

ORDINANCE NO. 05-15

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE §34-1006 PERTAINING TO AIRPORT NOISE ZONES; CREATING "AIRPORT LANDS ZONE", AND "NOISE SENSITIVE ZONE"; CREATING APPENDIX C CONSISTING OF THE AIRPORT NOISE ZONE CONTOUR MAP; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125 of the Florida Statutes, Lee County is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, Florida Statutes Chapter 333 requires the adoption of airport land use compatibility zoning regulations restricting the use of land adjacent to, or in the immediate vicinity of, the airport to activities and purposes compatible with the continuation of normal airport operations including landing and takeoff of aircraft, in order to promote public health, safety and general welfare; and

WHEREAS, in compliance with Florida Statutes and based upon a FAR Part 150 Study, the Board adopted Lee County Comprehensive Plan (Lee Plan) Policy 1.7.1 establishing Airport noise zones for Southwest Florida International Airport as identified in Lee Plan Map 1, page 5; and

WHEREAS, the Lee County Land Development Code was amended to include legal descriptions of the airport noise zones as depicted in the Lee Plan; and

WHEREAS, Richard Bennet filed a Declaratory Judgment Action, Circuit Court Case No. 01-2712-CA-JHS, seeking a finding that airport noise zones 2 and 3, as described, are unconstitutional; and

WHEREAS, on February 7, 2005, the Court found that airport noise zones 2 and 3, as described in County regulations, are unconstitutional and ordered the provisions to be struck from the County regulations; and

WHEREAS, as a result of the Circuit Court order the County regulations are no longer in compliance with Florida Statutes Chapter 333; and

WHEREAS, the Port Authority has conducted a new FAR Part 150 Noise and Land

Use Compatibility Study; and

WHEREAS, the Federal Aviation Administration has determined the data used to develop the noise contour maps (Noise Exposure maps) complies with 14 CFR Part 150; and

WHEREAS, the Port Authority is actively pursuing adoption of amendments to the Lee Plan and LDC to implement new noise zone areas based upon the most recent study; and

WHEREAS, the Port Authority anticipates that the Lee Plan amendment adoption process will take at least six months; and

WHEREAS, in light of the recent circuit court ruling, protection against the development of noise sensitive or incompatible uses, adjacent to and in the vicinity of the SWFIA airport is necessary; and

WHEREAS, the Board believes adoption of amended airport noise zones is appropriate and necessary to protect the health, safety and welfare of the citizens and the normal operation of the international airport in accordance with Florida Statutes Chapter 333 and 14 FAR Part 150.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lee County, Florida:

SECTION ONE: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Section 34-1006 is hereby amended as follows with strike through identifying deleted text and underlining identifying additional text.

CHAPTER 34

ZONING

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 10. SPECIAL PURPOSE DISTRICTS

Subdivision III. Airport Hazard District

Sec. 34-1006. Airport noise zones.

(a) *Purpose.* The purpose of this section is to establish standards for land use and for noise compatibility requirements with respect to noise associated with the normal operation of county airports. This section establishes noise zones of differing intensities and land uses in the vicinity of county airports, establishes permitted land uses within the

noise zones, and establishes notification and easement procedures to prospective purchasers or developers of real estate within the noise zones.

(b) *Noise zones defined; permitted uses.* There are hereby created and established four two airport noise zones pertaining to land uses surrounding the Southwest Florida International Airport based upon the DNL contours for airport noise developed in accordance with the Federal Aviation Regulations, Part 150, Noise Compatibility Study for the Southwest Florida International Airport, as adopted by the Board of County Commissioners and on file at the county port authority. The purpose and intent of these noise zones is to define and set forth specific regulations for all properties within the described areas. These noise zones are set forth as overlay zoning districts in that they provide regulations and restrictions in addition to those set forth in the planned development or conventional zoning districts in which the property is located, as defined in this chapter. Except as otherwise provided in this section, no land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any of these airport noise zones which is designed, arranged or intended to be used or occupied for any purpose other than as defined in the following:

