City Council Chambers
9101 Bonita Beach Road
Bonita Springs, Florida 34135

CITY COUNCIL
MEETING AGENDA

May 3, 2023
5:30 p.m.

If you plan to address the City Council, please complete a "Public Comment Card" located on the table outside of Chambers. Completed comment cards should be submitted to the City Clerk who sits to the left of the podium prior to the start of the meeting.

To submit your public comment in writing, please email your name, address, and comments to CITYMEETINGS@CITYOFBONITASPRINGS.ORG. **Any written public comment must be received by 4:00 p.m. on May 3, 2023.**

The City of Bonita Springs will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income, or marital status. To request an ADA-qualified reasonable modification at no charge to the requestor, please contact City Clerk Mike Sheffield by calling (239) 949-6262 at least 48 hours prior to the meeting.

If a person decides to appeal a decision made by the Council on any matter at this meeting, such person must have a verbatim record of the proceeding to include the testimony and evidence upon which such appeal is to be based.

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1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Agenda
6. Mayor's Welcome
7. Public Comment on Agenda Items
8. Zoning and Land Use Items:

    A. (SECOND READING AND PUBLIC HEARING) A REQUEST TO AMEND ZONING ORDINANCE 16-07 FOR THE OAKLAND COMMERCIAL PLANNED DEVELOPMENT, WITH THE ADDITION OF A MASTER CONCEPT PLAN, AMENDED CONDITIONS AND AN AMENDED

SCHEDULE OF USES; LOCATED AT 27971 OAKLAND DRIVE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet 23-05-094)

B. A ZONING RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR A SPECIAL EXCEPTION REQUEST TO ALLOW A CONDOMINIUM WAREHOUSE, PUBLIC USE FACILITY ON A PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898; LOCATED AT 28010/020 PERFORMANCE LANE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 23-05-091)

9. Proclamations and Presentations:

A. Presentation to the Bonita Springs Charter School Arbor Day Poster Contest Winners (Green Sheet No. 23-05-097)

B. Presentation of Proclamation to members of the Lee County Sheriff's Office Community Policing Unit to recognize the week of May 14-20, 2023, as National Police Week in the City of Bonita Springs.

10. Consent Agenda:

A. Approval of the March 15, 2023 Draft City Council Meeting Minutes; and March 15, 2023 Draft City Council Workshop Minutes and April 19, 2023 Draft City Council Meeting Minutes

B. Approve the award of the Old 41 Road & Strike Lane Signalization & Sidewalk Improvements Project RFB 22-14 to the lowest responsive, responsible bidder, Coastal Concrete in the amount of $985,697.50 for signalization, and $252,725.00 for sidewalk improvements upon approval of all documentation and adopt Budget Transfer Resolution. (Green Sheet No. 23-05-085)

C. Approval of a resolution appointing two members to the Veterans Advisory Committee; and providing an effective date. (Green Sheet No. 23-05-086)

D. Confirm and ratify Executive Order 23-01 and Resolutions extending the Local State of Emergency due to Hurricane Ian. (Green Sheet No. 23-05-087)

E. Approve Fourteenth Addendum to the Second Agreement for Law Enforcement Services to implement funding for two additional deputies for the LCSO Community Policing Unit in Bonita Springs. (Green Sheet No. 23-05-093)

F. Approve the special event permit for the Memorial Day Service and temporary road closure of Old US 41 Road from Wilson Street to Ragsdale Street for the duration of the service on Monday, May 29, 2023. (Green Sheet 23-05-095)

- Opportunity for City Council Comments on Consent Agenda

11. Mayor and Council Member Items:

A. Discussion regarding direction to staff to draft a policy regarding fatality memorials in public right of ways. (Green Sheet No. 23-05-096)

12. Public Hearing:

A. SECOND READING OF AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS CITY CODE, CHAPTER 40 – TRAFFIC AND MOTOR VEHICLES, AND CREATING A NEW ARTICLE IV – LIMITATIONS ON THRU TRUCK TRAFFIC; PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE. (Green Sheet No. 23-05-092)

B. SECOND READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 – ZONING, TO AMEND SEC. 4-555 – USE REGUATIONS TABLE AND 4-556 – PROPERTY DEVELOPMENT REGULATIONS TABLE WITHIN THE MOBILE HOME RESIDENTIAL DISTRICT, SEC. 4-866 – GENERAL PROVISIONS AND SEC. 4-872 – STOREFRONTS AND SIGNAGE FOR THE DOWNTOWN FORM-BASED CODE, AND SEC. 4-898 – PERMITTED USES AND SEC. 4-899 – SITE DESIGN STANDARDS WITHIN THE THE BONITA BEACH ROAD CORRIDOR OVERLAY DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE. (Green Sheet No. 23-05-089)

C. An Ordinance of the City of Bonita Springs approving the Petition of Bonita Springs Utilities, Inc., to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci and providing for an effective date. (Green Sheet No. 23-05-088)

13. City Attorney's Items:

    A. Approve an easement exchange agreement with Bonita Cypress, LLC relocated Orr Road on a property on the northeast corner of Bonita Beach Road and Interstate 75. (Green Sheet No. 23-05-099)

14. City Manager's Items:

    A. Consider a special event application from the Springs Church to conduct a church service in Riverside Park from 6:00 pm to 7:00 pm on Christmas Eve. (Green Sheet No. 23-05-090)

    B. Provide direction to Staff regarding updates to the City's Wireless Facilities regulations in the Land Development Code. (Green Sheet No. 23-05-098)

    C. Update regarding Hurricane Ian recovery

15. Mayor and Council Member Reports

16. Public Comment

17. Adjournment

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-094
May 3, 2023

REQUESTED MOTION: (SECOND READING AND PUBLIC HEARING) A REQUEST TO AMEND ZONING ORDINANCE 16-07 FOR THE OAKLAND COMMERCIAL PLANNED DEVELOPMENT, WITH THE ADDITION OF A MASTER CONCEPT PLAN, AMENDED CONDITIONS AND AN AMENDED SCHEDULE OF USES; LOCATED AT 27971 OAKLAND DRIVE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

REQUESTOR: Mary Zizzo, Community Development, Planner II

AGENDA: Land Use Items

STRATEGIC PRIORITY:

BACKGROUND: This is the second reading and public hearing of the Zoning Ordinance. The Applicant's request is to seek an amendment as follows:

1. Addition of a new two-phase master concept plan, consistent with the Bonita Beach Road Corridor Overlay:
    a. Phase 1: open storage use
    b. Phase 2: construction of a building and related infrastructure with the schedule of uses
2. Amended schedule of uses, incorporating Bonita Beach Road Corridor Overlay uses
3. Amended conditions more closely aligned with the Bonita Beach Road Corridor Overlay and present conditions.

The case was heard by the Zoning Board on February 21, 2023, with a unanimous recommendation to approve the request (7-0), subject to conditions made by staff. Staff's recommendation of approval is subject to the conditions outlined in the Staff Report, provided for in the draft ordinance.

The first reading and public hearing of the Zoning Ordinance occurred before Council on March 15, 2023.

STAFF RECOMMENDATION:

1) Approval of the Planned Development Amendment, as conditioned in the Draft Ordinance.

