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**BONITA SPRINGS, FLORIDA
COMMUNITY DEVELOPMENT DEPARTMENT
ZONING DIVISION
STAFF REPORT**

PROJECT NAME: CROWN LAKE BLVD. CONSUMPTION ON PREMISES

TYPE OF CASE: SPECIAL EXCEPTION

CASE NUMBER: COP21-79002-BOS

HEARING DATE: AUGUST 17, 2021

PLANNERS: MARY ZIZZO, ESQ.

REQUEST AND STAFF RECOMMENDATION

A special exception request for outdoor consumption on premises, associated with a Restaurant, Group III use.

Deviations Requested: None

Staff recommends **approval** of the request, subject to the conditions outlined in this Staff Report.

I. APPLICATION SUMMARY:

- A. Applicant: Robert Friedman/WF PP Realty, LLC
- B. Agent: Hole Montes, Inc., Paula N. C. McMichael, AICP
Coleman, Yovanovich & Koester, P.A., Francesca Passidomo, Esq.
- C. Request: A special exception request for outdoor consumption on premises, associated with a Restaurant, Group III use.
- D. Location: 27940 Crown Lake Blvd., Bonita Springs, FL 34135
- E. Future Land Use Designation, Current Zoning and Use of Property:
 - Future Land Use: General Commercial
 - Current Zoning: Commercial Planned Development (CPD)
U.S. 41 Overlay District
Bonita Beach Road Corridor- Commercial Zone

Current Use: Vacant Commercial Building

F. Surrounding Land Use:

<u>Existing Zoning & Land Use</u>	<u>Future Land Use Map</u>
North: Commercial Planned Development (CPD), Bonita Beach Road Corridor Commercial Zone, U.S. 41 Overlay District- Stormwater Retention Lake	General Commercial
East: Commercial Planned Development (CPD), Bonita Beach Road Corridor Commercial Zone, U.S. 41 Overlay District- Arroyal Mall Shopping Plaza- Offices, Day Care, Personal Services	General Commercial
South: Bonita Beach Road Right-of-Way, Community Commercial (CC), Bonita Beach Road Corridor Commercial Zone, U.S. 41 Overlay District- Springs Plaza Commercial Complex	General Commercial
West: U.S. 41 Right-of-Way, C-1A, Bonita Beach Road Corridor Commercial Zone, U.S. 41 Overlay District- Gas Station.	General Commercial

II. BACKGROUND AND INFORMATIONAL ANALYSIS

Introduction/Synopsis

The Applicant has submitted a special exception request for outdoor consumption on premises for beer, wine and liquor (4-COP), associated with a Restaurant, Group III use. The site is located in Commercial Area 5 of the Arroyal Mall Commercial Planned Development, originally approved in Lee County Zoning Resolution Z-87-007. The site is also known as Lot 9 of the Arroyal Mall subdivision plat, approved in 1994. The subdivision consists of commercial buildings and hotels. The existing building was previously occupied by Perkins Restaurant. The Owner requests to add an outdoor dining area with outdoor consumption on premises approval prior to tenant occupancy. The building, which was constructed in 1994, received indoor consumption on premises approval for beer and wine in 2000.

The Applicant proposes a 900 square foot outdoor eating area on the southern side of the building, the maximum additional square footage the site can accommodate for the required parking of 90 spaces. At this time, no end user is determined. At the time of occupancy by a restaurant, the use will require approvals from the City, including a Commercial Use Permit and zoning signatures for the State forms for a liquor license.

Pursuant to Land Development Code Section 4-1023(a)(2), a request for outdoor consumption on premises for a Group III restaurant use within 500 feet of a religious facility, noncommercial school, child day care center, park or dwelling unit under separate ownership, requires a special exception. Distance is measured from any public entrance or exit of the establishment in a straight line to the nearest property line of the child day care center, dwelling unit or park. This site is located within 500' of two child day care centers. The proposed outdoor seating area is about 55' from the closest property line of Noah's Ark Academy, a day care operation. Figure 1 below shows the distance from the outdoor seating area to the property line closest to the day care. Learning City Daycare is located within Springs Plaza, 231' feet away from the proposed outdoor seating area.

Distance to Noah's Ark Academy



Figure 1: Noah's Ark Academy Distance

Source: Applicant

Distance to Learning City Academy



Figure 2: Learning City Daycare Distance

Source: Applicant

Zoning

Located within the Arroyal Mall Commercial Planned Development, the surrounding properties are commercial in nature, including restaurants, hotels and offices. Across U.S. 41 is a gas station, restaurants and retail. Across the Bonita Beach Road right-of-way is a commercial shopping complex with a variety of uses, including restaurants, retail stores, and health offices.

The subject property is located in the Commercial Zone of the Bonita Beach Road Corridor, where a restaurant Group III use is a permitted use. The subject property is also located within the U.S. 41 Overlay District, which is intended to enhance the aesthetic/visual quality of the corridor to create a physically attractive, and functionally integrated built environment through cohesive and complimentary site development and design standards.

Staff finds this request compatible with the zoning of the site.

Neighborhood Compatibility

Surrounded by commercial uses within a major quadrant of Bonita Springs, this site is compatible with the uses around it. Restaurants are a permitted use within the zoning district and contribute to the overlay intents the site is located within. The restaurant use can serve the residents of Bonita Springs, those that work within the area, and those staying at one of the hotels within the planned development.

The closest day care use, Noah's Ark Academy, is separated by a wood fence and landscape buffering between the parking lot areas, approximately 115' to the day care operation. The physical

location of the day care within Springs Plaza (Learning City Daycare) is over 500 feet away from the outdoor seating area proposed, separated by the Bonita Beach Road 130' right-of-way and each site's parking areas. If approved, outdoor consumption will be permitted only in the area shown on the site plan (see below). Patrons will not be permitted to leave the outdoor area or any entrance of the restaurant and continue consuming an alcoholic beverage. The Applicant indicates that no outdoor live music or entertainment is proposed. Any outdoor music shall be compliant with the Bonita Springs Noise Control Ordinance.

At this time, traffic impacts are perceived to be minor and will be reassessed at time of local development order.

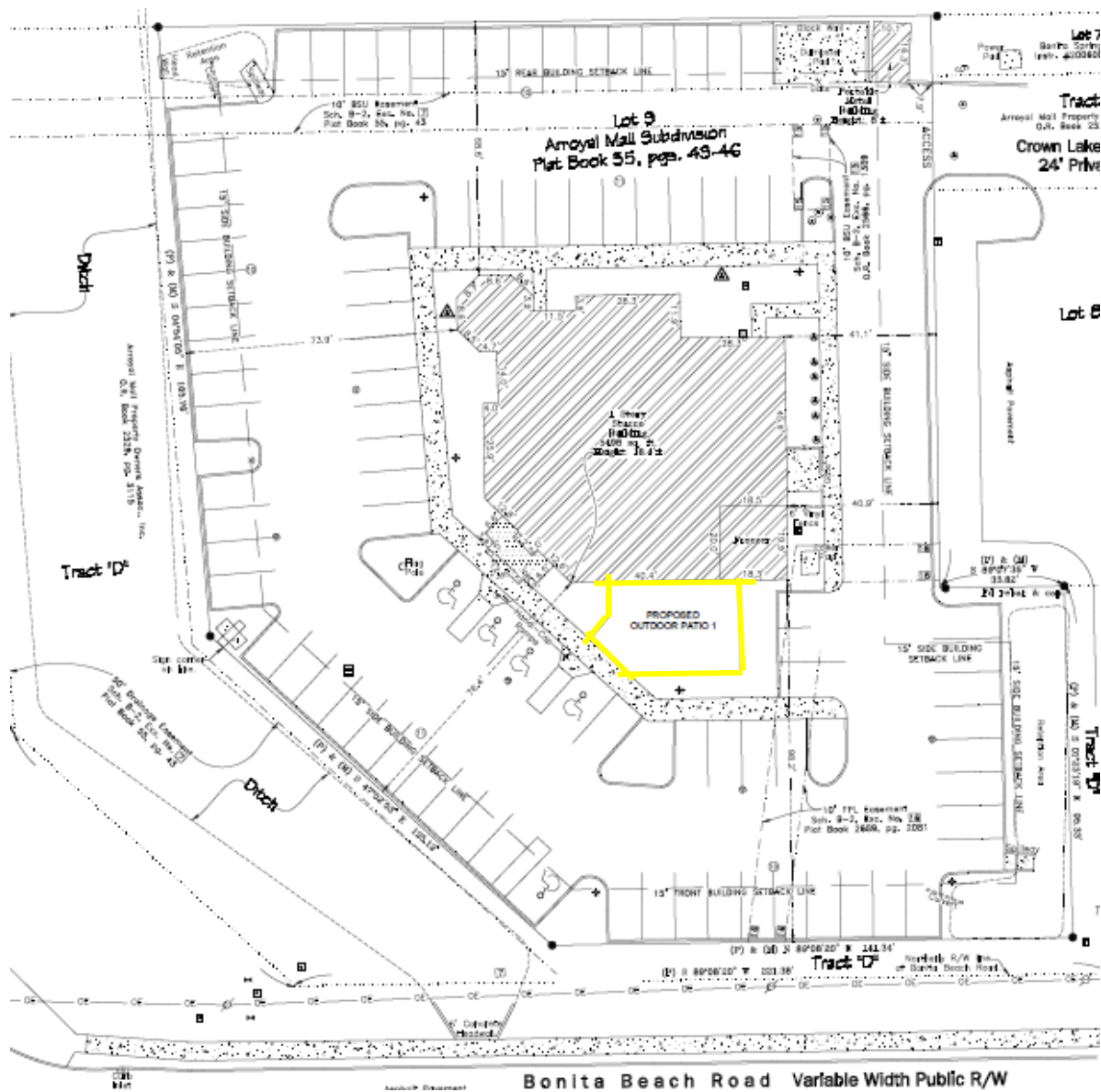


Figure 3: Site Plan

Source: Applicant

Comprehensive Plan Considerations

The subject properties are located within the General Commercial future land use category according to the Future Land Use Map of the City's Comprehensive Plan. The General Commercial category is described in Policy 1.1.14 as follows:

***Policy 1.1.14: General Commercial** - Intended to accommodate a wide range of commercial uses serving the general population of the City. This designation recognizes, but is not specifically limited to, properties that have been developed, have received development approval or have been zoned for commercial use prior to the adoption of the Comprehensive Plan.*

a. Appropriate uses include a wide range of commercial retail and service uses for residents and visitors; hotels/motels; offices; light industrial uses; schools; recreation; public and semi-public uses; multi-family uses up to 10 units per acre; and mixed residential and commercial use in planned developments.

b. If affordable housing is provided, residential density may be increased by up to five additional units per acre.

c. Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves except that no new structures or modification of existing structures located on the islands west of the mainland may be constructed in excess of 35 feet in height.

d. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.

A restaurant use is in conformance with the City's Future Land Use Element of the Comprehensive Plan. It is Staff's opinion that introducing outdoor consumption on premises to a restaurant use at this location does not raise compatibility issues.

Findings & Conclusions:

Based upon an analysis of the application and the standards for approval of a special exception, Staff makes the following findings and conclusions, as conditioned:

1. The requested special exception, as conditioned:
 - a) is due to a changed or changing condition that makes approval of the request appropriate. COVID-19 has required an increase in outdoor seating for restaurants and this location would not have an outdoor seating capability without this request.

At time of original construction, an outdoor seating area could have been requested administratively. Now that two day cares have occupied their respective units, a public hearing special exception is required for the request.

- b) is consistent with the Goals, Objectives, Policies, and intent set forth in the City's Comprehensive Plan;

The General Commercial Future Land Use encourages uses that serve the general population of the City. A restaurant use serves residents and visitors, including those staying at the hotels nearby. Objective 1.3 encourages improving the visual and aesthetic appearance of the City, which will be reviewed at time of local development order. The site has access to adequate public facilities and services in accordance with Objective 1.11. Transportation Element 1.4 seeks to improve the aesthetic qualities and appearances of roadways, which the architectural plans will be reviewed at time of local development order by our City Architect. The site will be required to provide a pedestrian connection from Bonita Beach Road, which will be landscaped in accordance with Code.

- c) meets or exceeds all performance and locational standards set forth for the proposed use;

The proposed project is located along two (2) arterial roadways (U.S. 41 and Bonita Beach Road), shown on the City of Bonita Springs Pedestrian Master Plan (PATH), as requiring multimodal facilities. Specifically, this includes a minimum 8'-10' sidewalk along the subject site's U.S. 41 frontage and a minimum 7' sidewalk along the Bonita Beach Road frontage. The site will be required to comply with the multi-modal requirements of the Land Development Code at time of expansion. A site permit will be required to conform with the LDC. At that time, the Applicant will be required to provide for the above-noted multimodal infrastructure/upgrades and the required multimodal connection(s) from the site thereto. Consideration should have been given to revising the Site Plan to show the location(s) of the project's required multimodal features/infrastructure and at the time of the site improvements, consideration should be given to increase the existing 5' sidewalks to 6' in width to allow for safer navigation of the site for two-way patron travel, families and those with limited mobility and assistive devices (wheelchairs, walkers and other power-driven mobility devices).

Given the length of the subject site's closure/lapse in use, the site must be brought into compliance with all applicable current Land Development Code standards. This includes the project's required landscaping, including buffers, vehicular use area plantings, general trees, building perimeter plantings, dumpster enclosure and service function area screening, exotic removal, etc., at time of new occupancy. Additional site improvements will be required, including, but not limited to safety barriers to separate parking lot traffic and patrons seated within the proposed outdoor seating area, the use of pervious pavers or the equivalent, enhanced fencing to separate uses, etc.

The site is located within the U.S. 41 Overlay and the Bonita Beach Road Corridor. Because this site is located within a planned development that is built out 80% or more, compliance with the overlays is voluntary.

- d) protects, conserves or preserves environmentally critical areas and natural resources;

The property is developed and there are no environmentally critical areas or natural resources on site.

- e) is compatible with existing or planned uses in the surrounding area;
This is in a commercial area serving the general population of the City. The intent is to provide a location for those working or living near the area to visit. The Applicant indicates that the proposed restaurant use offers different peak times than many of the surrounding uses.
- f) will not cause damage, hazard, nuisance or other detriment to persons or property;
Properties shall not be negatively affected by the request as proposed and conditioned. The Applicants will be subject to the Noise Control Ordinance, landscaping will be installed to provide an aesthetic view and appropriate safeguards will be required to ensure no consumption occurs outside of the proposed seating area.
- g) will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the City's Land Development Code.
The request will comply with all Land Development Code requirements at time of local development order. Compliance with the Bonita Beach Road Corridor and the U.S. 41 Overlay are voluntary within a built out planned development and are encouraged. All other provisions related to the special exception requirements have been met.

III. RECOMMENDATION:

Staff recommends **approval** of the request, subject to the following conditions.

Conditions

1. This 4-COP approval is for outdoor consumption on premises in the seating area shown on the site plan, limited to 900 square feet maximum (Attachment A).
2. The outdoor area shall be fenced to separate parking lot traffic and seated patrons.
3. The permitted hours of operation are limited to 11:00 AM- 12:00 AM daily.
4. Any expansion beyond what is shown on the site plan may require additional approvals and/or infrastructure upgrades, including (but not limited to) additional restroom facilities, parking and additional site improvements.
5. There shall be no live entertainment in the outdoor area.
6. The sale and service of alcoholic beverages will be in conjunction with the Restaurant, Group III use. A request for outdoor consumption for any other use requires separate approvals.
7. The kitchen shall stay open during all hours of operation.
8. The Applicant will coordinate with Bonita Springs Utilities (BSU) regarding any grease retention infrastructure that may be required, prior to the City issuing a COP permit. If no

grease retention infrastructure is required, the Applicant will provide a letter to the City from BSU stating such, as part of the COP permit signoff process.

9. The Bonita Springs Noise Control Ordinance remains in full force and effect.

IV. SUBJECT PROPERTY

The Applicant indicates the STRAP number is: 33-47-25-B3-01800.0090

V. ATTACHMENTS

- A. Legal Description of the Subject Property

VI. EXHIBITS

- A. Site Plan

ATTACHMENT A

**EXHIBIT II-A-1
LEGAL DESCRIPTION**

Lot 9, Arroyal Mall, according to the plat thereof recorded in Plat Book 55, Page 43 of the public records of Lee County, Florida.