(1) *Airport Lands zone.*

a. ~~*Zone 4 Location.*~~ *Airport Lands zone* is that area defined as all of the land within the airport boundary as identified in Appendix C. ~~Zone 4~~

b. *Restrictions.* The Airport Lands zone is restricted for to airport-related uses only, including but not limited to those necessary to provide services and convenience goods principally to airline passengers, and those uses generally associated with the airport operations, including aircraft and aircraft parts manufacturers, air freight terminals, aviation and airline schools, aircraft repair shops, aerial survey offices, aircraft sales, equipment and parts storage, aviation research and testing laboratories, airline catering services and governmental facilities.

b. ~~Zone 4 is legally defined as follows:~~

~~Parcels A, B, C, and D, more particularly described as follows:~~

~~Parcel A:~~

~~A tract or parcel of land lying in Sections 23, 24, 25, 26, 35 and 36 in Township 45 South, Range 25 East, and in Sections 17, 18, 19, 20, 29, 30, 31 and 32 in Township 45 South, Range 26 East, all in Lee County, Florida, and being more particularly described as follows:~~

~~Commencing at the southwest corner of the Southwest Quarter (SW-1/4) of Section 35, Township 45 South, Range 25 East, thence run N 89° 20' 16" E~~

a distance of 1,321.80 feet to the point of beginning:
From said point of beginning run N 00° 34' 17" W a distance of 2,654.20 feet;
thence run N 00° 21' 15" E a distance of 2,654.86 feet to a point lying along
the north line of the Northwest Quarter (NW- 1/4) of Section 35, Township
45 South, Range 25 East; thence run N 02° 05' 25" W along the west line of
the East Half (E- 1/2) of the Southwest Quarter (SW- 1/4) of Section 26;
Township 45 South, Range 25 East a distance of 2,655.48 feet; thence run
N 00° 49' 34" W along the west line of the Southeast Quarter (SE- 1/4) of the
Northwest Quarter (NW- 1/4) of the aforementioned Section 26 a distance
of 1,320.31 feet; thence run N 87° 59' 48" E along the north line of the
Southeast Quarter (SE- 1/4) of the Northwest Quarter (NW- 1/4) of the
aforementioned Section 26 a distance of 1,356.41 feet; thence run N 01° 04'
03" W along the west line of the Northeast Quarter (NE- 1/4) of the
aforementioned Section 26 a distance of 1,317.08 feet to the northwest
corner of the Northeast Quarter (NE- 1/4) of the aforementioned Section 26;
thence run N 88° 04' 46" E along the south line of the Southeast Quarter
(SE- 1/4) of Section 23, Township 45 South, Range 25 East a distance of
2,027.84 feet; thence run N 01° 04' 08" W along the west line of the East
Half (E- 1/2) of the East Half (E- 1/2) of the Southeast Quarter (SE- 1/4) of
the aforementioned Section 23 for 2,542.82 feet to a point on a non-tangent
curve on the southerly line of Daniels Parkway (transitioning from 200 feet
to 270 feet wide); thence run along said southerly line through said Sections
23 and 24 in Township 45 South, Range 25 East and Sections 19, 18 and
17 in Township 45 South, Range 26 East for the following courses:
southeasterly along the arc of a curve to the right of radius 2,191.83 feet
(delta 09° 36' 28") (chord 367.11 feet) (chord bearing S 85° 27' 02" E) for
367.54 feet to a point of tangency; thence S 80° 38' 48" E for 435.96 feet to
a point of curvature; thence southeasterly and easterly along the arc of a
curve to the left of radius 2,391.83 feet (delta 18° 04' 40") (chord 751.53 feet)
(chord bearing S 89° 41' 08" E) for 754.65 feet to a point of tangency; thence
N 81° 16' 32" E for 542.86 feet to a point of curvature; thence northeasterly
along the arc of a curve to the right of radius 2,181.83 feet (delta 08° 50' 48")
(chord 336.55 feet) (chord bearing N 85° 41' 56" E) for 336.88 feet to a point
of tangency; thence S 89° 52' 40" E for 1,090.00 feet to a point of curvature;
thence northeasterly along the arc of a curve to the left of radius 2,980.56
feet (delta 42° 49' 14") (chord 2,176.07 feet) (chord bearing N 68° 42' 43" E)
for 2,227.55 feet to a point of tangency; thence N 47° 18' 06" E for 623.86
feet to a point of curvature; thence northeasterly along the arc of a curve to
the right of radius 2,181.83 feet (delta 06° 41' 54") (chord 254.93 feet) (chord
bearing N 50° 39' 03" E) for 255.07 feet to a point of tangency; thence N 54°
00' 00" E for 3,655.05 feet to a point of curvature; northeasterly along the arc
of a curve to the right of radius 4,473.66 feet (delta 24° 00' 00") (chord
1,860.25 feet) (chord bearing N 66° 00' 00" E) for 1,873.92 feet to a point of
tangency; thence N 78° 00' 00" E for 586.36 feet to a point of curvature;
thence northeasterly along the arc of a curve to the left of radius 3,384.04
feet (delta 24° 00' 00") (chord 1,407.16 feet) (chord bearing N 66° 00' 00" E)