ATTACHMENTS:

1. February 21, 2023 Zoning Board Minutes
2. Staff Report with Exhibits and Updated Submittals
3. Draft Zoning Ordinance

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	John Dulmer

City of Bonita Springs
Board for Land Use Hearings & Adjustments
and Zoning Board of Appeals
TUESDAY, February 21, 2023 at 9:00am
Bonita Springs City Hall
9101 Bonita Beach Road
Bonita Springs, FL 34135
MINUTES

I. CALL TO ORDER

Chairman Anthony Rascio called the meeting to order at 9:00 A.M.

II. INVOCATION

Board Member Russ Winn furnished the invocation.

III. PLEDGE OF ALLEGIANCE

Board Member Gary Gambrell led in the Pledge of Allegiance.

IV. ROLL CALL

Chairman Rascio and all Board Members were in attendance.

V. APPROVAL OF MINUTES: November 15, 2022

Board Member Lynda Waterhouse motioned approval of the minutes, Second by Board Member Russ Winn; and the motion carried unanimously.

VI. PUBLIC COMMENT

VII. PUBLIC HEARINGS

EACH CASE WILL INCLUDE A PUBLIC COMMENT PERIOD AT THE CONCLUSION OF THE APPLICANT AND STAFF PRESENTATION

A. CASE NAME: OAKLAND COMMERCIAL PLANNED DEVELOPMENT (CPD) (PD21-85799-BOS)

A REQUEST TO AMEND ZONING ORDINANCE 16-07 FOR THE OAKLAND COMMERCIAL PLANNED DEVELOPMENT (CPD), WITH THE ADDITION OF A MASTER CONCEPT PLAN AND AMENDED CONDITIONS.

Mary Zizzo introduced the project. Staff recommends approval, Applicant agrees to conditions.

Stacy Hewett with Banks Engineering, representing the Applicant presented the project.

Chairman Rascio questioned what types of vehicles will be stored on the property.

Stan Stouder, Applicant, most are from ground maintenance crews, recovery companies, He has found numerous lessees as need to reinstate zoning approvals, obtain a development order for the improvements first.

Board Member Gary Grambell presented questions regarding drainage.

Brent Addison, Project Engineer, responded to questions relating to water management for the property.

Chairman Rascio made a motion to approve the amendment, second by Board Member Ben Hershenson; and the motion carried unanimously.

VIII. CASE UPDATE: Burkhardt CPD Special Exception

Ms. Zizzo provided the Board with an update that City Council approved the project.

IX. NEXT MEETING: March 21, 2022 at 9:00am (Tentative)

X. ADJOURNMENT: 9:39 a.m.

Respectfully submitted,

Mike Sheffield, City Clerk

APPROVED:

BONITA SPRINGS ZONING BOARD:

Date: 4/18/23

AUTHENTICATED:

Anthony Rascio, Chairman

Any person requiring special accommodation at any of the meetings because of a disability or physical impairment should contact Mike Sheffield, City Clerk by calling 239-949-6262, at least 48 hours prior to the meeting.

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AERIAL AND AERA LOCATION MAP



BONITA SPRINGS, FLORIDA

COMMUNITY DEVELOPMENT DEPARTMENT

ZONING DIVISION

STAFF REPORT

TYPE OF CASE:	COMMERCIAL PLANNED DEVELOPMENT AMENDMENT (CPD)
CASE NUMBER:	PD21-85799-BOS
HEARING DATE:	January 17, 2023 Continued to February 21, 2023
PLANNER:	Mary Zizzo, Esq., AICP, Planner II

APPLICATION SUMMARY:

A. Applicant: 2726 SCC, LLC

B. Agent: Stacy Hewitt, AICP, and Brent Addison, P.E., Banks Engineering

C. Request: A request to Amend Zoning Ordinance 16-07 for the Oakland Commercial Planned Development, with the addition of a master concept plan, amended conditions and an amended schedule of uses.

D. Location: The subject property is located at 27971 Oakland Dr., Bonita Springs, FL 34135. STRAP: 31-47-26-B4-00100.0050.

E. Future Land Use Map Designation: Interchange Commercial

F. Current Zoning: Commercial Planned Development (CPD)
Interstate Zone of the Bonita Beach Road Corridor Overlay

G. Current Land Use: Vacant Land

By this reference, the Applicant's application in its entirety and correspondence is made part of this record and is available at the City Clerk's and Community Development's Offices.

BACKGROUND:

History and Overview

The subject property is currently vacant, within the Oakland Commercial Planned Development (CPD). The Applicant is the current owner of the property, requesting the adoption of a new master concept plan (MCP), amended schedule of uses and amended conditions. The parcel was originally rezoned Commercial Planned Development in 2009, pursuant to Zoning Ordinance 09-13, as subsequently amended in Zoning Ordinance 16-07. In 2009, the property was rezoned from CPD to CPD for 2 phases, with phase 1 allowing up to 43,330 square feet of open storage with a time limit of eight years and phase 2 allowed 32,700 square feet of commercial/office use, a 7,780 square foot restaurant, or a 90-room hotel. The anticipation was that phase 2 would develop on the site within that eight-year limit, but the site remains undeveloped.

The current owner purchased the property in 2016, and the zoning was amended in Zoning Ordinance 16-07, which reduced the commercial intensity from 32,700 square feet to 25,000 square feet, amended the master concept plan, schedule of uses, development standards and conditions of approval. Condition 4.c required the preservation of nine (9) heritage trees and open storage was limited to 3-5 years from the date of approval. The site remains vacant. In 2018, the Tree Advisory Board reviewed this property and testimony by the Applicant and reduced the requirement to three (3) heritage trees to be preserved.

Pursuant to LDC Section 4-303, the master concept plan approved in Zoning Ordinance 16-07 was valid for five years from the date the planned development was approved. During this application period, that MCP expired, requiring the adoption of a new one.

The proposed project is located within the Bonita Beach Road Corridor Overlay, which was adopted in Ordinance 19-10. Part of the stated purpose and intent of the overlay is to foster urbanized development patterns that focus on interconnectivity, mobility, human scale, and various design and architectural standards, among other items. Of the four zones created by the overlay, this project is within the Interstate Zone. The proposed MCP will bring the project into compliance with the Bonita Beach Road Corridor Overlay and incorporates uses permitted in the Interstate Zone.

Development regulations are contained later in this report as part of **Condition 3**, and are conditioned to keep human scale in mind, as supported by the overlay.

The request seeks one (1) deviation, which is analyzed further below.

Uses

Requested uses are included in **Attachment "B."** The proposed list includes previously approved uses as well as incorporation of uses that are permitted by right or special exception in the Interstate Zone.

In the previous approval, open storage was permitted on a limited duration basis. This request seeks to allow open storage on a permanent basis for this tract. As conditioned, Staff finds it appropriate to allow open storage on a limited duration basis provided that the development comply with the LDC standards at time of local development order approval. Staff's recommendations on the requested uses are enumerated in **Condition 2**.

Property Development Regulations and Deviations
Development is to be conducted in accordance with the Land Development Code (LDC) Chapters 3 (Development Standards) and Chapter 4 (Zoning). Conditions and deviations set forth in the adopted zoning ordinance may augment the standard development regulations such as property development standards, buffering, deviations and any associated conditions of approval.

