

ORDINANCE NO. C-98-24

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, CONSOLIDATING, AMENDING AND RESTATING ORDINANCE NO. C-84-55, ORDINANCE NO. C-86-13, ORDINANCE NO. C-89-24, AND ORDINANCE NO. C-90-97, WHICH ORDINANCES APPROVED AND AMENDED THE DEVELOPMENT ORDER FOR THE SPECTRUM DEVELOPMENT OF REGIONAL IMPACT LOCATED IN A PORTION OF SECTION 16, TOWNSHIP 49 SOUTH, RANGE 42 EAST, SOUTH OF COMMERCIAL BOULEVARD, BETWEEN NORTHWEST 15TH AVENUE AND NORTHWEST 21ST AVENUE, WITHIN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA; PROVIDING FOR APPROVAL OF OFFICE, LIGHT MANUFACTURING, HOTEL AND OTHER USES AS SET FORTH IN THE APPLICATION FOR DEVELOPMENT APPROVAL; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING FOR CONDITIONS AND OBLIGATIONS RELATING TO THE DEVELOPMENT OF THE SPECTRUM DEVELOPMENT OF REGIONAL IMPACT; PROVIDING FOR EXTENSION OF THE BUILDOUT DATE TO NOVEMBER 30, 2003; PROVIDING FOR DESIGNATION OF A RESPONSIBLE CITY OFFICIAL; PROVIDING FOR RECORDATION; PROVIDING FOR COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. C-84-55 adopted on July 3, 1984, the City Commission of the City of Fort Lauderdale approved with conditions an Application for Development Approval for the Spectrum Development of Regional Impact; and

WHEREAS, pursuant to Ordinance No. C-86-13 adopted on February 19, 1986, the City Commission of the City of Fort Lauderdale approved an amendment to the development order for the Spectrum Development of Regional Impact, which amendment allowed a 175-room hotel and free standing restaurant; and

WHEREAS, pursuant to Ordinance No. C-89-24 adopted on November 30, 1990, the City Commission of the City of Fort Lauderdale approved an amendment to the development order for the Spectrum Development of Regional Impact, which amendment allowed a drainage canal modification and extended the buildout date to November 30, 1990; and

WHEREAS, pursuant to Ordinance No. C-90-97 adopted on November 4, 1990, the City Commission of the City of Fort Lauderdale

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approved an amendment to the development order for the Spectrum Development of Regional Impact, which amendment extended the buildout date to November 30, 1992; and

WHEREAS, pursuant to Ordinance No. C-93-70 adopted on November 30, 1992, the City Commission of the City of Fort Lauderdale approved an amendment to the development order for the Spectrum Development of Regional Impact, which amendment extended the buildout date to November 29, 1994; and

WHEREAS, the Department of Community Affairs challenged Ordinance No. C-93-70 and filed a petition with the Division of Administrative Hearings (Case No. 94-3490DRI); and

WHEREAS, the Department of Community Affairs and the Spectrum Business Park Association, Inc. entered into a Development Agreement with an effective date of April 6, 1995, which Development Agreement provided, among other things, that the Spectrum Business Park Association, Inc. file an Application for Development Approval of a Substantial Deviation ("ADA") on or before August 8, 1995; and

WHEREAS, the time to file the ADA was extended by DCA; and

WHEREAS, the Spectrum Business Park Association, Inc. ("Applicant") timely filed the ADA to amend previous Development Orders on November 15, 1995; and

WHEREAS, Applicant proposes to extend the buildout date to November 30, 2003 and to amend the obligations imposed by the adopted development orders; and

WHEREAS, on March 18, 1998, the City of Fort Lauderdale Planning and Zoning Board, after appropriate notice and public hearing, recommended that the City Commission approve this Development Order; and

WHEREAS, on April 6, 1998, the South Florida Regional Planning Council ("SFRPC") reviewed the ADA and recommended approval of the proposed extension subject to certain conditions and requirements as set forth in its Development of Regional Impact Assessment dated April 6, 1998 ("Assessment"); and

WHEREAS, on April 7, 1998, the City Commission of the City of Fort Lauderdale, after complying with all applicable notice requirements, reviewed the recommendations of the SFRPC and the Planning and Zoning Board, conducted a public hearing, and determined that approval of this Development Order, subject to the conditions and requirements specified herein ("Development Order") will further the interests of the health, safety and welfare of the citizens of the City of Fort Lauderdale; and

WHEREAS, the adoption of this development order and its acceptance by the DCA will result in the dismissal of Case No. 94-3490DRI.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. CONSOLIDATION, AMENDMENT AND RESTATEMENT OF DEVELOPMENT ORDER.

