

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040257

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt a resolution amending the Jetport Interstate Commerce Park DRI Development Order and Map H.

WHY ACTION IS NECESSARY: Florida Statutes requires Board approval of amendments to developments of regional impact.

WHAT ACTION ACCOMPLISHES: Amends the DRI Development Order and Master Development Plan (Map H) for the Jetport Interstate Commerce Park DRI through an expedited process in accordance with Florida Statutes and the Lee County Land Development Code.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT #5 A12A

3. MEETING DATE:

03-23-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE 380.06(19)(e) (2)
 - ORDINANCE LDC § 34-145(d)(1)c
 - ADMIN. CODE
 - OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT DCD and County Attorney
- C. DIVISION Zoning and Land Use
- BY: Dawn E. Perry-Lehnert
Dawn E. Perry-Lehnert
Assistant County Attorney

7. BACKGROUND:

The Jetport Interstate Commerce Park DRI was adopted by the Board of County Commissioners in July 1987. Since that time, the development order has been amended five times. On January 14, 2004, Thomas Cronin, Sr., Trustee of the Daniels Road Land Trust, petitioned to amend the governing DRI Development Order and the Master Development Plan (Map H) to reflect corresponding zoning changes pertaining to a change of three Light Industrial (IL) tracts to Industrial Planned Development (IPD).

(Continued on Page 2)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i>	OA RK 3/4	OM 3/4/04	RISK 3/4/04	GC 3/4/04	<i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY.
FORWARDED TO:
C. Adams
3/4/04

RECEIVED BY
COUNTY ADMIN: [Signature]
3/4/04
1:50pm ser
COUNTY ADMIN
FORWARDED TO: [Signature]
3/4/04
4pm

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Page No.: 2

Subject: Jetport Interstate Commerce Park DRI Development Order and Map H.

The Lee County Land Development Code states that after staff review and recommendation, certain amendments to the DRI development orders, may proceed directly to the Board of County Commissioners for consideration during a regular weekly Board meeting as part of the Administrative Agenda. The Board may adopt this amendment based upon the staff recommendation. Hearing Examiner review is not required.

Staff supports the proposed amendment to the DRI Development Order. The change will not create a likelihood of additional regional impact. Accordingly, staff recommends adoption of the attached resolution amending the Jetport DRI Development Order and Map H.

Attachment: Resolution amending the DRI Development Order and Map H and adopting the codification of the 6th Amendment to the Jetport Interstate Commerce Park DRI Development Order.

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING THE JETPORT INTERSTATE COMMERCE PARK DRI DEVELOPMENT ORDER AND THE MASTER PLAN OF DEVELOPMENT (MAP H).

WHEREAS, the Lee County Board of Commissioners adopted a DRI Development Order for the Jetport Interstate Commerce Park DRI on July 13, 1987 (DRI No. 7-8586-68); and

WHEREAS, the DRI Development Order was subsequently amended on July 14, 1987, August 18, 1997, November 18, 1997, May 19, 2003 and November 25, 2003; and

WHEREAS, Thomas R. Cronin, Sr., Trustee of the Daniels Road Land Trust, filed an NOPC to amend Map H to add Industrial Planned Development lots to the lot mix; decrease commercial uses from 120,000 square feet to 96,634 square feet; increase industrial plant/park use from 817,300 square feet to 864,989 square feet; and modify the annual reporting obligation to establish biennial review requirements in accord with §380.06(18), Florida Statutes; and

WHEREAS, the Southwest Florida Regional Planning Council staff has opined that the amendment of the DRI development order approvals to amend Map H, increase industrial square footage and decrease commercial square footage within the project is a minor change as contemplated by §380.06(19)(e)(2)j, Florida Statutes; and

WHEREAS, the proposed changes to the Jetport Interstate Commerce Park DRI Development Order and Map H do not constitute a substantial deviation and qualify for expedited processing pursuant to Florida Statutes §380.06(19)(e)2 and Land Development Code §34-145(d)(1)c.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

1. The above stated recitals are incorporated into this Resolution by reference.
2. The Jetport Interstate Commerce Park DRI Development Order and Map H are hereby amended in accordance with the attached codification of the Sixth Amendment of the Jetport Interstate Commerce Park DRI Development Order.
3. Certified copies of this Resolution and the revised DRI Development Order will

be forwarded to the Southwest Florida Regional Planning Council, the Florida Department of Community Affairs, and other appropriate agencies. This amendment is rendered as of the date of transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Once effective, the Notice of Adoption of this Development Order Amendment must be recorded as provided for in Chapter 380, Florida Statutes.

The motion to adopt this Resolution was offered by Commissioner _____, and seconded by Commissioner _____, and, upon poll of the members present, the vote was as follows:

Robert P. Janes
Douglas R. St. Cerny
Ray Judah
Andrew W. Coy
John E. Albion

DULY PASSED AND ADOPTED this ____ day of 2004.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Dawn E. Perry-Lehnert
Office of the County Attorney

Exhibit A: Sixth Amendment of the Jetport Interstate Commerce Park DRI Development Order

SIXTH DEVELOPMENT ORDER AMENDMENT¹
FOR
JETPORT INTERSTATE COMMERCE PARK

Development of Regional Impact

#7-8586-68

LET IT BE KNOWN THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HEARD, AT A PUBLIC HEARING ON JULY 13, 1987, THE APPLICATION FOR DEVELOPMENT APPROVAL OF JETPORT/INTERSTATE COMMERCE PARK, A COMMERCIAL DEVELOPMENT TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION ORIGINALLY FILED ON JULY 3, 1986.