The property development regulations are included in **Condition 3.** Deviations may be requested during the review process in accordance with LDC Sec. 3-81(b) and LDC Sec. 4-326. The current planned development request includes one (1) deviation. Staff's analysis and recommendation on the deviation request are included later in this Staff Report. The deviation request and associated justification by the Applicant is included in the Applicant's Analysis in **Attachment "B."**

Comprehensive Plan Considerations
This project was reviewed for compliance with the City of Bonita Springs Comprehensive Plan, including future land use, transportation, conservation/coastal management, and infrastructure elements. The project is located within the Interchange Commercial future land use category. Additional Staff Analysis is included in **Attachment "A."** The Applicant's Analysis is included in **Attachment "B."**

Infrastructure Summary Analysis
The City's potable water and sanitary sewer utility franchise, Bonita Springs Utilities, has reviewed the request and did not raise any concerns regarding potential burdens on infrastructure, or infrastructure availability. As a result, it is the Staff opinion that the project is consistent with the Infrastructure Element of the Bonita Plan.

CONCLUSIONS:

The following conclusions are based upon the Applicant's application being reviewed for compliance with the City of Bonita Springs Comprehensive Plan and the LDC. **Attachment "A,"** which is attached hereto and made a part hereof, demonstrates the type of analysis that was done.

Pursuant to the City's LDC, the Applicant is required to hold two (2) neighborhood meetings. The first meeting was held on January 21, 2019, with six members of public present. No relevant questions were asked pertaining to concerns of this project. The Applicant held their second meeting on November 7, 2022, providing notice to current owners within the notification zone, with no attendance from the public. Additional methods of public notice included mailed notices to properties within 375 feet of the property, property-posting signs along rights-of-way, and a legal ad in the Fort Myers News-Press for the Zoning Board public hearing. Letters of support and opposition are included in your packet for review and consideration in **Attachment "C"**.

The rezoning request was evaluated by Community Development for planning, zoning, engineering, environmental, floodplain, multimodal and transportation impacts. Lee County Department of Transportation, Bonita Springs Utilities and the Bonita Springs Tree Advisory Board also reviewed the request. The proposed development, as conditioned, is consistent with the requirements and standards of the City of Bonita Springs Comprehensive Plan and LDC. A detailed City Staff analysis is included in **Attachment "A"** of the Staff Report.

RECOMMENDATION:

Staff recommends **APPROVAL, with conditions,** of Petition PD21-85799-BOS, Oakland Commercial Planned Development (CPD), which proposes the adoption of a new master concept plan, an amended schedule of uses and amended conditions. This recommendation of APPROVAL is subject to the following conditions:

Conditions:

1. The development of this project must be consistent with the Master Concept Plan entitled "Oakland CPD," prepared by ~~Q. Grady Minor and Associates, P.A. stamped received June 8, 2016~~Banks Engineering dated January 23, 2023, (Exhibit B), except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of local development order approval. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

   The total gross floor area may not exceed 25,000 square feet of commercial/light industrial uses, a 7,780 square foot restaurant, or a 90-room hotel. This request approves open storage as a permitted use for a set duration, subject to conditions.

2. Schedule of Uses:
   a. ~~Accessory Uses and Structures~~
   b. ~~Administrative Offices~~
   c. ~~ATM~~
   d. ~~Business Services, Group I & II~~
   e. ~~Caterers~~
   f. ~~Cleaning and Maintenance Services~~
   g. Consumption on Premises, indoor only, in conjunction with a full-service restaurant or hotel/motel. Outdoor consumption requires a special exception (public hearing required)
   h. ~~Contractors and Builders, Group I~~
   i. Drive-through facility for any permitted use (requires Special Exception)
   j. ~~Entrance Gates and Gatehouses~~
   k. ~~Essential Service Facilities, Group I~~
   l. ~~Excavation, Water Retention~~
   m. ~~Fences, Walls~~
   n. Hotel/Motel (not to exceed 90 rooms)
   o. ~~Insurance Companies~~
   p. ~~Non-Store Retailers, Group I~~
   q. ~~Parks, Group I~~
   r. ~~Parking Lot, Accessory~~
   s. ~~Personal Services, Groups I, II, III & IV (excluding massage establishment or parlors, steam or Turkish baths, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a health or beauty spa)~~
   t. Rental or Leasing Establishments: Groups I and II (limited to indoor use only)
   u. ~~Restaurants, Group III~~

v. ~~Schools, Commercial~~
w. ~~Signs, in accordance with Chapter 6 of the~~ Land Development Code
x. ~~Specialty Retail Shops, Group II~~
y. Storage, Open, as limited by Condition 8
z. ~~Temporary/mobile office as limited by Condition 8~~
aa. Temporary Uses
bb. Mini-warehouse
cc. Bonita Beach Road Corridor Overlay Interstate Zone Permitted Uses per the LDC

3. Site Development Regulations:

i. Minimum Lot Dimensions:
1. Minimum Lot Area: 20,000 square feet
2. Minimum Lot Depth: 100 feet
3. Minimum Lot Width: 100 feet

ii. Minimum Setbacks:
1. Street/Front (Public Road): ~~Variable, according to the functional classification of the street or road (LDC Section 4-1893, *et. seq.*)~~20 feet* *Maximum 25', LDC §4-899, Notes 2 & 5, as amended.
2. Side Yard: 0 feet/15 feet ~~20'/25'*~~
3. Rear Yard: 20 feet ~~25'~~

~~*In support of Deviation 2, parking, accessways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25' of the northern property line. Building setbacks shall only be permitted at 20' when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.~~

iii. Maximum Building Height:
1. Storage, Open 15 feet
2. Commercial/Light Industrial/Restaurant 45 feet/3 stories over parking
3. Hotel/Motel 55 feet/5 stories over parking

iv. Maximum Lot Coverage: ~~58%~~ 40 percent
v. Minimum Open Space: ~~42%~~ 30 percent

4. Transportation Conditions:

a. The developer is responsible for the costs and construction of improving Oakland Drive to current local road standards, ~~and improvements of Oakland Drive~~ from the northern property line ~~5' to the north of its driveway~~ to the ~~limits of its~~ end of existing pavement at the southern property line to a local, private road standard, prior to local development order completion ~~approval~~ and occupancy of any use of the site~~. to a local private road standard~~. ~~This entire segment of the roadway along the property's frontage must be completed as a part of any local development order with a permanent building consistent with LDC 3-531.~~ A ~~5~~6' wide sidewalk and minimum one (1) bench or other streetscape amenity under a shade structure or shade canopy tree ~~is~~ shall be installed and completed prior to the certificate of completion for any phase of development and/or occupancy of the site.

b. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the

City of Bonita Springs Land Development Code may be required to obtain local development order approval; and

c. The Developer must comply with concurrency requirements (all conditions required by the Bonita Springs Comprehensive Plan and the Land Development Code) in order to obtain a local development order; and

d. ~~At time of local development order application, the developer shall submit a Traffic Impact Statement that includes the following analysis, in addition to the City of Bonita Springs Traffic Impact Statement Guidelines:~~

   i. ~~A Project Trip Distribution figure generated by percentage and a Peak Hour Project Traffic Assignment figure (including AM and PM peak hour turning movements) and peak hour directional trips along Bonita Beach Road.~~

      ~~Secondary Links- If the directional peak hour project trips assigned to a direct link equal or exceed 2% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the adjacent roadway segments. The adjacent roadway segments to the direct link shall include both segments on either end of the direct link and any segments of roadways that intersect the direct link. The adjacent roadway segments shall be referred to as Secondary Links.~~

      ~~Additional Links- If the directional peak hour project trips assigned to any secondary link equal or exceed 2% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the secondary link. These adjacent roadway segments shall be referred to as Additional Links.~~

