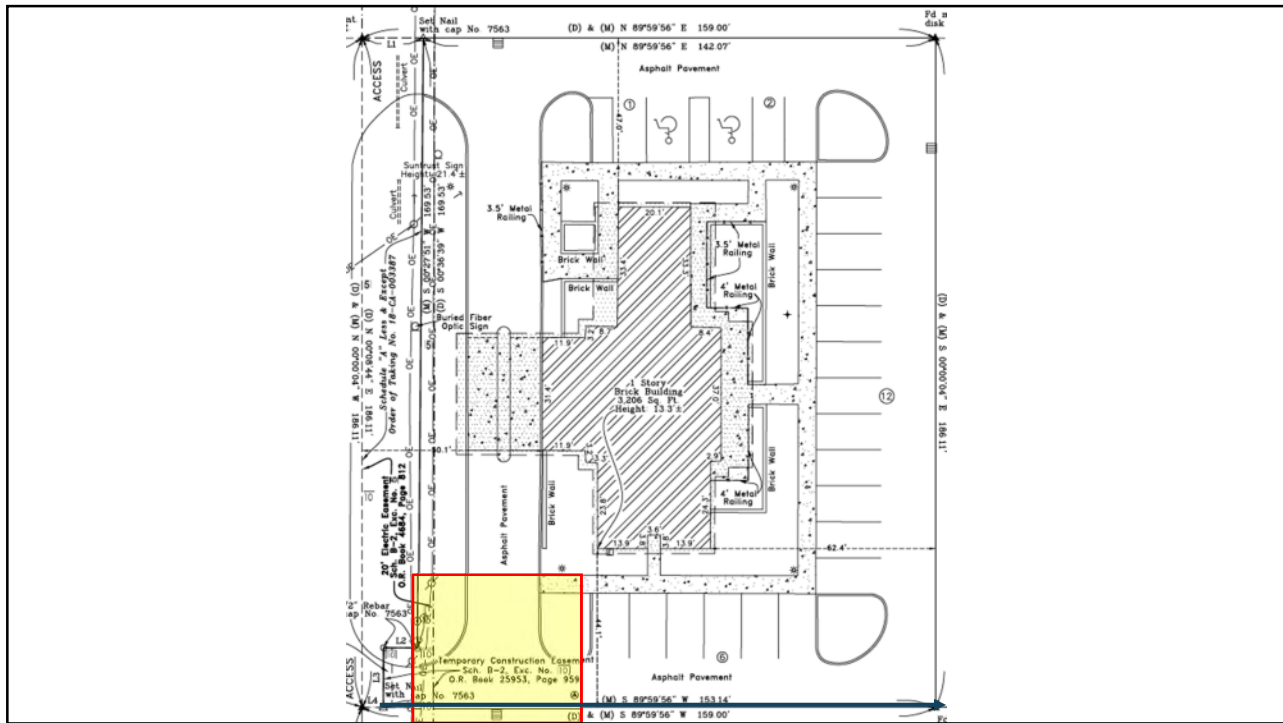
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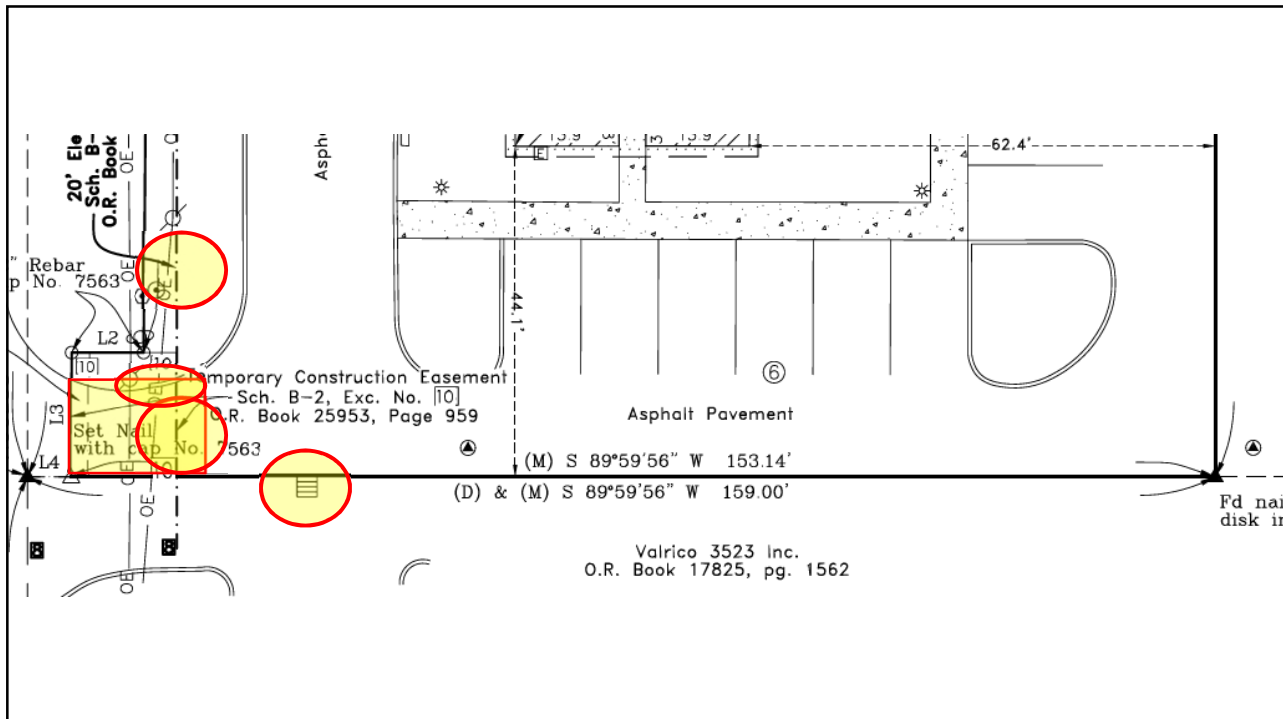
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Notes

Surveyor

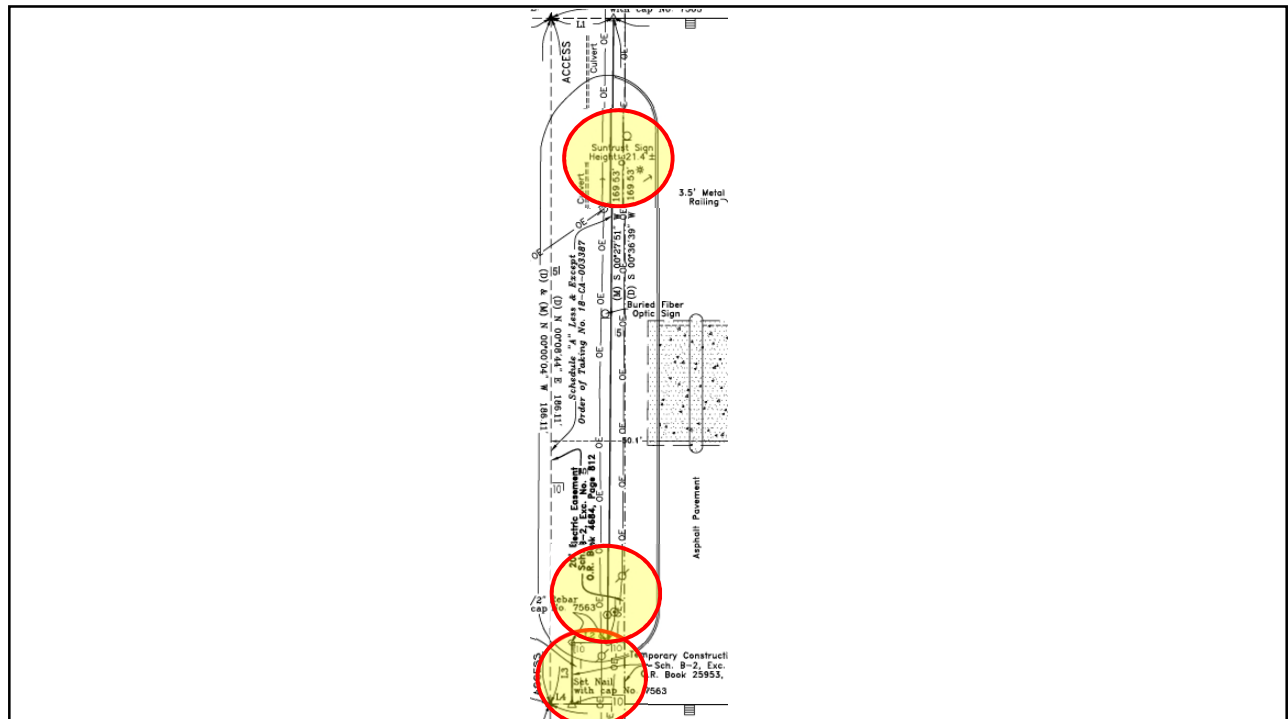
- Dash dot dash line is not defined – add to legend

Commitment

- Driveway encroaches on transmission right of way or into the taking on the south side of the property – need input from surveyor



69



70

Notes

Surveyor

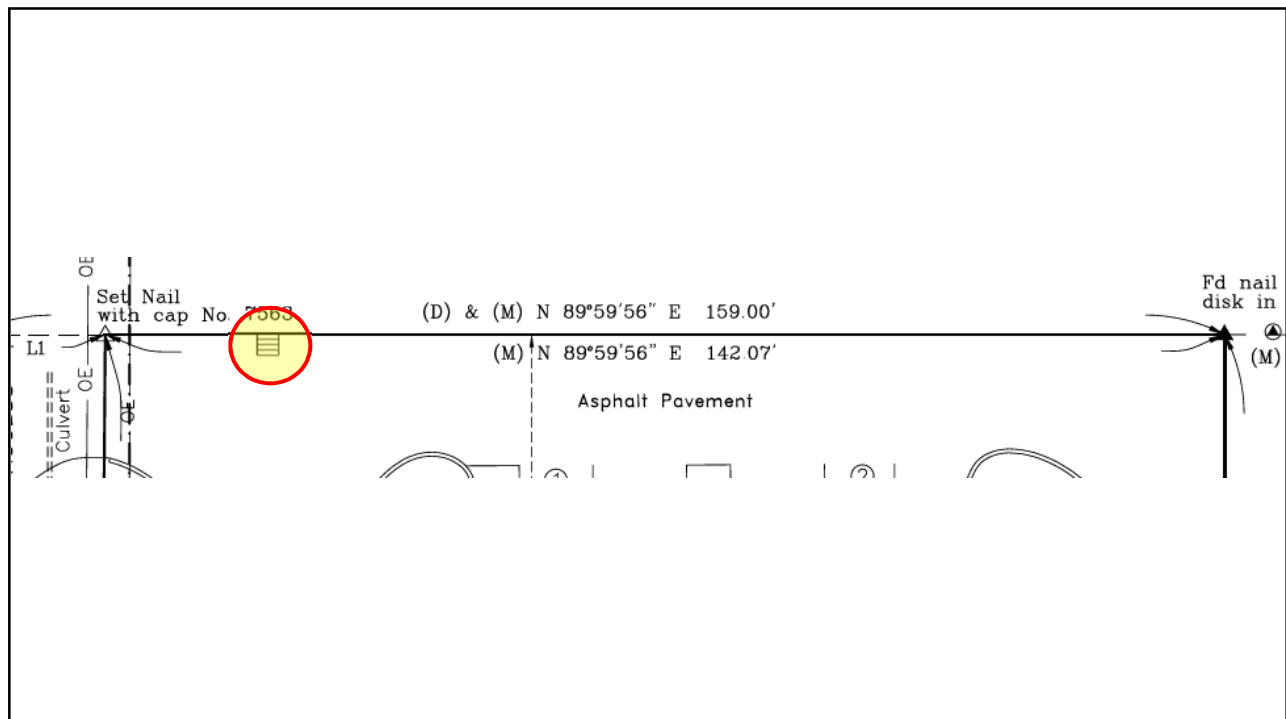
- Dash dot dash line is not defined – add to legend
- Verify that the OE line is within its easement boundary on the west side as well as the OE running northeast