WHEREAS, the Board of County Commissioners of Lee County, Florida, considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Review Staff, the Lee County Planning and Zoning Commission (the Local Planning Agency), and the documents and comments upon the record made before the Board in public hearing; and after full consideration of those reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, adopted the Jetport Interstate Commerce Park DRI Development Order;

WHEREAS, shortly after the Board of County Commissioners adopted the original development order, it was subsequently amended on July 14, 1987 to clarify Condition D.6 pertaining to transportation mitigation obligations; and

WHEREAS, the development order was subsequently amended on August 18, 1997, to extend the build out date by 5 years and 18 days; modify the condition requiring the closure of an access point onto Daniels Parkway; add additional property to the legal description of the project; modify master plan of development reflected on Maps G-1 and G-2; reduce the number of hotel rooms; increase the land area set aside for commercial tourist uses and modify the transportation monitoring requirements, and on November 18, 1997, to modify the master plan of development, Maps G-1 and G-2, to reflect the extension and widening of Intercom Drive; and

WHEREAS, the DRI Development Order expired by its own terms on July 31, 2002; and

¹ This is a codification and restatement of all DRI development orders rendered with respect to the Jetport Interstate Commerce Park DRI, including actions taken on July 13, 1987, July 14, 1987, August 18, 1997, November 18, 1997, May 19, 2003, November 25, 2003, and _____, 2004.

WHEREAS, on July 19, 2003 the DRI Development Order was reinstated and the build out, phasing, and termination dates were extended by approximately two years to July 12, 2004 (cumulative total of seven years less one day); and

WHEREAS, the development order was subsequently amended on November 23, 2003 to amend the Master Plan of Development (Map H, formerly referred to as Map G) to allow a place of worship land use; and

WHEREAS, Thomas R. Cronin, Sr., Trustee of the Daniels Road Land Trust, filed an NOPC to amend Map H to add Industrial Planned Development lots to the lot mix; decrease commercial uses from 120,000 square feet to 96,634 square feet; increase industrial plant/park use from 817,300 square feet to 864,989 square feet; and modify the annual reporting obligation to establish biennial review requirements in accord with §380.06(18), Florida Statutes; and

WHEREAS, the Southwest Florida Regional Planning Council staff has opined that the amendment of the DRI development order approval to include Industrial Planned Development lots within the mix of uses allowed within the project constitutes a minor change as contemplated by Florida Statutes §380.06(19)(e)(2); and

WHEREAS, the proposed changes to the Jetport Interstate Commerce Park DRI Development Order and Map H do not constitute a substantial deviation and qualifies for expedited processing pursuant to Florida Statutes §380.06(19)(e)(2) and Land Development Code §34-145(d)(1)c.

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The Jetport Interstate Commerce Park development is a mixed use Development of Regional Impact (DRI). The development consists of commercial and industrial uses on 159.56 acres of land located at the southeast corner of I-75 and Daniels Parkway. The proposed development plans to divide the site into ~~sixty (60)~~ 38 separate lots as follows: ~~thirteen (13)~~ nine Tourist Commercial lots, ~~three~~ Industrial Planned Development lots, and ~~forty-seven (47)~~ (26) Light Industrial lots which will contain ~~817,300~~ 864,989 square feet of industrial plant/park space, ~~120,000~~ 96,634 square feet of commercial space, 600 hotel or motel units and a place of worship (limited to Lot #7). Approximately 22.12 acres of the site will be dedicated as road right-of-way and 45.9 acres will be utilized as storm water retention areas. The infrastructure development will occur in one phase with a build-out of individual lots by July 12, 2004.

B. The legal description of the property is as follows:

The northwest quarter (¼) of the southwest quarter (¼) of Section 23, Township 45S, Range 25E, less the right-of-way for Interstate 75 and Daniels Road Parkway; and

The southwest quarter (1/4) of the southwest quarter (1/4) of Section 23, Township 45S, Range 25E; and

All of that part of the northeast quarter (1/4) of Section 27, Township 45S, Range 25E, lying easterly of the Interstate 75 right-of-way.

AND ALSO

A parcel of land located in the Northwest quarter (NW1/4) of the Northwest quarter (NW1/4) of Section 26, Township 45 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of said Section 26, thence run South 00°36'44" E along said section line a distance of 114.10 feet to the Point of Beginning of the herein described parcel; thence continue along said section line a distance of 549.90 feet; thence run N88°07'09" E a distance of 114.74 feet; thence run N00°36'44"W a distance of 488.52 feet; thence run N46°05'10" W a distance of 120.23 feet; thence run S 43°54'50"W a distance of 41.35 feet to a point of intersection with the west line of said section 26. Said point being the Point of Beginning. This parcel contains 1.42 acres, more or less.

C. The property is zoned Commercial Tourist (CT), Light Industrial (IL), Industrial Planned Development (IPD), and Agricultural (AG). The maximum building height is 65 feet.

D. The Application for Development Approval filed on July 10, 1986 was found consistent with the requirements of Chapter 380.06, Florida Statutes.

