

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

WHEREAS, Rob Fowler, of The Fowler Company, filed an application on behalf of the property owner, Shrimp Boat Dock, Inc. and E.E. and J. Real Estate Partnership, to rezone 5.62± total acres of land from the Light Industrial (IL) and Agricultural (AG-2) zoning districts to an Industrial Planned Development (IPD) district, in reference to Gulf Shrimp IPD; and,

WHEREAS, a public hearing was advertised and held on October 31, 2001, continued to November 29, 2001, and continued to January 11, 2002, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2001-00016; and

WHEREAS, a second public hearing was advertised and held on April 1, 2002 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 5.62± total acres of land from the IL and AG-2 zoning districts to IPD, to permit a mixed use industrial development related to the marine-oriented uses existing on the site along with related commercial uses. The development will consist of a maximum of 65,000 square feet of gross floor area with buildings not to exceed 35 feet in height. The property is located in the Industrial Development Land Use Category and 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 "Main Street, San Carlos Island, Lee County, Florida, Master Concept Plan," stamped "Received Apr 18 2002," except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (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.

The maximum permitted intensity of this development may not exceed 65,000 square feet of which not more than 9,020 square feet can be devoted to retail use. Of the 9,020 square feet of retail use, not more than 6,600 square feet can be devoted to the restaurant use depicted in Building A only. All approved retail space must be located in Buildings J or K as depicted on the approved MCP.

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

a. Schedule of Uses

ACCESSORY USES AND STRUCTURES (LDC §§ 34-1171 *et seq.*,  
34-2441 *et seq.*, 34-1863, 34-2141 *et seq.*, and 34-3106)  
ADMINISTRATIVE OFFICES [SUBJECT TO Note (1) of LDC § 34-934]  
BAIT AND TACKLE SHOP (limited to Buildings J and K)  
BOATS: Boat parts store (limited to Buildings J and K)  
COLD STORAGE, PRE-COOLING, WAREHOUSE AND PROCESSING PLANT  
COMMERCIAL FISHERY  
CONSUMPTION ON PREMISES (limited to the Restaurant,  
Group III use only, located in Building A with outdoor seating)  
CONTRACTORS AND BUILDERS [LDC § 34-622(c)(9)],  
All Groups (LDC §§ 34-1352, 34-3001 *et seq.*) (Buildings J and K)  
FISH HOUSE, WHOLESALE  
FOOD STORE, Group I (except use of Supermarket) (also see Condition 3)  
GASOLINE DISPENSING SYSTEM, SPECIAL  
MANUFACTURING of:  
Food and kindred products [LDC § 34-622(c)(15)]: Group II  
(fresh or frozen packaged fish and seafood)  
PROCESSING OR PACKAGING OF FISH PRODUCTS  
RESTAURANTS [LDC § 34-622(c)(43)]: Group III (limited to one with  
a maximum gross floor area of 6,600 square feet as depicted in  
Building A only on the approved Plan)  
SIGNS, in accordance with chapter 30  
STORAGE: Indoor only (LDC § 34-3001 *et seq.*)  
WAREHOUSE:  
Private  
Cold storage only

b. Site Development Regulations

Except as deviated from in the approved deviations, development within this planned development must comply with the development regulations found in Exhibit "D."

3. The use of FOOD STORES, as limited in Condition 2 above, is further limited to Buildings J and K with the sole exception of "Fish (seafood) markets, enclosed." A fish market is considered a permitted use throughout the entire planned development SUBJECT TO the square footage limitations within this development.

4. Any sabal palms with a minimum 8-foot clear trunk must be preserved in place or relocated in a horticulturally correct manor (Lee County Extension Services Brochure Lee 8/2000A) to appropriate open space areas. Prior to local development order approval, the preserved trees and any relocated palms must be delineated on the plans. Preserved trees and relocated sabal palms will receive protected tree credits per LDC § 10-420(h).
5. Prior to local development order for Phase 4 and Phase 5, the development order plans must include details of habitat compensation for the new dock and shoreline structures. The habitat compensation must include rip-rap (minimum average size of 12-inch diameter) placed under the wood docks and along 50 percent of the seawall. A Lee County Dock and Shoreline Permit must be obtained prior to the construction of any dock or seawall.

Expansion of the docks in this planned development will require an amendment of this planned development, in accordance with the LDC.

