

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Tim Hancock, AICP, c/o Davidson Engineering, Inc., filed an application on behalf of the property owner, Averitt Express, Inc., to rezone 12.49± acres from Light Industrial (IL) and Agriculture (AG-2) to Industrial Planned Development (IPD), in reference to Averitt Express, Inc.; and,

WHEREAS, a public hearing was advertised and held on March 26, 2008, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2007-00018; and

WHEREAS, a second public hearing was advertised and held on May 5, 2008, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone 12.49± acres IL and AG-2 to IPD to allow a maximum of 70,000 square feet of industrial uses, including but not limited to; Trucking and Distribution, Manufacturing, Automobile Repair and Service, and Building Material Sales. The proposed development will be connected to water and sanitary sewer utilities. Maximum height of 35 feet. The property is located in the Industrial Development Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be in substantial compliance with the one-page Master Concept Plan (MCP) entitled "Averitt Express" dated March 4, 2008, date stamped "Received MAR 05 2008 Permit Counter," except as modified by the conditions below. This development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. The following Limits apply to the project and uses:

a. Schedule of Uses

Accessory uses and structures
Administrative offices (accessory to industrial use)
Automobile repair and service (all groups)
Broadcast studios, commercial radio and television
Building material sales
Business services
Bus station/depot
Cold storage warehouse
Computer and data processing services
Contractors and builders
Entrance gates and gatehouse
Essential services
Essential service facilities
Excavation - water retention
Fences, walls
Fleet Maintenance and On-site Fueling
Gates, guard house
Manufacturing of:
 Apparel products
 Chemicals and allied products, Group II only and
 limited to Cosmetics / Perfumes
 Food and kindred products, Group III only
 Furniture and fixtures
 Leather products, Group II only
 Machinery, Groups I and II
 Measuring, analyzing and controlling instruments
 Novelties, jewelry, toys and signs, Groups I, II and III
 Paper and allied products, Groups II and III, and
 limited to paperboard containers and boxes
 Rubber and plastic products, Group II only
 Stone, clay, glass and concrete products, Groups I and III
 limited to small custom designed concrete products
 produced in molds, such as decorative architecture or
 ornamental features commonly associated with residential
 uses
 Textile mill products, Groups I and II
Mini-warehouse
Parking
Photofinishing laboratory
Post Office
Printing and publishing
Processing and warehousing
Rental or leasing establishments, Groups II, III and IV
Research and development laboratories, Groups II and IV

Retail and wholesale sales, when clearly incidental and subordinate
to a permitted principal use on the same premises
Signs (in accordance with chapter 30)
Storage
Transportation services: Groups II, III and IV
Trucking terminal
Warehouse
Wholesale establishments

b. Site Development Regulations

Tract A

Minimum Lot Size	1.2 acres
Minimum Lot Width	183 feet
Minimum Lot Depth	285 feet
Minimum Street Setback	25 feet (Laredo Avenue)
Minimum Side Setback	20 feet
Minimum Rear Setback	25 feet
Maximum Building height	35 feet or per LDC §34-2171
Maximum Lot Coverage	40 percent

Tract B

Minimum Lot Size	11.2 acres
Minimum Lot Width	643 feet
Minimum Lot Depth	658 feet
Minimum Street Setback	25 feet (Laredo Avenue)
Minimum Side Setback	20 feet
Minimum Rear Setback	25 feet
Maximum Building height	35 feet or per LDC §34-2171
Maximum Lot Coverage	40 percent

3. Environmental Sciences Conditions:

- a. Prior to local development order approval, American alligator and listed wading bird species management plans meeting the requirements of LDC §10-474 must be submitted for review and approval by the Lee County Division of Environmental Sciences staff. The development order plans must also include the location and details of signage between the lake and development which state: Alligators may be present. It is dangerous and illegal to feed or harass alligators.
- b. Prior to local development order approval, the development order plans must delineate a minimum of 3.65 acres as open space. No individual tract may contain less than 20 percent open space.