for 1,417.50 feet to a point of tangency; thence N 54° 00' 00" E for 737.49 feet; thence run N 89° 30' 50" E along the north line of the Southwest Quarter (SW-1/4) of said Section 17 for 345.05 feet to the northeast corner of said fraction; thence run S 01° 00' 03" E along the west line of said Southeast Quarter (SE-1/4) for 2,663.49 feet to the southwest corner of said fraction; thence run N 89° 27' 32" E along the south line of said fraction for 2,643.37 feet to the northeast corner of said Section 20, Township 45 South, Range 26 East; thence run S 01° 25' 31" E along the east line of the Northeast Quarter (NE-1/4) of the aforementioned Section 20 a distance of 1,163.82 feet; thence run S 54° 00' 06" W a distance of 3,219.77 feet; thence run S 01° 14' 49" E a distance of 2,341.65 feet to the southwest corner of the Southeast Quarter (SE-1/4) of the aforementioned Section 20; thence run N 88° 49' 17" E along the south line of the Southeast Quarter (SE-1/4) of the aforementioned Section 20 a distance of 2,658.48 feet to the southeast corner of the aforementioned Section 20; thence run S 00° 01' 11" W along the east line of the Northeast Quarter (NE-1/4) of Section 29, Township 45 South, Range 26 East a distance of 2,581.60 feet to the southeast corner of the Northeast Quarter (NE-1/4) of said Section 29; thence run S 00° 01' 11" W along the east line of the Southeast Quarter (SE-1/4) of said Section 29 a distance of 2,581.60 feet to the southeast corner of the Southeast Quarter (SE-1/4) of said Section 29; thence run S 00° 24' 19" E along the east line of the Northeast Quarter (NE-1/4) of Section 32, Township 45 South, Range 26 East a distance of 2,657.00 feet to the southeast corner of the Northeast Quarter (NE-1/4) of said Section 32; thence run S 00° 24' 19" E along the east line of the Southeast Quarter (SE-1/4) of said Section 32 a distance of 2,657.02 feet to the southeast corner of the Southeast Quarter (SE-1/4) of said Section 32; thence run S 89° 25' 27" W along the south line of the Southeast Quarter (SE-1/4) of said Section 32 a distance of 2,645.47 feet to the southwest corner of the Southeast Quarter (SE-1/4) of said Section 32; thence run S 89° 31' 23" W along the south line of the Southwest Quarter (SW-1/4) of said Section 32 a distance of 2,649.58 feet to the southwest corner of said Section 32; thence run S 89° 17' 39" W along the south line of the Southeast Quarter of Section 31, Township 45 South, Range 26 East a distance of 2,638.68 feet to the southwest corner of the Southeast Quarter (SE-1/4) of said Section 31; thence run S 89° 22' 14" W along the south line of the Southwest Quarter (SW-1/4) of said Section 31 a distance of 2,506.33 feet to the southwest corner of said Section 31; thence run S 89° 08' 03" W along the south line of the Southeast Quarter (SE-1/4) of Section 36, Township 45 South, Range 25 East a distance of 2,643.51 feet to the southwest corner of the Southeast Quarter of said Section 36; thence run S 89° 08' 03" W along the south line of the Southwest Quarter (SW-1/4) of said Section 36 a distance of 2,643.52 feet to the southwest corner of said Section 36; thence run S 89° 20' 02" W along the south line of the Southeast Quarter (SE-1/4) of Section 35, Township 45 South, Range 25 East a distance of 2,645.02 feet to the southwest corner of the Southeast Quarter (SE-1/4) of said Section 35; thence run S 89° 20' 16" W along the south line