      ~~If the directional peak hour project trips assigned to any additional link equal or exceed 3% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the additional link. These adjacent roadway segments shall also be referred to as Additional Links.~~

      ~~Directional peak hour project trips shall continue to be assigned in this manner until the value of directional peak hour project trips is less than the directional peak hour capacity of the level of service standard for that segment. When the percentage is less than 3% of the capacity, then the project trip assignment will stop after that link has been assigned.~~

   ii. ~~The AM and PM peak hour turning movements for the intersection of Bonita Beach Road and Oakland Drive. These volumes should include both background and project trips, which clearly distinguish between background trips and site generated trips.~~

   iii. ~~The Applicant shall analyze and conduct a traffic signal operations analysis for the development's impacts on the intersections at Bonita Beach Road and Oakland Drive, and shall address mitigation through conditions to the local Development Order mitigation.~~

e. Trip cap. The total daily and peak hour trips of the combined uses will not exceed 1,099 vehicles per day (Average Daily Traffic- ADT) and 105 vehicles per hour (including pass-by trips).
f. The County retains the right to modify the median opening at Oakland and Bonita Beach Road, if necessary, to maintain the safety and efficiency of the arterial street (Florida Statute 316.00 Powers of local authorities).
g. At time of local development order, the Applicant will work with staff to include additional conditions related to the ~~Bonita Beach Road Visioning and the~~ Bonita Beach Road Corridor Overlay, ~~to the greatest extent feasibly possible,~~ which will be incorporated into the local development order.
    i. A cross access easement as depicted on the Master Concept Plan attached herein, ("Exhibit D") will be recorded upon approval of a local development order including a building and the northern driveway.

5. Environmental Conditions
    a. The Applicant must provide one hundred (100) percent native vegetation plantings within all required buffers; and
    b. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that include native wetland plants (minimum one gallon container size) providing 50% coverage of the bottom of the basin at time of installation; and
    c. Per the Tree Advisory Board recommendation on October 8, 2018, the Applicant must preserve ~~93~~ ~~Heritage~~ Live Oak Trees, as identified on the MCP and must mitigate removal of 4 Heritage Trees and mitigate by replanting four (4) trees on site, of similar species or ecological value with a minimum height of twenty feet (20') at installation. ~~stamped received June 8, 2016.~~
    d. ~~The Applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water quality treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.~~
    e. Any use with open storage and/or a business services group II use (with outdoor equipment and/or vehicle storage) that contains potential pollutants such as oil, greases and gasoline shall be required at a minimum to provide additional safeguards at time of local development order, which may include a wash out station, a maintenance provision to keep oil and gas absorbent material on-site for accidental spills, and proper storage and containment of materials in accordance with Florida Friendly Yards and Florida Department of Environmental Protection.

6. Perimeter Buffers
    a. ~~In support of Deviation 2, t~~ The applicant shall install a six (6) foot opaque fence five (5) feet south of the northern property line and a modified five (5) foot Type "C" enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy type trees, such as oaks or mahoganies, or a combination of canopy trees. For the open storage use, the opaque fence or hedge or combination berm and opaque fence or hedge must provide an eight (8) foot continuous visual screen to residential.

Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC Chapter 3.

b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48" hedge (minimum 15-gallon container size) at time of installation and be maintained at 60" high, providing a continuous screen within one year after time of planting. For open storage use, the Applicant must provide an eight (8) foot continuous visual screen along the street easement. For roads, drives or parking within 125 feet of residential, an opaque fence, hedge or combination berm and opaque fence or hedge not less than six (6) feet in height shall be provided. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified to the eastern buffer consistent with the LDC.

c. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that include native wetland plants (minimum one gallon container size).

d. In support of Deviation 1, the existing vegetated banks along the western property line shall be maintained. Any exotic removal that results in loss of the native vegetation along these banks shall be replaced and maintained with native vegetation for a low and mid-story buffer.

7. Flood Regulations
   a. ~~At the time of local development order application for any site grading work, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on adjacent properties due to drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basin areas; and (2) hydrologic and hydraulic calculations for the 5, 25, and 100-year design storm events in order to establish existing baseline conditions.~~
   b. Development must be consistent with the local, State, and Federal regulations for development within any floodways, flood plains, or properties designated that will be affected by a tropical storm event.
8. Parking
   a. Final parking ratios shall be determined at time of a local development order consistent with the Land Development Code (LDC) for the uses requested.
   b. Parking is prohibited within 25' of the northern property line until the property to the north redevelops into a non-residential use.
   c. Parking within the Oakland Drive right-of-way is prohibited.
9. Business Services, Group II (with outdoor equipment and/or vehicle storage), Storage, Open, and Rental or Leasing Establishment uses.
   a. All areas must comply with special setbacks for specific uses set forth in LDC Section 4-2014(D)(6), except as provided administratively by the City Manager or designee; and
   b. In open storage areas, surface parking materials should be selected to effectively reduce the amount of pollution generated and remain consistent with water quality goals; and

c. Open storage of flammables and/or hazardous waste is prohibited; and
d. Buffering and landscaping must be installed prior to any occupancy of the property. Buffering for this use must be either increased or open storage must be positioned in such a manner that there is no view of any open storage from Oakland Drive.
e. Open storage, ~~vehicle and equipment dealers~~, and business services group II (with outdoor equipment and/or vehicle storage) is <u>further</u> limited <u>as follows:</u> ~~to a period of no more than three years from the effective date of this ordinance, regardless of the property's ownership: however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of this ordinance all open storage uses shall terminate immediately.~~
    i. <u>Applicant must submit a local development order application within 120 days from adoption of the zoning ordinance.</u>
    ii. <u>Applicant has 90 days to respond to development order request for additional information (RAI) comments.</u>
    iii. <u>Applicant must obtain local development order approval within 12 months from the effective date of this zoning ordinance.</u>
    iv. <u>Use is permitted for a period of no more than 65 months from local development order approval date. After such date, all open storage uses shall cease and active USE permits for open storage shall be revoked. Indoor storage, as defined, is permitted when accessory to a permitted use and which is contained wholly within a building designed in accordance with the LDC Chapter 3, Article IV.</u>
    v. <u>Maximum height of open storage is 15 feet.</u>
    vi. <u>Storage of 53-foot tractor-trailers is prohibited.</u>
    vii. <u>No banners on boom trucks are permitted.</u>
    viii. <u>A mobile sales office may be permitted during the open storage period, provided it meets LDC Chapter 3, Article IV.</u>
    ix. <u>Consistent with the LDC Section 4-2073(b)(2), storage areas shall be kept in a sightly and dust-free manner and shall comply with other requirements of this ordinance.</u>
    x. <u>Drive aisles shall be paved in accordance with the LDC.</u>
f. Diesel engines may not idle for more than 5 minutes at or on the site, with appropriate signage informing customers of this condition.
g. The storage, chipping, or mulching of landscape material is prohibited. <u>The storage of pre-packaged palletized material is permitted, consistent with the Fire Code.</u>
h. Hours of operation for this use is limited from 7:00 am to 7:00 pm, from Monday through Saturday. Activities related to this use on Sundays or before or after hours is prohibited.