Commitment/Objections

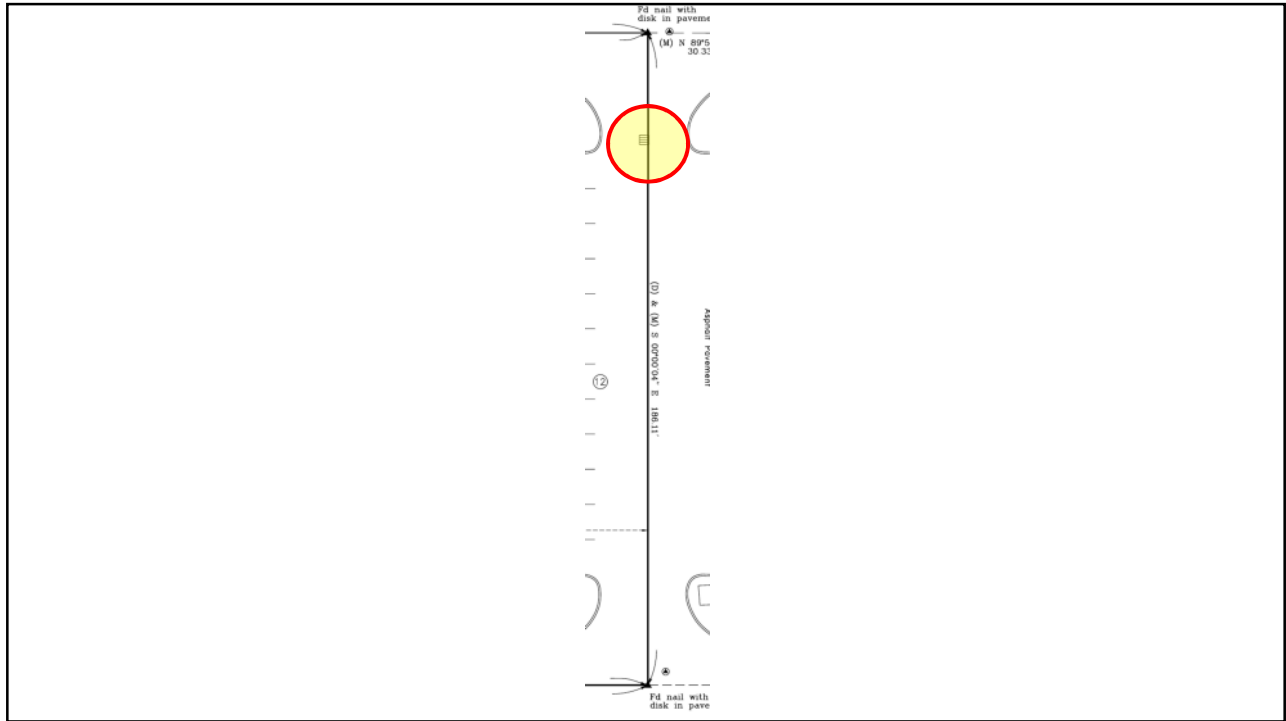
- Driveway encroaches on transmission right of way or into the taking on the south side of the property – need input from surveyor
- SunTrust sign encroaches on the property on the west side – if sign is to remain need proof of approval



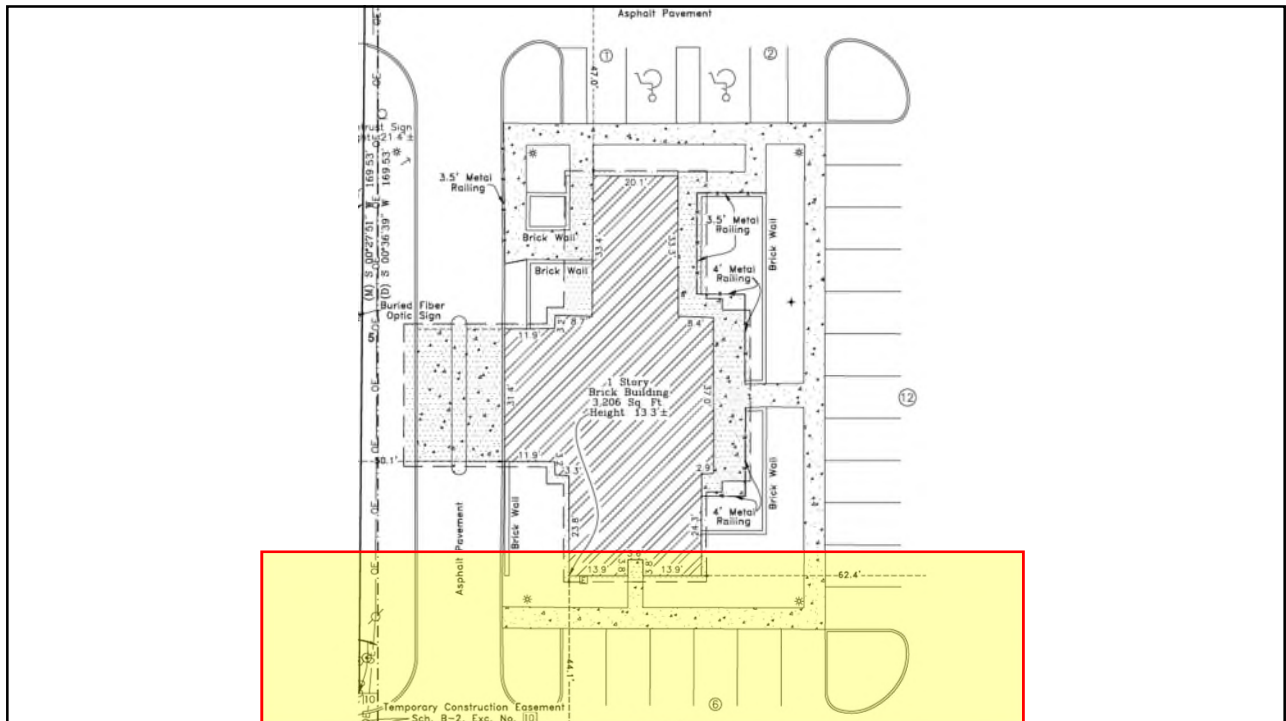
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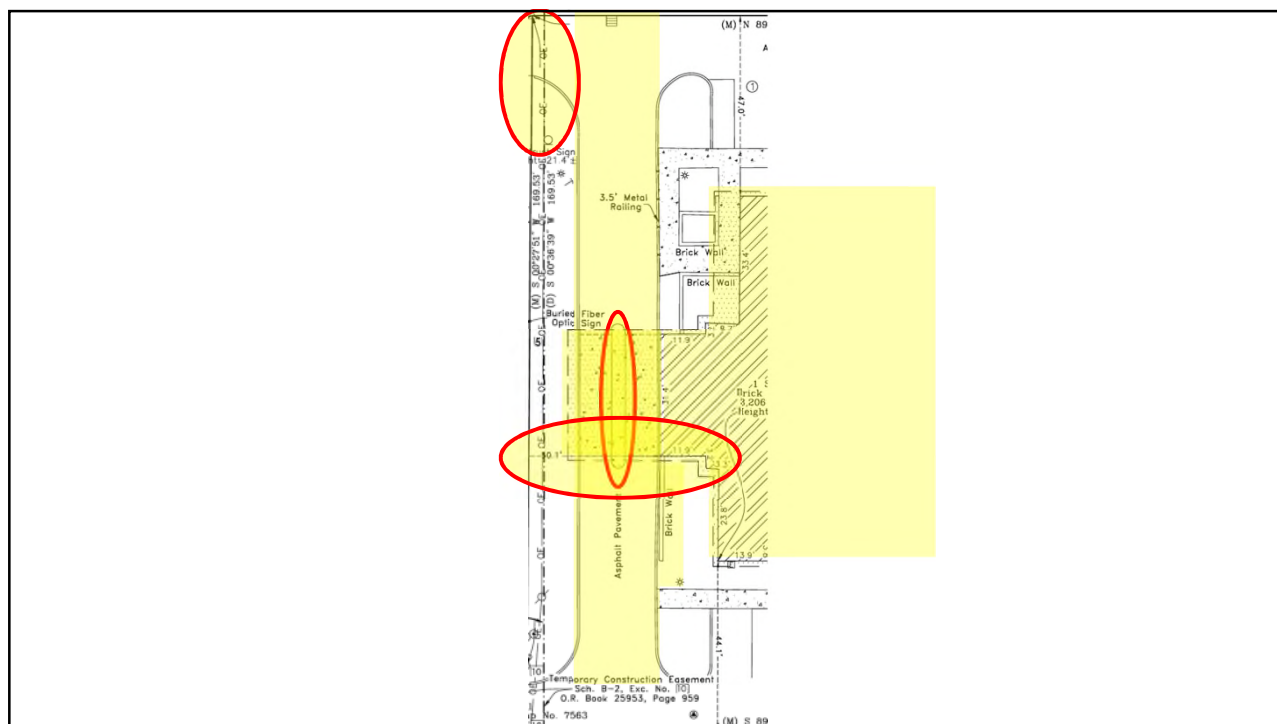
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Notes

Surveyor

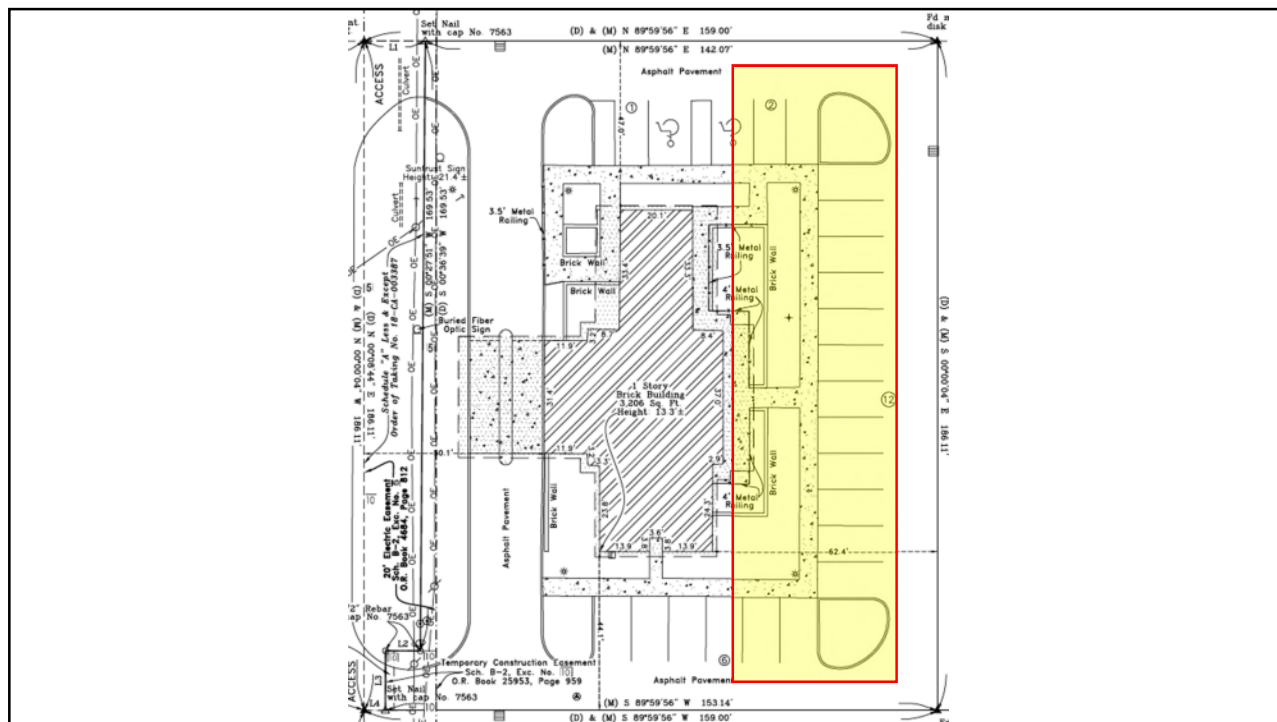
- Dash dot dash line is not defined – add to legend
- Verify that the OE line is within its easement boundary on the west side as well as the OE running northeast
- Describe the oval feature in the asphalt driveway