~~of the East Half (E-1/2) of the Southwest Quarter (SW-1/4) of said Section 35 a distance of 1,321.83 feet to the point of beginning. Containing 6,337.227 acres, more or less:~~

~~TOGETHER WITH (added to Parcel A):~~

~~Parcel B:~~

~~A tract or parcel of land lying in the East Half (E-1/2) of the Northeast Quarter (NE-1/4) of Section 23, Township 45 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:~~

~~From the southeast corner of said Northeast Quarter (NE-1/4) run N 00° 47' 41" W along the east line of said fraction for 94.00 feet to the north line of Daniels Parkway; thence run S 88° 39' 26" W along said north line for 49.46 feet to the point of beginning.~~

~~From said point of beginning continue along said north line S 88° 39' 26" W for 572.96 feet and S 88° 07' 09" W for 727.86 feet to the west line of the East Half (E-1/2) of the Northeast Quarter (NE-1/4) of said Section; thence run N 00° 43' 22" E along said west line for 25.51 feet; thence departing said west line and running through the Northeast Quarter (NE-1/4) of said Section 23 the following courses: thence N 88° 06' 12" E for 165.23 feet; thence N 54° 36' 12" E for 729.30 feet; thence N 88° 10' 25" E for 219.31 feet; S 40° 25' 15" E for 494.87 feet; thence S 00° 17' 50" E parallel with the east line of the Northeast Quarter (NE-1/4) of said Section for 46.34 feet to the point of beginning.~~

~~Containing 7.114 acres, more or less:~~

~~TOGETHER WITH (to be added to Parcels A and B):~~

~~Parcel C:~~

~~A tract or parcel of land lying in the Southeast Quarter (SE-1/4) of Section 18, Township 45 South, Range 26 East, Lee County, Florida, which tract or parcel is described as follows:~~

~~From the southeast corner of said fraction run N 00° 58' 41" W along the east line of said fraction for 1,870.26 feet to an intersection with the northerly right-of-way line of Daniels Parkway; (the following two courses being along and coincident with said northerly right-of-way line) thence S 78° 00' 00" W a distance of 233.32 feet to a point of curvature with a tangent circular curve, concave to the south; thence along said curve, having for its elements a radius of 4,743.66 feet, a central angle of 01° 12' 20", a chord distance of 99.81 feet, a chord bearing of S 77° 23' 50" W, and an arc distance of 99.81 feet to the point of beginning.~~

~~From said point of beginning; thence continue along said northerly~~

~~right-of-way line along a tangent circular curve, concave to the south, having for its elements a radius of 4,743.66 feet, a central angle of 07° 46' 39", a chord distance of 643.42 feet, a chord bearing of S 72° 54' 20" W, and an arc distance of 643.92 feet; thence N 54° 00' 00" E a distance of 655.83 feet; thence S 36° 00' 00" E a distance of 62.75 feet to a point of curvature with a tangent circular curve, concave to the west; thence along said curve, having for its elements a radius of 180.00 feet, a central angle of 23° 31' 09", a chord distance of 73.37 feet, a chord bearing of S 24° 14' 26" E, and an arc distance of 73.89 feet; thence S 12° 28' 51" E a distance of 80.59 feet to the point of beginning.~~

~~Containing 1.514 acres, more or less.~~

~~TOGETHER WITH (to be added to Parcels A, B and C):~~

~~Parcel D:~~

~~A tract or parcel of land lying in the Southwest Quarter (SW- 1/4) of Section 17 and the Southeast Quarter (SE- 1/4) of Section 18, Township 45 South, Range 26 East, Lee County, Florida, which tract or parcel is described as follows:~~

~~From the southeast corner of said Southeast Quarter (SE- 1/4) of said Section 18 run N 00° 58' 41" W along the east line of said fraction for 1,870.26 feet to the point of beginning, said point also lying along the northerly right-of-way line of Daniels Parkway.~~