Ordinance No. C-84-55 as amended by Ordinance No. C-86-13, Ordinance No. C-89-24, Ordinance No. C-90-97, and Ordinance No. C-93-70, is hereby consolidated, amended and restated by this development order and the following:

- A. The legal description of the property to be developed pursuant to this Development Order is attached hereto and made part hereof as Exhibit A ("Property").
- B. The development shall be known as "Spectrum Business Park" ("Project").
- C. The Developer of the Project is the Spectrum Business Park Association, Inc.
- D. The authorized agents of the Developer are Mr. Dale Chynoweth, Keenan Development Group, and Donald R. Hall, Gunster, Yoakley, Valdes-Fauli & Stewart, P.A.
- E. The Property consists of 60.05 acres ±. The uses which are approved for and which may be constructed on the Property are 1,109,960 square feet of office uses, a 261,000 square foot garage, and light manufacturing and high technology/research uses. There may be developed,

in lieu of 125,000 square feet of office facilities which are to be located adjacent to West Commercial Boulevard between Northwest 15th Avenue and Northwest 17th Way in the area of the Property approved for office related uses, a hotel and freestanding, quality sit down restaurant. The hotel may consist of 175 rooms in lieu of 89,000 square feet of office space and a free standing, quality sit down restaurant with a maximum gross floor area of 10,000 square feet in lieu of 36,000 square feet of office space. The exact size of the buildings, their exact utilization and their location on the Property will be determined at site plan approval.

SECTION 2. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The City Commission of the City of Fort Lauderdale makes the following findings of fact and reaches the following conclusions of law regarding this Development Order and the Project:

A. Findings of Fact.

1. The recitals contained in the Whereas clauses and Section 1. of this ordinance are true and correct, and are incorporated herein by reference.
2. On November 15, 1995, the Applicant submitted the ADA to the County, the SFRPC, the City of Fort Lauderdale, Florida, and the Florida Department of Community Affairs ("DCA") pursuant to Section 380.06(6), Florida Statutes.
3. The ADA was reviewed as required by Chapter 380, Florida Statutes.
4. The City Commission of the City of Fort Lauderdale held a public hearing on April 7, 1998, considered the ADA and addressed each of the criteria set forth in Sections 380.06(14) and (15), Florida Statutes.
5. At the public hearing, the City Commission of the City of Fort Lauderdale determined that all legal requirements of notice and publication as required

by Section 380.06(11), Florida Statutes, as well as local procedural requirements, for the issuance of this Development Order have been met or have occurred.

6. The Project is not in an Area of Critical State Concern.

B. Conclusions of Law.

1. The Project, as approved herein, does not unreasonably interfere with the achievement of the objectives of the state land development plan applicable to the area.
2. The Project, as approved herein, is consistent with the State Comprehensive Plan.
3. The Project, as approved herein, is consistent with the City of Fort Lauderdale and Broward County Comprehensive Plans, and all other applicable land development ordinances and regulations.
4. This Development Order makes adequate provision for the public facilities needed to accommodate the impacts of the proposed development.
5. Approval of this Development Order is consistent with the requirements of Chapter 380, Florida Statutes, and is in conformity with all other applicable local and state laws and regulations.
6. This Development Order is consistent with the SFRPC's DRI Assessment.
7. This Development Order consolidates, amends, and restates all previous development orders for the Spectrum DRI and shall be the only DRI Development Order which shall govern the Project.

SECTION 3. INCORPORATION OF CADA.

The ADA, as consolidated pursuant to this Development Order, is incorporated into this Ordinance by this reference and relied upon by the parties in discharging their statutory duties under Chapter 380, Florida Statutes, and applicable local ordinances. Substantial compliance with the representations contained in the ADA is a condition for approval unless waived or modified by agreement among the South Florida Regional Planning Council, City and the Applicant, its successors, assigns or both.

SECTION 4. INCORPORATION OF COUNCIL ASSESSMENT.

The South Florida Regional Planning Council Assessment for the Spectrum Development of Regional Impact, dated April 6, 1998 ("Assessment"), is incorporated into this Ordinance by this reference.

SECTION 5. DEVELOPMENT APPROVAL.