Commitment/Objections

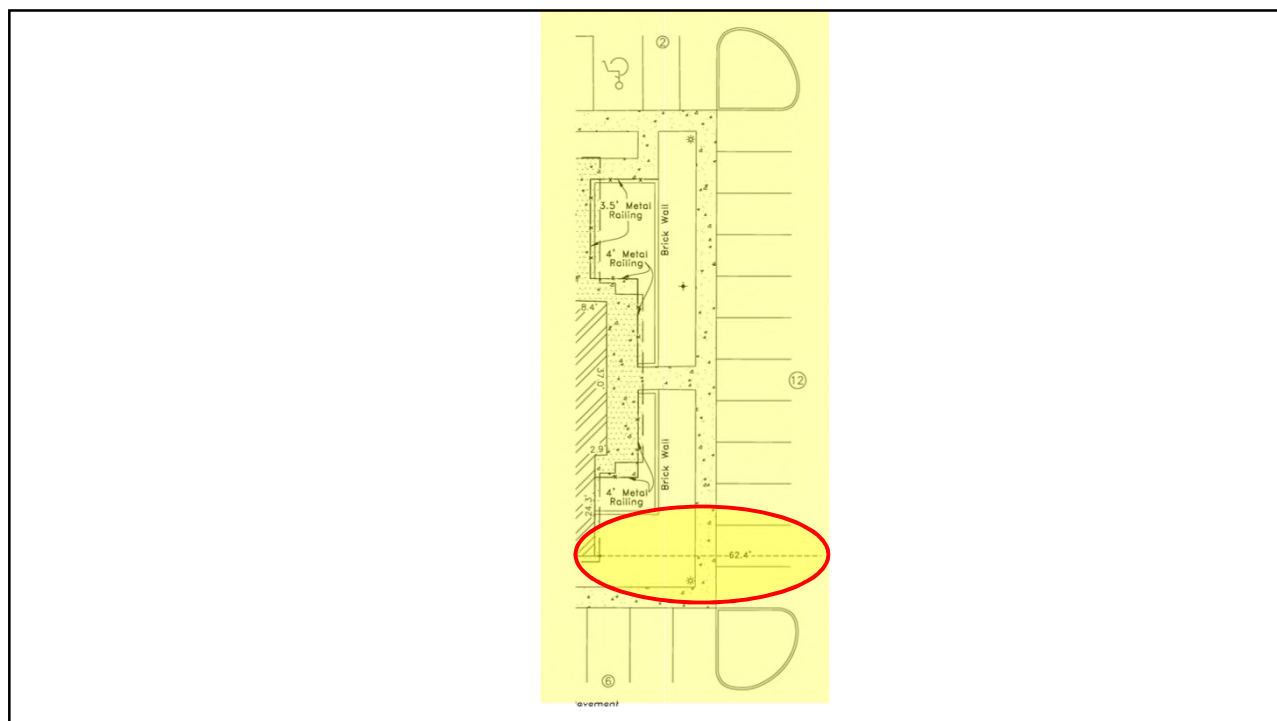
- Driveway encroaches on transmission right of way or into the taking on the south side of the property – need input from surveyor
- SunTrust sign encroaches on the property on the west side – if sign is to remain need proof of approval



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81



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Notes

Surveyor

- Dash dot dash line is not defined – add to legend
- Verify that the OE line is within its easement boundary on the west side as well as the OE running northeast
- Describe the oval feature in the asphalt driveway

Commitment/Objections

- Driveway encroaches on transmission right of way or into the taking on the south side of the property – need input from surveyor
- SunTrust sign encroaches on the property on the west side – if sign is to remain need proof of approval



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Letter to Surveyor

Richard P. Bruce, Esq.
6545 Corporate Centre Blvd.
Orlando, FL 32822

August 1, 2020



Briggs, Washington & Thompson Land Surveying, Inc.
406 SW Rutledge Street
PO Box 263
Madison, FL 32340

RE: 3511 Bell Shoals Road, Valrico, FL
Job Order No. 13-120

Dear Mr. Briggs:

I have received your first draft survey map ALTA/NSPS survey dated July 29, 2020, Job Order No. 12-120 (the "Survey") with respect to the property. Please make the corrections as noted below. If you have any questions, feel free to contact me.

1. The symbol of "dash dot dash" is not defined in the legend
 - a. Please define "dash dot dash"
 - b. Requirement of Rule 5J-17, F.A.C. and ALTA/NSPS standards

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Letter to Surveyor

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2. Verify that overhead powerline (OE) is within its easement boundary on
 - a. West side of the property; and
 - b. Overhead powerline running from southwest to northeast on west side of the property
3. There is an oval feature in the asphalt driveway on the west side
 - a. Provide some description of said oval feature
4. Survey does not distinguish easements between the taking and the transmission easement
 - a. If they are the same, please state so.

FAA

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Title Objections to Seller

70

Survey objections to the seller:

1. The survey shows, describes and depicts a SunTrust sign encroaching on the west side of the property.
 - a. This encroachment constitutes a title objection.
 - i. Please furnish any permit, approval, easement or lease that allows such sign to remain in its current location.
 - ii. If none, buyer and lender reserve the right to require seller to relocate the sign.

FAA

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Addition to Commitment

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Survey exceptions for commitment:

Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by Briggs, Washington & Thompson Land Surveying, Inc., dated July 29, 2020, bearing Job # 13: 120:

- (a) Asphalt driveway encroaches on the Transmission Right of Way and the terms, conditions and provisions of Stipulated Order of Taking on the south and west side of the property.



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Endorsements Related to Surveys

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- Survey Endorsement
 - Insures legal description in deed matches legal description in survey
 - Used when there are slight differences
- Contiguity Endorsement
 - Insures two parcels abut each other
- Easement
 - Contact underwriting



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Fund Resources

- Stay Inside the Lines: Surveys & Legal Descriptions
- Concept articles (many)
 - “The 2016 ALTA/NSPS Survey Standards Redux: What a Commercial Practitioner must know and do to Avoid Material Omissions,” 49 *Fund Concept* 29 (Mar. 2017)
 - “2016 ALTA/NSPS Minimum Standard Detail Requirements for Land Title Surveys,” 48 *Fund Concept* 115 (Nov. 2016)
- 73 • “Back to Basics: A Practical Guide to Reading Surveys,” 48 *Fund Concept* 121 (Dec. 2016)
- Title Notes



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Thank You!
for attending

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627.7842 Policy exceptions.—

(1)(a)If a survey meeting the standards of practice for surveying required by the Department of Agriculture and Consumer Services and certified to the title insurer by a registered Florida surveyor has been completed on the property within 90 days before the date of closing, the title policy may only except from coverage the encroachments, overlays, boundary line disputes, and other matters which are actually shown on the survey.

(b)If at closing the seller signs an affidavit swearing that there is no person in possession of the property or with a claim of possession to the property except the seller, the title policy may not exclude from coverage rights or claims of parties in possession not shown by the public records.

(c)If at closing the seller signs an affidavit swearing that no improvements have been made to the property within the past 90 days for which payment has not been made in full, the title policy may not except from coverage any lien or right to a lien for services, labor, or material furnished which is imposed by law and not shown by the public record.

(2)The title insurer, agent, or agency issuing the title policy may except from coverage the items specified in subsection (1) if the title insurer, agent, or agency has knowledge of facts requiring the exceptions, notwithstanding the survey or affidavits, if the insurer, agent, or agency discloses such facts to the proposed insured.

History.—s. 1, ch. 85-20; s. 1, ch. 86-286; ss. 100, 114, ch. 92-318; s. 225, ch. 94-218; s. 17, ch. 99-286; s. 23, ch. 2014-147.

5J-17.050 Definitions.

As used in this chapter, the following terms have the following meanings:

(1) **Benchmark:** a point, natural or artificial, bearing a marked position whose elevation above or below an adopted datum plane is known.

(2) **Boundary Survey:** a survey, the primary purpose of which is to document the perimeters, or any portion thereof, of a parcel or tract of land by establishing or re-establishing corners, monuments, and boundary lines, such as for the purposes of describing the parcel, locating fixed improvements on the parcel, dividing the parcel, or platting.

(3) **Computation records:** Calculations and/or numerical values that are derived from measurements. These records include coordinate geometry data, coordinate list, computer aided drafting files, horizontal and vertical traverse closure, and adjustment computations.

(4) **Conflict of Interest:** a conflict between one's duty to act for the benefit of the public or a specific individual or entity, and the interests of self or others; which conflict has the potential of influencing, or the appearance of influencing, the exercise of one's professional judgment in carrying out that duty.

(5) **Corner:** a point on a land boundary that designates a change in direction, for example: points of curvature, points of tangency, points of compound curvature and so forth.

(6) **Faithful Agent:** a licensee acting in professional surveying matters who safeguards as confidential any information obtained by the licensee as to the business affairs, technical methods or processes of a client or employer, and who avoids or discloses a conflict of interest that might influence the licensee's actions or judgment.

(7) **Map of Survey (or Survey Map):** a graphical or digital depiction of the facts of size, shape, identity, geodetic location, or legal location determined by a survey. The term "Map of Survey" (Survey Map) includes the terms: Sketch of Survey, Plat of Survey, or other similar titles. "Map of Survey" or "Survey Map" may also be referred to as "a map" or "the map."

(8) **Measurement records:** Sufficient data that can be used to reconstruct the measurements, including but not limited to angles and distances to determine locations of fixed improvements, property corners and other points on a survey. These records include field notes, angle and distance measurements and raw data files.

(9) **Monument:** an artificial or natural object that is permanent or semipermanent and used or presumed to occupy any real property corner, any point on a boundary line, or any reference point or other point to be used for horizontal or vertical control.

(10) **Remote Sensing:** The process of acquiring knowledge about physical features by analyzing data obtained from instrumentation located at a distance from the features being examined.

(11) **Survey:** The result of any professional service or work resulting from the practice of Surveying and Mapping as defined in Chapter 472, F.S., which includes, As-built/Record Surveys, Boundary Surveys, Construction Layout Surveys, Condominium Surveys, Construction Control Surveys, Control Surveys, Elevation Surveys, Hydrographic/Bathymetric Surveys, Tidal or non-tidal Water Boundary Surveys, Photogrammetric Surveys (including Orthorectified Imagery), Quantity Surveys, and Topographic Surveys, whether it is measured by direct or remote sensing methods.

(12) **Survey and Map Report:** a written or digital document, that adequately communicates the survey results to the public through a map, (written or digital), or in a report form with an attached map and details methods used, measurements and computations made, accuracies obtained, and information obtained or developed by surveying and mapping techniques. The map and report shall identify the responsible surveyor and mapper.

(13) **Work Product:** the drawings, plans, specifications, plats, reports, and all related calculations and field notes, either hard copy or digital, of the professional surveyor and mapper in responsible charge or made under his/her supervision.

Rulemaking Authority 472.008, 472.027 FS. Law Implemented 472.027 FS. History--New 9-1-81, Formerly 21HH-6.02, Amended 12-18-88, Formerly 21HH-6.002, Amended 12-25-95, 5-25-99, 3-25-01, 3-13-03, 4-4-06, Formerly 61G17-6.002, Amended 5-11-15, 11-13-17, 7-15-18.

5J-17.051 General Survey, Map, and Report Content Requirements.

The following rules shall apply to all work products regardless of the method of data acquisition:

- (1) Surveyors and mappers must achieve the following standards of accuracy, completeness, and quality:
- (2) The accuracy of the survey measurements shall be premised upon the type of survey and the expected use of the survey and map. The accuracy of data shall be independently verified.

(a) Vertical Accuracy:

All surveying and mapping products with elevation data shall state the datum and a description of the control upon which the surveying and mapping products are based. The data shall be supported with documentation describing the vertical accuracy and the methodology used to determine accuracy. Elevation data may be obtained on an assumed datum provided the base elevation of the assumed datum is obviously different than a publicly published datum and clearly noted.

(b) Horizontal Accuracy:

All surveying and mapping products expressing or displaying mapped features shall state the datum and a detailed description of the control upon which the surveying and mapping products are based. The data shall be supported with documentation describing the horizontal accuracy and the methodology used to determine accuracy. Mapped features may be obtained on an assumed datum provided the numerical basis of the datum is obviously different than a publicly published datum.

(c) Assumed datum:

If data is collected on an assumed datum, then adequate control points shall be established and communicated in the surveying and mapping product in order that the survey may be independently reproduced and verified.

(d) Measurement and computation records shall be dated as of the date of acquisition and must contain sufficient data to substantiate the surveying and mapping products.