~~From said point of beginning; thence S 78° 00' 00" W along said north right-of-way line a distance of 213.12 feet; thence N 12° 28' 51" W a distance of 80.55 feet to a point of curvature with a tangent circular curve, concave to the west; thence along said curve, having for its elements a radius of 300.00 feet, a central angle of 23° 31' 07", a chord distance of 122.28 feet, a chord bearing of N 24° 14' 40" W, and an arc distance of 123.15 feet; thence N 36° 00' 00" W a distance of 62.75 feet; thence N 54° 00' 00" E a distance of 1,026.83 feet; thence N 89° 30' 50" E a distance of 1,301.13 feet to an intersection with the northerly right-of-way line of Daniels Parkway; thence S 54° 00' 00" W a distance of 359.16 feet to a point of curvature with a tangent circular curve, concave to the northwest; thence along said curve, having for its elements a radius of 3,114.04 feet, a central angle of 24° 00' 00", a chord distance of 1,294.89 feet, a chord bearing of S 66° 00' 00" W, and an arc distance of 1,304.41 feet, to said Point of Beginning.~~

~~Containing 20.625 acres, more or less.~~

~~Said Southwest Florida International Airport (Parcels A, B, C and D) contains 6366.479 acres, more or less.~~

- (2) Zone-3 Noise sensitive zone.

- a. Zone-3 Location. The noise sensitive zone consists of that area of land generally located between the 65 Airport Lands boundary and the 2020 Composite 60 DNL contour line and the limits of Zone-4 as determined in the adopted in the 2005 FAR Part 150 Study for Southwest Florida International Airport cumulative noise maps and identified in Appendix C.
- b. Restrictions. This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes are permitted. However, residential units, including mobile homes, that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile or manufactured homes may be replaced with new mobile or manufactured homes or conventional single-family construction and existing conventional single-family homes may be replaced with new conventional homes so long as such replacement would be otherwise allowed by this Code. However, an existing conventional home may not be replaced with a new mobile or manufactured home. One conventional single-family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000.
- b. ~~Zone-3 is legally defined as the following area:~~

~~A tract or parcel of land lying in Lee County, Florida, more particularly described as follows:~~

~~Within Township 46 South, Range 25 East:~~

~~All of Section 1;~~

~~All of Section 2;~~

~~All of Section 3;~~

~~All of Section 4;~~

~~All of Section 5: less and except:~~

~~the North Two-Thirds ($\frac{2}{3}$) of the Northwest Quarter (NW- $\frac{1}{4}$) lying North of the North line of the easement for the Briarcliff Canal;~~

~~All of Section 6: less and except:~~

~~the North Half ($\frac{1}{2}$) of the North Half ($\frac{1}{2}$) lying North of the North line of the easement for the Briarcliff Canal;~~

~~the North Half ($\frac{1}{2}$) of Section 10; and~~

~~the Northwest Quarter (NW- $\frac{1}{4}$) and the West Half (W- $\frac{1}{2}$) of the Northeast Quarter (NE- $\frac{1}{4}$) of Section 11.~~

~~TOGETHER WITH:~~

~~Within Township 45 South, Range 25 East:~~

~~The West Half (W- $\frac{1}{2}$) of the Southwest Quarter (SW- $\frac{1}{4}$) of Section 26; the Southeast Quarter (SE- $\frac{1}{4}$) of Section 27; all of Section 34; less and except:~~

~~the Northwest Quarter (NW- 1/4); the West Half (W- 1/2) of the West Half (W- 1/2) of Section 35;~~

~~TOGETHER WITH:~~

~~Within Township 46 South, Range 26 East: the Northwest Quarter (NW- 1/4) of Section 5; the North Half (N- 1/2) and the west 915 feet of the South Half (S- 1/2) of Section 6;~~

~~TOGETHER WITH:~~

~~Within Township 45 South, Range 26 East:~~

~~That portion of the Southwest Quarter (SW- 1/4) of Section 4 lying south of State Road No. 82;~~

~~That portion of the Southeast Quarter (SE- 1/4) of Section 5 lying south of State Road No. 82;~~

~~That portion of the Southwest Quarter (SW- 1/4) of Section 11 lying south of State Road No. 82;~~

~~That portion of Section 10 lying south of State Road No. 82;~~

~~All of Section 9: less and except:~~

~~that portion of the Northeast Quarter (NE- 1/4) of Section 9 lying north of State Road No. 82;~~

~~The East Half (E- 1/2) of the East Half (E- 1/2) together with the Southwest Quarter (SW- 1/4) of the Southeast Quarter (SE- 1/4) of Section 8;~~