EXHIBIT A

NOTE: LANDSCAPING & PEDESTRIAN IMPROVEMENTS TO BE DETERMINED AT TIME OF LOCAL D.O

PROPOSED OUTDOOR SEATING AREAS:
 OUTDOOR PATIO 1 = 900 SF
 TOTAL SF = 900 SF

FLOOD ZONE:

AS PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 12071C 0658 F, DATED AUGUST 28, 2008, THE SUBJECT PROPERTY LIES IN ZONE "SHADED X", BY SCALE LOCATION ONLY.

LAND AREA:

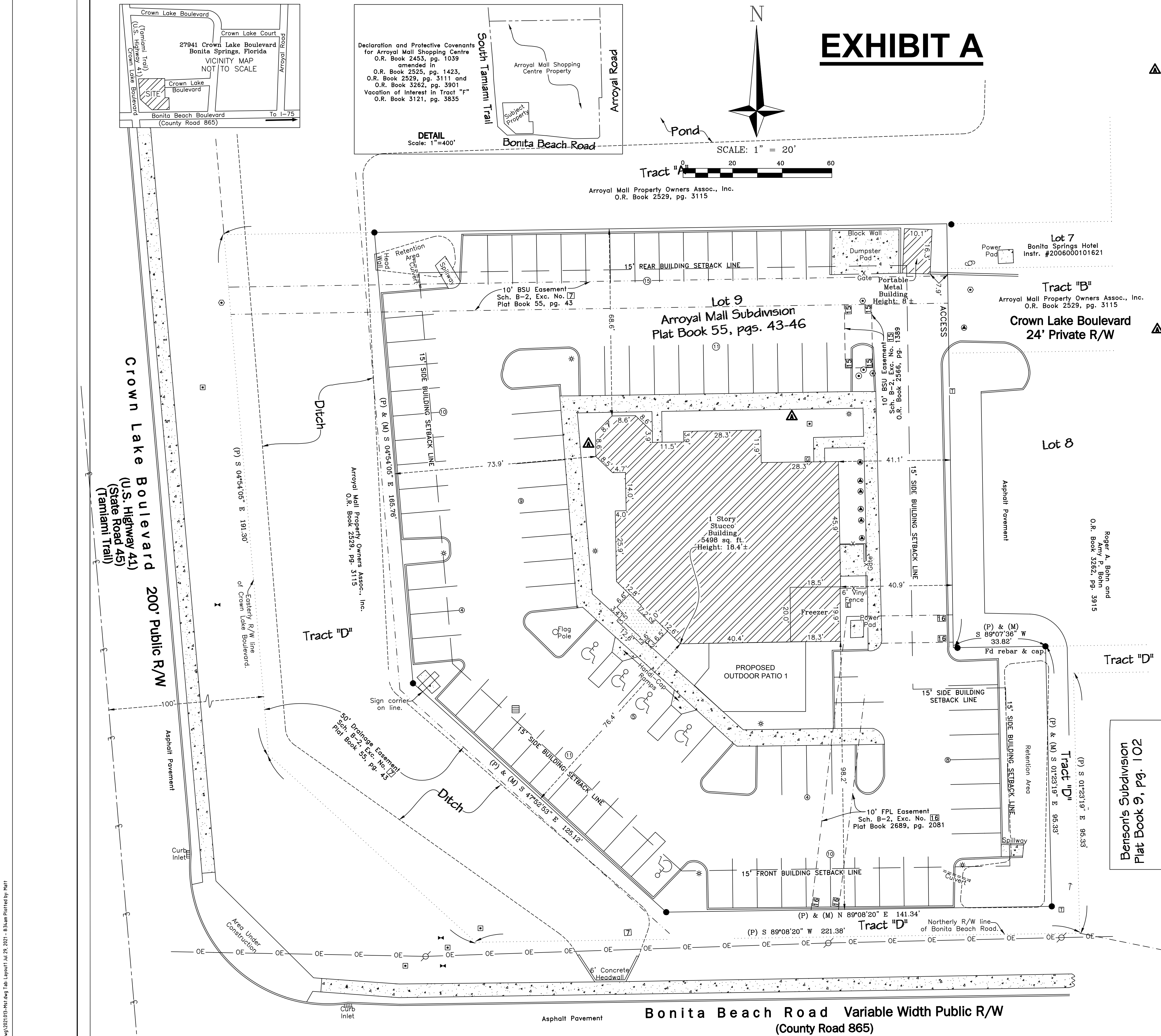
THE LAND AREA IS 50,000 SQUARE FEET OR 1.148 ACRES.

ZONING:

THE CURRENT ZONING IS CPD (COMMERCIAL PLANNED DEVELOPMENT). THE CURRENT ZONING ALLOWS FOR THE CURRENT USE.

PARKING:

PARKING REQ/PROVIDED: 14 SPACES / 1,000 SF = 90 SPACES



ARROYAL MALL CPD - LOT 9

DESIGNED BY	PNM	DATE	5-2019
DRAWN BY	CK	DATE	5-2019
CHECKED BY	JC	DATE	5-2019
VERTICAL SCALE		HORIZONTAL SCALE	1"=20'



950 Encore Way
 Naples, FL. 34110
 Phone: (239) 254-2000
 Florida Certificate of
 Authorization No.1772

SPECIAL EXCEPTION EXHIBIT IV-F

THESE DRAWINGS ARE NOT APPROVED FOR CONSTRUCTION UNLESS SIGNED BELOW:	REFERENCE NO.	DRAWING NO.
DATE	2021013	2021013
	PROJECT NO.	SHEET NO.
	2021013	1 OF 1

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LETTER	REVISIONS	DATE
△		
△		
△		
△	REVISED PER 1ST INSUFFICIENCY COMMENTS	06/01/21



March 26, 2021

Mary Zizzo, Esquire, Planner II
City of Bonita Springs
Department of Community Development
9220 Bonita Beach Road SE
Bonita Beach, FL 34135

**Re: Special Exception
27940 Crown Lake Blvd. (former Perkins Restaurant)
HM File No.: 2021.013**

Dear Ms. Zizzo:

Enclosed please find our application for a Special Exception. We are requesting a special exception to allow outdoor seating for patrons consuming alcoholic beverages in association with a Group III restaurant, within 500 feet of a daycare.

The building on the site was in use as a Perkins restaurant for more than two decades. The Perkins closed in May 2020 and has been vacant since. The building does not have outdoor dining areas, which are crucial in providing a safer option for patrons regarding COVID-19. To increase the likelihood that the building can be occupied by a viable restaurant use, the applicant is requesting a special exception to allow for consumption on premises, including outdoor seating areas. Consumption on premises is an approved use within the existing commercial planned development; however, a special exception is required when the establishment is within 500 feet of a day care center and provides outdoor seating areas for patrons consuming alcoholic beverages.

We enclose the following:

- One (1) copy of Cover Letter;
- One (1) copy of Completed Application (with Affidavit & Disclosure of Interest);
- One (1) Check No.409209 in the amount of \$1,500;
- One (1) copy of Location Map;
- One (1) copy of II-A-3, Arroyal Mall Plat;
- One (1) copy of Exhibit IV-A, Surrounding Property Owner List & Mailing Labels;
- One (1) copy of Exhibit IV-B, Surrounding Property Owner Map;
- One (1) copy of Exhibit IV-C, Deed Restrictions (Declaration and Protective Covenants for Arroyal Mall Shopping Centre, Amendment to Declaration and General Protective Covenants for Arroyal Mall Shopping Centre, Supplemental Covenant and Restriction for a Portion of Arroyal Mall Shopping Centre, Vacation of Interest in Tract F by the Members of the Arroyal Mall Property Owners Association, Inc. and Annexation of Additional Property and 3rd Amendment to the Declaration and Protective Covenants for Arroyal Mall Shopping Centre);
- One (1) copy of Exhibit IV-F, Narrative – Request Statement;

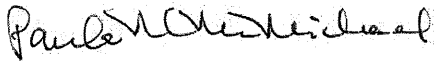
Mary Zizzo, Esquire, Planner II
Re: Special Exception
27940 Crown Lake Blvd. (former Perkins Restaurant)
HM File No.: 2021.013
March 26, 2021
Page 2

- One (1) copy of Exhibit IV-G, Site Plan;
- One (1) copy of Exhibit IV-H, Traffic Impact Statement – See Submittal Requirements Waiver;
- One (1) copy of Summary of Neighborhood Meeting and PowerPoint Presentation; and
- One (1) Flash Drive with Application and Exhibits.

If you have any questions, please don't hesitate to contact us.

Very truly yours,

HOLE MONTES, INC.



Paula N. C. McMichael, AICP
Vice President, Planning Services
PNCM/sek

Enclosures as noted.

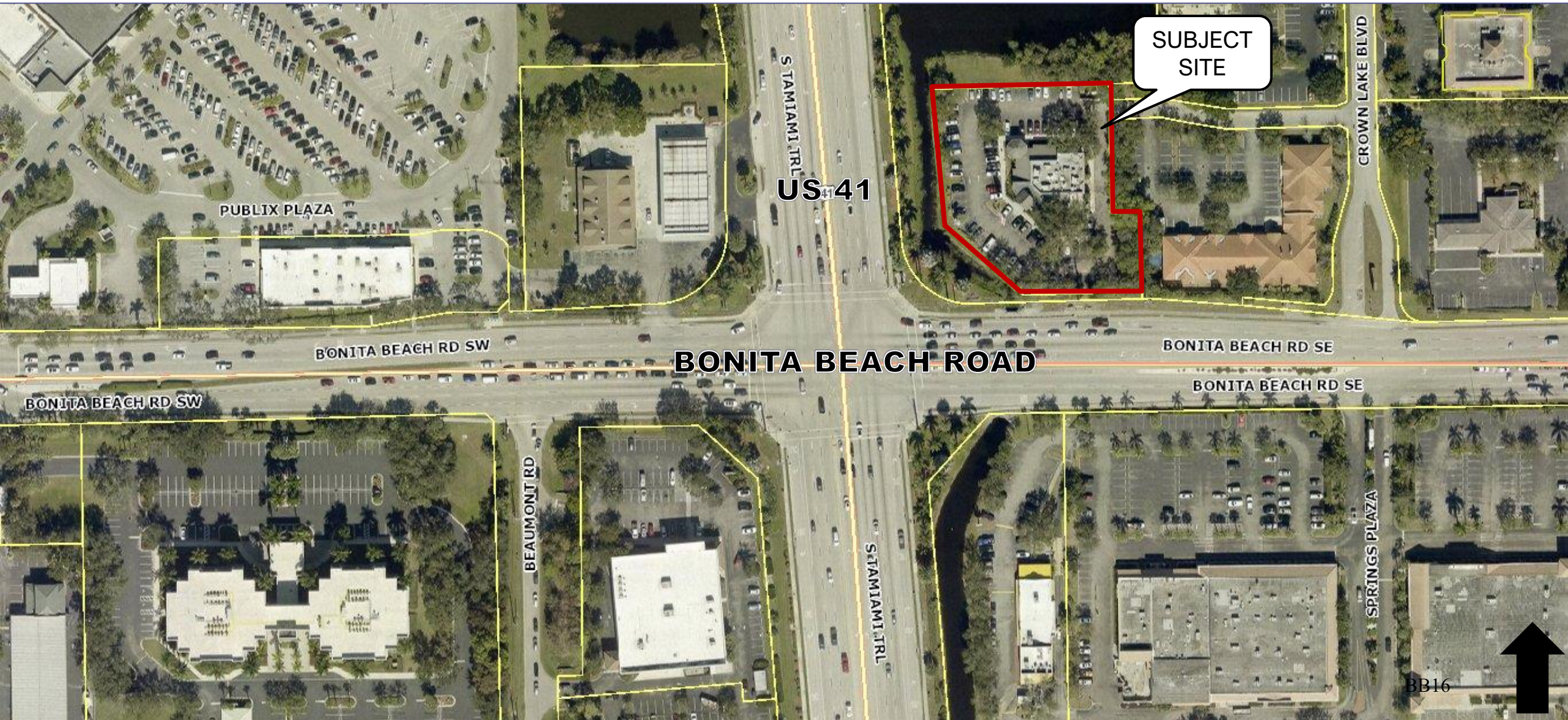
cc: Robert Friedman w/enclosures
Francesca Passidomo, Esquire, w/enclosures

Arroyal Mall CPD Special Exception

Public Information Meeting

Tuesday, March 9, 2021 at 5:30 PM

Aerial



SUBJECT SITE

US 41

BONITA BEACH ROAD

PUBLIX PLAZA

BONITA BEACH RD SW

BONITA BEACH RD SE

BONITA BEACH RD SE

BONITA BEACH RD SW

BEAUMONT RD

S TAMiami TrL

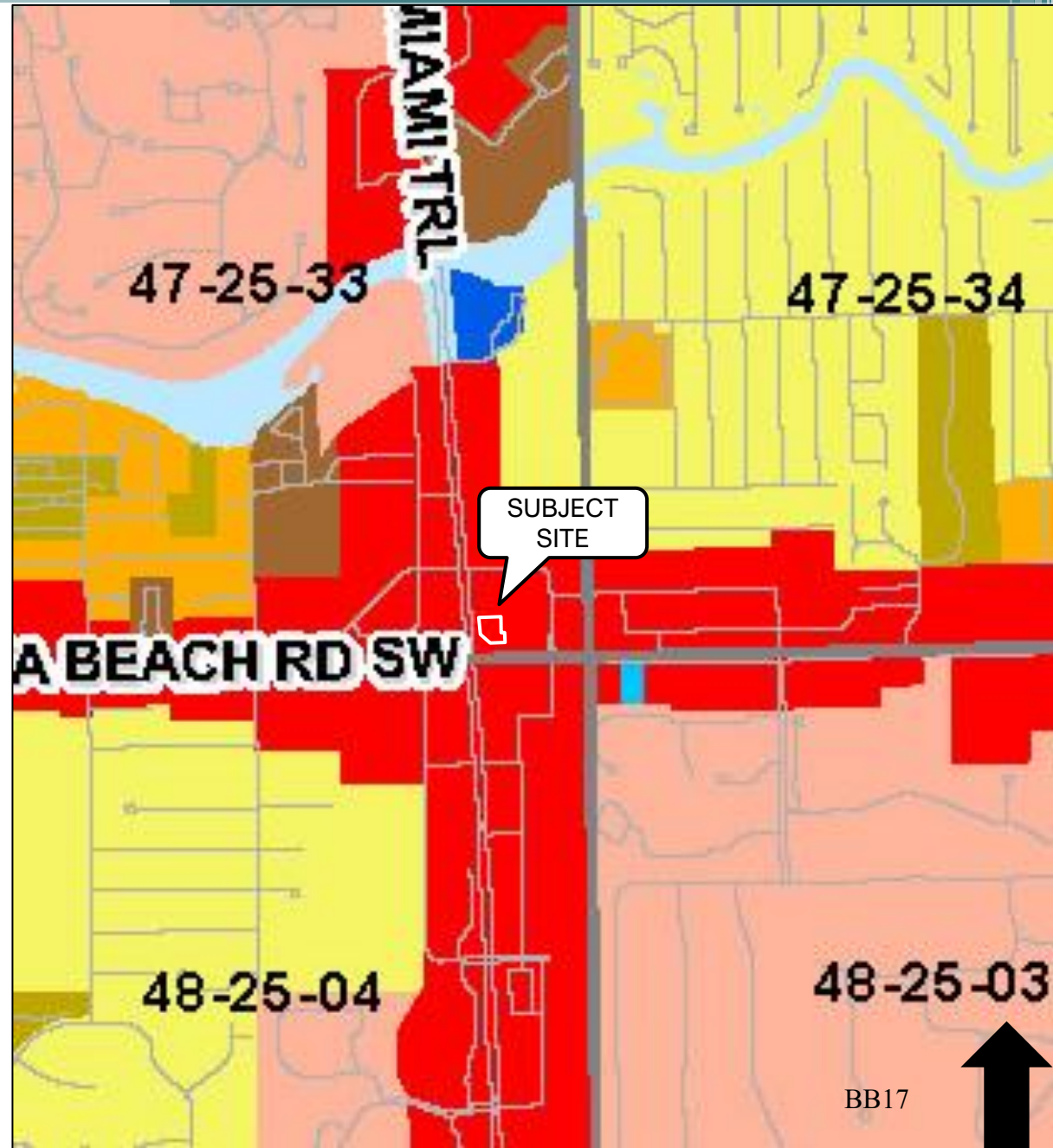
SPRINGS PLAZA

BB16



Future Land Use Map

- Bonita Springs FLUM Designations**
- Low Den. Res.
 - Mod. Den. Res.
 - Med. Den. Res.
 - Med. Den. MF Res
 - Little Hickory Island MF Residential
 - High Den. Res.
 - High Den. MU/Village Res.
 - Mod. Den. MU/PD
 - Coconut Village
 - Estate Residential
 - Suburban
 - Urban Fringe-Community District
 - Little Hickory Island Neighborhood Commercial
 - General Commercial
 - Interchg. Commercial
 - Industrial
 - Public/Semi-Public
 - Recreation
 - Conservation
 - Conservation Fringe
 - Resource Protection
 - DRGR



Zoning



Request

- The applicant is requesting a special exception to allow outdoor seating for patrons consuming alcoholic beverages in association with a standard, sit-down restaurant, within 500 feet of a daycare.
- Consumption on premises is an approved use within the existing commercial planned development; however, a special exception is required when the establishment is within 500 feet of a day care center and provides outdoor seating areas for patrons consuming alcoholic beverages.
- Special exceptions are uses that are permitted within a zoning district but require additional review to confirm compatibility with the surrounding area.