(3) Surveys, Maps, and/or Survey Products Content.

(a) The licensee must adequately communicate the survey results to the public through a map or report with an attached map.

(b) Each survey map and report shall state the type and/or purpose of the survey it depicts.

(c) All survey maps and reports must bear the name, certificate of authorization number, and street and mailing address of the business entity issuing the map and report, along with the name and license number of the surveyor and mapper in responsible charge. The name, license number, and street and mailing address of a surveyor and mapper practicing independent of any business entity must be shown on each survey map and report.

(d) All survey maps must reflect a survey date, which is the last date of data acquisition. When the graphics of a map are revised, but the survey date stays the same, the map must list dates for all revisions.

(e) The survey map and report and the copies of the survey map and report, except those with electronic signature and electronic seal, must contain a statement indicating that the survey map and report or the copies thereof are not valid without the original signature and seal of a Florida licensed surveyor and mapper.

(f) Abbreviations related to surveying matters shall be defined on the work product.

(g) A reference to all bearings shown on a survey map or report must be clearly stated, i.e., whether to “True North”; “Grid North as established by the NOS”; “Assumed North based on a bearing for a well defined line, such as the center line of a road or right of way, etc.”; “a Deed Call for a particular line”; or “the bearing of a particular line shown upon a plat.” References to Magnetic North should be avoided except in the cases where a comparison is necessitated by a Deed Call. In all cases, the bearings used shall be referenced to some well-established and monumented line.

(h) A designated “north arrow” and either a stated scale or graphic scale of the map shall be prominently shown upon the survey map.

(i) The responsibility for all mapped features must be clearly stated on any map or report signed by a Florida licensed surveyor and mapper. When mapped features surveyed by the signing surveyor and mapper have been integrated with mapped features surveyed by others, then the map or report shall clearly state the individual primarily responsible for the map or report.

Rulemaking Authority 472.008, 472.027 FS. Law Implemented 472.025, 472.027 FS. History—New 9-1-81, Amended 7-29-85, Formerly 21HH-6.03, Amended 12-18-88, 11-27-89, 5-26-91, Formerly 21HH-6.003, Amended 12-25-95, 5-13-96, 11-3-97, 5-25-99, 4-4-06, 8-31-06, 8-18-08, Formerly 61G17-6.003, Amended 5-11-15, 11-13-17.

5J-17.052 Standards of Practice – Boundary Survey Requirements.

(1) Boundaries of Real Property:

(a) The surveyor and mapper shall make a determination of the position of the boundary of real property in complete accord with the real property description shown on the survey map or report and map. In order to ensure adequate and defensible real property boundary locations:

1. Every parcel of land whose boundaries are surveyed shall be made to conform with the record boundaries of such land, taking into account relevant requirements of law concerning whether the survey is original or a resurvey.

2. Prior to making the survey, the licensee shall perform research of records with sufficient scope and depth to identify with reasonable certainty:

- a. The location of the record boundaries,
- b. Conflicting record and ownership boundary locations within, abutting or affecting the property or access to same,
- c. None of the above is intended to require the surveyor to perform a title search.

3. A field survey shall be made locating monuments and evidence of occupation, appropriate or necessary and coordinate the facts of said survey with the analysis of the record boundaries.

(b) Monuments shall be set or held as marking the corners after a well-reasoned analysis by the licensee.

(c) All boundary surveys shall result in a map (hardcopy and/or digital) and it shall be stated on the map that the survey is a “Boundary Survey.”

(d) Any discrepancies between the survey map and the real property description shall be shown.

(e) Survey data shall be shown to positively describe the boundaries of the surveyed property. For portions of the property bounded by an irregular line, distances and directions to the irregular boundary shall be shown with as much certainty as can be determined or as “more or less,” if variable.

(f) Surveys of all or part of a lot(s) which is part of a recorded subdivision shall show the lot(s) and block numbers or other designations, including those of adjoining lots.

(g) Surveys of parcels described by metes and bounds shall show all information called for in the property description, including point of commencement, course bearings and distances, and point of beginning.

(h) When the results of the survey differ significantly from the record, or if a fundamental decision related to the boundary resolution is not clearly reflected on the plat or map, the surveyor shall explain this information with notes on the face of the plat or map.

(i) Surveys of parcels with water boundaries shall describe the feature located including, top of bank, edge of water, mean high water line, ordinary high water line and the method used to locate the water boundary. Water boundaries may be located in their approximate position as long as this is adequately depicted and explained with notes on the face of the plat or map.

(2) Boundary Monuments:

(a) The surveyor and mapper shall set monuments as defined herein, unless monuments already exist or cannot be set due to physical obstructions at corners.

(b) Every boundary monument set shall:

1. Be composed of a durable material,
2. Have a minimal length of 18 inches,
3. Have a minimum cross-section area of material of 0.20 square inches,
4. Be identified with a durable marker or cap bearing either the Florida license number of the surveyor and mapper in responsible charge, the certificate of authorization number of the business entity; or name of the business entity,
5. Be detectable with conventional instruments for finding ferrous or magnetic objects,
6. When a corner falls in a hard surface such as asphalt or concrete, alternate monumentation may be used that is durable and identifiable,

7. When conditions require setting a monument on an offset, whenever possible, the location should be selected so the monument lies on a boundary line.

(c) All monuments, found or placed, must be described on the survey map. The corner descriptions shall state the size, material, and cap identification of the monument as well as whether the monument was found or set. Offset monuments shall be noted as such on the survey map along with the offset distance to the true corner. Building corners are acceptable as monuments so long as use of the building corners as monumentation is clearly noted on the map.

(d) For irregular boundaries such as a water body or maintained right of way, a dimensioned meander or survey closure line shall be used and monuments shall be set at the meander or survey closure line's terminus points on real property boundary lines.

(e) A boundary survey updating a previous survey made by the same surveyor and mapper or business entity, and which is performed for the purpose of locating non-completed new improvements by measurements to the property lines or related offset lines placed on the property since the previous survey, need not have the property corners reset.

(f) Side ties to locate or set monuments shall be substantiated by multiple measurements.

(3) Boundary Inconsistencies:

(a) Potential boundary inconsistencies shall be addressed and shall be clearly indicated and explained on the survey map or in the report. Where evidence of inconsistency is found, the nature of the inconsistency shall be shown upon the survey map, such as:

1. Overlapping descriptions or hiatuses,
2. Excess or deficiency,
3. Conflicting boundary lines or monuments, or
4. Doubt as to the location on the ground of survey lines or property rights.

(b) Open and notorious evidence of boundary lines, such as fences, walls, buildings, monuments or otherwise, shall be shown upon the map, together with dimensions sufficient to show their relationship to the boundary line(s).

(c) All apparent physical use onto or from adjoining property must be indicated, with the extent of such use shown or noted upon the map.

(d) In all cases where foundations may violate deed or easement lines and are beneath the surface, failure to determine their location shall be noted upon the map or report.

(4) Rights-of-Way, Easements, and Other Real Property Concerns:

(a) All recorded public and private rights-of-way shown on applicable recorded plats adjoining or across the land being surveyed shall be located and shown upon the map.

(b) Easements shown on applicable record plats or open and notorious evidence of easements or rights-of-way on or across the land being surveyed shall be located and shown upon the map.

(c) When streets or street rights-of-way abutting the land surveyed are physically closed to travel, a note to this effect shall be shown upon the map.

(d) When 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 and mapper.

(e) Human cemeteries and burial grounds located within the premises shall be located and shown upon the map when open and notorious, or when knowledge of their existence and location is furnished to the surveyor and mapper.

(5) Real Property Improvements:

(a) Location of fixed improvements pertinent to the survey shall be graphically shown upon the map and their positions shall be dimensioned in reference to the boundaries, either directly or by offset lines.

(b) When fixed improvements are not located or do not exist, a note to this effect shall be shown upon the map.

(c) When a boundary survey updating a previous boundary survey is made by the same surveyor or survey firm for purpose of locating non-completed new improvements, then property corners need not be reset; however, when a boundary survey is updating a previous survey made by the same surveyor or survey firm and is performed for purpose of locating completed new improvements then property corners must be recovered or reset. When a boundary survey updates a previous boundary survey made by a different surveyor or survey firm for the purpose of locating either non-completed or completed new improvements, then property corners must be recovered or reset.

(6) Descriptions/Sketch to Accompany Description:

(a) Descriptions written by a surveyor and mapper to describe land boundaries by metes and bounds shall provide definitive identification of boundary lines.

(b) When a sketch accompanies the property description, it shall show all information referenced in the description and shall state that such sketch is not a survey. The initial point in the description shall be tied to either a government corner, a recorded corner, or some other well-established survey point.

Rulemaking Authority 472.008, 472.027 FS. Law Implemented 472.027 FS. History--New 9-1-81, Formerly 21HH-6.04, Amended 12-18-88, Formerly 21HH-6.004, Amended 12-25-95, 5-13-96, 5-25-99, 4-4-06, 8-31-06, 8-18-08, Formerly 61G17-6.004, Amended 5-11-15, 11-13-17, 7-15-18.

INSTRUCTIONS TO SURVEYOR

Enclosed is the Title Commitment and supporting documents ☐ (check box if applicable) as well as for ALTA/NSPS surveys a zoning report for inclusion on field work as well as the map. If any part of information provided is not legible, please notify us immediately so that we may provide a legible copy.

All surveys must show and comply with the following:

1. Comply with Rules 5J-17.051 and 5J-17.052, F.A.C.
2. Legend with all symbols used on the map.
3. A complete legal description of the property. Note any discrepancies between legal description and as used or surveyed. Include the point of beginning if it is contained in the legal description.
4. Perimeter of the property by courses and distances and of all lines described by referenced to the line of another piece of property.
5. Any improvements to the extent constructed and relation of improvements by distances to perimeter of property, established building setback lines and street right-of-way lines.
6. All matters affecting the property, including fences, power lines, telephone lines, pipelines, lakes, streams, private roadways, etc.
7. All paved areas, including drives, walks, private roadways, parking spaces, and such improvements as swimming pools, tennis courts, etc. If applicable, the number of parking spaces must be shown.
8. Location and width of all easements and other matters of record referred to in the title commitment, showing book and page or instrument number of recording. Include a statement that all easements and other matters of record are located pursuant to the specific recorded documents.
9. Encroachments and the extent thereof in feet and inches (if practicable) upon the property.
10. Location and width of all dedicated public streets, travel ways, evidence of travel use or rights-of-way which abut or cross the subject property, including an indication that the road right-of-way abuts the property line, and whether such access is paved to the property line.
11. Nearest adequate source of sewer, water, electric, telephone, and gas service.
12. All easements necessary to bring utilities to the property.

13. Flood zone designation(s) indicating whether the subject property is located inside the special flood hazard areas as shown on the published Flood Hazard Boundary Map (FHBM) or in Flood Insurance Rate Map (FIRM) Zones A, AE, A1-A30, AH, AO, A99, AR, AR/AE, AR/AO, AR/A1-A30, AR/A, V, VE, or V1-V30, to evidence whether the subject property lies in a flood area.
14. Professional liability insurance policy in the amount of \$_____ with a copy of the declaration page of such insurance policy.
15. The survey should be no more than 90 days old and contain the following certification:

Surveyor's Certificate

To: (Buyer/Borrower) _____;
 (Lender) _____;
 Old Republic National Title Insurance Company;
 (Title Agent) _____.

This is to certify that this map or plat and the survey on which it is based were made in accordance with Florida Standards of Practice as delineated in the Florida Administrative Code 5J-17. The field work was completed on _____, Dated this ____ day of _____, 20____.
 _____, PSM No. _____

Additional instructions for ALTA/NSPS surveys:

16. Comply with ALTA/NSPSN 2016 standards.
17. Confirm physical access (ALTA/NSPS surveys).
18. Age of monuments and structures if there are gaps or overlays found.
19. Identification of water features within 25 feet of the subject property.
20. Other items from ALTA/NSPS Table A

- ☐1. ☐2. ☐3. ☐4. ☐5. ☐6. ☐7.(a) ☐7.(b) ☐7.(c) ☐8. ☐9.
- ☐10.(a) ☐10.(b) ☐11. ☐12. ☐13. ☐14. ☐15. ☐16. ☐17. ☐18. ☐19. ☐20.
- ☐21. _____

21. ALTA/NSPS certification

Any questions or concerns, please contact our office immediately.