- c. Prior to local development order approval, the development order plans must delineate:
 - (1) all native trees a minimum 4-caliper-inch diameter at breast height (dbh) and any existing native understory preserved within a minimum 20-foot-wide area running the length of the entire west property line where native vegetation exists to be labeled "Native Tree Preserve".
 - (2) the "Native Tree Preserve", along the west property line, barricaded at a minimum 20 feet or as per LDC §10-420(j)(3), two-thirds the radius of the crown spread of the tree measure from the trunk center/no less than full crown spread for pine trees, whichever is greater, for a minimum preserve area of 0.35± acres.
 - (3) a minimum 95-foot-wide by 70-foot-deep, 0.15± acre, area to preserve the heritage live oak located along the southeast property line as depicted on the MCP.
 - (4) the on site relocation of all sabal palms minimum eight-foot clear trunk.
 - (5) a 20-foot structure setback from preserve areas.
- d. Prior to local development order approval, development order plans must depict the western shoreline of the lake designed to incorporate existing native vegetation by limiting the need for proposed mechanical clearing and excavating/regrading activities.
- e. Prior to vegetation removal permit approval, the Applicant must field stake the limits of the required Native Tree Preserves, top of bank of proposed lake excavation and access points for the use of mechanical equipment along the lake's western shoreline. All exotic removal and excavation/regrading activities along the western shoreline of the lake must be reviewed and approved by Lee County Division of Environmental Sciences staff through a field inspection and onsite meeting with contractors who will be conducting the work.

4. Commercial Design Standards:

The northern facades of the proposed structures must comply with the Primary Facade requirements of LDC §10-600.

5. Central Water and Sanitary Sewer:

At the time of local development order approval the Applicant must provide connections to central water and sanitary sewage systems.

6. Entrance Gates and Gatehouses:

Entrance gates and gatehouses must meet locational requirements pursuant to LDC §34-1748 at time of local development order.

7. Vehicular and Pedestrian Traffic:

Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

8. Lee Plan Allocation:

Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee County Comprehensive Plan provisions.

9. Concurrency:

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee County Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-329 (d)(1)a.3. requirement to provide a 50-foot waterbody setback from the property line for water retention under separate ownership, to allow a 30-foot setback from property lines under separate ownership. This deviation is APPROVED.
2. Deviation (2) seeks relief from the LDC §10-416(d)(4)(6) requirement to provide projects that have roads, drives, or parking areas located less than 125 feet from an existing single-family residential subdivision or single-family residential lots to provide a solid wall or combination berm and solid wall not less than 8 feet in height to be constructed not less than 25 feet from the abutting property and landscape with a minimum of 5 trees and 18 shrubs per 100 lineal feet or a 30-foot wide Type F buffer with a hedge planted a minimum of 20 feet from the abutting property,

to allow a 15-foot Type F buffer width and hedge along the eastern property line.
This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are:
15-44-25-00-00028.0020 and 15-44-25-00-00028.0050.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Tammara Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Frank Mann. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Absent
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 5th day of May 2008.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
Ray Judah, Chair



Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office



**DESCRIPTION
OF A PARCEL OF LAND LYING IN
SECTION 15, TOWNSHIP 44 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA
(9210 & 9230 LAREDO AVENUE)**

A TRACT OR PARCEL OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, SITUATED IN SECTION 15, TOWNSHIP 44 SOUTH, RANGE 25 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 15; THENCE N.00°53'27"W. ALONG THE WEST LINE OF SAID SECTION 15, A DISTANCE OF 661.30 FEET; THENCE N.88°39'41"E., A DISTANCE OF 659.11 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 15 AND THE POINT OF BEGINNING; THENCE N.01°05'16"W. ALONG THE WEST LINE OF SAID FRACTION, A DISTANCE OF 659.42 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF LAREDO AVENUE (60 FOOT PUBLIC RIGHT-OF-WAY); THENCE N.88°44'29"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 826.72 FEET; THENCE S.00°50'24"E. LEAVING SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 658.29 FEET; THENCE S.88°39'41"W., A DISTANCE OF 823.88 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 15 AND THE POINT OF BEGINNING.

SUBJECT PARCEL CONTAINS 12.48 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST LINE OF SECTION 15, TOWNSHIP 44 SOUTH, RANGE 25 EAST AS BEARING N.00°53'27"W.

Certification for Description

Surveyor and Mapper in Responsible Charge:

Denis J. O'Connell, Jr., LS #5430.