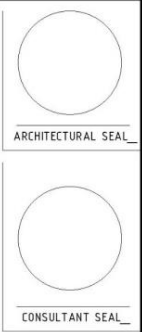
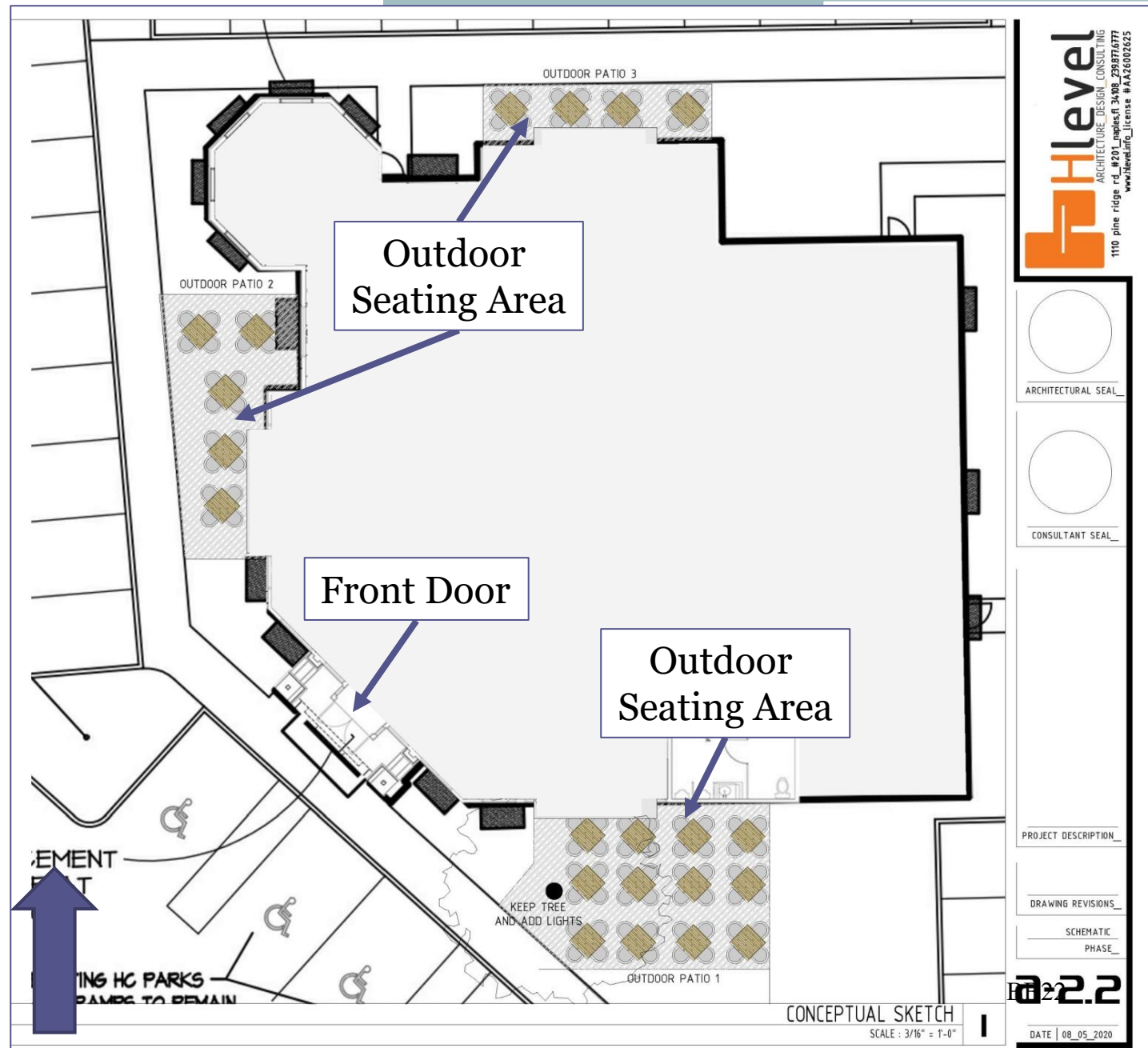
Request

- The building on the site was in use as a Perkins restaurant for more than two decades. The Perkins closed in May 2020 and has been vacant since.
- The building does not have outdoor dining areas, which are crucial in providing a safer option for patrons regarding COVID-19.
- No changes to the building footprint or parking lot configuration are required to accommodate the additional outdoor seating.

Request

- The Land Development Code requires that we measure the distance to the parcel boundary the childcare center is in.
- There are two childcare centers within parcels that are within 500' of the restaurant.
 - Noah's Ark Academy is in the adjacent shopping center to the east. There is mature landscaping and an opaque wooden fence between the uses that provide visual screening and noise buffering.
 - Learning City Academy is on the south side of the shopping center to the south, across Bonita Beach Road. The uses are separated by existing landscaping, Bonita Beach Road, a large parking lot, and the shopping center.
- The proposed restaurant and childcare centers will have different peak operating hours.
- Since there is no end-user currently, we expect operating hours to be like a typical sit-down restaurant in the area.

Conceptual Site Plan



2.2

Distance to Noah's Ark Academy



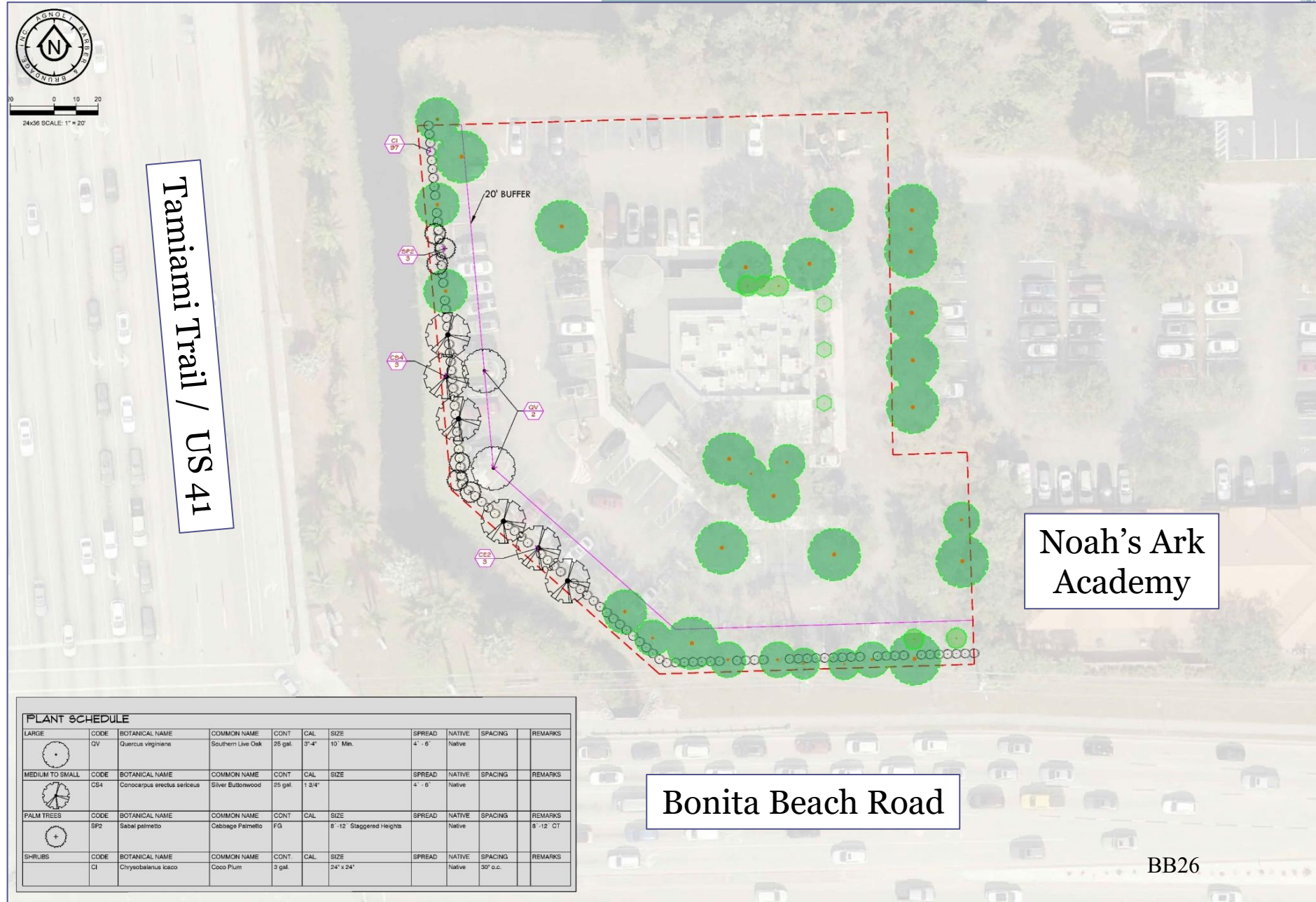
Distance to Learning City Academy



U.S. 41 Overlay District - Landscape Enhancements

- Developments that directly abut the U.S. 41 right-of-way must provide the buffer:
 - The landscape buffer shall be a minimum of 20 feet in width with five trees per 100 lineal feet. Clustering of trees and plant material is encouraged...
 - The required trees and palms shall be clustered in double rows with a minimum of three trees per cluster...
 - All trees must be a minimum of 14 feet in height at the time of installation, and shrubs must be a minimum of three feet in height at time of installation

Landscaping



Tamiami Trail / US 41

Noah's Ark Academy

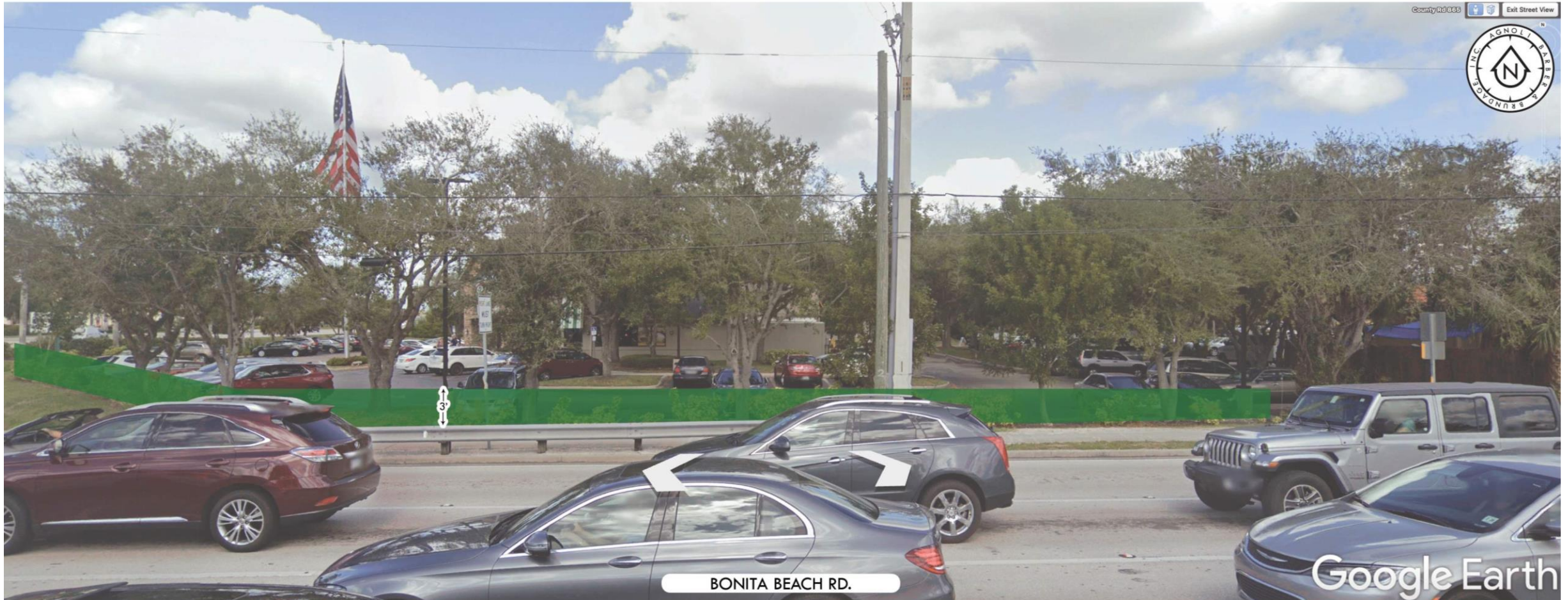
Bonita Beach Road

PLANT SCHEDULE										
LARGE	CODE	BOTANICAL NAME	COMMON NAME	CONT.	CAL.	SIZE	SPREAD	NATIVE	SPACING	REMARKS
	QV	Quercus virginiana	Southern Live Oak	25 gal.	3"-4"	10' Min.	4' - 6'	Native		
MEDIUM TO SMALL	CODE	BOTANICAL NAME	COMMON NAME	CONT.	CAL.	SIZE	SPREAD	NATIVE	SPACING	REMARKS
	CS4	Conocarpus erectus sericeus	Silver Buttonwood	25 gal.	1.3/4"		4' - 6'	Native		
PALM TREES	CODE	BOTANICAL NAME	COMMON NAME	CONT.	CAL.	SIZE	SPREAD	NATIVE	SPACING	REMARKS
	SP2	Sabal palmetto	Cabbage Palmetto	FG		8'-12' Staggered Heights		Native		8'-12' CT
SHRUBS	CODE	BOTANICAL NAME	COMMON NAME	CONT.	CAL.	SIZE	SPREAD	NATIVE	SPACING	REMARKS
	CI	Chrysobalanus icaco	Coco Plum	3 gal.		24" x 24"		Native	30' o.c.	

Landscaping



Landscaping



Special Exception Process

- Next steps:
 - Hold this Neighborhood Meeting.
 - Submit the initial application to the City of Bonita Springs. We anticipate submitting within the next two weeks.
 - City staff will review and provide comments. This process will take about 4 – 5 months.
 - Once the application is found sufficient by staff, another Neighborhood meeting will be held. If you received a mailed notification for this meeting, you will be notified again.
 - The project will be heard by the Zoning Board who will provide a recommendation of approval or denial.
 - The project will then be heard by City Council, who will provide the final approval.
 - We anticipate the Zoning Board and City Councils hearings to be held in about 6 – 7 months.

Neighborhood Meeting Summary

A neighborhood meeting was held on March 9, 2021, at 5:30 PM at St. Leo's Catholic Church. One person attended, who declined to sign in but identified himself as a resident of the area. He had no questions and no concerns were raised.



PUBLIC HEARING APPLICATION FOR REZONINGS (CONVENTIONAL) & SPECIAL EXCEPTIONS

Community Development Department | 9220 Bonita Beach Road, Suite 111 | Bonita Springs, FL 34135 | Phone: (239) 444-6150 | Fax: (239) 444-6140

Applicant's Name: _____ Phone #: _____

Address: _____

E-mail: _____

Project Name: _____

STRAP Number: _____

Application Form: _____ Computer Generated* _____ City Printed

* By signing this application, the applicant affirms that the form has not been altered.