E. The proposed development is not located in an area designated as an Area of Critical State Concern, pursuant to the provisions of Chapter Section 380.05, Florida Statutes. The property is located within the Airport Commerce and General Interchange Land Use Category of the Lee County Comprehensive Land Use Plan.

F. The reinstatement and amendment of the DRI Development Order as conditioned herein does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.

G. The proposed development is consistent with the report and the recommendations of the Southwest Florida Regional Planning Council.

H. The proposed conditions below meet the criteria found in Chapter Section 380.06(15)(d), Florida Statutes.

I. The proposed development, as conditioned below, is consistent with the adopted Lee County Comprehensive Plan.

J. Allowing construction of primary buildings within the 75 foot screening area described in condition II.E will not result in the development of any area that could not have been developed under the existing development order.

II. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, ~~in public meeting duly constituted and assembled May 19, 2003,~~ that the requested ~~reinstatement and amendment~~ to the Jetport/Interstate DRI Development Order submitted by Thomas R. Cronin, Sr., Trustee of the Daniels Road Land Trust, ~~are~~ is hereby approved, subject to the following conditions, restrictions, and limitations:

A. DRAINAGE/WATER QUALITY

1. Prior to issuance of a Final Development Order by Lee County, the Developer must provide for the following provisions:
 - (a) The Developer must coordinate with Lee County, the South Florida Water Management District (SFWMD), and Florida Department of Environmental Protection (FDEP) in the development and implementation of an on-going monitoring, maintenance and sampling program to help ensure achievement of state water quality and quantity standards specified in Chapter 17-3, Florida Administrative Code (F.A.C.).
 - (b) The surface water management system must meet the conditions of the SFWMD Permit #36-01857-S regarding detention volumes and discharge rates, in order to reduce water quality impacts to the Six Mile Cypress Basin.
 - (c) Any redesign of the surface water management system must be consistent with all applicable policy guidelines, specified in the Six Mile Cypress Slough Preserve Management Plan.
 - (d) The Developer must encourage lot owners, as part of the site's overall management plan, to provide for a twice weekly parking lot vacuum sweeping to help ensure optimal storm water runoff quality.
 - (e) The Developer must notify the Lee County Small Quantity Generator Program Coordinator and the FDEP in the siting of any on-site

temporary transfer and storage facility for special or hazardous waste generated within the project.

2. All commitments provided within the Jetport/Interstate Commerce Park Application for Development Approval (ADA) and supplemental sufficiency documents with respect to Question 22 (Drainage), are incorporated as conditions for approval.

B. ENERGY

1. The Developer/property owner must incorporate the following energy conservation measures into this development, through deed restrictions or covenants with successors in title. All applications for site plan approvals and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, those documents must be approved by the Lee County Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the prior alternative must be utilized and the following features must be included.

These features are:

- (a) Bicycle/pedestrian system connecting all land uses, placed along arterial and collector roads within the project. This system must be constructed in accordance with Lee County development regulations. This only applies to Treeline Avenue which is programmed to receive sidewalks as part of approved expansion plans.
- (b) Bicycle racks or storage facilities in commercial areas.
- (c) Bus stops, shelters, and other passenger system accommodations for a transit system to service the project area, to specifications of the appropriate Lee County agencies.
- (d) Energy-efficient features in window design (e.g., tinting and exterior shading).
- (e) Operable windows and ceiling fans.
- (f) Energy-efficient appliances and equipment.
- (g) Prohibition of deed restrictions or covenants that prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, and solar water heating systems).

- (h) The minimum necessary coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat, as determined by the Lee County Department of Community Development.
- (i) Energy-efficient lighting for streets, parking areas, recreation areas, and other interior and exterior public areas.
- (j) Water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow-rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Chapter Section 553.14, Florida Statutes.
- (k) Selection, installation, and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs compared to non-native exotic plant species.
- (l) Native shade trees to provide shade for streets and parking areas.
- (m) Placement of trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the winter.
- (n) Orientation of structures to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- (o) Structural shading (e.g., trellises, awnings, and roof overhangs), wherever practical when natural shading cannot be used effectively.
- (p) Establishment of an architectural review committee(s) and consideration of energy conservation measures (both those noted here and others) to assist builders and tenants to achieve greater energy efficiency in the development and compliance with the above conditions.

C. FLOOD PLAINS/HURRICANE EVACUATION

Prior to issuance of a Final Development Order, the Developer must meet with the Lee County Disaster Preparedness officials to prepare and coordinate a plan to insure that areas in the common portion of the project that are appropriate may be utilized as storm shelters or staging areas in the event of an emergency situation.

Note: The Developer met with Lee County Public Safety in 2003, when it was determined that the project site is not suitable for this purpose.

D. TRANSPORTATION

1. The traffic impact assessment upon which this Development Order for Jetport/Interstate Commerce Park DRI is based, assumes expected project build out on July 12, 2004, and also assumes that only 200 of the 600 hotel/motel units will be developed.
2. The developer must establish an annual monitoring program to monitor the development's impact upon the area roadways. The monitoring program must be performed by traffic engineers and must be designed in cooperation with the Lee County Division of Transportation which will determine specific information needed, frequency of information gathered, critical roadway points, and any other necessary information. At a minimum, the Annual Monitoring Report must contain PM peak-hour, peak season traffic counts with turning movements and level of service estimations. Counts must be provided for all project access points onto Daniels Parkway and Treeline Avenue, as well as the intersection of Daniels Parkway with the I-75 ramps and Daniels Parkway with Treeline Avenue.