6. Prior to the first Development Order being issued, the developer must confer with the Lee County Department of Transportation (LCDOT) to determine the feasibility of establishing an agreement between the developer and LCDOT to ensure that any damage to Main Street during the construction of the project is repaired to the County's satisfaction.
7. The Consumption on Premises use must be approved through the administrative approval or special exception process as provided for in LDC § 34-1264(a)(3)c.
8. Prior to approval for any local development order or permit to use, expand, remodel, or otherwise change the use or structures on any submerged lands related to this planned development, the Applicant must demonstrate to the satisfaction of the Department of Community Development and the County Attorney's Office that the Applicant does have the legal right to use the submerged lands.
9. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
10. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee 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 Plan provisions.

#### SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC § 10-291(LDC10-291)(2) requirement that developments must abut and have access to a street designed, constructed or improved to meet the LDC minimum standards; to allow access to the proposed development via the existing 22-foot-wide Main Street. This deviation is APPROVED.

2. Deviation (2) seeks relief from the LDC § 34-2192(a) requirement which requires a 20-foot setback for from the street right-of-way or easement; to allow the specific setbacks from the existing structures as shown on the MCP. This deviation is APPROVED.
3. Deviation (3) seeks relief from the LDC § 34-2194(b) requirement which identifies the required water body setback of 25 feet from the waters of Ostego Bay - Matanzas Pass, to allow the existing setbacks from existing structures as shown on the MCP. This deviation is APPROVED to be effective for those existing buildings located within the 25-foot setback, SPECIFICALLY Buildings E, F, G, and H.
4. Deviation (4) seeks relief from the LDC § 34-935(b)(3) requirement which requires a 100-foot setback from the development perimeter for all buildings, parking areas, and shipping and receiving areas located abutting a residential land use or land zoned exclusively for residential uses. This deviation is APPROVED for the existing buildings designated "J," "D," and "L" ONLY AND PROVIDED that the required buffering found in LDC § 10-416(d)(6) is installed.
5. Deviation (5) seeks relief from the LDC § 34-935(e)(3)b. requirement which requires setbacks from the internal streets to be determined by the functional classification of the street according to LDC 34-2192; to allow the street setbacks for the existing buildings as shown on the MCP. This deviation is APPROVED SUBJECT TO the condition this deviation only applies to the existing portion of Buildings A and B as depicted on the MCP.
6. Deviation (6) seeks relief from the LDC § 34-203(e)(7) requirement which requires the submittal of information for consideration of the use of joint use parking, to allow joint use parking within this planned development. This deviation is APPROVED SUBJECT TO the condition that the Applicant must file for and have approved an Administrative Amendment that supplies the required documentation, statements, and agreements required by LDC §§ 34-203(e)(7) and 34-2018.
7. Deviation (7) seeks relief from the LDC § 34-2020 requirement which requires a certain amount of off-street parking spaces to support the uses within this development; to allow the parking as designed within this planned development with a maximum of 92 off-street parking spaces. This deviation is APPROVED SUBJECT TO the condition that an Administrative Amendment is approved for a joint use parking agreement as provided for in Deviation 6 above.

#### SECTION D. EXHIBITS:

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

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan
- Exhibit D: Property Development Regulations for Gulf Shrimp IPD  
(A Modified Marine-Oriented District)

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; and,
  - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
  - c. is compatible with existing or planned uses in the surrounding area; and,
  - 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; and
  - 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.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner John E. Albion, seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED this 1st day of April, 2002.

ATTEST:  
CHARLIE GREEN, CLERK

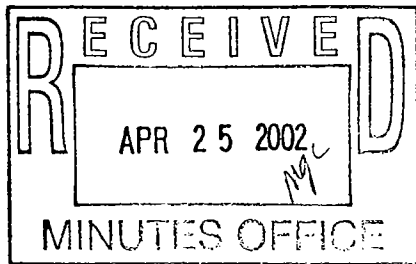
BY: Michelle S. Kleimer  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: [Signature]  
Chairman

Approved as to form by:

John W. Hediger  
County Attorney's Office



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
Property located in Lee County, Florida