STAFF USE ONLY

Case Number: _____

Date of Application: _____

Fee: _____

Current Zoning: _____

Land Use Classification(s): _____

Comp. Plan Density: _____

Date of Zoning Public Hearing: _____

Date of City Council Public Hearing: _____

Planner Assigned: _____

Staff Recommendation: _____

PART I

APPLICANT\PROPERTY OWNERSHIP INFORMATION

A. Name of applicant: _____
Street Mailing Address: _____
City: _____ State: _____ Zip: _____
Phone Number: Area Code: _____ Number: _____ Ext. _____
E-mail: _____

B. Relationship of applicant to property:
_____ Owner _____ Trustee* _____ Option holder*
_____ Lessee* _____ Contract Purchaser*
_____ Other (indicate)* _____

*If applicant is NOT the owner and the application is NOT City-initiated, submit a **notarized** Authorization Form from the owner to the applicant. Label the attachment "Exhibit I-B-1".

* If the application is City-initiated, enter the date the action was initiated by the City Council: _____

Attach a copy of the "green sheet" and a list of all property owners, and their mailing addresses, for all properties within the area described. Names and addresses must be those appearing on the latest tax rolls of Lee County. Label the "green sheet" as "Exhibit I-B-2" and the list as "Exhibit I-B-3".

C. Name of owner of property: _____
Street Mailing Address: _____
City: _____ State: _____ Zip: _____
Phone Number: Area Code: _____ Number: _____ Ext. _____

D. Date property was acquired by present owner(s): _____

E. Is the property subject to a sales contract or sales option? _____ NO _____ YES

F. Are owner(s) or contract purchasers required to file a disclosure form? _____ NO _____ YES. If yes, please complete and submit Exhibit I-F (attached).

G. ___Authorized Agent(s): List names of authorized agents. Attach extra sheet if more space is required

Name: _____

Contact Person: _____

Address: _____

Phone: _____ E-mail: _____

Name of Agent: Francesca Passidomo, Esquire

Firm: Coleman, Yovanovich & Koester, P.A.

Address: 4001 Tamiami Trail North, Suite 300, Naples, FL 34103

Phone/Fax: 239-435-3535, 239-435-1218 Email: fpassidomo@cyklawfirm.com

**PART II
GENERAL INFORMATION**

A. Legal Description: Is property within a platted subdivision recorded in official Plat Books of Lee County?

_____ NO. *Attach a legible copy of the legal description (labeled Exhibit II-A-1.) and a certified sketch of description as set out in Chapter 5J-17.053, F.A.C., Florida Administrative Code, unless the subject property consists of one or more undivided platted lots. If the application includes multiple abutting parcels, the legal description must describe the perimeter boundary of the total area, but need not describe each individual parcel. However, the STRAP number for each parcel must be included. (labeled Exhibit II-A-2.)*

_____ YES. Property is identified as:

Subdivision Name: _____

Plat Book: _____ Page: _____ Unit: _____ Block: _____ Lot: _____

Submit a copy of the Plat Book page with subject property clearly marked. Label this Exhibit II-A-3.

STRAP NUMBER: _____

B. Project Street Address: _____

C. General Location of Property (referenced to major streets) _____

D. Nature of Request: (Check applicable answers)

_____ Rezoning FROM: _____ TO: _____

_____ Special Exception for: _____

E. Property Dimensions

1. Width (average if irregular parcel): _____ Feet

2. Depth (average if irregular parcel): _____ Feet

3. Frontage on road or street: _____ Feet

4. Width along waterbody (If applicable): _____ Feet

5. Total land area: _____ Acres or Square Feet

F. Facilities

1. Fire District: _____

2. Sewer Service Supplier: _____

3. Water Service Supplier: _____

G. Present Use of Property: Is the property vacant? _____ Yes _____ No

Except for City-initiated requests, if the property is not vacant, the owner or applicant's signature on this application indicates that the Owner agrees to either remove all existing buildings and structures, OR that the use of the building or structure(s) will be in compliance with all applicable requirements of the land development code.

Briefly describe current use of the property: _____

H. Property restrictions: Are there any deed restrictions or other types of covenants or restrictions on the property? _____ Yes _____ No. If yes, submit a copy of the restrictions and a written statement as to how the restrictions may affect the request.

PART III

AFFIDAVIT

I, Bernard Friedman, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of City of Bonita Springs Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application.

[Signature]
Signature of owner or owner-authorized agent

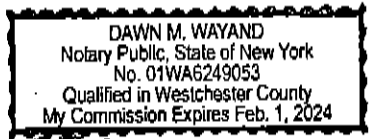
6/4/21
Date:

Bernard Friedman
Typed or printed name

STATE OF ~~FLORIDA~~ New York
COUNTY OF ~~DADE~~ New York

The foregoing instrument was certified and subscribed before me this 4th day of June 2021, by Bernard Friedman, who is personally known to me or who has produced as identification.

(SEAL)



[Signature]
Signature of notary public

Dawn M. Wayand
Printed name of notary public

**EXHIBIT I-F
DISCLOSURE OF INTEREST FORM FOR:**

STRAP NO. _____ **CASE NO.** _____

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address, & Office (if applicable)	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: _____
(Applicant)

(Printed or typed name of applicant)

STATE OF ~~FLORIDA~~ _____
COUNTY OF ~~DEK~~ _____

The foregoing instrument acknowledged before me this _____ day of _____ 20____, by _____, who is personally known to me or who has produced _____ as identification.

Signature of Notary Public

Printed Name of Notary Public

(SEAL)



Public Hearing Submittal Requirements Waiver

Community Development Dept. | 9220 Bonita Beach Road, Suite 111 | Bonita Springs, FL 34135 | Phone: 239 444 6150 | Fax: 239 444 6140

Upon written request, the Director may modify the submittal requirements for Public Hearings (and other administrative applications) where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file.

APPLICATION FOR WAIVER OF REQUIRED SUBMITTAL ITEMS (indicate the appropriate application type)

- Public Hearing - General Requirements (4-194)
- Public Hearing - Additional Requirements for:
 - Development of Regional Impact (4-195)
 - Planned Developments (4-295)
 - Master Concept Plan Extension (4-303)
 - Master Concept Plan Reinstatement (4-303)
 - Rezoning other than Planned Developments (4-195(b))
 - Mobile Home Park (4-195(d))
 - Special Exception (4-195(e))
 - Variances (4-195(f))
- Administrative Action Requirements

PLEASE PRINT OR TYPE:

STAP Number: 33-47-25-B3-01800.0090

Name of Project: Former Perkins restaurant - outdoor COP

Name of Agent: Hole Montes, Inc. - Paula N. C. McMichael, AICP

Street Address: 950 Encore Way

City: Naples State: FL Zip: 34110

Phone #: 239-254-2000 Fax #: 239-254-2099

E-mail: paulamcmichael@hmeng.com

Name of Applicant*: WF PP Realty Inc. c/o Friedman Management Co.

Street Address: 770 Lexington Avenue, 18th Floor

City: New York State: NY Zip: 10065

Phone #: 212-744-9675 Fax #: _____

E-mail: _____

* If applicant is not the owner, a letter of authorization from the owner must be submitted.

A. SPECIFIC SECTION(S) AND REQUIREMENT(S) FOR WHICH A WAIVER IS SOUGHT:

Section Number	Requirement
#1 <u>4-194 (e)(2)d.</u>	<u>A traffic impact analysis of projected trip generation.</u>
#2 _____	_____
#3 _____	_____
#4 _____	_____
#5 _____	_____
#6 _____	_____
#7 _____	_____
#8 _____	_____
#9 _____	_____

B. SCOPE OF PROJECT AND REASON(S) FOR REQUEST:

Please provide an explanation of the scope of the project and the reason(s) why you think the request for submittal waiver(s) should be approved. Use additional sheets if necessary and attach to this application form. (Please print or type) _____

See attached.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true.

Paula M. Michael 3/4/2021
Signature of Applicant

Directors Decision: ✓ Request Approved _____ Request Denied

Comments: See Tom Ross e-mail

Signature: *Jacqueline* Date: 3/10/2021

Public Hearing
Submittal Requirements Waiver
Reason for Request

The subject property is the former site of the Perkins restaurant at the northeast corner of Bonita Beach Road and US 41. The applicant is requesting a special exception to allow outdoor seating for patrons consuming alcoholic beverages in association with a Group III restaurant, within 500 feet of a daycare. The special exception for the consumption on premises (COP) is required per LDC Sec. 4-1023(a)(2)a.2. The requested COP could be approved administratively except for the proximity to the daycare. The property is zoned Commercial Planned Development (the Arroyal Mall CPD) which permits “100,000 square feet of commercial retail area, plus a 200 room hotel ... or ... 150,000 square feet of commercial retail area without a hotel” as well as “five (5) consumption on premises of alcoholic beverages” (Lee County Zoning Resolution Z-87-007 as amended). The CPD as built contains approx. 57,030 sq. ft. of commercial uses and 197 hotel rooms. While the remodel of the restaurant will add outdoor seating areas, the additional square footage (approx. 1,400 sq. ft.) is a small fraction of the total square footage approved and permitted by the zoning. The special exception is not related to the increase in square footage but rather to the proximity to the day care use. A development order will be required before the new occupancy of the restaurant and any traffic impacts will be analyzed at that time.

Cynthia Vargas

From: Ross, Tom/ORL <Tom.Ross2@jacobs.com>
Sent: Tuesday, March 9, 2021 2:55 PM
To: Jacqueline Genson; Mary Zizzo
Cc: Cynthia Vargas
Subject: Tacos & Tequila Special Exception

All – Based on our discussion this afternoon with the applicant’s representative, I recommend that a waiver from the requirement to submit a TIS be granted. However, it should be conditioned upon submitting a TIS at the next stage of development and prior to certificate of occupancy.

Please let me know if you have any questions.

Thank you,

Tom Ross, P.E. (FL, TX & GA)
Traffic Group Leader, Florida
M 1 407 718 5443
tom.ross2@jacobs.com

Jacobs
200 S. Orange Ave. Ste 900
Orlando, FL 32801
www.jacobs.com | [LinkedIn](#) | [Twitter](#) | [Facebook](#) | [Instagram](#)