10. Outside speaker systems, loud speakers, or public address systems for any use are prohibited.
11. ~~Consumption on premises requests in this CPD shall be reviewed individually as regulated by LDC, or through other approval processes as may be required by future regulations.~~

~~12. Should the property be developed as a hotel/ motel, the property development regulations contained for a conventional zoning in LDC §4-1529, excluding subsection (4)d of this section.~~
~~13. Buildings exceeding 55 feet in height must maintain additional building separation as regulated by LDC Section 4-1874(3).~~
~~14. The development must comply with the commercial building lighting standards found in the LDC, Chapter 3. Lighting for buildings along the property lines that abut residential shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.~~
~~15. All development must comply with the commercial design standards found in the LDC, Chapter 3. Mini-warehouse, and industrial uses shall comply with the commercial design standards.~~
~~16. The development must comply with the sign code found in the LDC, Chapter 6.~~
~~17. Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.~~
18. All development and uses must comply with the City's Noise Control Ordinance.
19. The developer will make every effort to incorporate principles for its buildings through the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) and/or Florida Green Building Coalition program, standards for commercial building structures, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficiency fixtures and appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.
20. 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 deviation approved as part of this planned development.
21. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.

DEVIATIONS:

Deviations may be requested during the review process in accordance with LDC Section 4-326. The Zoning Board may recommend to approve, approve with modification, or reject each requested deviation based upon a finding that each item:

1. Enhances the achievement of the objectives of the planned development; and
2. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.

The current planned development request includes one (1) deviation.

1. Deviation (1) requests relief from LDC Section 3-418(d)(3), which requires a Type "A" buffer (5' wide) along the west property line for commercial adjacent to commercial, to provide no buffer.

Applicant's Justification: Deviation 1 was previously approved, requiring no buffer to the west to Flamingo Island Flea Market overflow parking since the western portion of the site contains a 5' drainage easement and an existing drainage way average 35' to 55' in width (containing a ditch of 20'-30' in width). This area is recommended to remain as originally approved in Z-97,084, ZO-09-13, and ZO-16-07, for a continued drainage way and open space area. It was previously determined that adequate buffering is provided with the existing vegetated banks of the drainage area. The proposed design does not modify the drainage way and provides approximately 39'± of open space with vegetated banks between the proposed parking area and adjacent commercial development. Existing condition 5.d provides that any exotic removal that results in loss of the native vegetation along these banks are required to be replaced and maintained with native vegetation for a low and mid-story buffer. This deviation enhances the achievement of the objectives of the planned development and preserves and promotes the general intent to protect the public health, safety and welfare.

Based on the Applicant's request and justification, Staff recommends **APPROVAL** of the deviation request, subject to Condition 6.d.

2. Deviation 2 is WITHDRAWN. ~~approved, granting relief from LDC §3-418(D)(6) requiring a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less than 25 feet from the property line with a Type C buffer plantings to permit a Type "A" (5' wide) with no wall at this location, as conditioned in Condition 5a.~~
3. Deviation 3 was previously WITHDRAWN.
4. Deviation 4 was previously WITHDRAWN.

SUBJECT PROPERTY:

The Applicant indicates the STRAP number is:

31-47-26-B4-00100.0050

EXHIBITS:

A. Certified Sketch of the Subject Property
B. Master Concept Plan
C. Narrative
D. Cross Access Easement

ATTACHMENTS:

A. Staff Informational Analysis
    i. Background and Informational Analysis
B. Applicant's Informational Analysis
    i. Approved Waiver
    ii. Application
    iii. Previous Zoning Approvals
    iv. Certified Sketch of Description
    v. Area Location Map
    vi. Aerial
    vii. Existing Zoning and Land Use Map
    viii. Applicant's Narrative
    ix. Proposed Site Development Regulations
    x. Proposed Schedule of Uses
    xi. Schedule of Deviations and Justifications
    xii. FLUCCS/ Vegetation Map
    xiii. Soil Map Exhibit
    xiv. Memorandum of Record
    xv. Tree Advisory Board Meeting Minutes 10/8/2018
    xvi. Variance Map
    xvii. Master Concept Plan
    xviii. Neighborhood Information Meeting 1 Submittal
    xix. Neighborhood Information Meeting 2 Submittal
    xx. Draft Cross Access Easement
C. Public Notice and Comments

EXHIBIT A

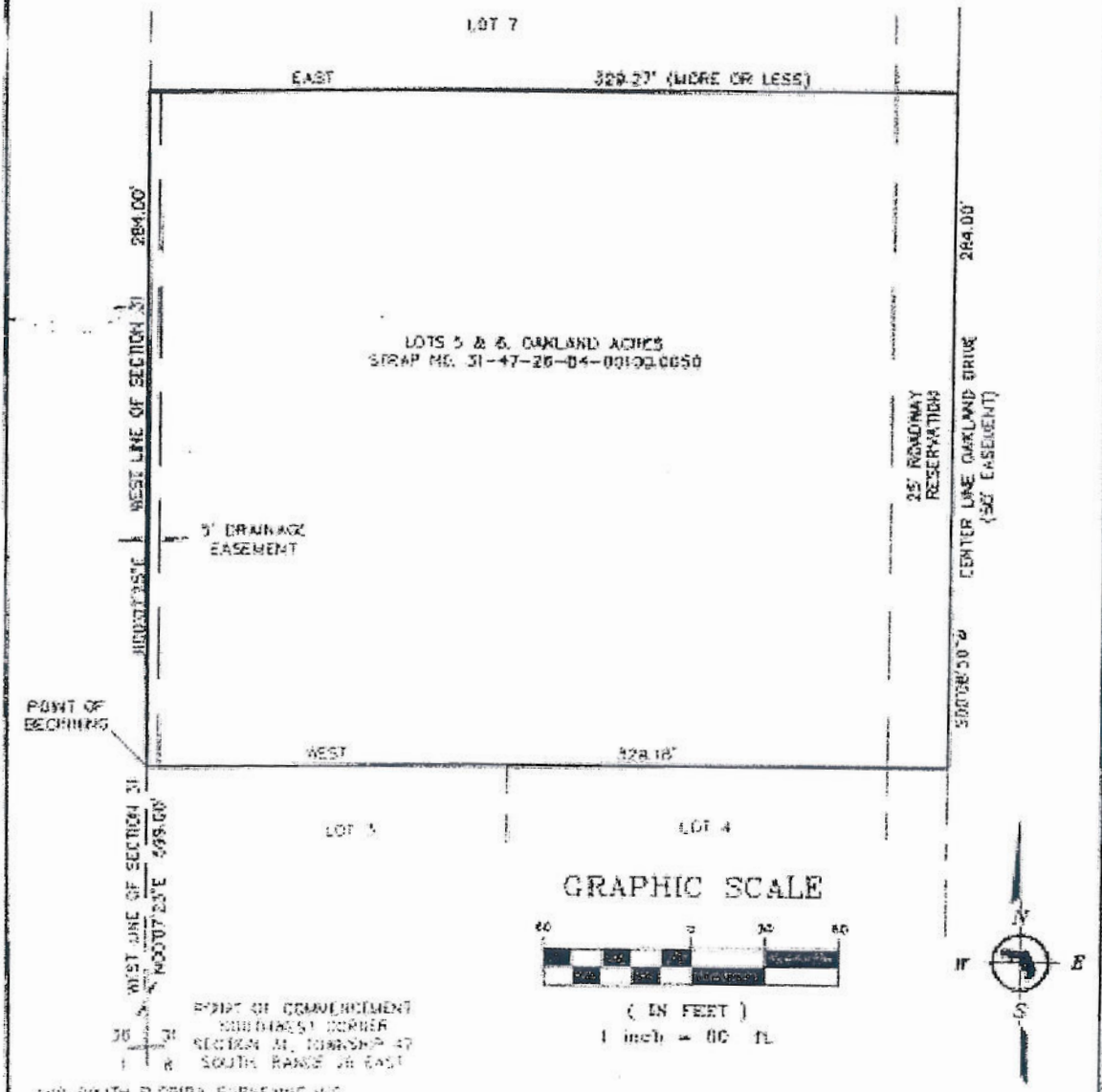
South Florida Surveying Inc.