Survey Checklist

☐ Technical Requirements

- ☐ Includes surveyor's
 - ☐ Original embossed seal or
 - ☐ Electronic seal
 - ☐ Seal states "Florida Registered Surveyor & Mapper"
 - ☐ Survey is signed
 - ☐ Survey is dated
 - ☐ Field work done ____/____/____ (more than 90 days ago, comply with TN 25.03.06(B))
 - ☐ Drawing signed ____/____/____
 - ☐ Name
 - ☐ Address
 - ☐ Certificate of authorization number
 - ☐ License number
- ☐ Statement survey not valid without signature and seal
- ☐ **Certifications**
 - ☐ NEW survey certified to
 - ☐ Proposed insured buyer
 - ☐ Proposed insured lender
 - ☐ Old Republic
 - ☐ Fund Member's office
 - ☐ Seller
 - ☐ PRIOR survey certified to
 - ☐ Seller or
 - ☐ Prior owner in chain of title
 - ☐ **ALTA/NSPS language** as needed
- ☐ Directional north arrow located
- ☐ All symbols used on map are defined in legend
- ☐ Surveyor's notes have been read carefully
- ☐ Legal access confirmed
 - ☐ Map shows access to public road
 - ☐ Map shows access via private road
 - ☐ Verified easement for use and that private road connects to a public road

☐ Legal Description Accuracy

- ☐ Legal description matches the
 - ☐ Last deed of record, if not contact Fund underwriting
 - ☐ Title commitment
 - ☐ Proposed-insured documents
 - ☐ Drawing correctly maps the metes & bounds description
 - ☐ The drawing matches the recorded plat

☐ Drawing Identified Essential Features

- ☐ Boundary lines
- ☐ Any body of water
- ☐ Other natural & manufactured objects affecting the property
- ☐ Easements of any kind
- ☐ Rights-of-way
- ☐ Platted building setback lines
- ☐ Improvements of any kind

☐ Matters that may impact insurability:

- ☐ Any encroachments of improvements from insured land onto adjoining land
- ☐ Any encroachments of improvements from adjoining land onto insured land
- ☐ Any improvements located on property that is or was submerged
- ☐ Any encroachments in any easements
- ☐ Any encroachments of road rights-of-way
- ☐ Any violations of building setback lines
- ☐ Any gaps or overlaps (i.e., discrepancies between the description in the recorded instrument & any markers on the ground designating the boundary as actually used & occupied.)
- ☐ Parties in possession

☐ Professional Liability. Insurance in the amount of \$ _____

☐ Sent to surveyor

☐ Title commitment with legible supporting documents

☐ Zoning information (ALTL/NSPS only)

☐ Anything Unusual _____

Additional Checklist ALTA/NSPS Survey

☐ Fieldwork (Section 5)

- ☐ Monuments – location, size character
 - ☐ Found
 - ☐ Placed
 - ☐ Location, description & character of any lines
- ☐ Rights of way & access
 - ☐ Location
 - ☐ Roads, streets abutting, location & size
 - ☐ Visible evidence of physical access
 - ☐ Location & character of other forms of access
 - ☐ Any potentially encroaching access ways
 - ☐ Location of any road or street not documented
 - ☐ Access to & from waters adjoining property
- ☐ Lines of possession & improvements on boundaries
 - ☐ Character & location of evidence of possession
 - ☐ Character & location of all walls, buildings, fences, & other improvement within 5 feet of each boundary
 - ☐ Any potential encroaching structure (fire escapes, overhangs doors opening out, etc.)

☐ Buildings

- ☐ Easements & Servitudes
 - ☐ Evidence of any easement or servitude
 - ☐ Surface indication of underground easements or servitudes
 - ☐ Evidence on or above ground of utilities on, above or below ground

☐ Cemeteries

- ☐ Water Features & location of water within 25'

☐ Plat or Map (section 6)

- ☐ Evidence & location of items notated in **Fieldwork** above
- ☐ Boundary, descriptions, dimensions & closures
 - ☐ Descriptions – current, new
 - ☐ Point of beginning
 - ☐ Details of direction, length & curve of boundaries
 - ☐ Details of water boundary within 25'
 - ☐ Any gaps of overlays, if so, age of monuments
 - ☐ Explanation of significant differences
 - ☐ Note regarding site conditions
 - ☐ Note if access within 5 feet was restricted
 - ☐ Note regarding title commitment

- ☐ Easements, servitudes, rights of way access & documents
 - ☐ Location & width
 - ☐ Note if no access to public way observed
 - ☐ Platted setback or building restrictions

☐ Presentation

- ☐ No less than 8.5 X 11
- ☐ Vicinity map
- ☐ Necessary additional information
- ☐ Caption "ALTA/NSPS Land Title Survey"

☐ Table A

Requested

- ☐ ☐ 1 Monuments placed or referenced at boundary corners
- ☐ ☐ 2 Address
- ☐ ☐ 3 Flood zone classification
- ☐ ☐ 4 Gross land area
- ☐ ☐ 5 Vertical relief, contour interval, datum & originating benchmark
- ☐ ☐ 6 (a) Current zoning classification
- ☐ ☐ 6 (b) Current zoning setback, height & floor space
- ☐ ☐ 7 (a) Exterior dimensions of buildings
- ☐ ☐ 7 (b) 1. Square footage of exterior footprint of buildings
- ☐ ☐ 7 (b) 2. Square footage of other areas specified
- ☐ ☐ 7 (c) Measured height of buildings
- ☐ ☐ 8 Other substantial features
- ☐ ☐ 9 Number & type of identifiable parking spaces
- ☐ ☐ 10 (a) Divisions or party walls
- ☐ ☐ 10 (b) Determination if walls are plumb
- ☐ ☐ 11 Utilities: observed evidence & from plans, markings & other sources
- ☐ ☐ 12 Government agency requirements
- ☐ ☐ 13 Names of adjoining owner of platted lands
- ☐ ☐ 14 Distance to nearest intersecting street
- ☐ ☐ 15 Rectified orthography, photogrammetric mapping, airborne/mobile laser scanning, etc.
- ☐ ☐ 16 Evidence of earth moving work, building construction or additions
- ☐ ☐ 17 Proposed changes in street right of way
- ☐ ☐ 18 As specified by client locate any delineation markers observed
- ☐ ☐ 19 Any plottable offsite easements or servitudes disclosed in documented provided or obtained
- ☐ ☐ 20 Professional Liability Insurance policy in minimum amount of \$ _____
- ☐ ☐ 21 Other

MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS (Effective February 23, 2016)

NOTE - Attention is directed to the fact that the National Society of Professional Surveyors, Inc. (NSPS) is the legal successor organization to the American Congress on Surveying and Mapping (ACSM) and that these 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys are the next version of the former Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys.

1. Purpose - Members of the American Land Title Association® (ALTA®) have specific needs, unique to title insurance matters, when asked to insure title to land without exception as to the many matters which might be discoverable from survey and inspection, and which are not evidenced by the public records.

For a survey of real property, and the plat, map or record of such survey, to be acceptable to a title insurance company for the purpose of insuring title to said real property free and clear of survey matters (except those matters disclosed by the survey and indicated on the plat or map), certain specific and pertinent information must be presented for the distinct and clear understanding between the insured, the client (if different from the insured), the title insurance company (insurer), the lender, and the surveyor professionally responsible for the survey.

In order to meet such needs, clients, insurers, insureds, and lenders are entitled to rely on surveyors to conduct surveys and prepare associated plats or maps that are of a professional quality and appropriately uniform, complete, and accurate. To that end, and in the interests of the general public, the surveying profession, title insurers, and abstracters, the ALTA and the NSPS jointly promulgate the within details and criteria setting forth a minimum standard of performance for ALTA/NSPS Land Title Surveys. A complete 2016 ALTA/NSPS Land Title Survey includes:

- (i) the on-site fieldwork required pursuant to Section 5,
- (ii) the preparation of a plat or map pursuant to Section 6 showing the results of the fieldwork and its relationship to documents provided to or obtained by the surveyor pursuant to Section 4,
- (iii) any information from Table A items requested by the client, and
- (iv) the certification outlined in Section 7.

2. Request for Survey - The client shall request the survey, or arrange for the survey to be requested, and shall provide a written authorization to proceed from the person or entity responsible for paying for the survey. Unless specifically authorized in writing by the insurer, the insurer shall not be responsible for any costs associated with the preparation of the survey. The request shall specify that an "**ALTA/NSPS LAND TITLE SURVEY**" is required and which of the optional items listed in Table A, if any, are to be incorporated. Certain properties or interests in real properties may present issues outside those normally encountered on an ALTA/NSPS Land Title Survey (e.g., marinas, campgrounds, trailer parks; easements, leases, other non-fee simple interests). The scope of work related to surveys of such properties or interests in real properties should be discussed with the client, lender, and insurer; and agreed upon in writing prior to commencing work on the survey. The client may need to secure permission for the surveyor to enter upon the property to be surveyed, adjoining properties, or offsite easements.

3. Surveying Standards and Standards of Care

- A. Effective Date** - The 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys are effective February 23, 2016. As of that date, all previous versions of the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys are superseded by these standards.
- B. Other Requirements and Standards of Practice** - Many states and some local jurisdictions have adopted statutes, administrative rules, and/or ordinances that set out standards regulating the practice of surveying within their jurisdictions. In addition to the standards set forth herein, surveyors shall also conduct their surveys in accordance with applicable jurisdictional survey requirements and standards of practice. Where conflicts between the standards set forth herein and any such jurisdictional requirements and standards of practice occur, the more stringent shall apply.
- C. The Normal Standard of Care** - Surveyors should recognize that there may be unwritten local, state, and/or regional standards of care defined by the practice of the “prudent surveyor” in those locales.
- D. Boundary Resolution** - The boundary lines and corners of any property being surveyed as part of an ALTA/NSPS Land Title Survey shall be established and/or retraced in accordance with appropriate boundary law principles governed by the set of facts and evidence found in the course of performing the research and fieldwork.
- E. Measurement Standards** - The following measurement standards address Relative Positional Precision for the monuments or witnesses marking the corners of the surveyed property.
- i. “Relative Positional Precision” means the length of the semi-major axis, expressed in feet or meters, of the error ellipse representing the uncertainty due to random errors in measurements in the location of the monument, or witness, marking any corner of the surveyed property relative to the monument, or witness, marking any other corner of the surveyed property at the 95 percent confidence level. Relative Positional Precision is estimated by the results of a correctly weighted least squares adjustment of the survey.
 - ii. Any boundary lines and corners established or retraced may have uncertainties in location resulting from (1) the availability, condition, history and integrity of reference or controlling monuments, (2) ambiguities in the record descriptions or plats of the surveyed property or its adjoiners, (3) occupation or possession lines as they may differ from the written title lines, or (4) Relative Positional Precision. Of these four sources of uncertainty, only Relative Positional Precision is controllable, although, due to the inherent errors in any measurement, it cannot be eliminated. The magnitude of the first three uncertainties can be projected based on evidence; Relative Positional Precision is estimated using statistical means (see Section 3.E.i. above and Section 3.E.v. below).
 - iii. The first three of these sources of uncertainty must be weighed as part of the evidence in the determination of where, in the surveyor’s opinion, the boundary lines and corners of the surveyed property should be located (see Section 3.D. above). Relative Positional Precision is a measure of how precisely the surveyor is able to monument and report those positions; it is not a substitute for the application of proper boundary law principles. A boundary corner or line may have a small Relative Positional Precision because the survey measurements were precise, yet still be in the wrong position (*i.e.*, inaccurate) if it was established or retraced using faulty or improper application of boundary law principles.
 - iv. For any measurement technology or procedure used on an ALTA/NSPS Land Title Survey, the surveyor shall (1) use appropriately trained personnel, (2) compensate for systematic errors, including those associated with instrument calibration, and (3) use appropriate error propagation and measurement design theory (selecting the proper instruments, geometric layouts, and field and computational procedures) to control random errors such that the

maximum allowable Relative Positional Precision outlined in Section 3.E.v. below is not exceeded.