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EXHIBIT IV-A

AMCAP BONITA LLC
333 LUDLOW ST FL 8 S
STAMFORD CT 06902

JPMORGAN CHASE BANK NATIONAL A
1111 POLARIS PKWY
COLUMBUS OH 43240

27831 TAMIAMI TRAIL LLC
27011 FLAMINGO DR
BONITA SPRINGS FL 34135

PALM CASUAL FURNITURE
7008 N DALE MABRY HWY
TAMPA FL 33614

CROWN ROYAL PROPERTIES LLC
27821 S TAMIAMI TRL
BONITA SPRINGS FL 34134

SPEARMAN DANIEL + BETSY
PO BOX 2791
BONITA SPRINGS FL 34133

AMCAP BONITA LLC
333 LUDLOW ST FL 8 S
STAMFORD CT 06902

AMCAP BONITA LLC
333 LUDLOW ST FL 8 S
STAMFORD CT 06902

7-ELEVEN INC
AD VALOREM TAX
7-ELEVEN STORE #40327
PO BOX 711
DALLAS TX 75221

STEIGERWALT CAROLE
8567 TAMARA CT
BONITA SPRINGS FL 34135

MORGAL RALPH & DEBRA
320 HAZELCREST ST
MARCO ISLAND FL 34145

HARNEY DARYL L
27172 GASPRILLA DR
BONITA SPRINGS FL 34135

HARNEY DARYL L
27172 GASPARILLA DR
BONITA SPRINGS FL 34135

HARNEY DARYL L
27172 GASPARILLA DR
BONITA SPRINGS FL 34135

SP HOLDINGS OF SW FLORIDA LLC
100 W PALINFIELD RD STE 201
COUNTRYSIDE IL 60525

BOHNHORST ERIK &
251 BRANDON ST SPT 410
SAN JOSE CA 95134

CASALE RALPH & MARIA
541 OTTO PL
PARAMUS NJ 07652

TAMARA DUPLEX LLC
1872 VERONA CT
NAPLES FL 34109

MARTENS FREDERICK J
8514 TAMARA CT
BONITA SPRINGS FL 34135

MCKENNEY LINWOOD T TR
8805 TAMIAMI TRL N # 207
NAPLES FL 34108

J R + P J SIMS LLC
 PO BOX 2387
 BONITA SPRINGS FL 34133

J R + P J SIMS LLC
 PO BOX 2387
 BONITA SPRINGS FL 34133

27841 CROWN LAKE LLC
 UNIT 1919
 2000 N FASHION SHOW DR
 LAS VEGAS NV 89109

1495 RAIL HEAD 789 LLC
 6317 PLUMOSA AVE
 FORT MYERS FL 33908

WARAMAUG NAPLES NORTH LLC
 500 EAST BROWARD BLVD SUITE 1
 FORT LAUDERDALE FL 33394

M + I MARSHALL + ILSLEY BANK
 BMO HARRIS BANK N A
 CORPORATE REAL ESTATE GROUP
 111 W MONROE ST
 CHICAGO IL 60603

SG GROUP OWNER 1 LLC +
 245 SAW MILLER RIVER RD
 HAWTHORNE NY 10532

CROWN LAKE PROPERTIES LLC
 28120 SERATA CT
 NAPLES FL 34110

ARROYAL MALL PROPERTY
 R + P PROPERTY MANAGEMENT
 265 AIRPORT RD SOUTH
 NAPLES FL 34104

BUSINESS + LAW BUILDING CONDO

WYNN PROPERTIES INC
 9220 BONITA BEACH RD STE 200
 BONITA SPRINGS FL 34135

WERKHEISER JAMES TR
 28222 ROBOLINI CT
 BONITA SPRINGS FL 34135

BANK OF AMERICA NA
 CORPORATE R/E ASSESSMENTS
 NC1-001-03-81
 101 N TRYON ST
 CHARLOTTE NC 28255

SANTIAGO JESUS M GONZALEZ &
 9001 SOMERSET LN
 BONITA SPRINGS FL 34135

HIDA VASILIKA +
 920 72ND ST APT 3H
 BROOKLYN NY 11228

ORTIZ ARSENO & SILVIA +
 9000 SOMERSET LN # 9002
 BONITA SPRINGS FL 34135

HENGEL DAVID A + SYLVIA S
 26 THIRD ST
 BONITA SPRINGS FL 34134

FIFTH THIRD BANK
 MD 10ATA1 CORP FAC
 38 FOUNTAIN SQUARE PLZ
 CINCINNATI OH 45263

UNITED STATES POSTAL SERVICE
 1735 NORTH BROWN RD STE 200
 LAWRENCEVILLE GA 30043

PUESTA DEL LAGO AT LAS BRISAS
 28000 SPANISH WELLS BLVD
 BONITA SPRINGS FL 34135

LAS BRISAS MASTER ASSN
RESORT MANAGEMENT
2685 HORSESHOE DR S # 215
NAPLES FL 34104

SPANISH WELLS COMMUNITY ASSN
9200 BONITA BEACH RD STE 113
BONITA SPRINGS FL 34135

KLINGLER PROPERTIES B LLC
MARLENE DOWNER
3301 BONITA BEACH RD SW # 109
BONITA SPRINGS FL 34134

ACTION BUSINESS CORP
324 SW 16TH ST
BELLE GLADE FL 33430

WARFIELD DONALD H TR
6312 CAMINITO TENEDOR
SAN DIEGO CA 92120

7-ELEVEN INC
1722 ROUTH ST STE 1000
DALLAS TX 75201

DIRK AND BOB JOINT VENTURE
ATT IGUANA MIA
28051 S TAMIAMI TRL
BONITA SPRINGS FL 34134

SPIRIT MASTER FUNDING VII LLC
2727 W HARWOOD STREET SUITE 300
DALLAS TX 75201

MK REALTY 28155 S TAMIAMI TRL
6685 COLLIER BLVD
NAPLES FL 34114

G&I VIII SPRINGS PLAZA LLC
DRA ADVISORS LLC
220 EAST 42ND ST 27TH FL
NEW YORK NY 10017

ENCORE - BONITA LLC
600 CLEVELAND ST STE 316
CLEARWATER FL 33755

WALGREENS CO
RE TAX DEPT STORE 4165
PO BOX 1159
DEERFIELD IL 60015

LB COMMERCIAL HOLDINGS LLC
27911 CROWN LAKE BLVD #207
BONITA SPRINGS FL 34135

LB COMMERCIAL HOLDINGS LLC
LYONS & LYONS PA
27911 CROWN LAKE BLVD STE 102
BONITA SPRINGS FL 34135

ARROYAL CROWN PROPERTY LLC
27911 CROWN LAKE BLVD #103
BONITA SPRINGS FL 34135

MAVEN PROPERTIES LLC
PO BOX 579
BONITA SPRINGS FL 34133

LB COMMERCIAL HOLDINGS LLC
LYONS & LYONS PA
27911 CROWN LAKE BLVD STE 201
BONITA SPRINGS FL 34135

ANDERSON JON D + KAREN J
9020 PALMAS GRANDES BLVD #101
BONITA SPRINGS FL 34135

SPERLE DEAN + ANN
2148 RUNNING DEER LN
FREEPORT IL 61032

WAUGH MARCIA A
9020 PALMAS GRANDES BLVD #201
BONITA SPRINGS FL 34135

PORITSKY OLEG
66 REDWOOD LN
NEWTOWN PA 18940

RISLOVE RICHARD ALLEN +
9010 PALMAS GRANDES BLVD #101
BONITA SPRINGS FL 34135

LIEBERFARB STANLEY J TR
PDM GROUP
564 S WASHINGTON ST STE 200
NAPERVILLE IL 60540

SCHANKER DIMANTINA L/E
101 FAWN LAKE DR
DINGMANS FERRY PA 18328

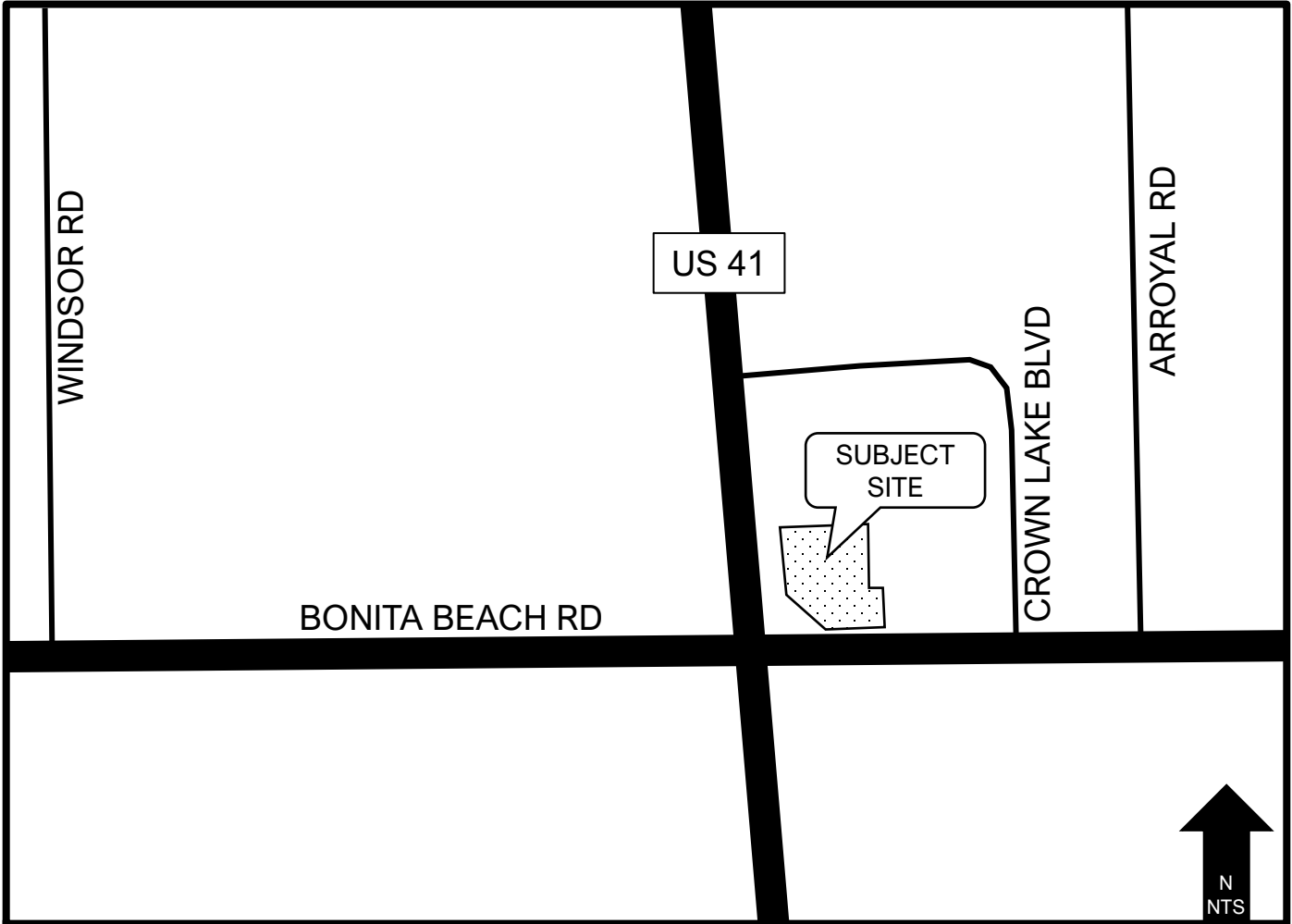
FAHNESTOCK PAUL M + LINDA K
9010 PALMAS GRANDE BLVD #202
BONITA SPRINGS FL 34135

JOHNSON RUTH E
9000 PALMAS GRANDE BLVD #101
BONITA SPRINGS FL 34135

STRIPPOLI LOUIS + SANDRA L
96 WOODLEA RD
SALT POINT NY 12578

LAU TIMOTHY J + SHERRY A
1638 ARAPAHOE TRL
GREEN BAY WI 54313

LEESMAN BRAD W & BARBARA A +
5424 BUCKINGHAM LN
MILFORD OH 45150



Arroyal Mall CPD Location Map

**Exhibit IV-F
Narrative Statement**

Request

The applicant is requesting a special exception to allow outdoor seating for patrons consuming alcoholic beverages in association with a Group III restaurant, within 500 feet of a daycare.

The building on the site was in use as a Perkins restaurant for more than two decades. The Perkins closed in May 2020 and has been vacant since. The building does not have outdoor dining areas, which are crucial in providing a safer option for patrons regarding COVID-19. To increase the likelihood that the building can be occupied by a viable, restaurant use, the applicant is requesting a special exception to allow for consumption on premises, including outdoor seating areas. Consumption on premises is an approved use within the existing commercial planned development; however, a special exception is required when the establishment is within 500 feet of a day care center and provides outdoor seating areas for patrons consuming alcoholic beverages.

Summary of Subject Site

The subject site totals approximately 1.16 acres and is located at 27940 Crown Lake Boulevard, in the northeast quadrant of the intersection of US 41 and Bonita Beach Road. The property is zoned CPD (Arroyal Mall CPD) which permits “100,000 square feet of commercial retail area, plus a 200-room hotel ... or ... 150,000 square feet of commercial retail area without a hotel” as well as “five (5) consumption on premises of alcoholic beverages”. The CPD includes adjacent properties to the north and east.

Surrounding Property

	Current Use	Zoning
North	Stormwater Management Lake	CPD
South	Bonita Beach Road (±135’ ROW), Restaurant, Shopping Center	CC
East	Shopping Center	CPD
West	US 41 (±197’ ROW), Gas Station (Sunoco/7-Eleven)	C-1A

The site was originally rezoned in 1987 by Lee County Zoning Resolution Z-87-007, and subsequently amended in 1999 by Lee County Zoning Resolution Z-99-035. The property is developed with a Perkins restaurant that is no longer in use. Perkins had a COP approved by Lee County in 2000 (COP2000-00008) and the daycare in the adjacent shopping center, Noah’s Ark Academy, was established in 2008.

Neighborhood Meeting

A neighborhood meeting was held on March 9, 2021. One person attended, who was a resident of the area. There were no concerns raised.

Relevant Land Development Code Criteria

Criteria for approval of special exceptions are found in Sec. 4-131 and criteria specific to the sale or service for on-premises consumption are found in Sec. 4-1023. Please see below for the required analysis of how this request complies with all relevant criteria.

Sec. 4-131 Zoning board standard for review.

- c) Special exceptions...
- 2) Considerations. In reaching their decision, the zoning board must consider the following, whenever applicable:
 - a. Whether there exist changed or changing conditions that make approval of the request appropriate.

The existing building is currently vacant and the applicant for this request seeks a viable use that is the same as the previous use.

- b. The testimony of the applicant.

To be provided.

- c. The recommendation of staff.

To be provided.

- d. The testimony of the public.

To be provided.

- e. Whether the request is consistent with the goals, objectives, policies and intent of the Bonita Plan.

Please see the analysis provided below which demonstrates the request is consistent with the goals, objectives, and policies of the Bonita Plan.

- f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

The request meets or exceeds all performance and locational standards. Please also see the analysis provided per Sec. 4-1023, below.

- g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.

The property is developed and there are no impacts to environmentally critical areas or natural resources.

- h. Whether the request will be compatible with existing or planned uses.

The use is the same as the previous use of the site as a restaurant, which is a permitted use by the CPD and previously determined to be compatible with surrounding uses. The restaurant is located at the intersection of two arterial roadways and is comparable to surrounding commercial uses to the north, south, east, and west. There are two childcare centers within parcels that are within 500' of the restaurant. Noah's Ark Academy is in the adjacent shopping center to the east. There is mature landscaping and an opaque wooden fence between the uses that provide visual screening and noise buffering. Learning City Academy is on the south side of the shopping center to the south, across Bonita Beach Road. The uses are separated by existing landscaping, Bonita Beach Road, a large parking lot, and the north side of the shopping center. The proposed restaurant and childcare centers will have different peak operating hours. The requested COP will have no adverse effect on these uses.

- i. Whether the request cause damage, hazard, nuisance or other detriment to persons or property.

The request will not cause damage, hazard, nuisance, or other detriment to persons or property.

- j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

The requested use is in compliance with all applicable zoning provisions supplemental regulations, please see the additional analysis provided below.

- 3) Findings. Before making a recommendation to the city council to grant any special exceptions, the zoning board must find that the applicant has proved entitlement to the special exception by demonstrating compliance with:

- a. The Bonita Plan;

The property is designated General Commercial on the Future Land Use Map. The existing and proposed uses are consistent with the FLU designation, which is intended to "accommodate a wide range of commercial uses serving the general

population of the City. This designation recognizes, but is not specifically limited to, properties that been developed, have received development approval or have been zoned for commercial use prior to the adoption of the Comprehensive Plan.” Appropriate uses are recognized as a wide range of commercial retail and service uses.

The landscaping will be updated at time of D.O. and will be consistent with FLU Objective 1.3, which encourages improving the visual and aesthetic appearance of the City; and Transportation Element Objective 1.4, which states the City shall improve the aesthetic qualities and appearances of roadways and their adjacent land uses. The site has access to adequate public facilities and services in accordance with FLU Objective 1.11.

- b. This chapter; and

Provided above.

- c. Any other applicable ordinances or codes.

Provided below.

- 4) Authority.

- a. The zoning board must make the recommendation to grant the special exception unless they find the request is contrary to the public interest and the health, safety, comfort, convenience and welfare of the citizens of the city, or that the request is in conflict with subsection (c)(3) of this section.

The request is not contrary to the public interest or to the health, safety, comfort, convenience or welfare of the citizens of the city and is not in conflict with the required findings of subsection (c)(3).

Sec. 4-1023. Sale or service for on-premises consumption.

- 2) Special exception.

- b. The burden of proof that the grant of the special exception will not have adverse effect on surrounding properties lies with the applicant.

The CPD allows consumption on premises. Bonita Beach Road, ±135’ wide ROW, separates the subject parcel from restaurant and shopping center uses to the south; and US 41, ±197’ wide ROW, separates the subject parcel from a gas station to the west. To the north there is a large stormwater management lake.

There are two childcare centers within parcels that are within 500’ of the restaurant. Noah’s Ark Academy is in the adjacent shopping center to the east, ±100’ from the

closest proposed outdoor seating area. There is mature landscaping and an opaque wooden fence between the uses that provide visual screening and noise buffering. Learning City Academy is on the south side of the shopping center to the south, across Bonita Beach Road, ±231' from the closest proposed outdoor seating area. The uses are separated by existing landscaping, Bonita Beach Road, a large parking lot, and the north side of the shopping center. It should be noted that the LDC requires that we measure the distance to the parcel boundary that the childcare center is in, which is adjacent to Bonita Beach Road. Since the Learning Center Academy is on the southern side of the shopping center, the entrance to Learning Center Academy is ±620' from the front entrance to the restaurant and ±600' to the closest proposed outdoor seating area. The proposed restaurant and childcare centers will have different peak operating hours, and due to separation and ample buffering will have no adverse effect on these uses.

EXHIBIT II-A-1
LEGAL DESCRIPTION

Lot 9, Arroyal Mall, according to the plat thereof recorded in Plat Book 55, Page 43 of the public records of Lee County, Florida.

ARROYAL MALL

A REPLAT OF A PORTION OF BENSON'S SUBDIVISION AS RECORDED IN PLAT BOOK 9 AT PAGE 102 AND A PORTION OF ARROYAL SUBDIVISION AS RECORDED IN PLAT BOOK 3 AT PAGE 80; LOCATED IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA.

NOTICE

LANDS DESCRIBED IN THIS PLAT ARE SUBDIVIDED BY THE DEVELOPER WITHOUT THE ROADS, DRAINAGE AND SEWER FACILITIES BEING ACCEPTED FOR MAINTENANCE BY LEE COUNTY. ANY PURCHASER OF A LOT IN THIS SUBDIVISION IS ADVISED THAT HE MAY BE SUBJECT TO ASSESSMENT OR CALLED UPON TO BEAR A PORTION OR ALL OF THE EXPENSE OF CONSTRUCTION, MAINTENANCE OR IMPROVEMENT OF ROADS, DRAINAGE AND SEWER FACILITIES.

NOTICE

THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

CERTIFICATION

3639359

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF ARROYAL MALL, A REPLAT OF A PORTION OF BENSON'S SUBDIVISION AS RECORDED IN PLAT BOOK 9 AT PAGE 102 AND A PORTION OF ARROYAL SUBDIVISION AS RECORDED IN PLAT BOOK 3 AT PAGE 80 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING LOCATED IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, HAS BEEN EXAMINED BY ME AND FROM MY EXAMINATION I FIND THAT SAID PLAT COMPLIES WITH THE REQUIREMENTS OF CHAPTER 177, LAWS OF FLORIDA. I FURTHER CERTIFY THAT THIS PLAT WAS FILED FOR RECORD AT 8:59 A.M./P.M., THIS 11th DAY OF August 1994, A.D., AND DULY RECORDED IN PLAT BOOK 55 AT PAGES 43 THRU 46 PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

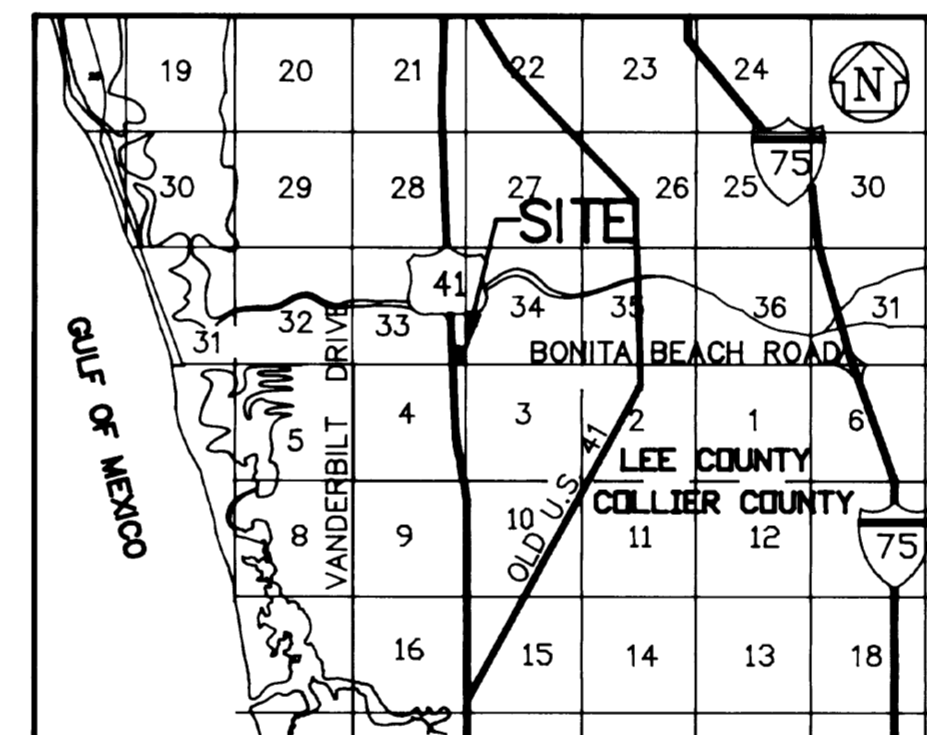
Charlie Green
Charlie Green
CLERK OF COURT



SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF ARROYAL MALL, A REPLAT OF A PORTION OF BENSON'S SUBDIVISION AS RECORDED IN PLAT BOOK 9 AT PAGE 102 AND A PORTION OF ARROYAL SUBDIVISION AS RECORDED IN PLAT BOOK 3 AT PAGE 80 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING LOCATED IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, IS A TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LAND ACCORDING TO A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY DATA COMPLIES WITH ALL OF THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES. I FURTHER CERTIFY THAT THE PERMANENT REFERENCE MONUMENTS (P.R.M.'S) HAVE BEEN PLACED AT THE LOCATIONS SHOWN ON THIS PLAT.