If a County-wide program for monitoring intersections is adopted that includes the intersections listed above, then the Developer must pay a pro-rata share of the costs of monitoring those intersections. However, the Developer must still monitor traffic at the project access points onto Daniels Parkway and Treeline Avenue at his own expense as these are site-related improvements. Project access points include the intersection of Daniels Parkway with Jetport Commerce Parkway, Treeline Avenue with Intercom Drive, Treeline Avenue with Jetport Loop, and any other project driveways onto Daniels Parkway or Treeline Avenue.

The Daniels Road Land Trust or their representative must submit the first monitoring report to the Lee County Engineer, the Southwest Florida Regional Planning Council, and the Florida Department of Transportation (FDOT) within one year of the approval of this Development Order. Reports must then be submitted to those agencies each year until build-out of the DRI. Actual build-out will occur when the Developer has constructed the maximum number of hotel/motel units, commercial and industrial area permitted by the Development Order. Declared build-out would occur if the Developer formally declared in writing to the County Administrator that no more units or commercial area will be constructed despite the fact that less than the permissible maximum had been built to date. The purpose of this program is to: a) determine whether the traffic levels projected in the traffic impact assessment for Jetport/Interstate Commerce Park are exceeded by actual traffic; and b) assist Lee County in determining the proper timing of necessary roadway improvements.

3. The Developer must construct, at no cost to Lee County all site-related improvements deemed necessary by the Lee County Engineer at the project's access points onto Daniels Parkway and Treeline Avenue, as well as Treeline Avenue itself and the intersection of Treeline Avenue with Daniels Parkway. Access to Treeline must meet the requirements of the Lee County Land Development Code, as the same now exists, or as may be amended from time to time, with the exception that the first access point onto Treeline Avenue may be placed approximately 300 feet south of the southern right-of-way line of Daniels Parkway. The Developer's obligation for these improvements includes the full cost of design and engineering, utility relocation, right-of-way acquisition (if needed), construction of turn lanes, acceleration and deceleration lanes, construction inspection, contract administration, testing, and signalization (as needed). The Lee County Engineer will determine whether additional right-of-way is necessary to construct the site-related access improvements as well as accommodate future public roadway needs. In addition, the alignment, design, signalization, and construction schedule for these improvements must be approved by the Lee County Engineer.

The access points indicated on the Master Concept Plan are subject to the Treeline Avenue Access Management Plan as well as future operational decisions by the County to install a traffic signal, modify, or remove the median opening or adopt a controlled access facility resolution. If installation of a traffic signal is deemed appropriate by the County at this location, the full cost of the traffic signal improvement will be the responsibility of the developer.

The Developer is not eligible for credits against road impact fees for construction or dedication of right-of-way associated with improvements that are site-related as defined in the Land Development Code.

4. "Full movement" access to Daniels Parkway for Jetport will be limited to the intersection at Treeline Avenue. The westernmost access drive presently exists as a "full movement" intersection for the benefit of property to the west of Jetport. The median opening at this location will be closed when alternative access for the parcel west of Jetport is established. The Lee County Division of Transportation is responsible for all construction required within the right-of-way of Daniels Parkway at this location.
5. The Developer has dedicated one hundred (100) feet of right-of-way along the eastern property line of Jetport/Interstate Commerce Park from the Daniels Parkway centerline to the southeastern property line (approximately 2,618 feet) to Lee County for Treeline Avenue.

Credits against roads impact fees for right-of-way dedication will be in accordance with the provisions of the Lee County Land Development Code, including determination of the portion of the Treeline Avenue dedication that is site-related. The valuation of the right-of-way dedication for credit purposes is July 31, 1987, the date of the original DRI approval, without enhanced value created by the DRI development order approvals.

6. As mitigation for the impacts of new development within Jetport/Interstate Commerce Park DRI, the Developer must pay to Lee County road impact fees in effect at the time building permits are issued for all applicable development within the DRI. These impact fee payments represent proportionate share payments for the widening of Daniels Parkway from Bell Tower Boulevard to the Gateway DRI main entrance onto Daniels Parkway.

If road impact fees are repealed, reduced, or made unenforceable by court action, a substantial deviation will be deemed to have occurred, and the traffic impacts of Jetport/Interstate Commerce Park DRI will be re-analyzed to determine appropriate alternative mitigation. The Development Order will be amended as appropriate to include such mitigation prior to the issuance of subsequent building permits.

7. The Jetport/Interstate Commerce Park DRI is subject to the concurrency management provisions of the Lee County Land Development Code .
8. Nothing contained in this Development Order will be construed to exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU) or other special assessment districts, of improvements to various State and County arterial and collector roads to the degree to which this development generates demand or is benefitted.
9. If the contributions and road or intersection improvements specified herein and required of the Developer are not funded or provided within the time frames specified herein, development activities and the issuance of permits by Lee County for the Jetport/Interstate Commerce Park DRI must immediately cease until the obligation is fulfilled.
10. The developer or its successor must perform a cumulative transportation re-analysis of all existing and proposed development within the Jetport Interstate Commerce Park DRI as part of a Notice of Proposed Change to determine if there are additional regional impacts on roadway segments if any of the following occurs:
 - (a) the outbound existing traffic in the weekday PM peak hour measured by the monitoring reports exceed a total of 424 trip ends, or

- (b) the developer seeks to develop more than 200 hotel/motel units, or
- (c) the developer seeks to modify the development parameters, or
- (d) the developer seeks to extend build out beyond July 12, 2004.