- v. The maximum allowable Relative Positional Precision for an ALTA/NSPS Land Title Survey is 2 cm (0.07 feet) plus 50 parts per million (based on the direct distance between the two corners being tested). It is recognized that in certain circumstances, the size or configuration of the surveyed property, or the relief, vegetation, or improvements on the surveyed property, will result in survey measurements for which the maximum allowable Relative Positional Precision may be exceeded. If the maximum allowable Relative Positional Precision is exceeded, the surveyor shall note the reason as explained in Section 6.B.x. below.

4. Records Research - It is recognized that for the performance of an ALTA/NSPS Land Title Survey, the surveyor will be provided with appropriate and, when possible, legible data which can be relied upon in the preparation of the survey. The request for an ALTA/NSPS Land Title Survey shall set forth the current record description of the property to be surveyed or, in the case of an original survey prepared for purposes of locating and describing real property that has not been previously separately described in documents conveying an interest in the real property, the current record description of the parent parcel that contains the property to be surveyed.

In order to complete an ALTA/NSPS Land Title Survey, the surveyor must be provided with complete copies of the most recent title commitment or, if a title commitment is not available, other title evidence satisfactory to the title insurer. In addition, the surveyor must be provided with the following:

- (i) The following records established under state statutes for the purpose of imparting constructive notice of matters relating to real property (public records):
 - (a) The current record descriptions of any adjoining to the property to be surveyed, except where such adjoining are lots in platted, recorded subdivisions;
 - (b) Any recorded easements benefitting the property;
 - (c) Any recorded easements, servitudes, or covenants burdening the property;
- (ii) Any unrecorded documents affecting the property being surveyed and containing information to which the survey shall make reference, if desired by the client.

Except, however, if the documents outlined above in (i) and (ii) of this section are not provided to the surveyor or if non-public or quasi-public documents are required to complete the survey, the surveyor shall be required to conduct only that research which is required pursuant to the statutory or administrative requirements of the jurisdiction where the property being surveyed is located and that research (if any) which is negotiated and outlined in the terms of the contract between the surveyor and the client.

5. Fieldwork - The survey shall be performed on the ground (except as otherwise negotiated pursuant to Table A, Item 15 below, if selected by the client). The fieldwork shall include the following, located to what is, in the surveyor's professional opinion, the appropriate degree of precision based on (a) the planned use of the property, if reported in writing to the surveyor by the client, lender, or insurer, or (b) the existing use, if the planned use is not so reported:

A. Monuments

- i. The location, size, character, and type of any monuments found during the fieldwork.
- ii. The location, size, character, and type of any monuments set during the fieldwork, if item 1 of Table A was selected or if otherwise required by applicable jurisdictional requirements and/or standards of practice.
- iii. The location, description, and character of any lines that control the boundaries of the

surveyed property.

B. Rights of Way and Access

- i. The distance from the appropriate corner or corners of the surveyed property to the nearest right of way line, if the surveyed property does not abut a right of way.
- ii. The name of any street, highway, or other public or private way abutting the surveyed property, together with the width of the travelled way and the location of each edge of the travelled way including on divided streets and highways. If the documents provided to or obtained by the surveyor pursuant to Section 4 indicate no access from the surveyed property to the abutting street or highway, the width and location of the travelled way need not be located.
- iii. Visible evidence of physical access (e.g., curb cuts, driveways) to any abutting streets, highways, or other public or private ways.
- iv. The location and character of vehicular, pedestrian, or other forms of access by other than the apparent occupants of the surveyed property to or across the surveyed property observed in the process of conducting the fieldwork (e.g., driveways, alleys, private roads, railroads, railroad sidings and spurs, sidewalks, footpaths).
- v. Without expressing a legal opinion as to ownership or nature, the location and extent of any potentially encroaching driveways, alleys, and other ways of access from adjoining properties onto the surveyed property observed in the process of conducting the fieldwork.
- vi. Where documentation of the location of any street, road, or highway right of way abutting, on, or crossing the surveyed property was not disclosed in documents provided to or obtained by the surveyor, or was not otherwise available from the controlling jurisdiction (see Section 6.C.iv. below), the evidence and location of parcel corners on the same side of the street as the surveyed property recovered in the process of conducting the fieldwork which may indicate the location of such right of way lines (e.g., lines of occupation, survey monuments).
- vii. Evidence of access to and from waters adjoining the surveyed property observed in the process of conducting the fieldwork (e.g., paths, boat slips, launches, piers, docks).

C. Lines of Possession and Improvements along the Boundaries

- i. The character and location of evidence of possession or occupation along the perimeter of the surveyed property, both by the occupants of the surveyed property and by adjoining, observed in the process of conducting the fieldwork.
- ii. Unless physical access is restricted, the character and location of all walls, buildings, fences, and other improvements within five feet of each side of the boundary lines, observed in the process of conducting the fieldwork. Trees, bushes, shrubs, and other natural vegetation need not be located other than as specified in the contract, unless they are deemed by the surveyor to be evidence of possession pursuant to Section 5.C.i.
- iii. Without expressing a legal opinion as to the ownership or nature of the potential encroachment, the evidence, location and extent of potentially encroaching structural appurtenances and projections observed in the process of conducting the fieldwork (e.g., fire escapes, bay windows, windows and doors that open out, flue pipes, stoops, eaves, cornices, areaways, steps, trim) by or onto adjoining property, or onto rights of way, easements, or setback lines disclosed in documents provided to or obtained by the surveyor.

D. Buildings

The location of buildings on the surveyed property observed in the process of conducting the fieldwork.

E. Easements and Servitudes

- i. Evidence of any easements or servitudes burdening the surveyed property as disclosed in the documents provided to or obtained by the surveyor pursuant to Section 4 and observed in the process of conducting the fieldwork.

- ii. Evidence of easements, servitudes, or other uses by other than the apparent occupants of the surveyed property not disclosed in the documents provided to or obtained by the surveyor pursuant to Section 4, but observed in the process of conducting the fieldwork if they appear to affect the surveyed property (e.g., roads; drives, sidewalks, paths and other ways of access; utility service lines; water courses; ditches; drains; telephone, fiber optic lines, or electric lines; or water, sewer, oil or gas pipelines on or across the surveyed property and on adjoining properties).
- iii. Surface indications of underground easements or servitudes on or across the surveyed property observed in the process of conducting the fieldwork (e.g., utility cuts, vent pipes, filler pipes).
- iv. Evidence on or above the surface of the surveyed property observed in the process of conducting the fieldwork, which evidence may indicate utilities located on, over or beneath the surveyed property. Examples of such evidence include pipeline markers, manholes, valves, meters, transformers, pedestals, clean-outs, utility poles, overhead lines and guy wires.

F. Cemeteries

As accurately as the evidence permits, the perimeter of cemeteries and burial grounds, and the location of isolated gravesites not within a cemetery or burial ground, (i) disclosed in the documents provided to or obtained by the surveyor, or (ii) observed in the process of conducting the fieldwork.

G. Water Features

- i. The location of springs, ponds, lakes, streams, rivers, canals, ditches, marshes, and swamps on, running through, or outside, but within five feet of the perimeter boundary of, the surveyed property, observed during the process of conducting the fieldwork.
- ii. The location of any water feature forming a boundary of the surveyed property. The attribute(s) of the water feature located (e.g., top of bank, edge of water, high water mark) should be congruent with the boundary as described in the record description or, in the case of an original survey, in the new description (see Section 6.B.vi. below).

6. Plat or Map - A plat or map of an ALTA/NSPS Land Title Survey shall show the following information. Where dimensioning is appropriate, dimensions shall be annotated to what is, in the surveyor's professional opinion, the appropriate degree of precision based on (a) the planned use of the property, if reported in writing to the surveyor by the client, lender, or insurer, or (b) existing use, if the planned use is not so reported.

A. The evidence and locations gathered, and the monuments and lines located during the fieldwork pursuant to Section 5 above, with accompanying notes if deemed necessary by the surveyor or as otherwise required as specified below.

B. Boundary, Descriptions, Dimensions, and Closures

- i. (a) The current record description of the surveyed property, or
(b) In the case of an original survey, the current record description of the parent tract that contains the surveyed property.
- ii. Any new description of the surveyed property that was prepared in conjunction with the survey, including a statement explaining why the new description was prepared. Except in the case of an original survey, preparation of a new description should be avoided unless deemed necessary or appropriate by the surveyor and insurer. Preparation of a new description should also generally be avoided when the record description is a lot or block in a platted, recorded subdivision. Except in the case of an original survey, if a new description is prepared, a note shall be provided stating (a) that the new description describes the same real estate as the record description or, if it does not, (b) how the new description differs from

- the record description.
- iii. The point of beginning, the remote point of beginning or point of commencement (if applicable) and all distances and directions identified in the record description of the surveyed property (and in the new description, if one was prepared). Where a measured or calculated dimension differs from the record by an amount deemed significant by the surveyor, such dimension shall be shown in addition to, and differentiated from, the corresponding record dimension. All dimensions shown on the survey and contained in any new description shall be ground dimensions unless otherwise noted.
 - iv. The directional, distance and curve data necessary to compute a mathematical closure of the surveyed boundary. A note if the record description does not mathematically close. The basis of bearings and, where it differs from the record basis, the difference.
 - v. The remainder of any recorded lot or existing parcel, when the surveyed property is composed of only a portion of such lot or parcel, shall be graphically depicted. Such remainder need not be included as part of the actual survey, except to the extent necessary to locate the lines and corners of the surveyed property, and it need not be fully dimensioned or drawn at the same scale as the surveyed property.
 - vi. When the surveyed property includes a title line defined by a water boundary, a note on the face of the plat or map noting the date the boundary was measured, which attribute(s) of the water feature was/were located, and the caveat that the boundary is subject to change due to natural causes and that it may or may not represent the actual location of the limit of title. When the surveyor is aware of natural or artificial realignments or changes in such boundaries, the extent of those changes and facts shall be shown or explained.
 - vii. The relationship of the boundaries of the surveyed property with its adjoiners (e.g., contiguity, gaps, overlaps), where ascertainable from documents provided to or obtained by the surveyor pursuant to Section 4 and/or from field evidence gathered during the process of conducting the fieldwork. If the surveyed property is composed of multiple parcels, the extent of any gaps or overlaps between those parcels shall be identified. Where gaps or overlaps are identified, the surveyor shall, prior to or upon delivery of the final plat or map, disclose this to the insurer and client.
 - viii. When, in the opinion of the surveyor, the results of the survey differ significantly from the record, or if a fundamental decision related to the boundary resolution is not clearly reflected on the plat or map, the surveyor shall explain this information with notes on the face of the plat or map.
 - ix. The location of all buildings on the surveyed property, located pursuant to Section 5.D., dimensioned perpendicular to those perimeter boundary lines that the surveyor deems appropriate (i.e., where potentially impacted by a setback line) and/or as requested by the client, lender or insurer.
 - x. A note on the face of the plat or map explaining the site conditions that resulted in a Relative Positional Precision that exceeds the maximum allowed pursuant to Section 3.E.v.
 - xi. A note on the face of the plat or map identifying areas, if any, on the boundaries of the surveyed property, to which physical access within five feet was restricted (see Section 5.C.ii.).
 - xii. A note on the face of the plat or map identifying the source of the title commitment or other title evidence provided pursuant to Section 4, and the effective date and the name of the insurer of same.
- C. Easements, Servitudes, Rights of Way, Access, and Documents**
- i. The location, width, and recording information of all plottable rights of way, easements, and servitudes burdening and benefitting the property surveyed, as evidenced by documents provided to or obtained by the surveyor pursuant to Section 4.

- ii. A summary of all rights of way, easements and servitudes burdening the property surveyed and identified in the title evidence provided to or obtained by the surveyor pursuant to Section 4. Such summary shall include the record information of each such right of way, easement or servitude, a statement indicating whether or not it is shown on the plat or map, and a related note if:
 - (a) the location cannot be determined from the record document;
 - (b) there was no observed evidence at the time of the fieldwork;
 - (c) it is a blanket easement;
 - (d) it is not on, or does not touch, the surveyed property;
 - (e) it limits access to an otherwise abutting right of way;
 - (f) the documents are illegible; or
 - (g) the surveyor has information indicating that it may have been released or otherwise terminated.

In cases where the surveyed property is composed of multiple parcels, indicate which of such parcels the various rights of way, easements, and servitudes cross or touch.