2431 23rd Street S.W. Naples, Florida 34117

Phone: (239) 348-1169 Facsimile: (239) 353-5941 sfsinc3516@aol.com

CERTIFICATE OF AUTHORIZATION #LB7624

LEGAL DESCRIPTION AND SKETCH – NOT A BOUNDARY SURVEY

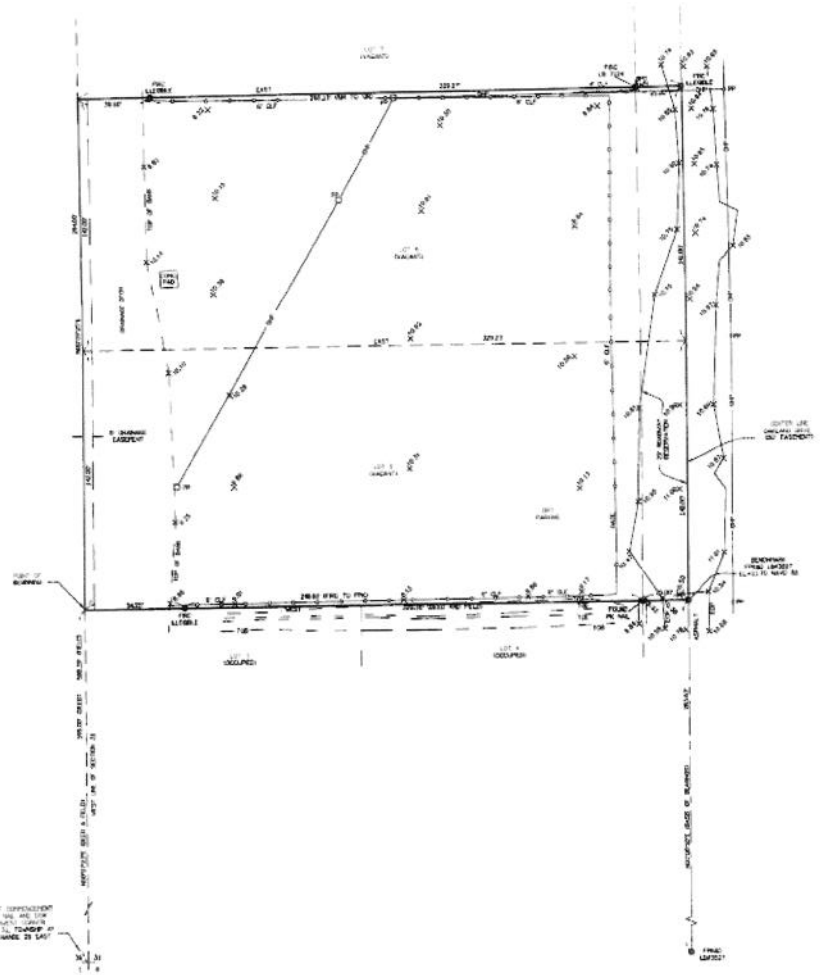


FOR SOUTH FLORIDA SURVEYING INC.

ROBERT J. BELLS PSM 4698 1-14-09 DATE

SHEET ONE OF TWO
SEE SHEET TWO FOR DESCRIPTION

PATH: \BOS\...\SFR \OAKLAND ACRES S&B.DWG



GRAPHIC SCALE

(IN FEET)
1 inch = 30 ft.

LEGAL DESCRIPTION:

LOT 5 & 6, OAKLAND ACRES, AS SAME IS RECORDED IN PLAT BOOK 31 AT PAGE 23 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID LOTS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE NORTH 00°07'25" EAST, ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 369.00 FEET, TO THE POINT OF BEGINNING.

AND FROM SAID POINT OF BEGINNING, CONTINUE NORTH 00°07'25" EAST, STILL ALONG THE SAID WEST LINE OF SECTION 31, A DISTANCE OF 264.00 FEET; THENCE EAST, A DISTANCE OF 329.27 FEET, MORE OR LESS, TO THE CENTERLINE OF THE 50 FOOT WIDE OAKLAND DRIVE;
THENCE SOUTH 00°08'50" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 264.00 FEET;
THENCE WEST, A DISTANCE OF 329.16 FEET, TO THE POINT OF BEGINNING.

SUBJECT TO A 25 FOOT WIDE ROADWAY RESERVATION OVER AND ACROSS THE EASTERLY 25 FEET AND A 5 FOOT WIDE DRAINAGE EASEMENT OVER AND ACROSS THE WESTERLY 5 FEET THEREOF.

SAID PARCEL CONTAINS 2.35 ACRES TO CENTER LINE OF OAKLAND DRIVE.

SURVEYORS NOTE:

THE MISCELLANEOUS BOOK REFERENCE SHOWN IN THE DESCRIPTION (SEE ABOVE) IS INCORRECT AND SHOULD BE MISCELLANEOUS BOOK 51, PAGE 471.

FOR THE BENEFIT OF:

1. ATTY NO.: [illegible]
2. OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY,
3. ROBERT E. NORTON, III, P.A.

NO OTHER PERSON OR ENTITY MAY RELY ON THIS SURVEY.

NOTES:

1. THIS BOUNDARY & TOPOGRAPHIC SURVEY IS NOT VALID UNLESS SIGNED BY, AND SEALED WITH THE RAISED EMBOSSED SEAL OF THE SURVEYOR WHOSE NAME APPEARS HEREON.
2. UNDERGROUND IMPROVEMENTS, UTILITIES, OR ENCROACHMENTS, IF ANY, WERE NOT LOCATED.
3. ALL DIMENSIONS ARE DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED.
4. ALL ANGLES ARE 90 DEGREES (RIGHT ANGLES) UNLESS OTHERWISE NOTED.
5. BEARINGS RELATE TO POINTS FOUND ALONG THE CENTER LINE OF OAKLAND DRIVE AS SHOWN ON THIS PLAT BEARING NORTH 00°08'50" EAST, WHICH IS HELD.
6. PROPERTY IS LOCATED IN FLOOD ZONE "AH", ELEVATION 13 NAVD 88 AND FALLS WITHIN THE FLOODWAY ACCORDING TO THE CITY OF BONITA SPRINGS FLOOD INSURANCE RATE MAP "COMMUNITY PANEL NUMBER 125130 0015 D" MAP NUMBER 12071C0015D, DATED AUGUST 28, 2008.
7. ELEVATIONS ARE BASED ON THE PERMANENT NGS BENCH MARK "AD 1951 2" AND RELATE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).