E. WETLANDS/VEGETATION AND WILDLIFE

1. Prior to issuance of any Lee County Final Development Order, the Developer must commit to: (a) the preservation of the cypress swamp on-site, (b) planting native wetland species, in the storm water management areas where appropriate, and (c) provide a minimum 29% storm water management area on each lot, (d) the removal and control of all melaleuca throughout the site and (e) the provision of a final site plan showing all areas to be preserved, any wetlands areas to be created, and the total number of acres of each.

This plan must be to the satisfaction of the Director of the Lee County Department of Community Development.

2. Prior to the issuance of any Lee County Final Development Order, the developer to must provide a 25 foot native vegetative buffer, and a 75 foot screening area along the northern part of the site along Daniels Parkway . This buffer and screen must be provided as shown in Exhibit DC.

F. FIRE PROTECTION

Development of this project will be subject to the payment of fire impact fees in accordance with the schedule set forth in the Lee County Land Development Code.

G. WATER CONSERVATION

1. The Developer must incorporate the use of water conserving devices as required by state law (Section 553.14, Florida Statutes).
2. The developer and future occupants of the DRI must utilize water conservation measures and practices on site. At a minimum, the developer must use water conservation devices described in the Water Conservation Act. Landscape irrigation should be restricted to the hours of 5:00 P.M. to 9:00 A.M. The developer should use non-potable water sources or reuse for irrigation where possible.
3. The Developer must investigate the utilization of a master irrigation system and renovated wastewater as a preferable alternative to individual lot

irrigation wells. The Developer must provide documentation to the Director of the Lee County Department of Community Development at the time of water use permitting concerning the feasibility of these two alternatives.

4. All landscaping plans must be consistent with the Lee County Land Development Code.

H. SOLID WASTE

1. The Developer and tenants of the project must investigate methods of reducing solid waste volume at the project.
2. The Developer and tenants of the project must identify the proper on-site handling and the temporary storage procedures for special or hazardous waste in accordance with local, regional and state regulations.
3. The Developer must inform the waste hauler and disposer as to the nature of special or hazardous waste to determine if, and to what extent special precautions may be necessary.
4. The property owners and tenants of the project must provide space near all buildings to accommodate recycling and solid waste receptacles to service the buildings' waste generation. These areas must be easily accessible by the waste hauler.

I. WASTEWATER MANAGEMENT

Wastewater, especially that associated with the industrial portions of the project, containing hazardous waste materials must be segregated from everyday wastewater and handled in accordance with the FDEP pre-treatment criteria.

J. GENERAL CONSIDERATIONS

1. The Annual DRI Monitoring Report, should include information on the construction timetable, taxable value, and other estimates. If there are significant changes to the original estimates, a substantial deviation determination should be made.
2. All commitments and impacts mitigating actions set forth in the Application for Development Approval (and supplementary documents) not in conflict with specific conditions for project approval outlined above are officially adopted as conditions of approval.

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3. Pursuant to ~~Chapter~~ Section 380.06(16), the Developer may be subject to credit for contributions, construction, expansion, or acquisition of public facilities, if the Developer is also subject to impact fees or exactions to meet the same needs. The local government and the Developer may enter into a capital contribution front-ending agreement to reimburse the Developer for voluntary contributions in excess of his fair share.
 4. Allowable uses in the portion of the development located in the "Airport Commerce" area must be "airport-related" as determined by the Director of the Department of Community Development, to remain consistent with the Comprehensive Plan.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

A. This Development Order constitutes the resolution of the Board issued in response to the Development of Regional Impact Application for Development Approval filed for Jetport/Interstate Commerce Park and all amendments thereto, as well as information submitted during the four Notifications of Proposed Change to the DRI Development Order.

B. All commitments and impact mitigating actions volunteered by the Developer in the Application for Development Approval and supplementary documents not in conflict with conditions or stipulations specifically enumerated above are hereby adopted into this Development Order by reference.

C. This Development Order is binding on the Developer and its heirs, assignees, or successors in interest. Those portions of the Development Order that clearly apply only to the project Developer, will not be construed to be binding upon future owners of the project lots. It will be binding upon any builder/developer who acquires any tract of land within Jetport/Interstate Commerce Park.

D. The terms and conditions set out in this document constitute a basis upon which the Developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

E. All conditions, restrictions, stipulations, and safeguards contained in this Development Order may be enforced by action at law or equity, and all costs of those proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

F. Any reference herein to governmental agencies will be construed to mean any future instrumentality that may be created and designated as successor in interest to

→ or that otherwise possesses the powers and duties of the referenced governmental agency in existence on the effective date of this Development Order.

G. In the event any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision will not affect the remaining portions of the Development Order which will remain in full force and effect.

H. The approval granted in this Development Order is limited. The approval does not obviate the duty of the developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. The approval does not obviate the duty of the Developer to comply with County Ordinances or other regulations adopted after the effective date of this Development Order.