Metron Surveying & Mapping, LLC, LB #7071

10970 S. Cleveland Ave., Suite #605

Fort Myers, FL 33907

Signed: _____

Date: 12/21/07

RECEIVED
DEC 21 2007

PERMIT COUNTER

by _____
Applicant's Legal Checked

DCI 2007-00018

Applicant's Legal Checked
by CSJ 12-27-07

9073 DESC.doc

10970 S. CLEVELAND AVE., SUITE #605 • FORT MYERS, FLORIDA 33907 • PHONE (239) 275-8575 • FAX (239) 275-8457
www.metronfl.com

EXHIBIT "A"

(Page 1 of 2)

SKETCH TO ACCOMPANY DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 15, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA

LEGEND:

P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
R/W = RIGHT-OF-WAY
O.R. = OFFICIAL RECORD BOOK
PG. = PAGE
P.B. = PLAT BOOK



* THIS IS NOT A SURVEY *

Applicant's Legal Check

By 89 12/27/07

BY: DENIS J. O'CONNELL, JR.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS #5430

DATE SIGNED: 12/21/07

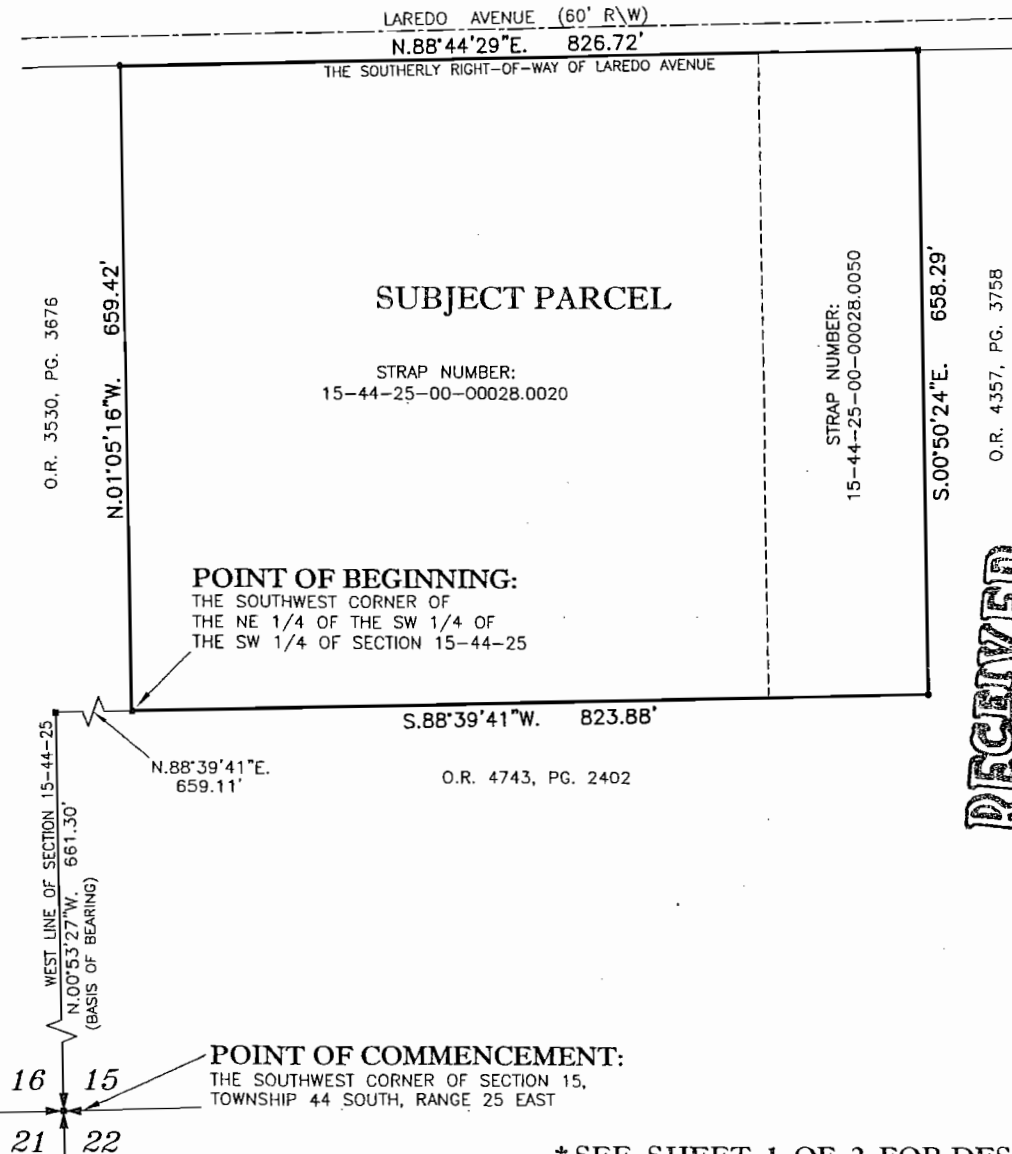
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER.

