

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

WHEREAS, an application was filed by Q. Grady Minor & Associates, P.A. on behalf of the property owner, Auburn Realty LLC, to rezone a 9.846±-acre parcel from Commercial Planned Development (CPD) to Commercial Planned Development (CPD), in reference to Pine Island Landing CPD; and

WHEREAS, a public hearing was advertised and held on November 6, 2002, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2002-00023; and

WHEREAS, a second public hearing was advertised and held on February 3, 2003, 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 a 9.846±-acre parcel from CPD to CPD, to allow rezoning a portion of a CPD, Resolution Z-94-060, and all of CPD, Resolution Z-95-049, to a CPD, to permit a maximum of 90,000 square feet of retail/office uses, not to exceed 35 feet in height. The property is located in the Intensive Development Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED SUBJECT TO the conditions specified in Sections B 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 consistent with the two-page Master Concept Plan (MCP) entitled "Pine Island Landing CPD" stamped received by Community Development on February 28, 2003, last revised February 7, 2003, except as modified by the conditions below. This development must comply with all requirements of the Lee County 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.

**COPY**

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

a. Schedule of Uses

ADMINISTRATIVE OFFICES

ANIMALS: Clinic, with no outside or overnight kenneling

ATM (Automatic Teller Machine)

AUTO PARTS STORE - without installation facilities

BAIT AND TACKLE SHOP

BANKS AND FINANCIAL ESTABLISHMENTS: Groups I, II

BOATS: Boat parts store

BROADCAST STUDIO, COMMERCIAL RADIO AND TELEVISION

BUSINESS SERVICES: Group I

CARETAKER'S RESIDENCE

CLEANING AND MAINTENANCE SERVICES

CLOTHING STORES, general

CONSUMPTION ON PREMISES (See LDC § 34-1264 *et seq.*)

DAY CARE CENTER, CHILD, ADULT

DEPARTMENT STORE

DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE, without an amplified  
speaker system(s)

DRUGSTORE, PHARMACY

ESSENTIAL SERVICES

ESSENTIAL SERVICE FACILITIES: Group I

EXCAVATION: Water retention

FOOD STORES: Groups I and II

HARDWARE STORE

HEALTH CARE FACILITIES: Group III

HOBBY, TOY AND GAME SHOPS

HOUSEHOLD AND OFFICE FURNISHINGS: Groups I, II, and III (no outdoor  
display and/or storage)

LAUNDRY OR DRY CLEANING

LAWN AND GARDEN SUPPLY STORES

MEDICAL OFFICE

NONSTORE RETAILERS: Groups I, II, and III

PACKAGE STORE

PAINT, GLASS AND WALLPAPER

PARKING LOT: Accessory

PERSONAL SERVICES: Groups I, II, III, IV, excluding massage parlors, tattoo  
parlors and escort services

PET SHOP

PHARMACY

PLACE OF WORSHIP

RECREATIONAL FACILITIES, COMMERCIAL, Group I

RENTAL OR LEASING ESTABLISHMENT: Groups I and II (no outdoor storage  
display and/or storage)

REPAIR SHOPS: Groups I and II

RESTAURANT, FAST FOOD, See Condition 6

RESTAURANTS: Groups II and III, with lounge  
SCHOOLS: Commercial  
SIGNS in accordance with chapter 30  
SOCIAL SERVICES: Group I  
SPECIALTY RETAIL SHOPS: Groups I, II, III, and IV  
STORAGE: Indoor only  
STUDIOS  
SUPERMARKET  
TEMPORARY USES  
USED MERCHANDISE STORES: Groups I, II, AND III  
VARIETY STORE

b. Site Development Regulations

Development of the CPD will comply with the following Property Development Regulations:

Minimum Lot Area and Dimensions:

Area:	20,000 square feet
Width:	100 feet
Depth:	100 feet

Minimum Setbacks:

Street:	
Many Road:	50 feet
Mariana Avenue:	50 feet
Side:	
North property line :	15 feet
West property line:	5 feet
Water Body:	25 feet

Minimum Building Separation: 15 feet or one-half the total height of both buildings, whichever is greater

Maximum Lot Coverage: 40%

Maximum Building Height: 35 feet or 1 story

Accessory Use and Structure setbacks must comply with LDC §§ 34-1171 et seq. and 34-2194.

Open Space required must be 30 percent of gross site area (2.95 acres)

3. Buffers:

- a. The 25-foot-wide buffer along Many Road, depicted on the master concept plan, must contain a bermed vegetative hedge, which will consist of a minimum of 10 trees (canopy type trees) and 66 shrubs per 100 linear feet. The shrubs must be

planted in double staggered rows and be maintained so as to form a continuous visual screen within one year after time of planting. The shrubs must be 48 inches high at planting and maintained at a minimum height of 60 inches.