Eric V. Sandoval 9th DAY OF MAY, 1994.
ERIC V. SANDOVAL
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NUMBER 5223



LOCATION MAP
(N.T.S.)

APPROVAL

THIS PLAT ACCEPTED THIS 3rd DAY OF August A.D., 1994, IN AN OPEN MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA.

Roy Judah
ROY JUDAH
CHAIRMAN OF THE BOARD

Charlie Green
Charlie Green
CLERK OF COURT

Dawn E. Perry-Lehner
DAWN E. PERRY-LEHNER
COUNTY ATTORNEY

Walter J. McCarthy
WALTER J. MCCARTHY
DIRECTOR, DIVISION OF DEVELOPMENT REVIEW

Mary Gibbs MARY GIBBS
DIRECTOR, DEPARTMENT OF COMMUNITY DEVELOPMENT



DEDICATION

KNOWN ALL MEN BY THESE PRESENTS THAT CAPTAIN INVESTMENTS, INC., A FLORIDA CORPORATION AND THE FIFTH THIRD TRUST CO. & SAVINGS BANK, FSB, THE OWNERS OF THE HEREIN DESCRIBED LAND, HAVE CAUSED THIS PLAT OF ARROYAL MALL, A REPLAT OF A PORTION OF BENSON'S SUBDIVISION AS RECORDED IN PLAT BOOK 9, AT PAGE 102 AND A PORTION OF ARROYAL SUBDIVISION AS RECORDED IN PLAT BOOK 3 AT PAGE 80, LOCATED IN LEE COUNTY, FLORIDA, TO BE MADE AND DO HEREBY DEDICATE TO THE ARROYAL MALL PROPERTY OWNERS ASSOCIATION, INC., TRACTS "A", "B", "C", "D", "E" & "F", AND ALL DRAINAGE EASEMENTS AND CONSERVATION EASEMENTS. ALL PUBLIC UTILITY EASEMENTS ARE DEDICATED TO THE PUBLIC. IN WITNESS WHEREOF, THE SAID OWNERS ABOVE HAVE CAUSED THESE DEDICATIONS TO BE MADE AND SIGNED THIS 9th DAY OF MAY 1994, A.D., HEREBY REVOKING, VACATING AND ABROGATING ANY PLAT OR PLATS OF ANY PART OF SAID LANDS HERETOFORE MADE.

CAPTAIN INVESTMENTS, INC.
Alan V. Roseman *Ronald Beaudry* *John Kaptyn*
Alan V. Roseman Ronald Beaudry John Kaptyn, President
WITNESS WITNESS

THE FIFTH THIRD TRUST CO. & SAVINGS BANK, FSB.
C. Forrest Westman *Alan V. Roseman* BY: *Colleen M. Kvetko*
C. Forrest Westman Alan V. Roseman Colleen M. Kvetko, President
WITNESS WITNESS

ACKNOWLEDGEMENT

STATE OF FLORIDA)
COUNTY OF LEE)

I HEREBY CERTIFY THAT ON THIS DAY PERSONALLY APPEARED JOHN KAPTYN, PRESIDENT OF CAPTAIN INVESTMENTS, INC., TO ME KNOWN TO BE THE PERSON WHO SIGNED THE FOREGOING DEDICATION AND HE ACKNOWLEDGES THE EXECUTION THEREOF TO BE HIS OWN FREE ACT AND DEED FOR THE USE AND PURPOSE THEREIN MENTIONED, WITNESS MY HAND AND OFFICIAL SEAL THIS 9th DAY OF MAY 1994, A.D.

8-29-95
Alan V. Roseman
Alan V. Roseman
NOTARY PUBLIC
STATE OF FLORIDA AT LARGE

ACKNOWLEDGEMENT

STATE OF FLORIDA)
COUNTY OF COLLIER)

I HEREBY CERTIFY THAT ON THIS DAY PERSONALLY APPEARED COLLEEN M. KVETKO, PRESIDENT OF THE FIFTH THIRD TRUST CO. & SAVINGS BANK, FSB, TO ME KNOWN TO BE THE PERSON WHO SIGNED THE FOREGOING DEDICATION AND SHE ACKNOWLEDGES THE EXECUTION THEREOF TO BE HER OWN FREE ACT AND DEED FOR THE USE AND PURPOSE THEREIN MENTIONED, WITNESS MY HAND AND OFFICIAL SEAL THIS 11th DAY OF MAY 1994, A.D.

8-29-95
Alan V. Roseman
Alan V. Roseman
NOTARY PUBLIC
STATE OF FLORIDA AT LARGE

THIS INSTRUMENT PREPARED BY :
ERIC V. SANDOVAL, L.S. #5223
Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS ~ LAND SURVEYORS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 33923
(813) 947-1144

D.O. # 94-02-006-000

ARROYAL MALL

A REPLAT OF A PORTION OF BENSON'S SUBDIVISION AS RECORDED IN PLAT BOOK 9 AT PAGE 102 AND A PORTION OF ARROYAL SUBDIVISION AS RECORDED IN PLAT BOOK 3 AT PAGE 80; LOCATED IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA.

LEGAL DESCRIPTION

A PORTION OF BENSON'S SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9 AT PAGE 102 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; TOGETHER WITH LOT 73 AND PORTIONS OF LOTS 74, 87 AND 88 OF ARROYAL ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3 AT PAGE 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S 89°07'36" W ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 33, FOR A DISTANCE OF 50.29 FEET; THENCE RUN N 00°52'24" W, FOR A DISTANCE OF 32.56 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF BONITA BEACH ROAD AS THE SAME IS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR STATE ROAD NO. 45, BONITA SPRINGS BY-PASS AT BONITA BEACH ROAD, LEE COUNTY, SECTION 12010-2509, SHEET 10, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN S 89°08'20" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 192.60 FEET; THENCE RUN N 83°49'48" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 220.28 FEET TO THE SOUTHWEST CORNER OF LOT 45 OF BENSON'S SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9 AT PAGE 102 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N 01°23'19" W ALONG THE WEST LINE OF SAID LOT 45, FOR A DISTANCE OF 105.39 FEET TO THE NORTHWEST CORNER OF SAID LOT 45; THENCE RUN S 89°07'36" W ALONG THE NORTH LINE OF LOTS 43 AND 44 OF SAID BENSON'S SUBDIVISION, FOR A DISTANCE OF 100.00 FEET TO THE NORTHEAST CORNER OF LOT 42 OF SAID BENSON'S SUBDIVISION; THENCE RUN S 01°23'19" E ALONG THE EAST LINE OF SAID LOT 42, FOR A DISTANCE OF 95.33 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF BONITA BEACH ROAD; THENCE RUN S 89°08'20" W ALONG THE NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 221.38 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 41 (STATE ROAD NO. 45) AS THE SAME IS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR STATE ROAD NO. 45, LEE COUNTY, SECTION 12010-2509, SHEET 5; THENCE RUN N 47°52'53" W ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 102.42 FEET; THENCE RUN N 04°54'05" W ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 381.59 FEET; THENCE RUN N 02°02'20" W, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 100.12 FEET; THENCE RUN N 04°54'05" W ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 370.57 FEET TO A POINT ON THE NORTH LINE OF LOT 74 OF ARROYAL ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3 AT PAGE 80 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N 89°07'36" E ALONG THE NORTH LINE OF LOTS 73 AND 74 OF SAID ARROYAL, FOR A DISTANCE OF 893.87 FEET TO THE NORTHEAST CORNER OF SAID LOT 73 AND A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF ARROYAL ROAD; THENCE RUN S 01°23'19" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 630.00 FEET; THENCE RUN S 89°07'36" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 25.00 FEET; THENCE RUN S 01°23'19" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 312.45 FEET; THENCE RUN S 43°54'05" W FOR A DISTANCE OF 21.11 FEET TO THE POINT OF BEGINNING, CONTAINING 18.20 ACRES, MORE OR LESS.

GENERAL NOTES

- 1.) BEARINGS HEREON REFER TO THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; AS BEING N 01°23'19" W.
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
- 3.) ALL CURVES ARE CIRCULAR.
- 4.) ALL LINES ARE RADIAL UNLESS OTHERWISE SHOWN.
- 5.) A 10' NON-EXCLUSIVE PUBLIC UTILITY EASEMENT IS RESERVED ALONG TRACT "B" OF EACH LOT AND TRACT.
- 6.) LEGEND

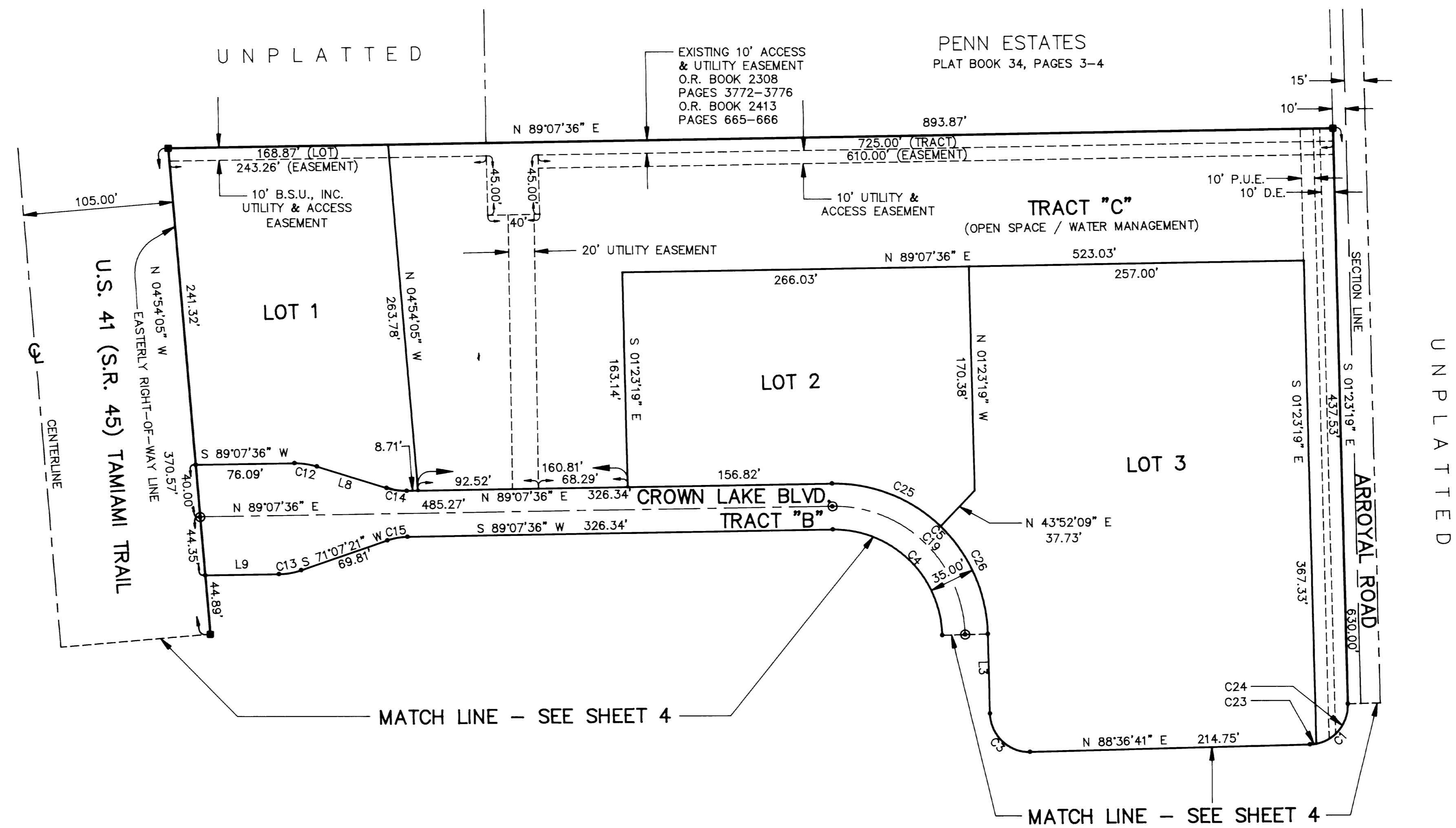
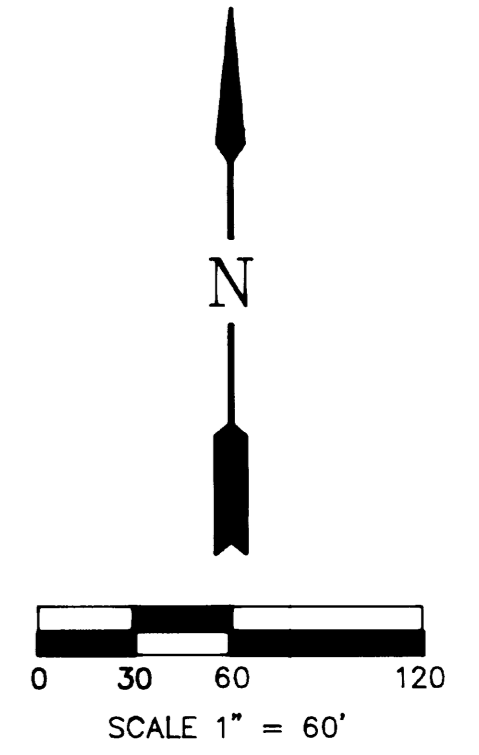
F.C.M. □	FOUND CONCRETE MONUMENT
P.R.M. ■	PERMANENT REFERENCE MONUMENT (SET 4" X 4" X 24" CONCRETE MONUMENT WITH ALUMINUM CAP P.R.M. L.S. #5223)
P.C.P. ⊙	PERMANENT CONTROL POINT (SET P.K. NAIL AND DISK L.B. #5151)
(NR)	NON-RADIAL
D.E.	DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
B.S.U., INC.	BONITA SPRINGS UTILITIES, INC.
O.R. BOOK	OFFICIAL RECORDS BOOK
- 6.) ALL ROADS ARE PUBLIC UTILITY EASEMENTS.