LEGEND

-FIRC = FOUND 5/8" REBAR WITH CAP
-FPN = FOUND PK NAIL
-BM = BASE OF BEARING
-REF = REFERENCE MONUMENT
-EOP = EDGE OF PAVEMENT
-CLR = CENTER LINE OF LAKE/CANAL
-X' SWE = EXISTING ELEVATION (NAVD 1988)
-EASEMENTS AND RIGHTS-OF-WAY SHOWN AND PER PLAT
-PSM = PROFESSIONAL SURVEYOR AND MAPPER
-PP = POWER POLE
-OHP = OVERHEAD POWER LINES
-CLF = CHAIN LINK FENCE
-TOB = TOP OF BANK

South Florida Surveying Inc.
2421 23rd Street S.W. Naples, Florida 34117
Phone: (239) 348-1169
sfsurvey@southfloridasurveying.com http://www.southfloridasurveying.com
CERTIFICATE OF AUTHORIZATION #LB7624

REVISIONS:					
DATE	DESCRIPTION	BY	DATE	DESCRIPTION	BY

PROJECT: 27971 OAKLAND DRIVE

SURVEY TYPE: BOUNDARY & TOPOGRAPHIC SURVEY

FOR SOUTH FLORIDA SURVEYING INC.

ROBERT E. NORTON
PROFESSIONAL SURVEYOR AND MAPPER
P.S.M. #5746, STATE OF FLORIDA

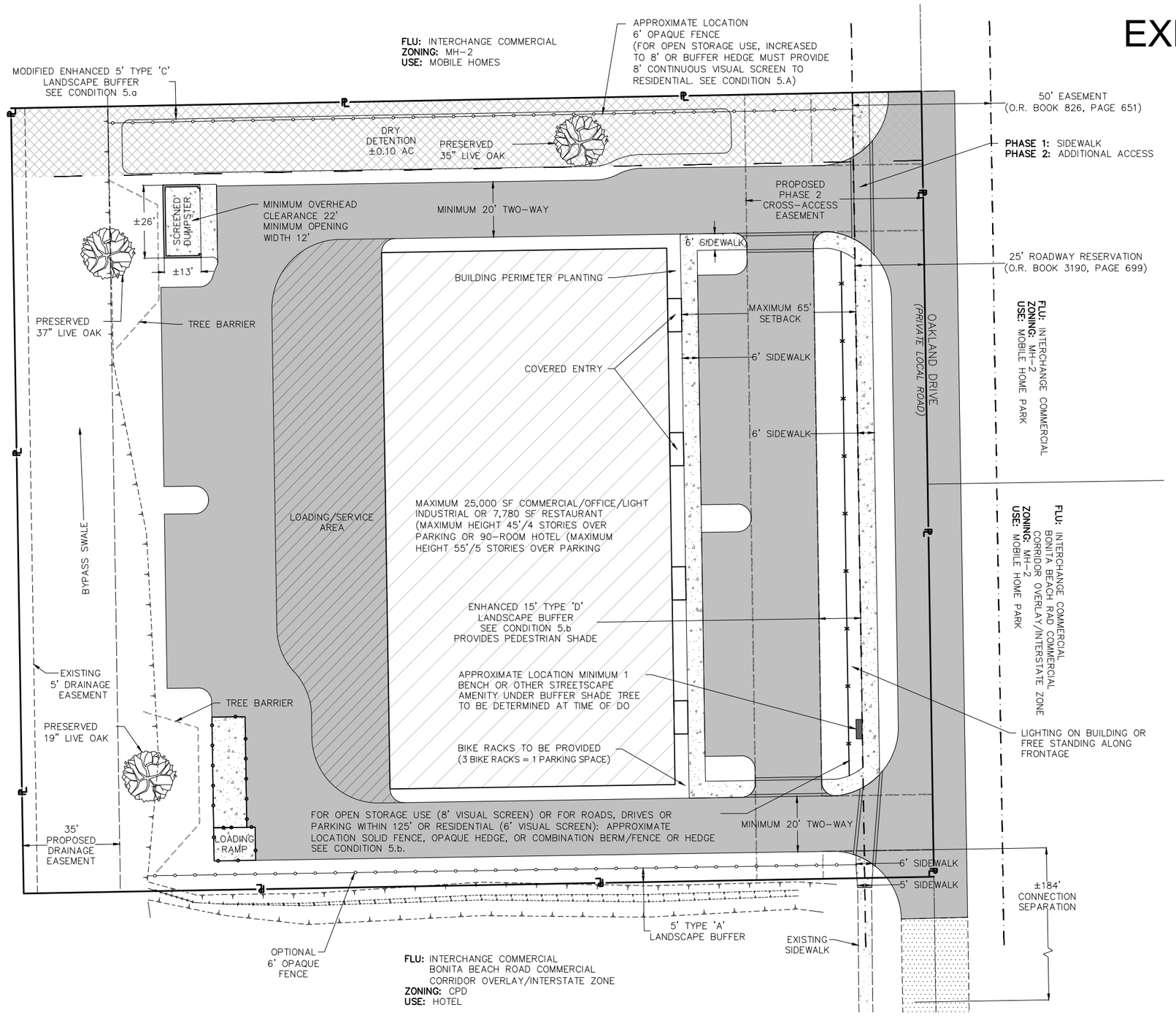
DATE: 1-05-16

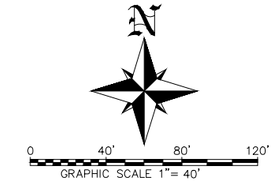
SURVEY DATE: 12/30/15
D-T-R: 1-6-16
SCALE: 1" = 30'
DRAWN BY: SJB
CHK BY:
DWG FILE: SDR\SURVEYING\ACAD\2015\
PROJECT NO.:
SHEET 1 OF 1

F. B. PG.
SEE FILE

DWG NO.:

EXHIBIT B





OPEN SPACE

REQUIRED: 0.65 ACRES (2.15 x 0.30)

PROVIDED: 0.65 ACRES

SITE SUMMARY

FUTURE LAND USE:	INTERCHANGE COMMERCIAL BONITA BEACH ROAD OVERLAY CORRIDOR/INTERSTATE ZONE
EXISTING ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
EXISTING LAND USE:	UNDEVELOPED
PROPOSED ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
GROSS AREA:	2.15± ACRES
STRAP NUMBER:	31-47-26-B4-00100.0050
STREET ADDRESS:	27917 OAKLAND DRIVE BONITA SPRINGS, FL 34135

PHASE 1: OPEN STORAGE, SOUTH ACCESS & OAKLAND ROW IMPROVEMENTS

PHASE 2: BUILDING, NORTH ACCESS & CROSS-ACCESS EASEMENT

LEGEND:

- # DEVIATION
- TREE TO REMAIN
- BUILDING
- PAVEMENT
- CONCRETE
- PARKING, ACCESS WAYS/DRIVES, VEHICLE STORAGE, OPEN FOR ANY USE IS PROHIBITED WITHIN 25' OF THE NORTHERN PROPERTY LINE. BUILDING SETBACKS SHALL ONLY BE PERMITTED AT 20' WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE. ACCESSWAY, DRIVES, PARKING AND STORAGE, OPEN MAY ALSO BE PERMITTED IN ACCORDANCE WITH THE LDC WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE.