I. Subsequent requests for local development permits will not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

1. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans that create a reasonable likelihood of adverse regional impacts or other regional impacts that were not evaluated in the review by the Southwest Florida Regional Planning Council;
2. An expiration of the period of effectiveness of the Development Order as herein provided; or
3. Any other requirements of Chapter 380, Florida Statutes, that would require additional review.

Upon a finding that any of the above is present, the Board will order a termination of all development activity until a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

J. The deadline for commencing physical development under this Development Order is five (5) years from the date of adoption of the Order, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that considerations have not changed sufficiently to warrant further consideration of the development. In the event the Developer fails to commence significant physical development of that property identified in this Development Order within five (5) years from

date of rendition of this Development Order, development approval must terminate and the development will be subject to further consideration. Significant physical development includes obtaining a Certificate of Compliance on a substantial portion of the project (e.g., water management system or major road system). This Development Order will otherwise terminate on July 12, 2004, unless an extension is approved by this Board. An extension may be granted if the project has been developing substantially in conformance with the original plans and approved conditions, and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, or arising due to the extension, have been identified. For the process of determining when the build-out date has been exceeded, the time will be tolled during the pendency of administrative and judicial proceedings relating to development permits.

Notwithstanding the July 2004 termination date, no more than 200 hotel/motel units may be constructed until this development order has been further amended to identify the appropriate mitigation for the transportation impacts of the remaining 400 units. This mitigation associated with the development of more than 200 units must be identified after a traffic analysis has been submitted by the developer and approved by the Board of County Commissioners.

K. The Administrative Director of the Lee County Department of Community Development, or his designee, is the local official responsible for assuring compliance with this Development Order.

L. The Developer, or its successors in title to the undeveloped portion of the property, must submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State Land Planning Agency (the Department of Community Affairs), and all affected permit agencies as required in Subsection 380.06(18), Florida Statutes. This report must describe the state of development and compliance as of the date of submission, and must further be consistent with the rules of the State Land Planning Agency. The biennial annual report must contain the information specified in Exhibit B. The first Monitoring Report must be submitted to the Administrative Director of the Department of Community Development not later than August 1, 1988, and further reports must be submitted not later than May 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section 380.06(18) Florida Statutes.

The person responsible for the preparation and submission of the referenced annual monitoring reports will be Thomas R. Cronin, Sr., Trustee of the Daniels Road Land Trust. The developer must inform any successor in title to any undeveloped portion of the real property covered by this Development Order of this reporting obligation. This condition does not require reporting from tenants or owners of individual lots or units.

M. The development will not be subject to down-zoning or intensity reduction until July 12, 2004, unless the County demonstrates that substantial changes have

→ occurred in the conditions underlying the approval of this Development Order including, but not limited to, such factors as a finding that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by local government to be essential to the public health, safety, and welfare.

N. Certified copies of this Development Order will be forwarded to the Southwest Florida Regional Planning Council, the Developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but is not effective until the expiration of the statutory appeals period (forty-five days from rendition) or until the completion of any appellate proceedings, whichever time is later. Upon this Development Order becoming effective, notice of its adoption must be recorded in the Office of the Clerk of the Circuit Court by the developer, as provided in Section 380.06(15), Florida Statutes.

THE MOTION TO ADOPT this Development Order was offered by Commissioner _____, seconded by Commissioner _____ and, upon poll of the members present, the vote was as follows:

Robert P. Janes
Douglas R. St. Cerny
Ray Judah
Andrew W. Coy
John E. Albion

DULY PASSED AND ADOPTED on _____, 2004.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
John E. Albion, Chairman

APPROVED AS TO FORM

By: _____

Dawn E. Perry-Lehnert
County Attorney's Office

Exhibit A Map H
Exhibit B Monitoring Report Requirements
Exhibit C Buffer and Screen Requirements

EXHIBIT "B"

INFORMATION TO BE INCLUDED
IN ANNUAL MONITORING REPORT

- a. Any changes in the plan of development, or in the representations contained in the ADA, or in the phasing for the reporting year and for the next year;
- b. A summary comparison of development activity proposed and actually conducted for the year;
- c. Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;
- d. Identification and intended use of lands purchased, leased, or optioned by the developer adjacent to the original DRI site since the development order was issued;
- e. An assessment of the developer's and the local government's compliance with the conditions of approval contained in the DRI development order and the commitments which are contained in the Application for Development Approval and which have been identified by the local government, the Regional Planning Council, or the Department of Community Affairs as being significant;
- f. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;
- g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, including type of permit, permit number and purpose of each;
- i. A statement that all persons have been sent copies of the annual report in conformance with Subsection 380.06(14) and (16), Florida Statutes; and
- j. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the developer pursuant to Subsection 380.06(14)(d), Florida Statutes.

EXHIBIT "DC"

VEGETATIVE BUFFER:

(25 feet)

Indiscriminate removal of native vegetation is prohibited. Substitution and upgrading of the existing vegetative cover will be permitted if a landscaping plan is approved by the Director of the Lee County Department of Community Development prior to any alterations in this area. The vegetative buffer area must be adequately delineated prior to construction activity in order to prevent accidental damage to the buffer vegetation.

Permitted Uses:

Property access roads and utilities in the access right-of-way; landscaping with native plantings where buffer may be insufficient, and signs at the access points.