- b. A Type "A" buffer must be provided along the west property line of the subject parcel, except where existing driveway or parking aisles constructed under previous development orders preclude it.
  - c. The 15-foot-wide buffer along Mariana Avenue, depicted on the master concept plan, must contain a bermed vegetative hedge, which will consist of a minimum of six trees and 66 shrubs per 100 linear feet. The shrubs must be planted in double staggered rows and be maintained so as to form a continuous visual screen within one year after time of planting. The shrubs must be 48 inches high at planting and maintained at a minimum height of 60 inches.
  - d. All other buffers must comply with the requirements of the Land Development Code.
- 4. At the time of local development order approval, in accordance with § 10-117 of the Lee County LDC, the applicant must provide a stubout to the parcels located immediately north of the subject property (Strap # 03-44-24-02-00000.0010 and Strap # 03-44-24-02-00000.0020).
  - 5. At the time of development order approval, in accordance with § 10-117 of the Lee County LDC, the applicant must provide an alternative access to the south parking lot to the existing North Fort Myers Superstore (Wal-Mart) at a location substantially in compliance with the location approved in Resolution Z-94-060.
  - 6. Fast food restaurants will not be permitted in any freestanding structure but will be permitted within the principal commercial retail structure.
  - 7. The Developer shall provide sidewalks, at his sole expense, along the two County roads on the perimeter of the subject property (Many Road and Mariana Avenue).
  - 8. There must be no delivery activity at any of the commercial businesses between the hours of 11:00 p.m. and 6:00 a.m.
  - 9. No access will be permitted onto Many Road from the subject property.
  - 10. The access point onto Mariana Avenue shall be constructed with the appropriate traffic devices acceptable to Lee County Department of Transportation (LCDOT), so as to direct all exiting traffic in a westerly direction. Further, the Developer shall post traffic signs prohibiting through truck traffic on Mariana Avenue east of this access point.
  - 11. 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.

12. 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.
13. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

#### SECTION C. EXHIBITS AND STRAP NUMBER:

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

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

The applicant has indicated that the STRAP numbers for the subject property are: 03-44-24-02-00000.014B, 03-44-24-02-00000.0150, and 03-44-24-02-0000.0130.

#### SECTION D. 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.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Albion, seconded by Commissioner Coy 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 3rd day of February 2003.


ATTEST:  
CHARLIE GREEN, CLERK

BY:

  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY:

  
Chairman

Approved as to form by:

  
County Attorney's Office



The original Resolution Z-02-064 was amended to conform the dates set forth in Condition 1 to those appearing on the MCP with respect to receipt by the County of the MCP.

RECEIVED  
MINUTES OFFICE

2003 APR 10 AM 8:01

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

LEGAL DESCRIPTION

MAP 10-1

LOTS 13, 14, 15, 16, 29 AND A PORTION OF LOTS 17, 27, 28  
AND A PORTION OF KUMQUAT STREET (A 50.00' RIGHT-OF-WAY) OF  
MARIANA PARK, AS RECORDED IN PLAT BOOK 9 AT PAGE 111 OF THE  
PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY  
DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID LOT 29 OF MARIANA PARK;  
THENCE RUN N 89°52'00" W ALONG THE SOUTH LINE OF SAID LOTS 29  
AND 28 FOR A DISTANCE OF 347.05 FEET; THENCE RUN N 00°08'45" E  
FOR A DISTANCE OF 195.13 FEET; THENCE RUN N 89°51'15" W FOR A  
DISTANCE OF 58.29 FEET; THENCE RUN N 00°08'45" E FOR A DISTANCE  
OF 155.00 FEET; THENCE RUN N 89°51'15" W FOR A DISTANCE OF 120.00  
FEET; THENCE RUN N 00°08'45" E FOR A DISTANCE OF 284.00 FEET;  
THENCE RUN S 89°51'15" E FOR A DISTANCE OF 34.53 FEET; THENCE RUN  
N 00°08'45" E FOR A DISTANCE OF 30.00 FEET; THENCE RUN S 89°51'15" E  
FOR A DISTANCE OF 115.05 FEET; THENCE RUN N 00°53'40" W FOR A  
DISTANCE OF 380.77 FEET TO THE NORTHWEST CORNER OF SAID LOT 13;  
THENCE RUN S 89°52'00" E ALONG THE NORTH LINE OF SAID LOTS 13 AND  
14 FOR A DISTANCE OF 363.70 FEET TO A POINT ON THE WEST RIGHT OF  
WAY LINE OF MANY ROAD (A 50.00' RIGHT OF WAY), THE SAME BEING THE  
NORTHEAST CORNER OF SAID LOT 14; THENCE RUN S 00°53'40" E ALONG  
THE EAST LINE OF SAID LOT 14, KUMQUAT STREET, LOT 15 AND LOT 29  
FOR A DISTANCE OF 1045.02 FEET TO THE POINT OF BEGINNING OF THE  
PARCEL OF LAND DESCRIBED HEREIN, CONTAINING 9.846 ACRES,  
MORE OR LESS.

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF LOT 29  
OF MARIANA PARK, AS RECORDED IN PLAT BOOK 9 AT PAGE 111,  
AS BEING N 89°52'00" W.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS  
AND OR RESTRICTIONS OF RECORD.

Q. GRADY MINOR AND ASSOCIATES, P.A.

11-6-01

Applicant's Legal Checked

by gm 10/16/02

Eric V. Sandoval



P.S.M. # 5253

ERIC V. SANDOVAL

STATE OF FLORIDA

DRAWN BY: C.D.O.  
SHEET 1 OF 2  
JOB CODE: PILD0  
SCALE 1" = 200'

**Q. GRADY MINOR AND ASSOCIATES, P.A.**  
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS  
3800 VIA DEL REY  
BONITA SPRING, FLORIDA 34134  
PHONE: (841) 947-1144 FAX: (841) 947-0376  
CERTIFICATE OF AUTHORIZATION: L.B. #6151

**LEGAL DESCRIPTION**  
LOTS 13, 14, 15, 16, 29, AND A PORTION  
OF LOTS 17, 27, 28 AND KUMQUAT STREET  
SECTION 03, TOWNSHIP 44, SOUTH, RANGE 24 EAST,  
LEE COUNTY, FLORIDA  
DATE: NOVEMBER, 2001 DRAWING: B-2185(1)

EXHIBIT B

EXHIBIT B