- iii. A note if no physical access to a public way was observed in the process of conducting the fieldwork.
- iv. The locations and widths of rights of way abutting or crossing the surveyed property, and the source of such information, (a) where available from the controlling jurisdiction, or (b) where disclosed in documents provided to or obtained by the surveyor pursuant to Section 4.
- v. The identifying titles of all recorded plats, filed maps, right of way maps, or similar documents which the survey represents, wholly or in part, with their recording or filing data.
- vi. For non-platted adjoining land, recording data identifying adjoining tracts according to current public records. For platted adjoining land, the recording data of the subdivision plat.
- vii. Platted setback or building restriction lines which appear on recorded subdivision plats or which were disclosed in documents provided or obtained by the surveyor.

D. Presentation

- i. The plat or map shall be drawn on a sheet of not less than 8 ½ by 11 inches in size at a legible, standard engineering scale, with that scale clearly indicated in words or numbers and with a graphic scale.
- ii. The plat or map shall include:
 - (a) The boundary of the surveyed property drawn in a manner that distinguishes it from other lines on the plat or map.
 - (b) If no buildings were observed on the surveyed property in the process of conducting the fieldwork, a note stating *"No buildings observed."*
 - (c) A north arrow (with north to the top of the drawing when practicable).
 - (d) A legend of symbols and abbreviations.
 - (e) A vicinity map showing the property in reference to nearby highway(s) or major street intersection(s).
 - (f) Supplementary or detail diagrams when necessary.
 - (g) Notes explaining any modifications to Table A items and the nature of any additional Table A items (e.g., 21(a), 21(b), 21(c)) that were negotiated between the surveyor and client.
 - (h) The surveyor's project number (if any), and the name, registration or license number, signature, seal, street address, telephone number, company website, and email address (if any) of the surveyor who performed the survey.
 - (i) The date(s) of any revisions made by the surveyor who performed the survey.
 - (j) Sheet numbers where the plat or map is composed of more than one sheet.
 - (k) The caption "ALTA/NSPS Land Title Survey."

- iii. When recordation or filing of a plat or map is required by law, such plat or map shall be produced in recordable form.

7. **Certification** - The plat or map of an ALTA/NSPS Land Title Survey shall bear only the following certification, unaltered, except as may be required pursuant to Section 3.B. above:

To (name of insured, if known), (name of lender, if known), (name of insurer, if known), (names of others as negotiated with the client):

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items _____ of Table A thereof. The fieldwork was completed on _____ [date].

Date of Plat or Map: _____ (Surveyor's signature, printed name and seal with Registration/License Number)

8. **Deliverables** - The surveyor shall furnish copies of the plat or map of survey to the insurer and client and as otherwise negotiated with the client. Hard copies shall be on durable and dimensionally stable material of a quality standard acceptable to the insurer. A digital image of the plat or map may be provided in addition to, or in lieu of, hard copies pursuant to the terms of the contract. When required by law or requested by the client, the plat or map shall be produced in recordable form and recorded or filed in the appropriate office or with the appropriate agency.

TABLE A

OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS

NOTE: The twenty (20) items of Table A may be negotiated between the surveyor and client. Any additional items negotiated between the surveyor and client shall be identified as 21(a), 21(b), etc. and explained pursuant to Section 6.D.ii.(g). Notwithstanding Table A Items 5 and 11, if an engineering design survey is desired as part of an ALTA/NSPS Land Title Survey, such services should be negotiated under Table A, Item 21.

If checked, the following optional items are to be included in the ALTA/NSPS LAND TITLE SURVEY, except as otherwise qualified (see note above):

1. ☐ *Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner.*
2. ☐ *Address(es) of the surveyed property if disclosed in documents provided to or obtained by the surveyor, or observed while conducting the fieldwork.*
3. ☐ *Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only.*
4. ☐ *Gross land area (and other areas if specified by the client).*
5. ☐ *Vertical relief with the source of information (e.g., ground survey, aerial map), contour interval, datum, and originating benchmark identified.*
6. ☐ *(a) If set forth in a zoning report or letter provided to the surveyor by the client, list the current zoning classification, setback requirements, the height and floor space area restrictions, and parking requirements. Identify the date and source of the report or letter.*
☐ *(b) If the zoning setback requirements are set forth in a zoning report or letter provided to the surveyor by the client, and if those requirements do not require an interpretation by the surveyor, graphically depict the building setback requirements. Identify the date and source of the report or letter.*
7. ☐ *(a) Exterior dimensions of all buildings at ground level.*
☐ *(b) Square footage of:*
☐ *(1) exterior footprint of all buildings at ground level.*
☐ *(2) other areas as specified by the client.*
☐ *(c) Measured height of all buildings above grade at a location specified by the client. If no location is specified, the point of measurement shall be identified.*

-
8. _____ *Substantial features observed in the process of conducting the fieldwork (in addition to the improvements and features required pursuant to Section 5 above) (e.g., parking lots, billboards, signs, swimming pools, landscaped areas, substantial areas of refuse).*
9. _____ *Number and type (e.g., disabled, motorcycle, regular and other marked specialized types) of clearly identifiable parking spaces on surface parking areas, lots and in parking structures. Striping of clearly identifiable parking spaces on surface parking areas and lots.*
10. _____ *(a) As designated by the client, a determination of the relationship and location of certain division or party walls with respect to adjoining properties (client to obtain necessary permissions).*
- _____ *(b) As designated by the client, a determination of whether certain walls are plumb (client to obtain necessary permissions).*
11. _____ *Location of utilities existing on or serving the surveyed property as determined by:*
- *observed evidence collected pursuant to Section 5.E.iv.*
 - *evidence from plans requested by the surveyor and obtained from utility companies, or provided by client (with reference as to the sources of information), and*
 - *markings requested by the surveyor pursuant to an 811 utility locate or similar request*
- Representative examples of such utilities include, but are not limited to:*
- *Manholes, catch basins, valve vaults and other surface indications of subterranean uses;*
 - *Wires and cables (including their function, if readily identifiable) crossing the surveyed property, and all poles on or within ten feet of the surveyed property. Without expressing a legal opinion as to the ownership or nature of the potential encroachment, the dimensions of all encroaching utility pole crossmembers or overhangs; and*
 - *Utility company installations on the surveyed property.*
- Note to the client, insurer, and lender - With regard to Table A, item 11, source information from plans and markings will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response, in which case the surveyor shall note on the plat or map how this affected the surveyor's assessment of the location of the utilities. Where additional or more detailed information is required, the client is advised that excavation and/or a private utility locate request may be necessary.*
12. _____ *As specified by the client, Governmental Agency survey-related requirements (e.g., HUD surveys, surveys for leases on Bureau of Land Management managed lands).*

13. _____ *Names of adjoining owners according to current tax records. If more than one owner, identify the first owner's name listed in the tax records followed by "et al."*
14. _____ *As specified by the client, distance to the nearest intersecting street.*
15. _____ *Rectified orthophotography, photogrammetric mapping, remote sensing, airborne/mobile laser scanning and other similar products, tools or technologies as the basis for the showing the location of certain features (excluding boundaries) where ground measurements are not otherwise necessary to locate those features to an appropriate and acceptable accuracy relative to a nearby boundary. The surveyor shall (a) discuss the ramifications of such methodologies (e.g., the potential precision and completeness of the data gathered thereby) with the insurer, lender, and client prior to the performance of the survey, and (b) place a note on the face of the survey explaining the source, date, precision, and other relevant qualifications of any such data.*
16. _____ *Evidence of recent earth moving work, building construction, or building additions observed in the process of conducting the fieldwork.*
17. _____ *Proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction. Evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork.*
18. _____ *If there has been a field delineation of wetlands conducted by a qualified specialist hired by the client, the surveyor shall locate any delineation markers observed in the process of conducting the fieldwork and show them on the face of the plat or map. If no markers were observed, the surveyor shall so state.*
19. _____ *Include any plottable offsite (i.e., appurtenant) easements or servitudes disclosed in documents provided to or obtained by the surveyor as a part of the survey pursuant to Sections 5 and 6 (and applicable selected Table A items) (client to obtain necessary permissions).*
20. _____ *Professional Liability Insurance policy obtained by the surveyor in the minimum amount of \$_____ to be in effect throughout the contract term. Certificate of Insurance to be furnished upon request, but this item shall not be addressed on the face of the plat or map.*
21. _____

*Adopted by the Board of Governors, American Land Title Association, on October 8, 2015.
American Land Title Association, 1800 M St., N.W., Suite 300S, Washington, D.C. 20036-5828.
www.alta.org*

*Adopted by the Board of Directors, National Society of Professional Surveyors, on October 9, 2015.
National Society of Professional Surveyors, Inc., 5119 Pegasus Court, Suite Q, Frederick, MD 21704.
<http://www.nspss.us.com/>*

Old Republic National Title Insurance Company

AMERICAN LAND TITLE ASSOCIATION COMMITMENT Schedule B-II

Issuing Office File Number:

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared 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 Commitment 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.
 - a. General or special taxes and assessments required to be paid in the year 2020 and subsequent years.
 - b. Rights or claims of parties in possession not recorded in the Public Records.
 - c. 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.
 - d. Easements or claims of easements not recorded in the Public Records.
 - e. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.
3. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: *Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*
4. Declaration and restrictions and all exhibits attached thereto and recorded in: O.R. Book 4140, Page 293, together with amendments thereto recorded in: O.R. Book 4140, Page 321, Public Records of Hillsborough County, Florida (hereinafter "Declaration"). Such Declaration may establish and provide without limitation for easements, liens, charges, assessments, an option to purchase, a right of first refusal, and/or the prior approval of a future purchaser or occupant.
5. Transmission Right of Way, recorded in O.R. Book 4684, Page 812, Public Records of Hillsborough County, Florida.
6. Terms and conditions of the easement contained in the instrument recorded in O.R. Book 4695, Page 851.
7. Terms and conditions of the easement and covenants contained in the instrument recorded in O.R. Book 4695, Page 858.
8. Terms, conditions, and provisions of Declaration of Easements and Restrictions, recorded in Official Records Book 4846, Page 1987, together with and as amended by First Amendment recorded in Official Records Book 4972, Page 479, and Assignment and Assumption of Rights recorded in Official Records Book 7323 Page 1469.
9. Lease from Inland American ST Florida Portfolio IV, L.L.C., a Delaware limited liability company to SunTrust Bank, a Georgia banking corporation, recorded O.R. Book 18579, Page 1385, Public Records of Hillsborough County, Florida.
10. Terms, conditions, and provisions of Stipulated Order of Taking, pursuant to Case No. 18-CA-003387, recorded in O.R. Book 25953, Page 959, Public Records of Hillsborough County, Florida.

Richard P. Bruce, Esq.
6545 Corporate Centre Blvd.
Orlando, FL 32822

August 1, 2020

Briggs, Washington & Thompson Land Surveying, Inc.
406 SW Rutledge Street
PO Box 263
Madison, FL 32340

RE: 3511 Bell Shoals Road, Valrico, FL
Job Order No. 13-120

Dear Mr. Briggs:

I have received your first draft survey map ALTA/NSPS survey dated July 29, 2020, Job Order No. 12-120 (the "Survey") with respect to the property. Please make the corrections as noted below. If you have any questions, feel free to contact me.

1. The symbol of "dash dot dash" is not defined in the legend
 - a. Please define "dash dot dash"
 - b. Requirement of Rule 5J-17, F.A.C. and ALTA/NSPS standards
2. Verify that overhead powerline (OE) is within its easement boundary on
 - a. West side of the property; and
 - b. Overhead powerline running from southwest to northeast on west side of the property
3. There is an oval feature in the asphalt driveway on the west side
 - a. Provide some description of said oval feature
4. Survey does not distinguish easements between the taking and the transmission easement
 - a. If they are the same, please state so.

Contact me with any questions. Please remember that we need these corrections as soon as possible as our closing date is quickly approaching.

Sincerely,

Richard P. Bruce

Richard P. Bruce, Esq.

Survey objections to the seller:

1. The survey shows, describes and depicts a SunTrust sign encroaching on the west side of the property.
 - a. This encroachment constitutes a title objection.
 - i. Please furnish any permit, approval, easement or lease that allows such sign to remain in its current location.
 - ii. If none, buyer and lender reserve the right to require seller to relocate the sign.