2726 Swamp Cabbage Court  
Ft. Myers, FL 33901

(941) 274-0991  
FAX: (941) 274-0992

DESCRIPTION OF A PARCEL  
LYING IN  
SECTION 19, T-46-S, R-25-E,  
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 25 EAST BEING A PORTION OF LOTS 2, 3, 4, 5 AND 6, SAN CARLOS SUBDIVISION, AS PER THE UNRECORDED PLAT THEREOF RECORDED IN UNRECORDED PLAT BOOK 1, PAGE 308 OF THE PUBLIC RECORDS OF SAID LEE COUNTY AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:


COMMENCE AT A CONCRETE MONUMENT MARKING THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF MAIN STREET (50 FOOT WIDE) AND THE WESTERLY LINE OF SAID LOT 5; THENCE S.55°16'43"E. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 437.99 FEET TO A POINT LYING 60 FOOT EAST OF THE WEST LINE OF SAID LOT 2; THENCE SOUTH ALONG A LINE LYING 60 FOOT EAST OF AND PARALLEL TO SAID WEST LINE, FOR 100.00 TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH ALONG SAID LINE LYING 60 FOOT EAST OF AND PARALLEL TO SAID WEST LINE, FOR 681.31 FEET TO A POINT ON THE CAP OF A CONCRETE SEAWALL AND THE WATERS OF OSTEGO BAY, AKA MANTANZAS PASS; THENCE NORTHWESTERLY ALONG SAID SEAWALL AND THE WATERS OF SAID OSTEGO BAY, FOR 528 FEET MORE OR LESS TO THE INTERSECTION OF SAID WATERS AND A LINE LYING 100 FEET WEST OF THE WEST LINE OF SAID LOT 5; THENCE N.00°00'24"E. ALONG A LINE LYING 100 FEET WEST OF AND PARALLEL TO SAID WEST LINE, FOR 214 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2837, PAGE 2922 OF SAID PUBLIC RECORDS; THENCE S.89°50'53"E. ALONG THE SOUTH LINE OF SAID LANDS, FOR 100.05 FEET TO THE SOUTHEAST CORNER OF SAID LANDS AND A POINT ON THE WEST LINE OF SAID LOT 5; THENCE N.00°00'24"E. ALONG SAID WEST LINE, FOR 262.59 FEET; THENCE EAST FOR 200.00 FEET; THENCE SOUTH FOR 54.12 FEET; THENCE EAST FOR 160.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS APPROXIMATELY 244,733 SQUARE FEET OR 5.62 ACRES, MORE OR LESS.

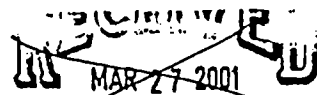
BEARINGS ARE BASED ON THE WEST LINE OF LOT 2, SAN CARLOS SUBDIVISION AS HAVING AN ASSUMED BEARING OF SOUTH.

PREPARED BY 51078  
BCI ENGINEERS AND SCIENTISTS, INC.  
FLORIDA CERTIFICATE OF AUTHORIZATION No. LB 6868

3-28-01

  
DENNIS A. MILLER  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE No. ES 5626

MIKEVAENGFWLER\FOWLER.ZONING.LEG.doc



PERMIT COUNTER

Applicant's Legal Checked

by gms 3/30/01

DCI 2001-00016

The applicant has indicated that the STRAP numbers for the subject property are:  
19-46-24-00-00017.0010, 19-46-24-00-00016.0000 & 19-46-24-00-00006.0000