9210 & 9230 LAREDO AVENUE

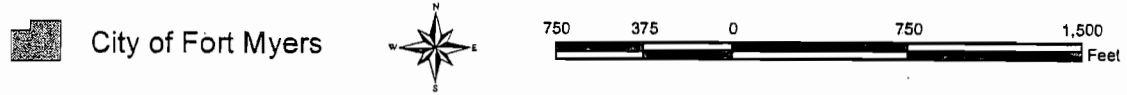
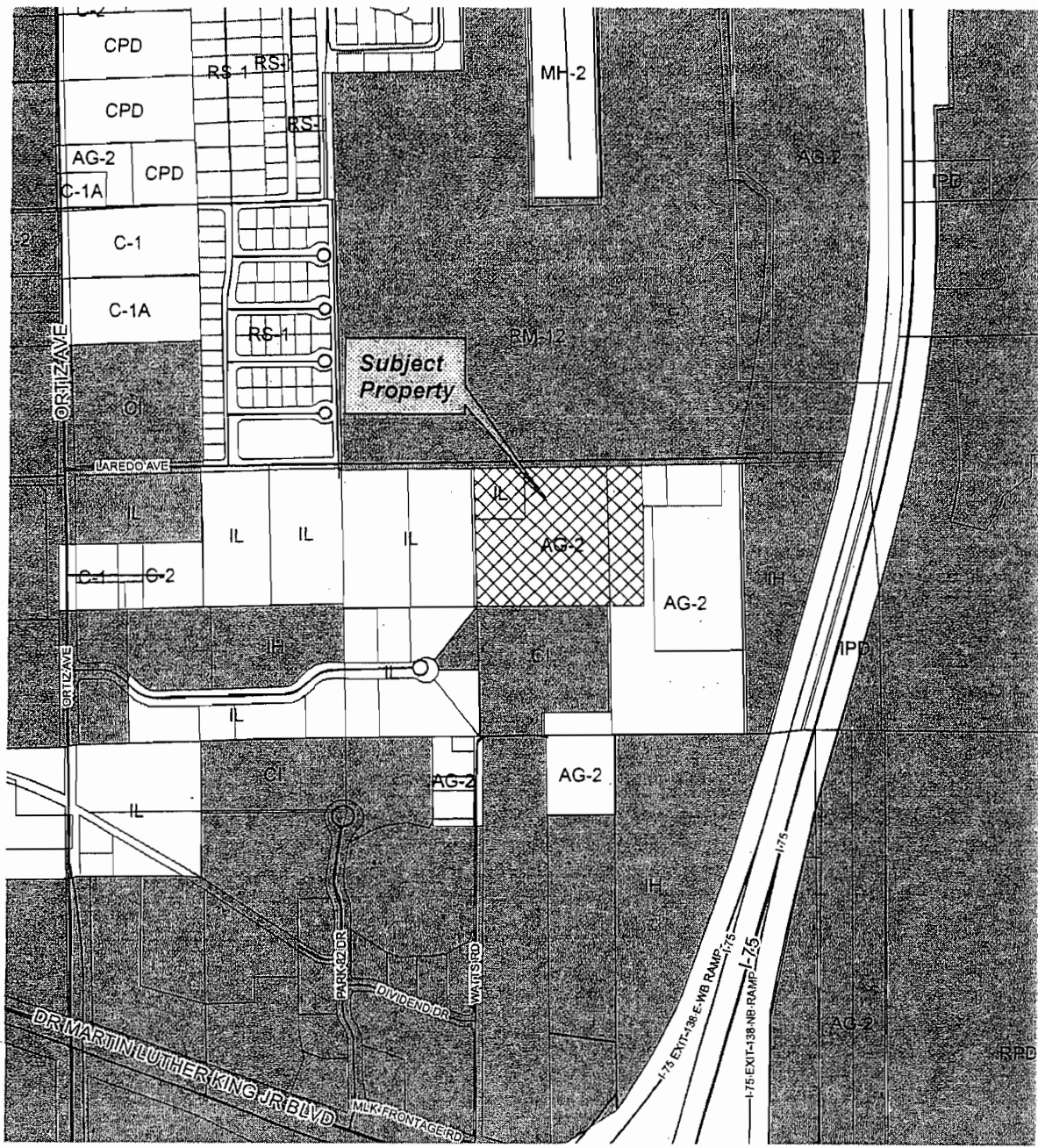
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FILE NAME: 9073SK.dwg	FIELD BOOK/PAGE: N/A	PROJECT NO.: 9073	SHEET: 2 OF 2
SKETCH DATE: 04-19-2007	DRAWN BY: RAW	SCALE: 1" = 150'	CHECKED BY: DJO FILE NO. (S-T-R): 15-44-25