D.O. # 94-02-006-00D

THIS INSTRUMENT PREPARED BY:
ERIC V. SANDOVAL, L.S. #5223
Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS ~ LAND SURVEYORS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 33923
(813) 947-1144

ARROYAL MALL

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CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARING	DELTA
C1	30.00'	47.12'	30.00'	42.43'	N 43°36'41" E	90°00'00"
C2	30.00'	47.12'	30.00'	42.43'	N 46°23'19" W	90°00'00"
C3	30.00'	47.12'	30.00'	42.43'	S 46°23'19" E	90°00'00"
C4	82.50'	128.85'	81.76'	116.15'	N 46°07'51" W	89°29'05"
C5	117.50'	183.51'	116.45'	165.42'	N 46°07'51" W	89°29'05"
C12	55.50'	17.44'	8.79'	17.37'	N 81°52'17" W	18°00'15"
C13	55.50'	17.44'	8.79'	17.37'	N 80°07'29" E	18°00'15"
C14	50.00'	15.71'	7.92'	15.65'	S 81°52'17" E	18°00'15"
C15	50.00'	15.71'	7.92'	15.65'	S 80°07'29" W	18°00'15"
C19	100.00'	156.18'	99.10'	140.78'	N 46°07'52" W	89°29'05"
C23	30.00'	5.02'	2.52'	5.02'	S 83°48'48" W	09°35'46"
C24	30.00'	42.10'	25.35'	38.73'	N 38°48'48" W	80°24'14"
C25	117.50'	91.76'	48.36'	89.44'	S 68°30'08" E	44°44'32"
C26	117.50'	91.76'	48.36'	89.44'	S 23°45'35" E	44°44'33"

LINE TABLE

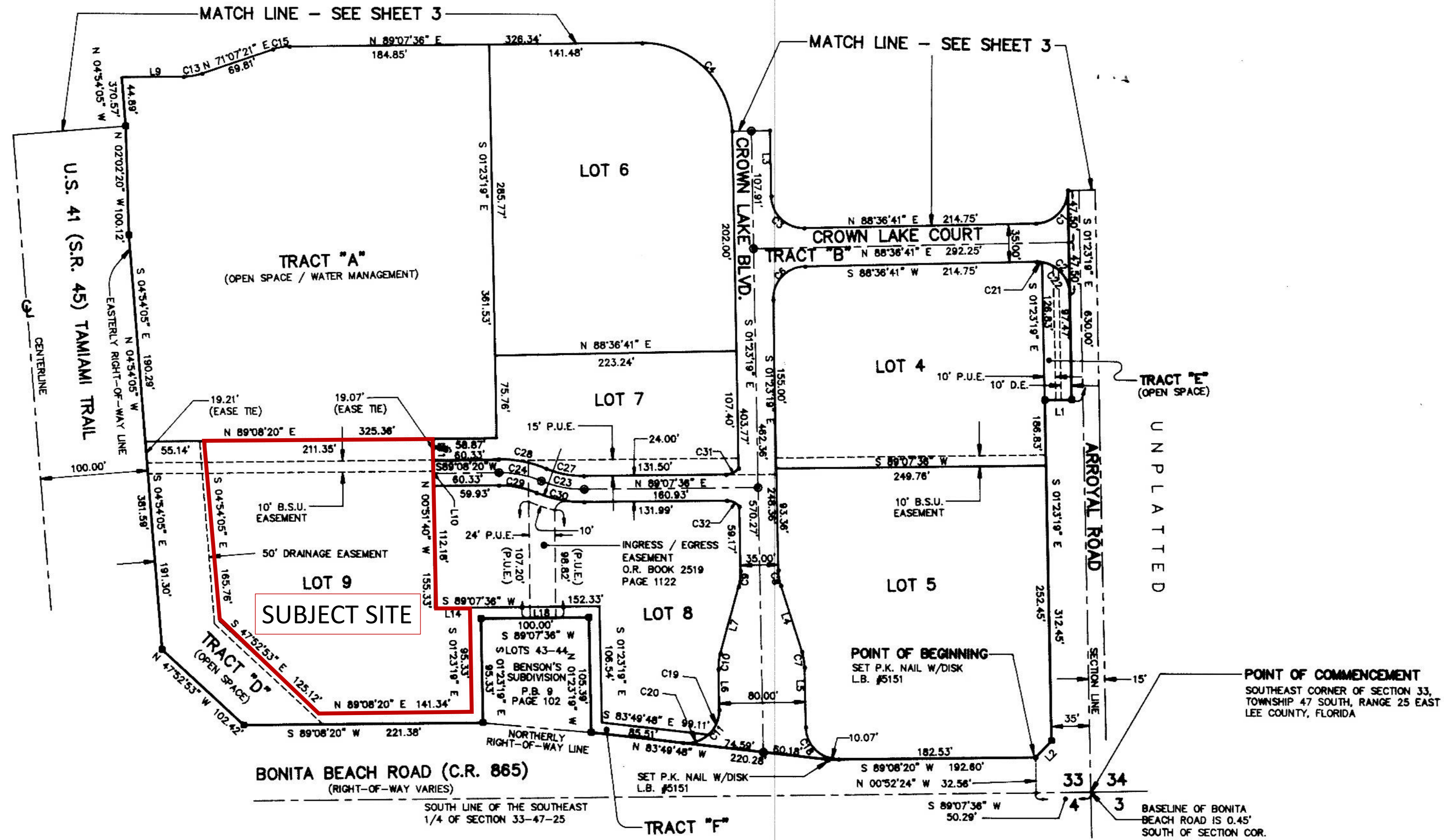
LINE	DIRECTION	DISTANCE
L3	S 01°23'19" E	60.41'
LB	S 72°52'09" E	55.77'
L9	S 89°07'36" W	56.82'

D.O. # 94-02-006-00D

THIS INSTRUMENT PREPARED BY :
ERIC V. SANDOVAL, L.S. #5223
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LINE TABLE

LINE	DIRECTION	DISTANCE
L1	S 89°07'36" W	25.00'
L2	S 43°54'05" W	21.11'
L3	S 01°23'19" E	60.41'
L4	S 18°05'18" E	83.63'
L5	S 01°23'19" E	54.83'
L6	N 01°23'19" W	37.27'
L7	N 15°18'38" E	83.63'
L8	N 89°07'36" E	56.82'
L9	N 00°51'40" W	24.00'
L10	N 00°51'40" W	19.15'
L11	N 89°07'36" E	32.33'
L14	S 89°07'36" W	120.00'
L18	S 89°07'36" W	120.00'

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARING	DELTA
C1	30.00'	47.12'	30.00'	42.43'	N 43°36'41" E	90°00'00"
C2	30.00'	47.12'	30.00'	42.43'	N 46°23'19" W	90°00'00"
C3	30.00'	47.12'	30.00'	42.43'	S 46°23'19" E	90°00'00"
C4	82.50'	128.85'	81.78'	116.15'	N 46°07'51" W	89°29'05"
C6	30.00'	47.12'	30.00'	42.43'	S 43°36'41" W	90°00'00"
C7	50.00'	14.57'	7.34'	14.52'	N 09°44'18" W	18°41'57"
C8	50.00'	14.57'	7.34'	14.52'	S 09°44'18" E	18°41'57"
C9	50.00'	14.57'	7.34'	14.52'	N 08°57'40" E	18°41'57"
C10	50.00'	14.57'	7.34'	14.52'	S 08°57'40" W	18°41'57"

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARING	DELTA
C11	30.00'	51.08'	34.24'	45.13'	N 47°23'28" E	97°33'31"
C13	55.50'	17.44'	8.79'	17.37'	N 80°07'29" E	18°00'15"
C15	50.00'	15.71'	7.92'	15.65'	N 80°07'29" E	18°00'15"
C16	30.00'	49.23'	32.19'	43.89'	S 42°06'48" W	94°01'41"
C18	30.00'	46.85'	29.73'	42.23'	S 46°07'30" E	89°28'21"
C19	30.00'	25.85'	13.79'	25.06'	S 23°17'45" W	49°22'08"
C20	30.00'	25.23'	13.42'	24.49'	S 72°04'31" W	48°11'23"
C21	30.00'	5.02'	2.52'	5.02'	S 86°35'30" E	09°35'46"
C22	30.00'	42.10'	25.35'	38.73'	S 41°35'30" E	80°24'14"
C23	100.00'	40.50'	20.53'	40.23'	S 79°16'11" E	23°12'25"
C24	100.00'	40.48'	20.52'	40.21'	N 79°15'49" W	23°11'41"
C27	88.00'	35.64'	18.07'	35.40'	S 79°16'11" E	23°12'25"
C28	112.00'	45.34'	22.99'	45.03'	N 79°15'49" W	23°11'41"
C29	88.00'	35.62'	18.06'	35.38'	S 79°15'49" E	23°11'41"
C30	112.00'	45.36'	23.00'	45.05'	S 79°16'11" E	23°12'25"
C31	15.00'	13.53'	7.27'	13.08'	N 63°16'37" E	51°41'59"
C32	18.00'	-13.27'	7.10'	12.84'	N 65°32'20" W	50°40'09"

THIS INSTRUMENT PREPARED BY:
ERIC V. SANBOVAL, L.S. #5223
G. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS - LAND SURVEYORS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 33823
(813) 947-1144

D.O. # 94-02-006-000

Jeremie Chastain

From: Francesca Passidomo <fpassidomo@cyklawfirm.com>
Sent: Wednesday, May 5, 2021 5:14 PM
To: Paula McMichael
Cc: Dianna Quintanilla
Subject: FW: COP21-79002-BOS

Good news

FRANCESCA PASSIDOMO, Esq.

The Northern Trust Building
4001 Tamiami Trail North, Suite 300
Naples, Florida 34103
P: 239.435.3535
F: 239.435.1218 fpassidomo@cyklawfirm.com

Visit cyklawfirm.com to learn more about us.



Both Francesca Passidomo and Coleman, Yovanovich & Koester, P.A., intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential, and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Francesca Passidomo immediately at fpassidomo@cyklawfirm.com or call (239) 435-3535. Thank you.

FRAUD ALERT ---- PLEASE DO NOT WIRE ANY FUNDS TO OUR FIRM UNLESS YOU OR THE SENDING BANK HAVE VERIFIED THE WIRING INSTRUCTIONS DIRECTLY WITH OUR FIRM VIA TELEPHONE

From: Mary Zizzo [mailto:MZizzo@cityofbonitaspringscd.org]
Sent: Wednesday, May 05, 2021 5:13 PM
To: Francesca Passidomo <fpassidomo@cyklawfirm.com>
Cc: Jacqueline Genson <jgenson@cityofbonitaspringscd.org>
Subject: COP21-79002-BOS

Good Afternoon Francesca,

As a follow-up to our meeting, the compliance with the Bonita Beach Road Corridor and the U.S. 41 Overlay for a built out Planned Development is voluntary. Chapter 3 requirements are not voluntary. The narrative provided indicates compliance with the U.S. 41 Overlay, should this not be the case, this application needs to be amended.

Should you have any further questions, please let us know.

Thank you,

Mary C. Zizzo, Esq.

Planner II
City of Bonita Springs Community Development
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
Direct: 239-444-6162
Main Line: 239-444-6150
Fax: 239-444-6140
Email: Mzizzo@cityofbonitaspringscd.org

The zoning information contained within does not constitute an official Zoning Verification Letter and may be subject to changes and may contain errors. The application for an official Zoning Verification Letter can be found here: http://cityofbonitaspringscd.org/forms/Zoning_Verification_Letter_20170502.pdf

How are we doing? If you have a quick minute, please participate in a brief online Customer Satisfaction Survey. We'd love to hear from you as we value and welcome customer feedback. To participate in the survey, click here: <http://cityofbonitaspringscd.org/customer-survey/>

Florida has a very broad public records law. Most written communications to or from City Employees and officials regarding City business are public records available to the public and media upon request. Your email communication may be subject to public disclosure. Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: [Paula McMichael](#)
To: [Mary Zizzo](#)
Cc: [Cynthia Vargas](#)
Subject: RE: Crown Lake Blvd. Consumption on Premises
Date: Thursday, July 29, 2021 9:14:25 AM
Attachments: [Conceptual Site Plan 7-29-2021.pdf](#)

Hi Mary,

Revised site plan is attached and please see **responses**, below. Let me know if you need any additional information.

Paula N. C. McMichael, AICP
Hole Montes, Inc.
(239) 254-2000

From: Mary Zizzo <MZizzo@cityofbonitaspringscd.org>
Sent: Wednesday, July 28, 2021 4:30 PM
To: Paula McMichael <PaulaMcMichael@hmeng.com>
Cc: Cynthia Vargas <CVargas@cityofbonitaspringscd.org>
Subject: FW: Crown Lake Blvd. Consumption on Premises

Paula, in addition to the below, did you have proposed hours of operation?

Since we don't have a confirmed end-user, no, I don't have proposed hours of operation.

Thank you,

Mary C. Zizzo, Esq.
Planner II
City of Bonita Springs Community Development
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
Direct: 239-444-6162
Main Line: 239-444-6150
Fax: 239-444-6140
Email: Mzizzo@cityofbonitaspringscd.org

From: Mary Zizzo
Sent: Tuesday, July 27, 2021 10:06 AM
To: Paula McMichael <PaulaMcMichael@hmeng.com>

Subject: Crown Lake Blvd. Consumption on Premises

Paula,

In your narrative, I am looking for a bit more detail as I prepare my recommendation.

4-131, c, (2)

- a. Is the building being vacant your changed circumstance? Did something change to make this request different from the previous use?

The Perkins had occupied the building for approx. 20 years and customer expectations and the restaurant industry have changed over the decades. Part of changing expectations for restaurants – especially post-COVID – has been a need for outdoor dining in order to attract patrons. The building will need to be substantially updated in order to attract a new occupant, and a part of those updates will be the outdoor dining area. In order to attract the largest pool of new tenants, the owner seeks a COP for the outdoor seating. Most restaurants serve alcohol, and this approval allows the same menu to be available both outside and inside – again, to meet customer expectations that the dining experience outside will be equal to what’s available indoors.

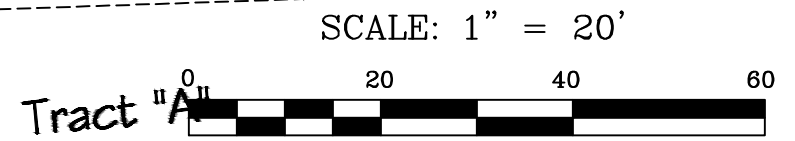
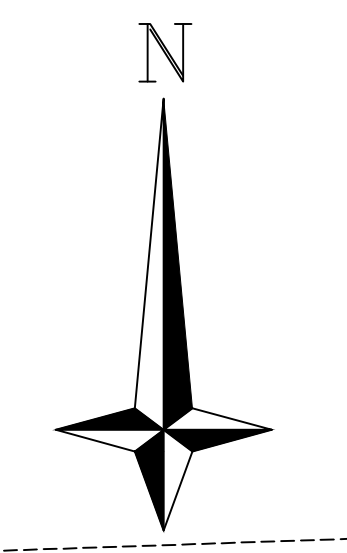
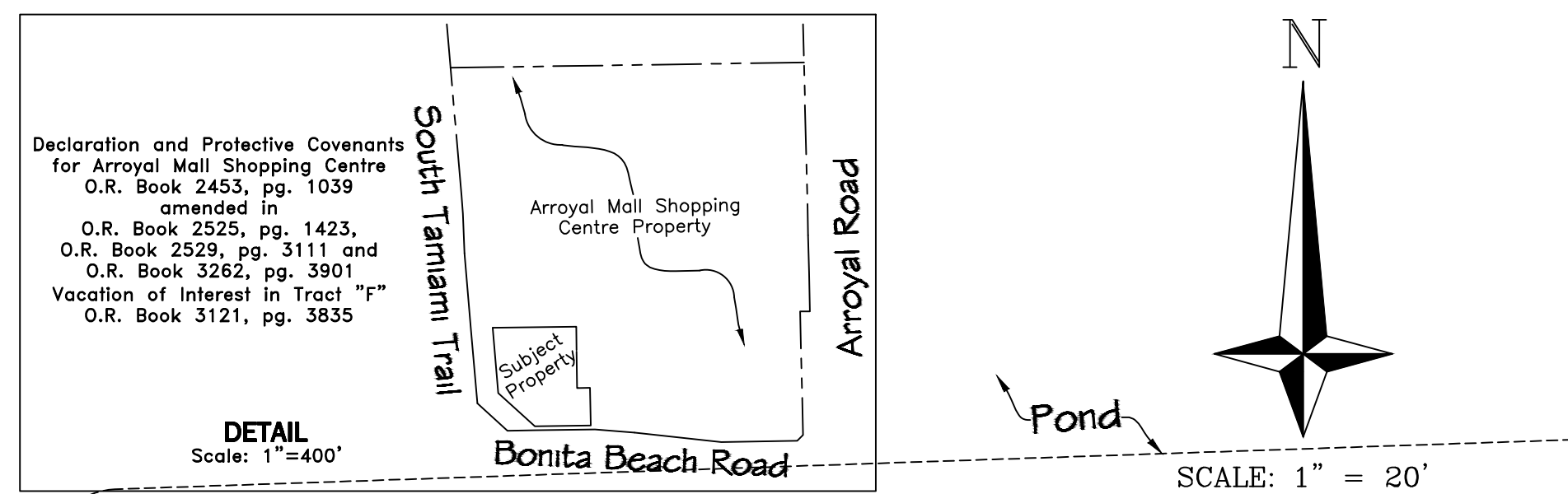
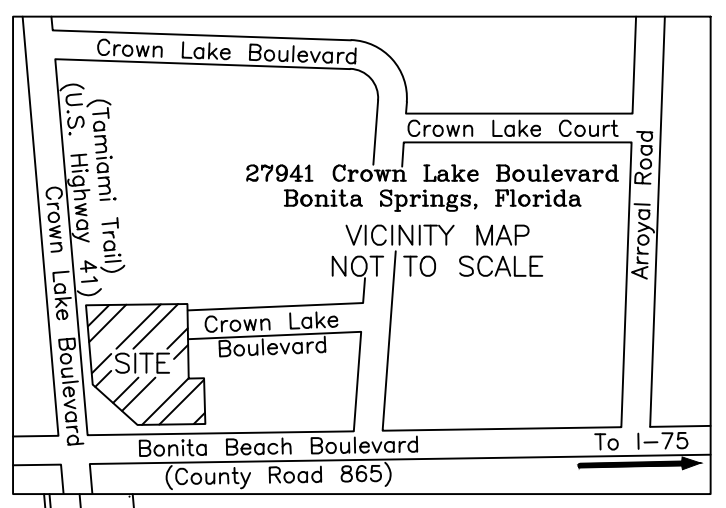
- (i) How will this request not cause damage, hazard, nuisance or other detriment to persons or property?