The Project, as described in this Development Order, and as represented in the ADA, is hereby approved subject to the following conditions, stipulations and requirements:

- A. The Applicant, its successors and assigns, jointly or severally shall:
 - 1. Incorporate the following into the Project design and operation:
 - a. Actively encourage and promote ridesharing by establishing a car and van pool information program;
 - b. Encourage transit use by provision of bus shelters, development of turnout lanes, or provision of other amenities to increase ridership, and provide transit route and schedule information, as available, in convenient locations throughout the Project;
 - c. Provide on-site bicycle storage facilities to encourage use of alternative modes of transportation; and

- d. Regularly schedule vacuum sweeping of all parking lots of eleven or more parking spaces, runways and roadways serving the parking lots.
 2. Design, construct and maintain any additions, expansions, or replacements to the stormwater management system to meet the following standards:
 - a. Comply with the regulations and requirements of the South Florida Water Management District (SFWMD), Broward County Department of Natural Resources Protection (DNRP), and applicable local government comprehensive plan drainage level of service requirements for surface water management in effect at that time.
 - b. Install pollutant retardant structures to treat all stormwater runoff at each of the new project outfall structures in accordance with the master drainage plan, and periodically remove pollutant accumulations.
 - c. Use silt screens and aprons during any phase of project construction that will increase turbidity in adjacent surface waters.
 - d. Mulch, spray, or grass exposed areas to prevent soil erosion and minimize air pollution.
 3. Design new structures in the floodplain so as not to impede the flow of water through the floodplain. Comply with applicable City of Fort Lauderdale Comprehensive Plan policies related to new structures in the floodplain.
 4. Design, construct, and maintain any additions, expansions, or replacements to the on-site irrigation system to minimize salt-water intrusion and in accordance with SFWMD guidelines. When practicable, use recycled water for landscape irrigation and other water conserving techniques to

reduce the demand on the region's potable water supply; including the installation of rain sensors on irrigation timers, and compliance with City of Fort Lauderdale and Broward County Code restrictions on irrigation timing.

5. Monitor water quality at the outfalls to the on-site drainage canal and at three to five shallow wells located so as to allow determination of the effectiveness of the project stormwater management system. Within 30 days of the effective date of this development order, meet with the DNRP to discuss the water quality monitoring program. The Applicant shall present copies of all sampling results conducted to date at this meeting. If baseline samples have not been conducted prior to the meeting, conduct baseline sampling within 30 days of the meeting. Annual sampling results will be reported in the annual report required by Condition 19 of this development order. Annual sampling will be required, until the standards of State Class G-II groundwater are met for two consecutive years after issuance of certificate of occupancy for the last Project building. If monitoring indicates a deterioration in water quality due to the operation of the Project's surface water management system, the Applicant shall take action necessary to bring water quality back to Class G-II standards. Actions to restore water quality may include the following:
 - a. modify the type, amount and/or application of fertilizers within the Project boundaries;
 - b. change application procedures or control agents for insect damage control;
 - c. increase the frequency of cleaning parking lots, roads and other impervious surfaces to reduce pollutant accumulations;
 - d. modify the maintenance program for swales, drainage trenches, oil and grease traps,

pollution control baffles and other components of the surface water management system to improve removal of pollutant accumulations; and/or

- e. any changes to the surface water management system necessary to restore water quality to Class G-II standards.
- 6. Incorporate the use of water sensors, ultra-low volume water use plumbing fixtures, self-closing and/or metered water faucets, and other water conserving devices/methods to reduce the demand on the region's potable water supply. These devices and methods shall meet the criteria outlined in the water conservation plan of the public water supply permit issued to the City of Fort Lauderdale by the SFWMD.
- 7. Construct and landscape with native vegetation, a berm adjacent to and graded away from the canal to prevent direct runoff from entering the surface water and the Biscayne Aquifer.
- 8. Preserve, landscape with native trees and plants, and maintain a 25-foot buffer, including berms and swales, along the southern boundary of the Project to create a visual barrier of varying height, but solid to at least 6 feet in height after 3 years of growth.
- 9. Remove Melaleuca, Casuariana, Schinus and all other invasive exotic vegetation, as recognized by the Florida Exotic Pest Plant Council in each phase of the development. Place visible barriers around the trees or tree clusters to remain on site, prior to removal of exotic vegetation with heavy equipment.
- 10. Comply with the tree preservation requirements and the landscaping standards of Section 47-21 of the City of Fort Lauderdale Code of Ordinances, and other applicable local government requirements and standards. The Applicant shall follow xeriscape

principles in landscape design and the selection of species for planting.