* SEE SHEET 1 OF 2 FOR DESCRIPTION *

EXHIBIT "A"
(Page 2 of 2)



ZONING MAP

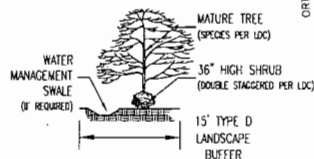


ZONING
LEE COUNTY
SOUTHWEST FLORIDA

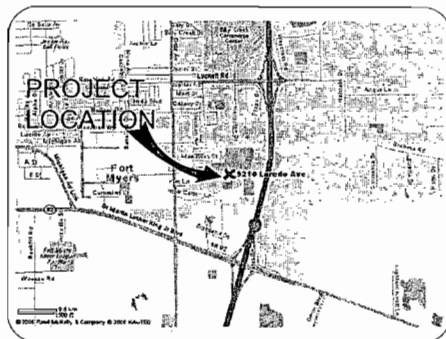
Laredo Avenue
File # DCI2007-00018

EXHIBIT "B"

FORT MYERS, FLORIDA
2/18/08



TYPE "D" BUFFER
CROSS-SECTION
NTS



LOCATION MAP
NTS

LAND USE TABLE	AREA (ac)	PERCENTAGE %
INDUSTRIAL		
TRACT A	1.20	9.61%
TRACT B	11.29	90.39%
TOTAL:	12.49	100.00%

TRACT A	AREA (ac)	PERCENTAGE %
IMPROVEMENTS	0.7	58.33%
OPEN SPACE	0.5	41.67%
TOTAL:	1.20	100.00%

TRACT B	AREA (ac)	PERCENTAGE %
IMPROVEMENTS	8.14	72.10%
OPEN SPACE	3.15	27.90%
TOTAL:	11.29	100.00%

- (1) THE OPEN SPACE CALCULATIONS ARE INCLUSIVE OF REQUIRED BUFFER AREAS
 (2) INDUSTRIAL OPEN SPACE REQUIREMENT = 20%
 (3) HERITAGE TREE BUFFER AREA TO RETAIN VIABLE EXISTING NATIVE VEGETATION
 (4) 30' WATERBODY SETBACK PER DEVIATION REQUEST