Survey exceptions for commitment:

Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by Briggs, Washington & Thompson Land Surveying, Inc., dated July 29, 2020, bearing Job # 13: 120:

- (a) Asphalt driveway encroaches on the Transmission Right of Way and the terms, conditions and provisions of Stipulated Order of Taking on the south and west side of the property.

SURVEY ENDORSEMENT

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Endorsement No. _____ to Policy No. _____

The Company hereby acknowledges the lands described in Schedule A are the same lands described in the survey prepared by _____ dated _____; however, the Company does not insure the accuracy or completeness of said survey.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Name of Agent

Agent No.

Agent's Signature

Old Republic National Title Insurance Company
By Carolyn Monroe
President

CONTIGUITY ENDORSEMENT

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Endorsement No.: _____ to Policy No.: _____

The Company insures the insured herein against loss or damage by virtue of any inaccuracy in the following statement, to wit:

Parcel _____ of the legal description and Parcel _____ of the legal description are contiguous to each other along the _____ line of Parcel _____ and _____ line of Parcel _____, and, taken as a tract, constitute one parcel of land.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Name of Agent

Agent No.

Agent's Signature

Old Republic National Title Insurance Company
By Carolyn Monroe
President

BACK TO BASICS: A PRACTICAL GUIDE TO READING SURVEYS

BY REBECCA WOOD, FUND UNDERWRITING COUNSEL

A vital part of the closing attorney's duties is reading the survey carefully to properly draft the specific survey exception. If a survey meeting the Florida Standards of Practice and dated within 90 days of closing is certified to the title insurer, Sec. 627.7842(1)(a), F.S., provides that the title policy may not contain a survey-related exception other than for specific matters actually shown on the survey. The specific matters itemized on Schedule B of the policy may then be affirmatively covered by issuing a "Form 9" endorsement. The ALTA Endorsement 9-06 is routinely requested by institutional lenders. The ALTA Endorsement 9.1-06 for unimproved land and the ALTA Endorsement 9.2-06 for improved land are available to owners. All three endorsements were adopted with Florida modifications, and are collectively referred to herein as "Form 9."

To mitigate the potential for a survey-related title claim, a best practice is to examine the survey and draft the specific survey exception prior to closing. It is also recommended that the proposed insureds expressly acknowledge the specific survey exception before closing the transaction. This article focuses on the following seven steps involved in this important closing requirement:

- 1) Consider the technical requirements
- 2) Check the legal description
- 3) Locate the easements and setback lines

- 4) Run the "finger test"
- 5) Write a detailed survey exception to include in the policy
- 6) Consider the use of old surveys
- 7) Disclose to the parties

Consider the technical requirements

As a threshold inquiry, confirm that the survey submitted is an original drawing that is dated, signed, and sealed by a Florida Registered Surveyor and Mapper. The seal must be either a raised seal or an official electronic stamp that complies with Secs. 668.001 - 668.006, F.S.

Next, check the certifications. In a sale transaction, a new survey should be certified to Old Republic, the Fund Member, the proposed-insured buyer, and the proposed-insured lender. In a refinance transaction, the certifications should be to Old Republic, the Fund Member, the current owner, and the proposed-insured lender. Under certain condi-

(Continues on page 124)



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READING A SURVEY...continued from page 121

tions it may be acceptable to rely on a survey from a prior transaction; in that situation, the survey must be certified to a prior owner of the subject property.

Next, examine the surveyor's notes, including the legend. The surveyor's notes sometimes include disclosures of serious title matters or explanations eliminating concern about possible questions of title. Examine the survey to locate all symbols, and refer to the key or legend for the meaning of those symbols; if any symbol is undefined, request an amendment to the survey to cure that omission. Do not overlook the importance of locating the directional arrow identifying north to establish the point of orientation.

Legal access is a question that must be addressed in every title insurance transaction. Locate the indicators of access reflected on the survey. Bear in mind that the survey alone may not be sufficient to conclude that there is legal access from the property to a public road. If the survey itself does not define the road as a public road, additional inquiry may be necessary; if there is doubt, the municipality is an appropriate source of confirmation that it maintains the road. If legal access cannot be confirmed, the policy must reflect an exception for lack of access.

Check the legal description

A best practice is to involve two staff members in proofing the survey legal description. One staffer should read the legal description from the last deed of record aloud, while the other follows along reading the legal description on the survey. Any inconsistencies should be noted and discussed with the surveyor. A substantial discrepancy between the legal description on the last deed of record and the survey may require a discussion with Fund Underwriting Counsel.

When examining the drawing of a survey of property described by metes and bounds, one staffer should read the description aloud while the other follows along on the graphical representation of the property. This collaborative effort serves to confirm that the boundaries reflected correspond to the legal description recited on the survey.

When examining the drawing of a survey of a lot in a platted subdivision, the surveyed lot must be located on the plat. In addition to confirming that the survey matches the portion of the plat that depicts the specific lot, the plat must also be examined for any easements or setback lines recited or reflected

on the plat and applicable to the specific lot. Again, enlisting a partner works well to confirm that any and all easements and setbacks that are shown on the plat are also shown on the survey.

Locate the easements and setback lines

A best practice is to provide the surveyor with copies of any recorded document that creates an easement or setback line, such as the plat or recorded easement agreements. In addition, provisions for easements and setbacks may also be found in less obvious types of documents. An easement or setback may be created by language included in a deed, by the terms of a declaration of covenants, conditions, and restrictions or by other mutual agreements. Any document referred to on Schedule B-II of the commitment should be considered and any that contain provisions creating easements or setbacks should be provided to the surveyor. It is in the best interest of the proposed insured for the survey to reflect any portion of the property that may be impacted by any document that limits the use of the land in any way.

Run the "finger test"

Locate the point of beginning on the survey drawing and put your finger on that spot. Drag your finger along the boundary line to the next corner making note of gaps, overlaps, or other matters that may suggest a boundary line dispute. If the list includes any indication of a boundary line dispute, contact Fund Underwriting Counsel.

Continue this examination from one corner to the next until returning to the point of beginning, making note also of any encroachments of improvements from the proposed-insured lands onto adjoining lands and from adjoining lands onto the proposed-insured land. Next, identify any lines indicating easements, and follow the same procedure to determine that no improvements encroach into any easement, or to make a note describing any encroachment shown. Finally, identify any building setback lines, and follow the same procedure and make a note describing any violation shown. A careful review of the survey may also reveal indications of parties in possession.

The result of the finger test will be an itemized list of all matters that must be described on Schedule B of the policy if a Form 9 is to be issued. Before finalizing the clause, it will be necessary to contemplate the details of any encroachment of an improvement from the subject property onto adjoining lands, any encroachment into an easement, and any violation of a building setback line. Further discussion follows on the issue of closely scrutinizing those matters to determine the appropriateness of issuing the Form 9, and how that decision may impact the drafting of the specific survey exception clause.

Write a detailed survey exception to include in the policy

Title commitments include the following two standard exceptions that cannot be removed without a current survey or acceptable substitute. See TN 25.03.06.

- 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.
- Easements, or claims of easements, not recorded in the Public Records.

Typically those exceptions appear in the owner's policy automatically, and remain if an acceptable survey is not provided. It is important to note that if a loan policy is being issued simultaneously, in the absence of a reliable survey, the two standard survey exceptions must be manually added to the policy, and any ALTA 9-06 Endorsement must be substantially modified to delete elements of coverage 1(b)(3), 1(b)(4), 3, 4, and 5 in their entirety. For further discussion, see "The ALTA 9-06: Selected Issues - Covenants, Conditions, Restrictions and Surveys," 48 *Fund Concept* 18 (Feb. 2016).

If an acceptable survey is provided, both the owner policy and the loan policy may be issued without the standard exception for matters disclosed by an accurate survey. To delete the exception for unrecorded claims of easement, in addition to the survey, an affidavit from the owner is also required to confirm no claim exists.

When the standard survey exceptions are deleted from the policy, a replacement survey exception is required. If no Form 9 is issued, a general exception is permitted, but not preferred.

Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by _____, dated _____, bearing Job # _____.

When a Form 9 is issued, the specific survey exception is required. The specific survey exception is also recommended in the absence of a Form 9.

Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by _____, dated _____, bearing Job # _____, including but not limited to:

- a. [itemize specific survey matter]*
- b. [itemize other specific survey matter]*
- c. [itemize other specific survey matter]*

A Form 9 automatically provides affirmative coverage for certain survey matters itemized on Schedule B of the policy. In the event that any element of coverage provided by this endorsement is not given in a particular transaction, there must be an appropriate notation in the specific survey exception on Schedule B of the policy indicating the exclusion. For further discussion, see "The ALTA 9-06: Selected Issues - Covenants, Conditions, Restrictions and Surveys," 48 *Fund Concept* 18 (Feb. 2016).

When necessary to modify the Form 9 coverage, the specific exception would be drafted in substantially the following form:

Encroachments, encumbrances, violations, variations, or adverse circumstances, if any, actually shown on the survey prepared by _____, dated _____, bearing Job # _____, including but not limited to:

- a. [itemize specific survey matter]*
- b. [itemize other specific survey matter]*
- c. [describe an encroachment of a significant improvement into an easement] "Element of coverage No. 3 of the ALTA 9-06 endorsement shall not apply with respect to this encroachment."*
- d. [describe an encroachment of a significant improvement onto adjacent land] "Element of coverage No. 4 of the ALTA 9-06 endorsement shall not apply with respect to*

this encroachment.”

e. [describe a significant building setback violation] “Element of coverage No. 5 of the ALTA 9-06 endorsement shall not apply with respect to this encroachment.”

Note that items a and b may describe an encroachment into an easement, an encroachment onto adjacent land, or a building setback violation, but absent the exclusionary language, the described matter would be affirmatively covered by the issuance of the Form 9.

Please note, a Form 9 may not be issued on an automatic basis. Before providing Form 9 coverage, Fund Members must be thoroughly familiar with the Form 9 and the instructions in the “Preparing the Forms” chapter of *The Fund Procedures Handbook*. Before issuing a Form 9, contact Fund Underwriting Counsel if any extraordinary risks are identified in the examination. Such extraordinary risks include:

1. That an improvement belonging on the proposed-insured parcel is located on the adjoining land or in an easement, and that improvement does not appear to be readily removable or the improvement contributes significantly to the overall value of the property; or
2. That a permanent building violates a building setback line by a significant degree; or
3. The existence of a gap or overlap between the insured boundary line and neighboring boundary line.

When contacting Fund Underwriting Counsel about an extraordinary Form 9 risk, gather the following information about the transaction for discussion:

1. Loan to value – preferably, there should be at least a 10 percent equity cushion;
2. Nature of the improvement – permanent or easily removable; construction in progress or completed;
3. Severity of issue – violating improvement covers more than 10 percent of the property that is subject to the easement or setback requirement;
4. Uniqueness of the matter – make inquiry as to the surrounding properties to determine whether the type of matter is common in the area;
5. In the event of a setback violation, confirmation that the instrument that imposed the

setback does not contain a reverter clause;

6. Confirmation that there is no off-record objection, nor any legal proceeding associated with the matter (to force removal or otherwise).

Consider the use of old surveys

TN 25.03.06(C) states that The Fund will waive the requirement for a current survey and rely upon an original survey from a prior transaction if the subject property is a platted, residential lot, and the survey is certified to any prior or current owner. That waiver is conditioned upon receipt of a sufficient, reliable affidavit from the owner that there have been no changes to the footprint of improvements on the insured land and adjoining lands since the date of the survey. Consult Fund Underwriting Counsel before relying on a survey more than 90 days old in any transaction that does not conform to the terms of TN 25.03.06(C). After establishing the acceptability of the old survey, apply the same guidelines otherwise discussed in this article.

Disclose to the parties

The results of the survey examination should be shared with the proposed insureds prior to or at the closing of the transaction. A common practice is to have the buyer sign the survey, but that signature may simply indicate receipt of the drawing, not an explanation of its content. To have the proposed insured lender and buyer acknowledge the specific exception that will appear in the loan policy is the best practice.

Conclusion

Examining the survey and sharing it with the parties to the transaction prior to closing is critical. A pull-out checklist is provided as a tool to facilitate proper evaluation of the survey in all transactions. □

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