# ZONING MAP

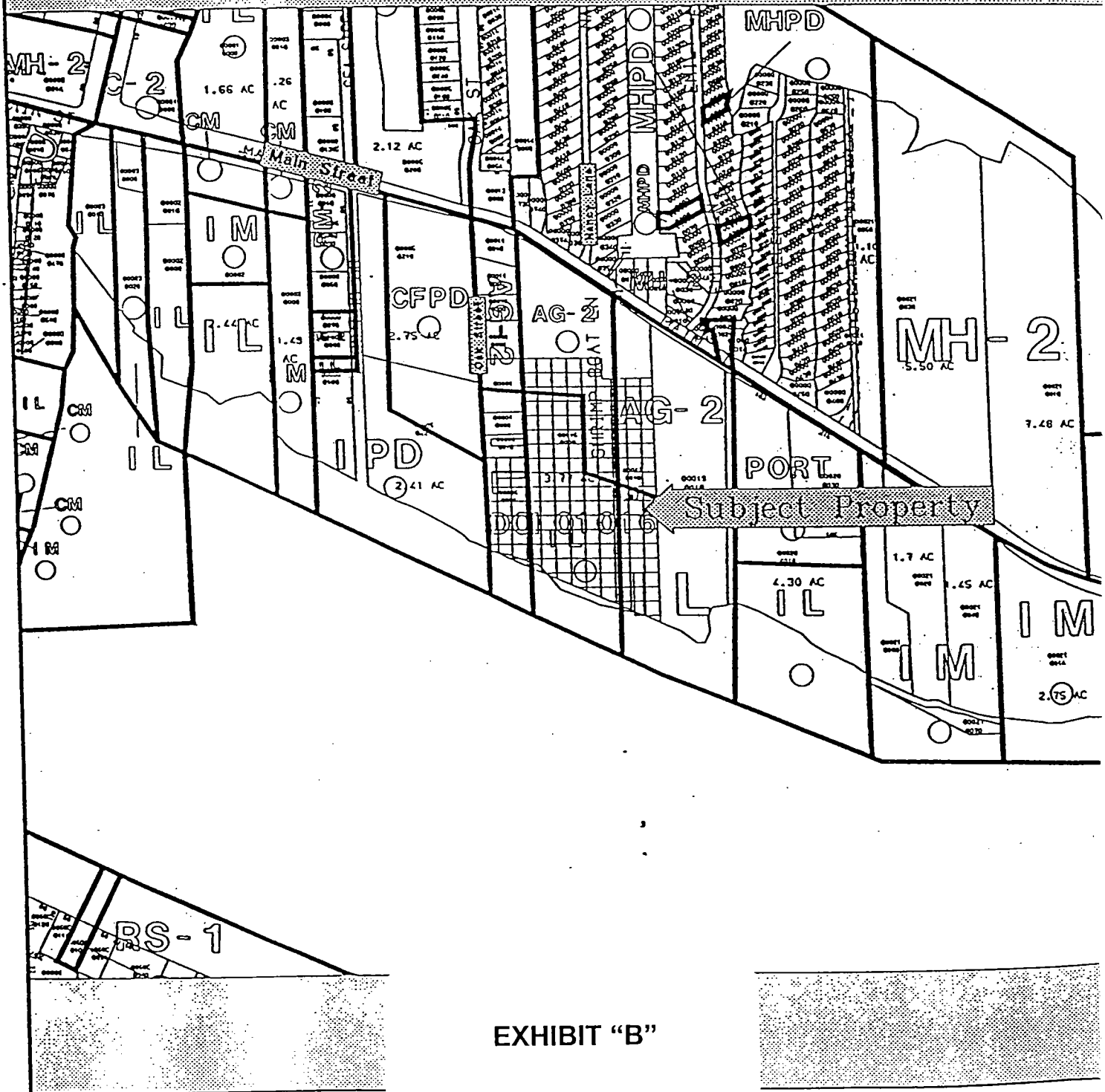


EXHIBIT "B"



**PROPERTY DEVELOPMENT REGULATIONS FOR GULF SHRIMP  
IPD (A MODIFIED MARINE-ORIENTED DISTRICT)**

		Special Notes or Regulations	GULF SHRIMP IPD
Minimum lot area and dimensions:		34-2221, 34-2222, 34-2142	
	Lot area (square feet)		20,000
	Lot width (feet)		100
	Lot depth (feet)		100
Minimum Building Separation (feet)		LDC §34-935(e)(4)	8.0
Minimum setbacks:			
	Side yard (feet)	34-2191 et seq.	20
	Rear yard (feet)	34-2191 et seq.	20
	Street (feet)	34-2191 et seq.	See deviation No. 2 & 5
	Water body (feet):	34-2191 et seq.	
	Other		25
	From residential property line (feet)		100 – See deviation No. 4
Maximum height (feet)		34-2171 et seq.	35
Maximum lot coverage (percent of total lot area)			40%
	Animals, reptiles, marine life	34-1291 et seq.	
	Consumption on premises	34-1261 et seq.	
	Docks, seawalls, etc.	34-1863	
	Essential services	34-1611 et seq.	
	Essential service facilities (34- 622(c)(13))	34-1611 et seq., 34- 2142	
	Fences, walls, gatehouses, etc.	34-1741 et seq.	
	Nonroofed accessory structures	34-2194(c)	

(Ord. No. 93-24, § 7(table 460.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97)

**EXHIBIT "D"**