CLIENT:
AVERITT EXPRESS INC.
 1415 NEAL STREET
 P.O. BOX 3166
 COOKEVILLE, TN 38502

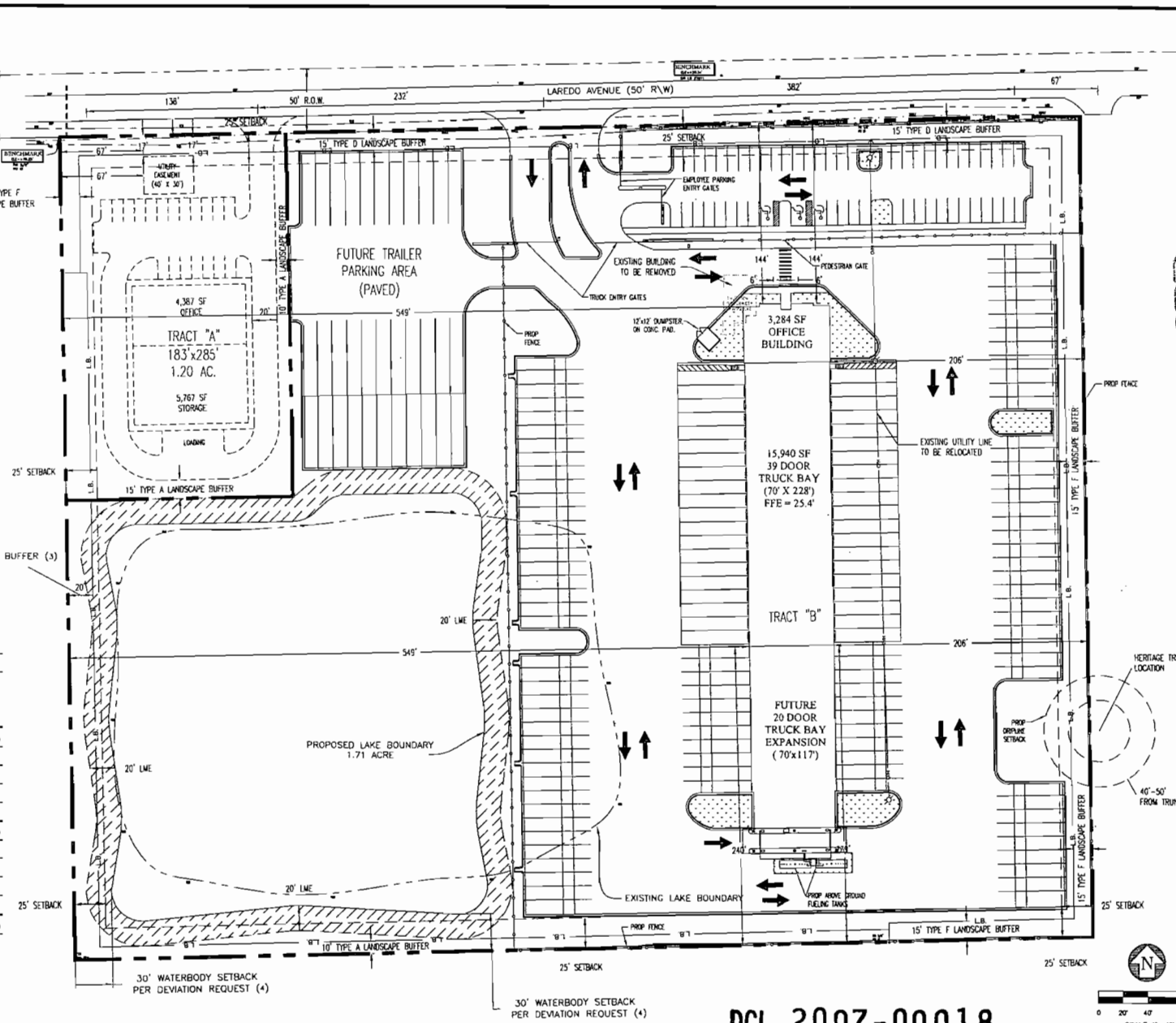
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2	9/26/07	AS PER COMMENTS RECEIVED 8/27/07	FEH
3	12/11/07	AS PER COMMENTS RECEIVED 11/11/07	FEH
4	2/27/08	AS PER COMMENTS RECEIVED 2/19/08	FEH



DAVIDSON ENGINEERING, INC.
 2154 TRADE CENTER WAY, SUITE 3 NAPLES, FLORIDA 34109
 PHONE (239) 597-3916 FAX (239) 597-5195
 COMPANY ID. NO. 00009496

AVERITT EXPRESS		
IPD MASTER PLAN - EXHIBIT 2A		
DRAWN BY: FH	PROJECT: 06-0009	SURVEY: BY OTHERS
DESIGNED BY: TH	SCALE: AS NOTED	FILE NO.: 0009
APPROVED BY: TH	DATE: MAR. 4, 2008	

SHEET
 1
 OF
 1



RECEIVED
 MAR 05 2008
 Approved as Exhibit C
 MCP Page 1 of 1
 Resolution # Z-08-016
 AVERITT EXPRESS

DCI 2007-00018