11. Satisfy the mitigation area monitoring and maintenance requirements of Broward County Department of Natural Resource Protection (DNRP) license #DF88-1058, prior to the effective date of this development order.
12. To the best of its ability, fully utilize economic development enhancement resource agencies and programs designed to involve small and minority businesses in the development and expansion of permanent job opportunities within the Project. Examples of such agencies and programs include, but are not limited to, those listed on the attached Exhibit B. The Applicant will attempt to access the range of job skills available in the region and promote greater labor force enhancement. At a minimum, the Applicant is encouraged to provide potential commercial tenants with information about employment and training agencies that maintain a database of trained/skilled workers to consider in meeting the Project's employment needs.
13. Within 120 days of the issuance of the first Certificate of Occupancy after the effective date of this development order, the Developer shall submit a Hazardous Materials Management Plan (HMMP) for review and approval by the City of Fort Lauderdale, DNRP, the Florida Department of Environmental Protection (FDEP), and the South Florida Regional Planning Council (SFRPC). Provide a copy of the approved plan to the City of Fort Lauderdale Fire Department. The HMMP shall incorporate into the development by lease as long as the Property is owned by Spectrum Business Park Association, Inc., and incorporate into the development by sale agreement and restrictive covenant when any of the Property is conveyed, as applicable, the following provisions:

- a. A designation of the person or job title responsible for the on-site monitoring and enforcement of the HMMP. The responsible party shall annually (1) monitor the compliance of the HMMP and report the results of the monitoring to the City, the SFRPC, DCA and any other affected State agency, in the annual report required pursuant to Subsection 380.06(18), F.S., and this development order and (2) conduct a yearly education and orientation program for all on-site occupants utilizing hazardous materials to familiarize them with the provisions of the HMMP.
- b. Contain a condition naming the State of Florida and DNRP as parties with the right to enforce the HMMP, allowing access to the site upon request, requiring notice to them of any proposed changes to the HMMP, and providing them with full enforcement rights, should the HMMP be violated.
- c. Require tenants or other appropriate parties to comply with all applicable reporting provisions of Title III of the Superfund Amendment and Reauthorization Act (SARA) of the Emergency Planning and Community Right-to-Know Act (EPCRA) and DNRP, Chapter 27 of the Broward County Code.
- d. Require that buildings where hazardous materials or hazardous wastes are to be used, displayed, handled, generated, or stored shall be constructed with impervious floors, without drains, to ensure containment and facilitate cleanup of any spill or leakage.
- e. Prohibit any outside storage of hazardous materials or hazardous waste. The exception to this condition is for retail goods typically associated with residential nursery activity such as lawn fertilizers and garden pesticides.

- f. Provide for proper maintenance, operation, and monitoring of hazardous materials management systems, including spills, hazardous materials containment systems, and equipment necessary on-site for the handling of first response to releases of oil or hazardous materials along with the capacity to employ such equipment.
 - g. Provide minimum standards and procedures for storage, prevention of spills, containment of spills, and transfer and disposal of hazardous materials and describe design features, response actions and procedures to be followed in case of spills or other accidents involving hazardous materials or hazardous waste; and require tenants or other appropriate parties to notify appropriate authorities in the event of a release as required by applicable regulations.
 - h. Require that any area used for loading and unloading of hazardous material be covered and equipped with a collection system to contain accidental spills.
 - i. Require all hazardous waste generators to contract with licensed public or private hazardous waste disposal service or processing facility and to provide the Broward County Resource Recovery Board copies of the following:
 - hazardous waste manifest;
 - documentation of shipment to a permitted hazardous waste management facility; or
 - confirmation of receipt of materials from a recycler or a waste exchange operation.
14. Incorporate energy conservation measures into the design and operation of the Project. At a minimum, construct all development in conformance with the specifications of the South Florida Building Code and the Florida Energy Code. Consider using

natural gas and/or renewable energy sources (e.g., solar heating) for water heating, space heating, air cooling and lighting control. Monitor design review procedures and electrical energy conservation measures, proposed in the ADA, during the project construction phase to assess the effectiveness of same.