~~All of Section 14: less and except:~~

~~that portion of the Northeast Quarter (NE- 1/4) of Section 14 lying north of State Road No. 82;~~

~~All of Section 15;~~

~~All of Section 16;~~

~~All of Section 17: less and except:~~

~~that portion of the Southwest Quarter (SW- 1/4) described as follows:~~

~~Beginning at the southwest corner of the Southwest Quarter (SW- 1/4) of said Section 17 run N 89° 27' 32" E along the south line of the Southwest Quarter (SW- 1/4) a distance of 2,643.37 feet to the southeast corner of the Southwest Quarter (SW- 1/4) of Section 17; thence run N 01° 00' 03" W along the east line of the Southwest Quarter (SW- 1/4) a distance of 2,663.49 feet to the northeast corner of the Southwest Quarter (SW- 1/4) of Section 17; thence run S 89° 30' 50" W along the north line of the Southwest Quarter (SW- 1/4) of Section 17 a distance of 2,110.98 feet; thence run S 54° 00' 00" W a distance of 649.21 feet to a point lying along the west line of the Southwest Quarter (SW- 1/4) of Section 17; thence run S 00° 58' 41" E along the west line of the Southwest Quarter (SW- 1/4) of Section 17 a distance of 2,288.89 feet to the point of beginning;~~

~~All that part of the Southeast Quarter (SE- 1/4) of Section 18 lying north of Daniels Parkway: less and except:~~

~~those portions as described in the Parcel G and Parcel D descriptions included in the Zone 4 Noise Overlay Description;~~

~~Together with the South Half (S- 1/2) of the South Half (S- 1/2) of the~~

~~Southwest Quarter (SW- 1/4) of Section 18;
All that part of the Northwest Quarter (NW- 1/4) of Section 19 lying north of Daniels Parkway;
That portion of Section 20 as described and recorded in Official Record Book 1535 at page 1480 in the Lee County Public Records;
All of Section 21;
All of Section 22;
All of Section 23;
All of Section 26;
All of Section 27;
All of Section 28;
All of Section 33;
All of Section 34.~~

(3) ~~Zone 2:~~

a: ~~Zone 2 consists of that area of land generally located between the 60 DNL and the limits of Zone 3 as determined in the adopted Part 150 Southwest Florida International Airport cumulative noise maps. This zone allows any use permitted by this chapter provided that mobile homes may not be permitted. However, mobile or manufactured homes that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile homes or manufactured homes may be replaced with new mobile or manufactured homes or conventional single-family construction so long as such replacement would otherwise be allowed by this code. However, an existing conventional home may not be replaced with a new mobile or manufactured home.~~

b: ~~Zone 2 is legally defined as the following area:~~

~~A parcel or tract of land lying in Lee County, Florida, more particularly described as follows:~~

~~Within Township 44 South, Range 26 East:~~

~~The Southwest Quarter (SW- 1/4) of the Southwest Quarter (SW- 1/4) of Section 27;~~

~~The South Half (S- 1/2) of Section 28; less and except: the Northeast Quarter (NE- 1/4) of the Southeast Quarter (SE- 1/4) of Section 28;~~

~~The Southeast Quarter (SE- 1/4) of Section 29; less and except: the Northwest Quarter (NW- 1/4) of the Southeast Quarter (SE- 1/4) of Section 29;~~

~~The East Half (E- 1/2) of Section 32;~~

~~All of Section 33;~~

~~The West Half (W- 1/2) of the West Half (W- 1/2) of Section 34;~~

~~TOGETHER WITH:~~

~~Within Township 45 South, Range 26 East:~~

~~The West Half (W- 1/2) of the West Half (W- 1/2) of Section 3;~~

~~All of Section 4: less and except:
that portion lying south of State Road No. 82
All of Section 5: less and except: the North Half ($\frac{1}{2}$) of the Northwest
Quarter (NW- $\frac{1}{4}$) of Section 5;
and less and except: that portion of the East Half ($\frac{1}{2}$) of the Southeast
Quarter (SE- $\frac{1}{4}$) of Section 5 lying south of State Road No. 82;
All of Section 8: less and except:
the East Half ($\frac{1}{2}$) of the East Half ($\frac{1}{2}$) of Section 8;
and less and except: the Southwest Quarter (SW- $\frac{1}{4}$) of the Southeast
Quarter (SE- $\frac{1}{4}$) of Section 8;
All that portion of Section 9 lying north of State Road No. 82;
All that portion of Section 10 lying north of State Road No. 82;
All of Section 11: less and except:
that portion of the Southwest Quarter (SW- $\frac{1}{4}$) lying south of State Road
No. 82;
All that portion of the North Half ($\frac{1}{2}$) of Section 14 lying north of State
Road No. 82;
All of Section 35;~~