The Perkins did have a COP, issued in 2000, when Noah’s Ark occupied the adjacent building in 2008. Noah’s Ark operates 6 AM – 6 PM, while most restaurants serving lunch and dinner would be open from 11 AM to 10 PM. The outdoor seating is not proposed for live music or other entertainment and will not be visible from either daycare. Outdoor dining can be achieved without the need for a special exception and would have similar – and similarly minimal – impacts.

On your site plan, can you eliminate the clouded areas so as not to confuse the Council about the request?

Thank you,

Mary C. Zizzo, Esq.
Planner II
City of Bonita Springs Community Development
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
Direct: 239-444-6162
Main Line: 239-444-6150
Fax: 239-444-6140
Email: Mzizzo@cityofbonitaspringscd.org



Arroyal Mall Property Owners Assoc., Inc.
O.R. Book 2529, pg. 3115

NOTE: LANDSCAPING & PEDESTRIAN IMPROVEMENTS TO BE DETERMINED AT TIME OF LOCAL D.O

▲ PROPOSED OUTDOOR SEATING AREAS:
OUTDOOR PATIO 1 = 900 SF
TOTAL SF = 900 SF

FLOOD ZONE:

AS PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 12071C 0658 F, DATED AUGUST 28, 2008, THE SUBJECT PROPERTY LIES IN ZONE "SHADED X", BY SCALE LOCATION ONLY.

LAND AREA:

THE LAND AREA IS 50,000 SQUARE FEET OR 1.148 ACRES.

ZONING:

THE CURRENT ZONING IS CPD (COMMERCIAL PLANNED DEVELOPMENT). THE CURRENT ZONING ALLOWS FOR THE CURRENT USE.

PARKING:

PARKING REQ/PROVIDED: 14 SPACES / 1,000 SF = 90 SPACES

Crown Lake Boulevard
(U.S. Highway 41)
(State Road 45)
(Tamiami Trail)

200' Public R/W

Tract "D"

Lot 9
Arroyal Mall Subdivision
Plat Book 55, pgs. 43-46

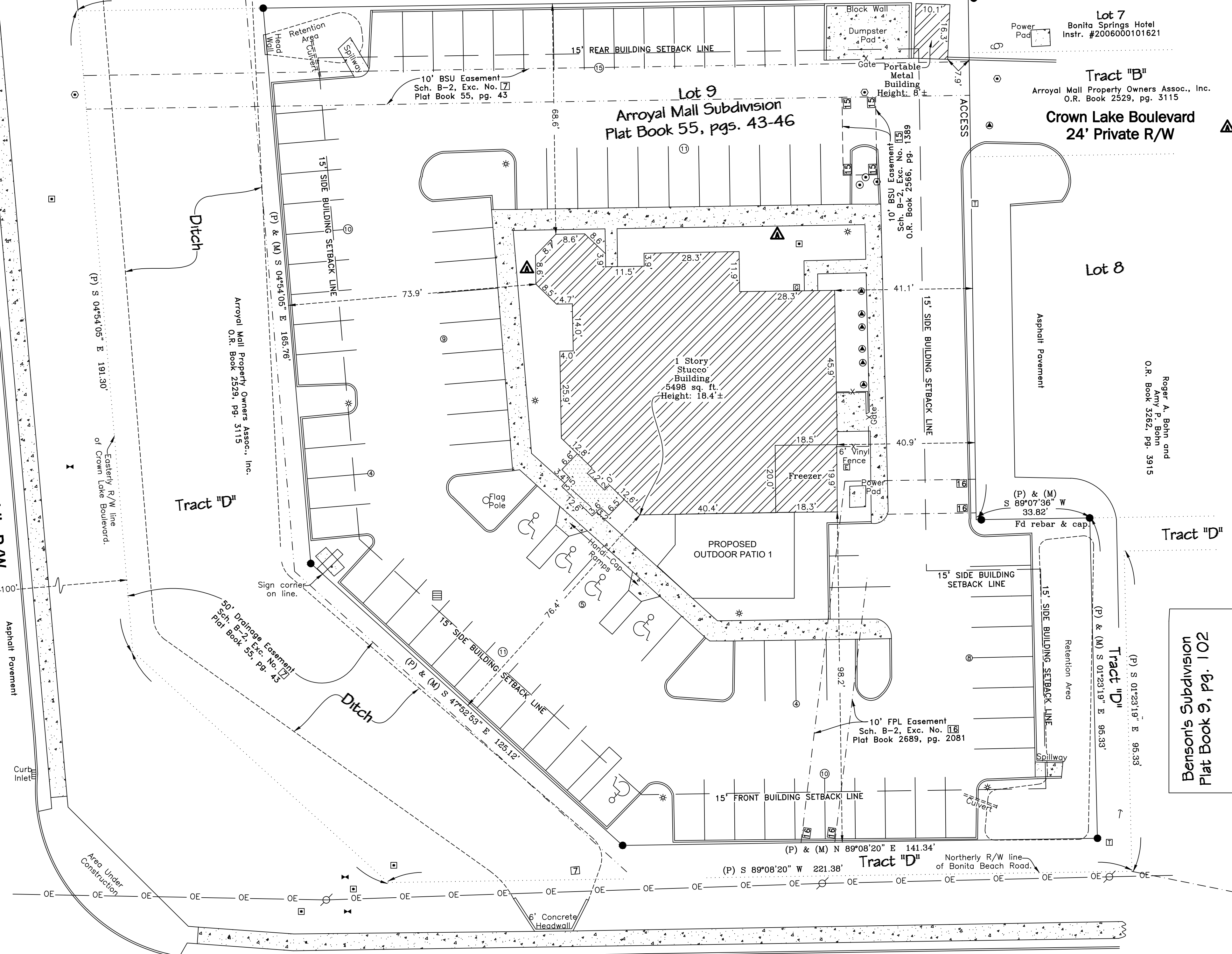
Tract "B"
Arroyal Mall Property Owners Assoc., Inc.
O.R. Book 2529, pg. 3115
Crown Lake Boulevard
24' Private R/W

Lot 8

Roger A. Behn and
Amy F. Behn
O.R. Book 3552, pg. 3915

Benson's Subdivision
Plat Book 9, pg. 102

EXISTING BUILDING



Bonita Beach Road Variable Width Public R/W
(County Road 865)

P:\proj\2021\06\10\20210610\10210610\10210610.dwg 10:21:06 AM 10/21/2021 8:34 AM Plotted by: hmf

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▲	REVISED PER 1ST INSUFFICIENCY COMMENTS	06/01/21
LETTER	REVISIONS	DATE

ARROYAL MALL CPD - LOT 9

DESIGNED BY	PNM	DATE	5-2019
DRAWN BY	CK	DATE	5-2019
CHECKED BY	JC	DATE	5-2019
VERTICAL SCALE		HORIZONTAL SCALE	1"=20'



950 Encore Way
Naples, FL. 34110
Phone: (239) 254-2000
Florida Certificate of
Authorization No.1772

SPECIAL EXCEPTION
EXHIBIT IV-F

THESE DRAWINGS ARE NOT APPROVED FOR CONSTRUCTION UNLESS SIGNED BELOW:	REFERENCE NO.	DRAWING NO.
DATE	2021013	2021013
	PROJECT NO.	SHEET NO.
	2021013	1 OF 1



June 29, 2021

Ms. Paula N. C. McMichael, AICP
Holes Montes Inc.
950 Encore Way
Naples, FL 34110

Re: COP21-79002-BOS, 27940 Crown Lake Blvd. Consumption on Premises
Special Exception

Dear Ms. McMichael,

The Zoning Division has reviewed the information provided and supplemented for the special exception request referenced above. The application has been found sufficient and the following request language is being proposed.

A special exception request for outdoor consumption on premises, associated with a Restaurant, Group III use.

Please provide in writing your comments on this proposed language by July 7, 2021.

Feel free to contact me if you have any questions.

Sincerely,
DEPARTMENT OF COMMUNITY DEVELOPMENT
Planning and Zoning Division

Mary Zizzo, Esq.
Planner II

Copy: Derek Rooney, City Attorney
John Dulmer, Director of Community Development
Jacqueline Genson, Planning & Zoning Manager
Jay Sweet, PSM, AICP, City Surveyor
Sean Gibbons, Environmental Specialist/Bike-Ped Coordinator
Trisha Goff, Development Engineer
Tom Ross, Transportation Engineer

9220 Bonita Beach Road
Suite 111
Bonita Springs, FL 34135
Tel: (239) 444-6150
Fax: (239) 444-6140
www.cityofbonitaspringscd.org

Rick Steinmeyer
Mayor

Amelia Quaremba
Council Member
District One

Jesse Purdon
Council Member
District Two

Laura Carr
Council Member
District Three

Chris Corrie
Council Member
District Four

Michael Gibson
Council Member
District Five

Fred Forbes, AIA
Council Member
District Six

Arleen M. Hunter
City Manager
(239) 949-6267

Derek Rooney
City Attorney
(239) 949-6254

City Clerk
(239) 949-6247

Public Works
(239) 949-6246

Neighborhood Services
(239) 949-6257

Parks & Recreation
(239) 992-2556

**Community
Development**
(239) 444-6150

COP21-79002-BOS
27940 Crown Lake Blvd
Neighborhood Meeting Summary

A second neighborhood meeting was held on July 29, 2021, at 5:30 PM at the Auditorium at St. Leo's Catholic Church. The agent waited until 5:50 PM and then closed the meeting with no one in attendance.



AFFIDAVIT OF POSTING NOTICE

Community Development Department | 9220 Bonita Beach Road, Suite 111 | Bonita Springs, FL 34135 | Phone: (239) 444-6150 | Fax: (239) 444-6140

INSTRUCTIONS

A zoning sign must be posted on the parcel subject to any zoning application for a minimum of fifteen CALENDAR (15) days in advance of a Public Hearing and maintained through the City of Bonita Springs Public Hearing, if any. This sign will be provided by the Zoning Division in the following manner:

- a. Signs for case # COP21-79002-BOS must be posted by Aug. 3, 2021.
- b. The sign must be erected in full view of the public, not more than five (5) feet from the nearest right-of-way or easement.
- c. The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or pother structure. The sign may not be affixed to a tree or other foliage.
- d. The applicant must make a good faith effort to maintain the sign in place, and readable condition until the requested action has been heard and a final decision rendered.
- e. If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Zoning Division, and obtain duplicate copies of the sign from the Zoning Division.
- f. The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street. When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF THE POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE INITIAL HEARING DATE TO CITY OF BONITA SPRINGS ZONING DIVISION, 9220 BONITA BEACH ROAD, SUITE 109, BONITA SPRINGS, FL 34135.

(Return the completed Affidavit below to the Zoning Division as indicated in previous paragraph.)

STATE OF FLORIDA
COUNTY OF LEE Collier

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Paula McMichael
WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 4-229(B) OF THE CITY OF BONITA SPRINGS LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION REFERENCED BELOW:

Paula McMichael
SIGNATURE OF APPLICANT OR AGENT

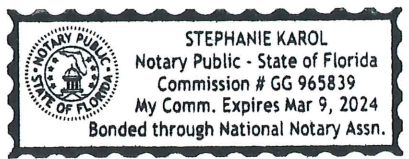
Paula McMichael, AICP, VP
NAME (TYPED OR PRINTED)

Hob Montes, Inc/950 Encore Way
ST. OR P.O. BOX

Naples, FL 34110
CITY, STATE & ZIP

STATE OF FLORIDA
COUNTY OF LEE Collier

The foregoing instrument was sworn to and subscribed before me this 3rd day of August, 2021,
by Paula McMichael, personally known to me or who produced
_____ as identification and who did/did not take oath.



Stephanie Karol
Signature of Notary Public
Stephanie Karol
Printed Name of Notary Public

My Commission Expires:
(Stamp with serial number)







**CITY OF BONITA SPRINGS
COMMUNITY DEVELOPMENT DEPARTMENT
NOTICE OF PUBLIC HEARING
APPLICATION: COP21-79002-BOS**

This is a courtesy notice of a proposed zoning action within 500 feet of property you own. You are encouraged to attend these public hearings and/or complete and return the attached Citizen Response Form, should you have any comments or concerns regarding this matter. If you have any questions or would like further information, please contact **Mary Zizzo, Planner**, at **(239) 444-6162**, or **mzizzo@cityofbonitaspringscd.org**. Copies of the staff report will be available one week prior to the hearing. This file may be reviewed at the Community Development department, 9220 Bonita Beach Road, Suite 109, Bonita Springs, FL 34135 or online at:

<http://cityofbonitasprings.org/cms/one.aspx?pagelId=13788499>

Zoning Board of Adjustments: August 17, 2021 at 9:00am Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135	City Council: September 15, 2021 at 9:00am (Tentative) Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135
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CASE NUMBER: COP21-79002-BOS

CASE NAME: Crown Lake Blvd. Consumption on Premises Special Exception

REQUEST: A special exception request for outdoor consumption on premises, associated with a Restaurant, Group III use.

LOCATION: The subject property is located at 27940 Crown Lake Blvd., Bonita Springs, FL 34134. STRAP: 33-47-25-B3-01800.0090

Any person requiring special accommodations at any of the meetings because of a disability or physical impairment should contact Lisa Roberson, Finance Director, at 239-949-6262, at least 48 hours prior to the meeting. If a person decides to appeal a decision made by the council in any matter considered at this meeting/hearing, such person may need to ensure that a verbatim record of the proceeding is to be made, to include the testimony and evidence upon which any such appeal is to be based.

RETURN TO:
City of Bonita Springs
Community Development Department
Attn: Mary Zizzo
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135

Support X Oppose

Application: COP21-79002-BOS, Crown Lake Blvd Consumption on Premises

SUPPORT: CONSUMPTION ON PREMISES OK.
OPPOSE: OUTDOOR AMPLIFIED MUSIC!

DATE: 7-28-21
NAME: IREX SIMS PHONE: 239-992-8003
ADDRESS: PO BOX 2387 CITY/STATE/ZIP: BONITA SPRINGS FL

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take such other appropriate and lawful action including continuing said public hearings.

CONDUCT OF HEARINGS: These hearings are quasi-judicial and must be conducted to afford all parties due process. Any communication that Council Members have outside of the public hearing must be fully disclosed at the hearing. Anyone who wishes to speak at the hearing will be sworn in and may be subject to questions by the board, city staff or applicant. Public comment is encouraged, and all relevant information should be presented to the Board so a fair and appropriate decision can be made. Tapes are limited to three (3) minutes in length and are to be submitted to the Zoning Division one week prior to the meeting date for review. All tapes/information submitted for the public record will not be returned.

GROUP REPRESENTATIVES: Any person representing a group or organization must provide written authorization to speak on behalf of that group. The representative shall inform Staff prior to the hearing of their intent to speak on behalf of a group and provide staff the name of that group.

I will have a representative at the Zoning Board Hearing and/or City Council. My representative's name, address, and phone are:	
NAME: _____	PHONE: _____
ADDRESS: _____	CITY/STATE/ZIP: _____

APPEALS: If a person decides to appeal any final decision made by the City Council, with respect to any matter considered at such hearing, they are responsible at their own expense for ordering from the court reporter to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence on which the appeal is to be based.