15. All excavation, dredging and filling on site shall be subject to all provisions of Chapter 27, Broward County Code of Ordinances and any licenses issued pursuant to that Chapter shall remain in full force and effect. All other excavation operations undertaken by developers on such lands, which are not incidental to construction work, shall be governed by applicable City of Fort Lauderdale and Broward County Ordinances. Assure that any fill material utilized at the site, whether from on-site excavation activities or from off-site sources, meets the clean soils criteria of the Department of Environmental Protection.
16. Notify state archeological officials at the Division of Historical Resources of the Florida Department of State of construction schedules. Delay construction up to three months in any area where potentially significant historical or archeological artifacts are uncovered, and permit state and local historical preservation officials to survey and excavate the site.
17. Within 30 days of the effective date of this development order, meet with DNRP, FDEP, the SFRPC and the City of Fort Lauderdale to discuss the methodology for an air quality modeling study. Within 120 days of the effective date of this development order, submit a Carbon Monoxide (CO) air quality analysis for any surface parking area of 1,500 (or greater) vehicle trips/hour or any parking garage of 750 (or greater) vehicle trips, as well as any LOS "E" or "F" intersections. The analysis shall be submitted for review and approval to DNRP, FDEP, the SFRPC and the City of Fort

Lauderdale. It shall incorporate the methodology of the latest FDEP guidelines and Broward County Complex Source requirements. The study should include, if necessary, mitigation measures which the Applicant shall be responsible for.

18. Integrate all original and supplemental ADA information into a Consolidated Application for Development Approval (CADA) and submit two copies of the CADA to the SFRPC, one copy to the City of Fort Lauderdale, one copy to Broward County and one copy to the Florida Department of Community Affairs (DCA) within 30 days of the effective date of the development order. The CADA shall be prepared as follows:
 - a. Where new, clarified, or revised information was prepared subsequent to submittal of the ADA but prior to issuance of the development order, whether in response to a formal statement of information needed or otherwise, the original pages of the ADA will be replaced with revised pages.
 - b. Revised pages will have a "Page Number (R) -- Date" notation, with "Page Number" being the number of the original page, "(R)" indicating that the page was revised, and "Date" stating the date of the revision.
19. Submit an annual report to the City of Fort Lauderdale, the SFRPC, the DCA, and the Florida Department of Transportation (District 4) on each anniversary date of the effective date of the development. The annual report shall include, at a minimum, a complete response to each question in Exhibit C.
20. Within 30 days of the effective date of the development order, record notice of the adoption of the development order pursuant to Section 380.06(15), F.S., specifying that the development order runs with the land and is binding on the

Applicant, its successors and assigns, jointly or severally.

B. The City of Fort Lauderdale shall:

1. Withhold the issuance of building permits or certificates of occupancy, or both, if potable water and wastewater treatment demand exceeds capacity adequate to serve that demand.
2. Withhold the issuance of any building permits until the Hazardous Materials Management Plan required in Section 5.A.13. herein, is submitted to DNRP, FDEP, SFWMD, and the SFRPC. Participate as necessary to meet the requirements as outlined in the Hazardous Materials Management Plan.
3. Review project landscape plans to ensure that only those plant species identified in Chapter 39, Article VIII, Broward County Code of Ordinances are used for project landscaping and that xeriscape principles are utilized in such landscape plans, as practicable.
4. Monitor site development to ensure that exotic plant species are removed.

SECTION 6. STAY THE EFFECTIVENESS OF THE DEVELOPMENT ORDER.

In the event the Applicant, its successors, assigns or any owner of property within the Project or any of them both violates any of the conditions of this development order or otherwise fails to act in substantial compliance with this development order (hereinafter referred to as "violator"), the effectiveness of this development order shall be stayed as to the tract in which the violative activity or conduct has occurred and withhold further Development permits, approvals, and services for Development in said tract or portion of the tract upon passage of any appropriate resolution by the City, adopted in accordance with this section, upon a finding that such violation has occurred. The violator shall be given written notice by the City that states: 1) the nature of the purported violation, and 2) unless the violation is cured within 15 days of said notice, the City will hold a

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public hearing to consider the matter within 30 days of the date of said notice.

If violation is not curable in 15 days, the violator's diligent, good faith efforts to cure the violation within a reasonable period will obviate the need to hold a public hearing and the development order will remain in full force and effect unless the violator does not diligently pursue the curative action to completion within a reasonable time, in which event the City will give 15 days notice to the violator of its intention to stay the effectiveness of this development order and withhold further development permits, approvals and services as to the tract or portion of the tract in which the violation has occurred until the violation is cured. For purposes of this section, the word "tract" shall be defined to mean any area of development identified on a site plan of the Project. In addition, the phrase "portion of a tract" means a division of a tract into more than one ownership as created by deed or plat.

SECTION 7. PERIOD OF VESTED DEVELOPMENT RIGHTS.