~~TOGETHER WITH:~~

~~Within Township 46 South, Range 26 East:
All of Section 2;
All of Section 3;
All of Section 4;
All of Section 5: less and except:
the Northwest Quarter (NW- $\frac{1}{4}$) of Section 5;
The South Half ($\frac{1}{2}$) of Section 6: less and except:
the west 915 feet thereof;
That portion of Section 7 lying north of Alico Road and the West Half ($\frac{1}{2}$)
of the West Half ($\frac{1}{2}$) of the North Half ($\frac{1}{2}$);
That portion of Section 8 lying north of Alico Road;~~

~~TOGETHER WITH:~~

~~Within Township 45 South, Range 25 East:
The South Half ($\frac{1}{2}$) of the South Half ($\frac{1}{2}$) of Section 33;
The South Half ($\frac{1}{2}$) of the South Half ($\frac{1}{2}$) of Section 32;
The South Half ($\frac{1}{2}$) of the South Half ($\frac{1}{2}$) of Section 31;~~

~~TOGETHER WITH:~~

~~Within Township 46 South, Range 25 East:
The North Two-Thirds ($\frac{2}{3}$) of the Northwest Quarter (NW- $\frac{1}{4}$) of Section
5 lying North of the North line of the easement for the Briarcliff Canal;
The North Half ($\frac{1}{2}$) of the North Half ($\frac{1}{2}$) of Section 6 lying North of the
North line of the easement for the Briarcliff Canal;
The North Half ($\frac{1}{2}$) of Section 12; and
The East Half ($\frac{1}{2}$) of the Northeast Quarter (NE- $\frac{1}{4}$) of Section 11.~~

(4) ~~Zone 1. Zone 1 is defined as any area not included in zone 2, 3, or 4.~~

SECTION TWO: CREATION OF APPENDIX C

The Lee County Land Development Code is here by amended to create Appendix C, entitled Airport Noise Zones, as set forth in attached Exhibit 1 to this ordinance.

SECTION THREE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION FOUR: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FIVE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

THE FOREGOING ORDINANCE was offered by Commissioner Judah who moved its adoption. The motion was seconded by Commissioner Hall and, being put to a vote,

the vote was as follows:

ROBERT P. JANES	AYE
DOUGLAS ST. CERNY	AYE
RAY JUDAH	AYE
TAMMY HALL	AYE
JOHN E. ALBION	AYE

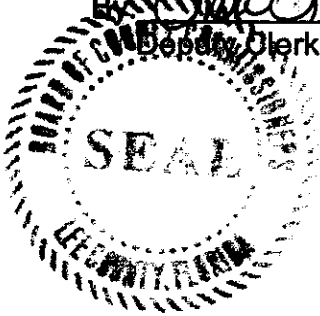
DULY PASSED AND ADOPTED THIS 23RD day of August, 2005.

ATTEST:
CHARLIE GREEN, CLERK


BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: 
Deputy Clerk

By: 
Chairman



APPROVED AS TO FORM:

By: 
Dawn E. Petty-Lehnert
Office of County Attorney

Attachments:
Exhibit 1: 2020 Composite DNL Contours Map

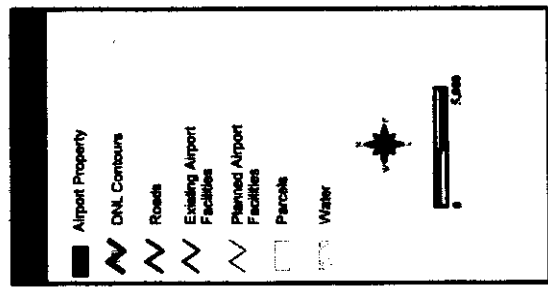
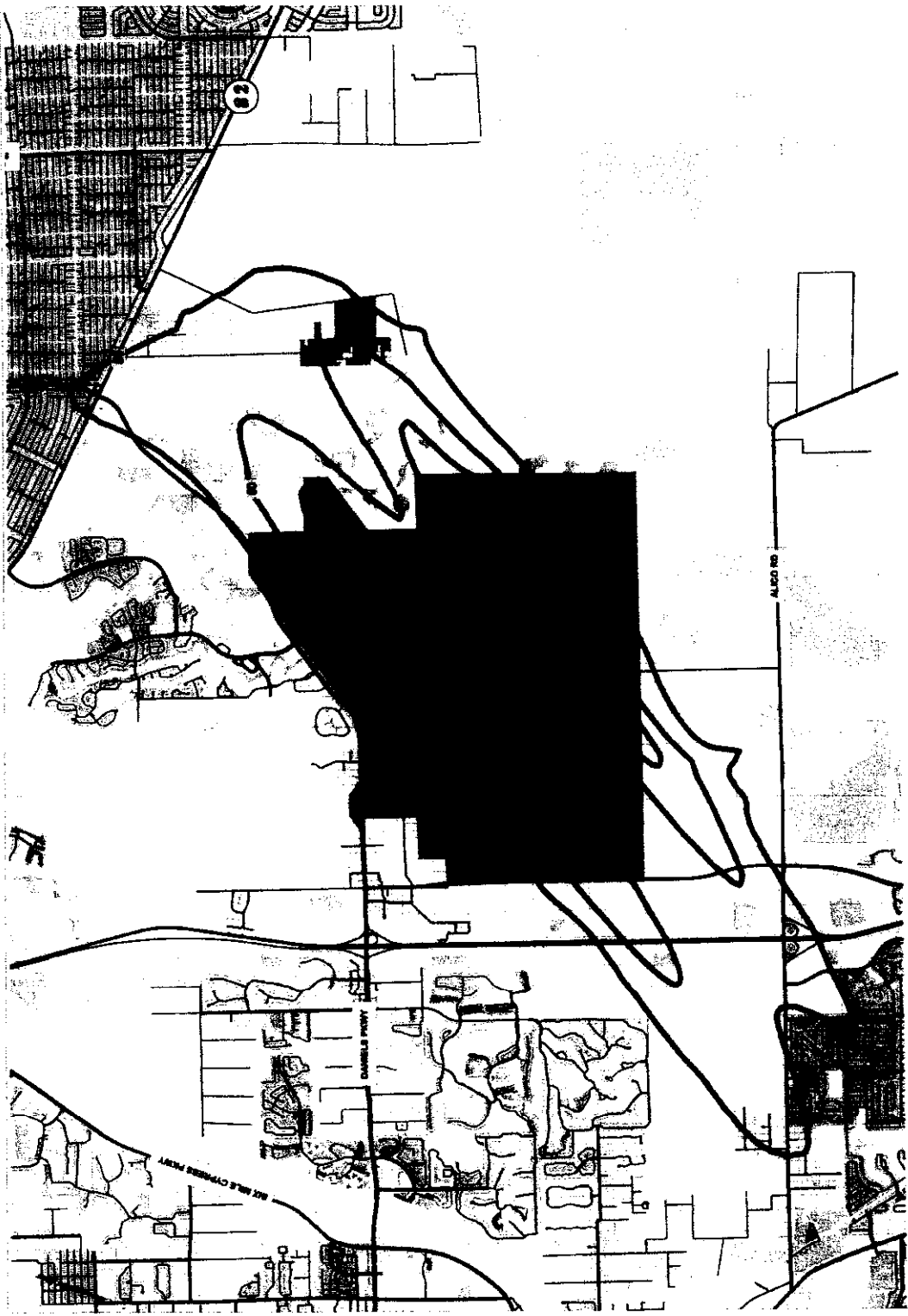


EXHIBIT 1





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FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State
DIVISION OF LIBRARY AND INFORMATION SERVICES

September 2, 2005

Honorable Charlie Green
Clerk of Circuit Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Lisa L. Pierce, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 29, 2005 and certified copies of Lee County Ordinance Nos. 05-13 through 05-15, which were filed in this office on August 31, 2005.

Sincerely,

Liz Cloud ak

Liz Cloud
Program Administrator

LC/kcs