SCREENING AREA:

(75 feet)

Tree survey required to determine size (in inches of diameter) and location of indigenous trees. Fifty percent (50%) of the existing indigenous trees must remain in the final design. The final design may include tree removal and replacement with equivalent diameters of new indigenous trees or relocation of equivalent diameters within the screening area or buffer. Replacement of trees must have an eighty (80) percent survival rate.

Permitted Uses:

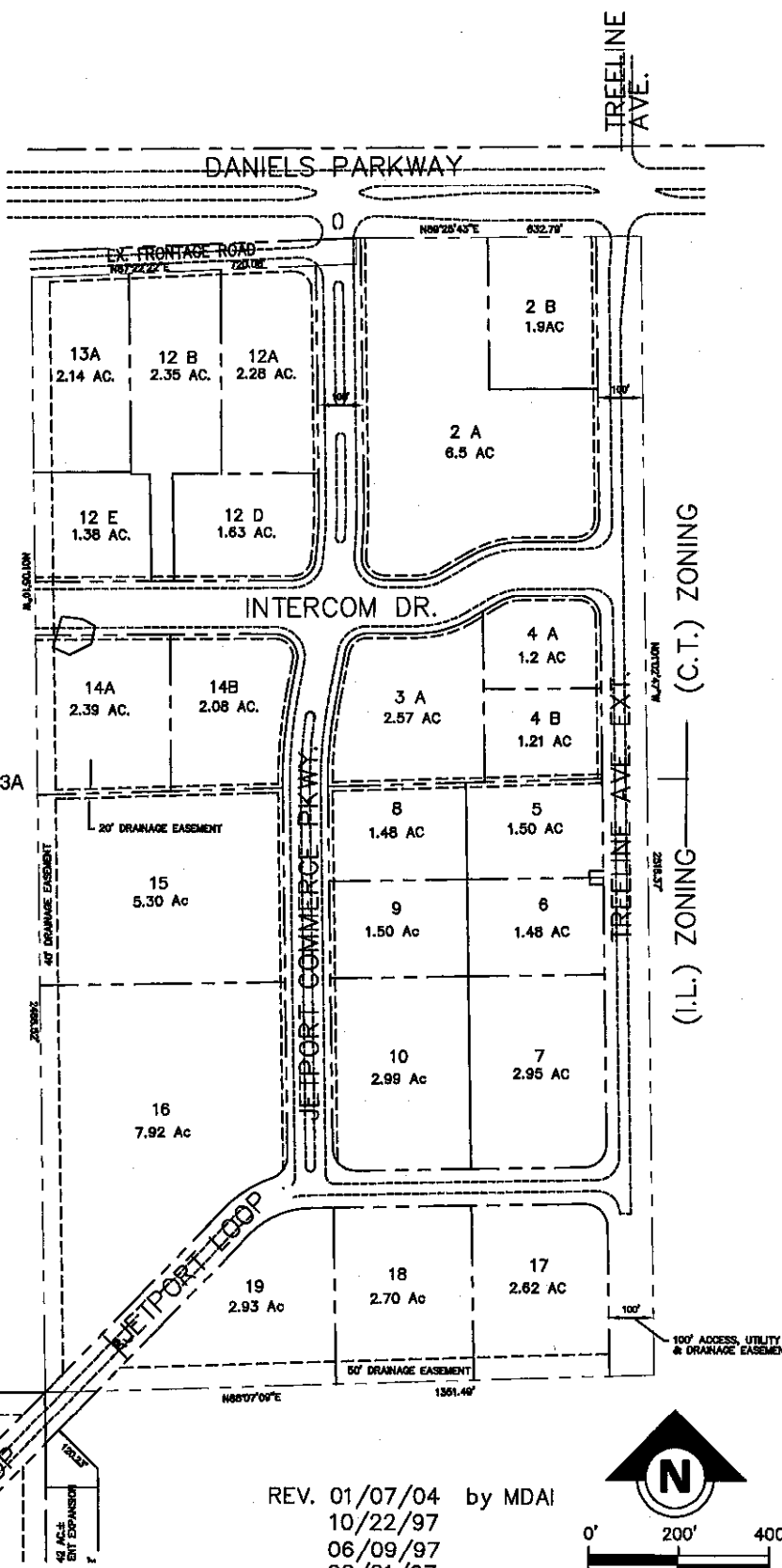
Permitted uses in the screening area include, but are not limited to parking lots, drainage facilities, road, and accessory structures such as outside lighting and signs. Major structures (primary buildings) are allowed if the external architectural design is approved by the Director of Community Development. The Director will consider the following criteria in determining whether to approve a building's design:

- a. aesthetic impacts on the Daniels Parkway corridor;
- b. economic feasibility of design changes required for approvals; and
- c. effects of design requirements on marketability of the property.

No fee may be charged for this review and approval will not be unreasonably withheld. If approval is denied, the developer may appeal directly to the Board of County Commissioners. The Board's decision will be final as to any disputed issue. There will be no fee for the appeal and it will be scheduled on an expedited basis for the next available zoning hearing date.

* Trees for the purpose of this Development Order are defined as in the Lee County Land Development Code.