Except as provided in Florida Statutes, Section 380.06(15), and to the extent that Section 380.06(19)(c) may apply, the Development as approved herein, including the types and intensity of uses, shall not be subject to downzoning or intensity reduction until November 30, 2003.

SECTION 8. DATE OF COMMENCEMENT AND TERMINATION DATE.

1. The Applicant commenced physical development prior to the effective date of this development order. For the purposes of this Section, the term "physical development" means "development" as defined in Section 380.04, Florida Statutes.
2. This development order shall remain in effect for a period up to and including November 30, 2003, except as provided in Section 380.06(19)(c), Florida Statutes.

SECTION 9. BUILDOUT DATE.

November 30, 2003 is hereby established as the buildout date for the Project and is the date until which the City of Fort

Lauderdale agrees that the Project shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the City can demonstrate that substantial changes made by the Applicant in the facts or circumstances underlying the approval of this Development Order have occurred, or that this development order was based on substantially inaccurate information provided by the Applicant, or that the change is clearly essential to the public health, safety, or welfare.

SECTION 10. LOCAL OFFICIAL RESPONSIBLE FOR MONITORING COMPLIANCE.

The local official responsible for monitoring compliance with this development order shall be the City Planning and Economic Development Director or his designee. In carrying out this responsibility, said official shall review and approve all applications for Development permits (including building permits and Certificates of Occupancy) for the core and shell of each building for compliance with the terms and conditions of this development order. No further development permit shall be issued if the Applicant is determined not to be in substantial compliance with said terms and conditions.

SECTION 11. APPROVAL OF DEVIATIONS FROM THE DEVELOPMENT ORDER.

1. All proposed deviations from the requirements of this development order shall be presented to the City Commission, after review and recommendation of the Planning and Zoning Board, for review and determination with respect to whether one or more of the proposed deviations constitute a substantial deviation within the meaning of Section 380.06(19), Florida Statutes (1987).
2. In considering whether a proposed deviation constitutes a substantial deviation, the City Commission shall consider all relevant information, including the presumptions set forth in Section 380.06(19)(b), Florida Statutes, as it may be amended from time to time.
3. If the City Commission determines that a proposed deviation does not constitute a substantial deviation, the City Commission may permit such proposed deviation by amendment to this development order. Upon approval of an amendment to this

development order not involving a substantial deviation, the City shall transmit to the Council and the State Department of Community Affairs a copy of the amendment to this Development Order which shall include the City's findings with respect to the presumptions contained in Section 380.06(19)(b), Florida Statutes (1987).

4. If the City Commission determines that a proposed deviation constitutes a substantial deviation, said proposed deviation shall be subject to further review pursuant to the requirements of Section 380.06, Florida Statutes (1987).

SECTION 12. BINDING EFFECT.

This development order shall be binding upon the City and the Applicant, its successors, assigns or both, and shall be a covenant running with the subject land.

SECTION 13. SEVERABILITY.

If any section or provision of this ordinance shall be held invalid by a court of competent jurisdiction, said holding shall have no effect on the remaining sections or provisions of this ordinance.

SECTION 14. CONFLICT.


All ordinances, resolutions or provisions within them conflicting herewith are hereby repealed to the extent of said conflict.

SECTION 15. EFFECTIVE DATE.

This ordinance shall become effective within forty-five (45) days from transmittal of this development order to the Florida Department of Community Affairs, the Council and the Applicant, subject to any appeal brought pursuant to the appellate process authorized pursuant to Section 380.07(2), Florida Statutes. If such an appeal is

taken, the effective date of this ordinance will commence upon the day after all appeals have been withdrawn or resolved, as provided by that law.

PASSED FIRST READING this the 7th day of April, 1998.
PASSED SECOND READING this the 21st day of April, 1998.



Mayor
JIM NAUGLE

ATTEST:



City Clerk
LUCY MASLIAH

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EXHIBIT A

LEGAL DESCRIPTION - SPECTRUM DEVELOPMENT OF REGIONAL IMPACT

All that parcel of land shown on the Plat known as "COMMERCE PARK", as recorded in Plat Book 112 at Page 18 of the Public Records of Broward County, Florida, containing 58.626 Acres, more or less;

TOGETHER WITH

A parcel of land in the northwest one-quarter of the southwest one-quarter of Section 16, Township 49 South, range 42 east, Broward County, Florida. More particularly described as follows:

Beginning at the Southwest corner of Tract "J", as shown on the Plat of COMMERCE PARK, as recorded in Plat Book 112 at Page 18 of the Public Records of Broward County, Florida;

THENCE N 88°35'51" E (on an assumed bearing), along the South line of said Tract "J" and along the North line of a portion of that certain canal easement as recorded in O.R. Book 3223, Page 810-811 of the Public Records of Broward County, a distance of 1,103.88 feet to the Southeast corner of Tract "I" as shown on the said Plat of COMMERCE PARK;

THENCE S 01°35'29" E, along the Southerly prolongation of the East line of said Tract I, a distance of 80.00 feet to a point on the South line of said canal easement;

THENCE S 88°35'51" W, along the South line of said canal easement a distance of 1,104.01 feet to a point on the East right-of-way line of Northwest 21st Avenue as shown on the Plat of FORT LAUDERDALE INDUSTRIAL AIRPARK-SECTION 1, as recorded in Plat Book 03, Page 10 of the Public Records of Broward County, Florida;

THENCE N 01°30'00" E, along the said East right-of-way line of Northwest 21st Avenue, a distance of 80.00 feet to the Point of Beginning.

Said land situate, lying and being in the City of Fort Lauderdale, Broward County, Florida, and containing 2.027 Acres, more or less.

ORDINANCE NO. C-03-40

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING ORDINANCE NO. C-84-55 AS AMENDED BY ORDINANCE NO. C-86-13, ORDINANCE NO. C-89-24, ORDINANCE NO. C-90-97, ORDINANCE NO. C-93-70 AND ORDINANCE NO. C-98-24 OF THE CITY OF FORT LAUDERDALE, FLORIDA, WHICH ORDINANCES APPROVED AND AMENDED THE DEVELOPMENT ORDER FOR THE SPECTRUM DEVELOPMENT OF REGIONAL IMPACT ("DRI") LOCATED IN A PORTION OF SECTION 16, TOWNSHIP 49 SOUTH, RANGE 42 EAST, SOUTH OF COMMERCIAL BOULEVARD, BETWEEN NORTHWEST 15TH AVENUE AND NORTHWEST 21ST AVENUE, WITHIN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA; FINDING THE PROPOSED CHANGE TO THE SPECTRUM DEVELOPMENT OF REGIONAL IMPACT TO BE A NON-SUBSTANTIAL DEVIATION, PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW, PROVIDING FOR EXTENSION OF THE BUILDOUT DATE TO NOVEMBER 29, 2010, AND PROVIDING FOR RECORDATION.

WHEREAS, pursuant to Ordinance No. C-84-55 adopted on July 3, 1984, the City Commission of the City of Fort Lauderdale approved with conditions an application for development approval for the Spectrum Development of Regional Impact; and

WHEREAS, pursuant to Ordinance No. C-86-13 adopted on February 19, 1986, the City Commission of the City of Fort Lauderdale approved an amendment to the development order pursuant to Chapter 380, Florida Statutes; and

WHEREAS, pursuant to Ordinance No. C-89-24 adopted on March 21, 1989, the City Commission of the City of Fort Lauderdale approved an amendment to the development order for the Spectrum Development of Regional Impact pursuant to Chapter 380, Florida Statutes; and

WHEREAS, pursuant to Ordinance No. C-90-97 adopted on December 4, 1990, the City Commission of the City of Fort Lauderdale further amended the development order pursuant to Chapter 380, Florida Statutes; and

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WHEREAS, pursuant to Ordinance No. C-93-70 adopted on November 2, 1993, the City Commission of the City of Fort Lauderdale further amended the development order pursuant to Chapter 380, Florida Statutes; and

WHEREAS, pursuant to Ordinance No. C-98-24 adopted on April 21, 1998, the City Commission of the City of Fort Lauderdale consolidated, amended and restated the development order pursuant to an application for development approval for a substantial deviation ("ADA") pursuant to Chapter 380, Florida Statutes; and

WHEREAS, on February 7, 2003 a notification of a proposed change to a previously approved development of regional impact pursuant to subsection 380.06(19), Florida Statutes was filed by Spectrum Business Park Associates, Ltd. ("Applicant"); and

WHEREAS, Applicant proposes to extend the buildout date to November 29, 2010; and

WHEREAS, on November 4, 2003, the City Commission of the City of Fort Lauderdale, after complying with all applicable notice requirements, reviewed the recommendations of the Planning and Zoning Board, conducted a public hearing, determined that approval of the amendment to the development order described above is a non-substantial change to the development order, and will further the interests of the health, safety and welfare of the citizens of the City of Fort Lauderdale;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The City Commission of the City of Fort Lauderdale makes the following findings of fact and reaches the following conclusions of law regarding this Development Order and the Project:

A. Findings of Fact.

1. The recitals contained in the Whereas clauses of this ordinance are true and correct, and are incorporated herein by reference.
2. The City Commission of the City of Fort Lauderdale held a public hearing on November 4, 2003 in accordance with subsection 380.06(19), Florida Statutes.
3. At the public hearing, the City Commission of the City of Fort Lauderdale determined that all legal requirements of notice and publication as required by Section 380.06, Florida Statutes, as well as local procedural requirements for the issuance of this development order have been met or have occurred.
4. The Project is not in an area of critical state concern.
5. The proposed change does not create a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the City, the South Florida Regional Planning Council and the Florida Department of Community Affairs.
6. The proposed change does not exceed any of the numerical criteria established in Section 380.06(19) (b), Florida Statutes.
7. The proposed change is not subject to Section 380.06(19) (d), Florida Statutes, since it does not result from requirements imposed by the Department of Environmental Protection on any water management district created by Section 373.069, Florida Statutes, or any of their successor agencies or by any appropriate federal regulatory agency.

8. The proposed change is not subject to Section 380.06(19)(e)5a, Florida Statutes, since it does not constitute a change for 15% or more of the acreage of the development to a land use not previously approved in the Development Order.
9. The proposed change is not subject to Section 380.06(19)(e)5b, Florida Statutes, since it does not constitute a change which would result in the development of any area which was specifically set aside in the Application for Development Approval or in the Development Order, for preservation, buffers or special protection, including habitat for plant and animal species, archaeological and historic sites, dunes or other special areas.

B. Conclusions of Law.

1. The proposed change to the Spectrum Development of Regional Impact, adopted by Ordinance No. C-84-55, as amended by Ordinance No. C-86-13, Ordinance No. C-89-24, Ordinance No. C-90-97, Ordinance No. C-93-70 and by Ordinance No. C-98-24, which proposed change is described in the Notification of Proposed Change dated February 7, 2003, does not constitute a substantial deviation from said Development Order and is hereby approved.
2. The proposed change is consistent with the State Comprehensive Plan, the City of Fort Lauderdale and Broward County Comprehensive Plans, and all other applicable land development ordinances and regulations.

SECTION 2. That Section 7 of Ordinance No. C-98-24, is hereby amended to read as follows:

SECTION 7. PERIOD OF VESTED DEVELOPMENT RIGHTS.

Except as provided in Florida Statutes, Section 380.06(15), and to the extent that Section 380.06(19)(c) may apply, the Development as approved herein, including the types and intensity of uses, shall not be subject to downzoning or intensity reduction until ~~November 30, 2003.~~
November 29, 2010.

SECTION 3. That Section 9 of Ordinance No. C-98-24 is hereby amended to read as follows:

SECTION 9. BUILDOUT DATE.

~~November 30, 2003~~ November 29, 2010 is hereby established as the buildout date for the Project and is the date until which the City of Fort Lauderdale agrees that the Project shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the City can demonstrate that substantial changes made by the Applicant in the facts or circumstances underlying the approval of this amendment to the Development Order have occurred, or that this amendment to the development order was based on substantially inaccurate information provided by the Applicant, or that the change is clearly essential to the public health, safety, or welfare.

SECTION 4. FULL FORCE AND EFFECT.

Except as expressly modified herein, Ordinance No. C-98-24, dated April 21, 1998, shall remain in full force and effect.

SECTION 5. BINDING EFFECT.

That this amendment to the development order be binding upon the City and the Applicant, its successors, assigns or both, and shall be a covenant running with the subject land.

SECTION 6. SEVERABILITY.

That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 7. CONFLICT.


That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 8. EFFECTIVE DATE.

This ordinance shall become effective within forty-five (45) days from transmittal of this development order to the Florida Department of Community Affairs, the Council and the Applicant, subject to any appeal brought pursuant to the appellate process authorized pursuant to Section 380.07(2), Florida Statutes. If such an appeal is taken, the effective date of this ordinance will commence upon the day after all appeals have been withdrawn or resolved, as provided by that law.

PASSED FIRST READING this the 4th day of November, 2003.

PASSED SECOND READING this the 18th day of November, 2003.



Mayor
JIM NAUGLE

ATTEST:


City Clerk
LUCY KISELA

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C-03-40