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PROPOSED LAND USE

LOTS: 2A, 2B, 4A, 4B, 12A, 12B, 12D, 12E & 13A
 (CT) COMMERCIAL TOURIST
 CT AREA ± 29.36 AC

LOTS: 5, 6, 8-10, 15-28, 30, 33-36 & 38
 (IL) LIGHT INDUSTRIAL
 IL AREA ± 121.68 AC

LOT: 7 - PLACE OF WORSHIP (IL)

LOTS: 3A, 14A & 14B
 (IPD) INDUSTRIAL PLANNED DEVELOPMENT
 IPD AREA ± 7.1 AC

BUFFER LAND (AG) ± 1.42 AC

ALL LOTS SERVED BY PUBLIC WATER AND SEWER

MAXIMUM DEVELOPMENT AREA

864,989 SF INDUSTRIAL
 96,634 SF COMMERCIAL
 600 SF MOTEL UNITS

JETPORT/INTERSTATE
 COMMERCE PARK
 LEE COUNTY, FLORIDA

PREPARED BY:
 AVALON
 ENGINEERING
 INC.
 FOR:
 DANIELS ROAD
 LAND TRUST

DEVELOPMENT OF REGIONAL
 IMPACT
 APPLICATION FOR DEVELOPMENT APPROVAL
 MASTER DEVELOPMENT PLAN
 MAP H-1

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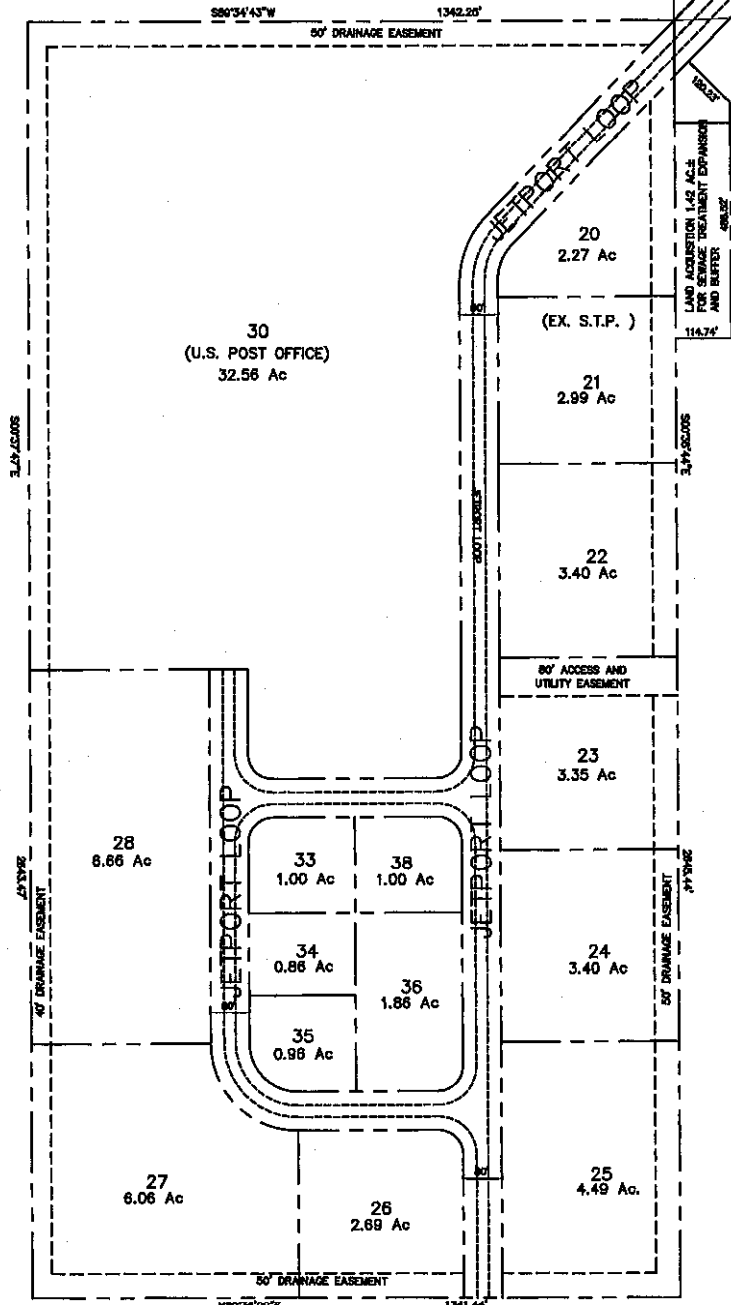
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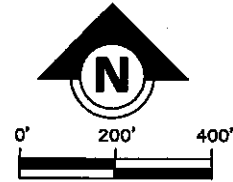
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864,989 SF INDUSTRIAL
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 600 SF MOTEL UNITS

INTERSTATE 75



REV.: 01/07/04 by MDAI
 10/22/97
 06/09/97
 02/21/97



JETPORT/INTERSTATE
 COMMERCE PARK
 LEE COUNTY, FLORIDA

PREPARED BY:
 AVALON
 ENGINEERING
 INC.
 FOR:
 DANIELS ROAD
 LAND TRUST

DEVELOPMENT OF REGIONAL
 IMPACT
 APPLICATION FOR DEVELOPMENT APPROVAL

MASTER DEVELOPMENT
 PLAN

MAP
 H-2

EXHIBIT "B"

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