PREPARED FOR:
STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORIDA 33932

NO.	DATE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

MASTER CONCEPT PLAN
OAKLAND CPD
BONITA SPRINGS, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
01-23-2023	8332	MCP	DBA	RJV	DBA	1" = 40'	01

S:\JOBS\8300\8332\ENGINEERING\MASTER CONCEPT PLAN\8332_MCP_01-16-2023.DWG 1/23/2023 8:10 AM RJ VELOTTI

SCHEDULE OF USES:

CONSUMPTION ON PREMISES, INDOOR ONLY, IN CONJUNCTION WITH A FULL-SERVICE RESTAURANT OR HOTEL/MOTEL. OUTDOOR CONSUMPTION REQUIRES A SPECIAL EXCEPTION (PUBLIC HEARING REQUIRED)

DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE (REQUIRES SPECIAL EXCEPTION)

HOTEL/MOTEL (NOT TO EXCEED 90 ROOMS)

RENTAL OR LEASING ESTABLISHMENTS: GROUPS I AND II (LIMITED TO INDOOR USE ONLY)

STORAGE, OPEN AS LIMITED BY CONDITION 8

TEMPORARY USES

MINI-WAREHOUSE

BONITA BEACH ROAD CORRIDOR OVERLAY INTERSTATE ZONE PERMITTED USES PER LDC

SITE DEVELOPMENT REGUL-TIONS

MINIMUM -RE- -ND DIMENSIONS:

LOT AREA:	20,000 S.F.
LOT DEPTH:	100'
LOT WIDTH:	100'

MINIMUM SETB-CKS:

STREET/ FRONT (PUBLIC ROAD):	20 FEET* *MAXIMUM 25', LDC SEC.4-899(a), NOTES 2 & 5, AS AMENDED
SIDE YARD:	0 FEET /15 FEET
REAR YARD:	20 FEET

M-XIMUM BUILDING HEIGHT:

STORAGE, OPEN	15'
COMMERCIAL/LIGHT INDUSTRIAL/RESTAURANT	45'/3 STORIES OVER PARKING
HOTEL/MOTEL	55'/5 STORIES OVER PARKING

M-XIMUM LOT COVER-GE: 40%

MINIMUM OPEN SP-CE: 30%

SCHEDULE OF DEVI-TIONS -ND JUSTIFIC-TIONS

DEVI-TION 1 IS APPROVED, GRANTING RELIEF FROM LDC §3-418(D)(3) REQUIRING A TYPE "A" BUFFER (5' WIDE) ALONG THE WEST PROPERTY LINE TO PERMIT NO BUFFER AT THAT LOCATION.

JUSTIFIC-TION: DEVIATION 1 APPROVED NO BUFFER TO THE WEST TO FLAMINGO ISLAND FLEA MARKET OVERFLOW PARKING SINCE THE WESTERN PORTION OF THE SITE CONTAINS A 5' DRAINAGE EASEMENT AND AN EXISTING DRAINAGE WAY AVERAGING 35' TO 55' IN WIDTH (CONTAINING A DITCH OF 20'-30' IN WIDTH). THIS AREA IS RECOMMENDED TO REMAIN AS ORIGINALLY APPROVED IN Z-97-084, ZO-09-13 AND ZO-16-07 FOR A CONTINUED DRAINAGE WAY AND OPEN SPACE AREA. IT WAS PREVIOUSLY DETERMINED THAT ADEQUATE BUFFERING IS PROVIDED WITH THE EXISTING VEGETATED BANKS OF THE DRAINAGE AREA. THE PROPOSED DESIGN DOES NOT MODIFY THE DRAINAGE WAY AND PROVIDES APPROXIMATELY 39'± OF OPEN SPACE WITH VEGETATED BANKS BETWEEN THE PROPOSED PARKING AREA AND ADJACENT COMMERCIAL DEVELOPMENT. EXISTING CONDITION 5.D PROVIDES THAT ANY EXOTIC REMOVAL THAT RESULTS IN LOSS OF THE NATIVE VEGETATION ALONG THESE BANKS ARE REQUIRED TO BE REPLACED AND MAINTAINED WITH NATIVE VEGETATION FOR A LOW AND MID-STORY BUFFER. THIS DEVIATION ENHANCES THE ACHIEVEMENT OF THE OBJECTIVES OF THE PLANNED DEVELOPMENT AND PRESERVES AND PROMOTES THE GENERAL INTENT TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

DEVI-TION 2 WAS WITHDRAWN.

DEVI-TION 3 WAS WITHDRAWN.

DEVI-TION 4 WAS WITHDRAWN.

PREP-RED FOR:

STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORIDA 33932

NO.	D-TE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
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10511 SIX MILE CYPRESS P-RKW-Y
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ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690

WWW.B-NKSENG.COM

MASTER CONCEPT PLAN
OAKLAND CPD
BONITA SPRINGS, FLORIDA

DATE	PROJECT	DR-WING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
01-23-2023	8332	MCP	DBA	RJV	DBA	N.T.S.	02

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EXHIBIT C

Oakland CPD Amendment
Narrative of Request
Exhibit II-E-2 & IV-D
PD21-85799-BOS
Revised December 2022

Introduction

The applicant, 2726 SCC, LLC, is requesting to amend the approved Oakland Park Commercial Planned Development (CPD) latest Ordinance 16-07 to adopt a new Master Concept Plan (MCP) to update conditions and demonstrate compliance with the Bonita Beach Road Corridor Overlay including uses, property development regulations and Conditions 3.a and 3.g, update Condition 4.c concerning heritage trees, amend Conditions 5.a and 5.b concerning open storage screening and amend Condition 8 concerning open storage use. The proposed development will be a benefit to the City by facilitating infill development within the Bonita Beach Road Corridor Overlay increasing property taxes from this investment.

The subject property is 2.15± acres located at 27971 Oakland Drive on the west side of Oakland Drive, approximately 580 feet north of Bonita Beach Road S.E. in the northwest quadrant of the I-75 and Bonita Beach Road intersection as shown in the below aerial. The site is vacant and fenced, previously cleared land with an existing drainage swale along the west boundary and 284± feet of frontage on Oakland Drive. The area is characterized with intense commercial uses to the west and south and high density residential consisting of older mobile homes to the north and east.



Background

The subject property was originally rezoned to Commercial Planned Development (CPD) in 1997 by Lee County Zoning Resolution Z-97-084 which included the parcel adjacent to the south. The property to the south was developed with a hotel, while the only historical use on the subject property was an unpermitted limestone parking lot for the staging/storing of utility vehicles adjacent to the existing mobile homes to the north and east. This lot was used for the storage of utility service trucks during the 2004 and 2005 hurricane seasons and prior years. Although the site has been permitted for commercial use since 1997, the property was sold in 2010 and again in 2016, no applications for development orders, building or use permits have been submitted. The property was cited in 2006 for the storage of those utility vehicles, which was not permitted under the 1997 CPD Schedule of Uses. The property was rezoned from CPD to CPD in 2009 by City of Bonita Springs Zoning Ordinance No. 09-13 for 2 phases with phase 1 allowing up to 47,330 square feet of open storage with a time limit of seven years and phase 2 allowed 32,700 square feet of commercial/office use, a 7,780 square foot restaurant, or a 90-room hotel. The anticipation was that phase 2 would develop on the site within that seven year time limit, but the site remains undeveloped. The property was purchased by the current owner in 2016 and the zoning was amended by City of Bonita Springs Zoning Ordinance No. 16-07 which reduced the commercial intensity from 32,700 square feet to 25,000 square feet, amended the Master Concept Plan, Schedule of Uses, Development Standards and Conditions of Approval. As part of these conditions, 9 heritage trees were required to be preserved (Condition 4.c) and the open storage use was limited to 3-5 years from date of approval (8.e). The site remains vacant due to these time limitations which have precluded the applicant's ability to successfully secure a user for the site which is a precursor to the applicant making the improvements requested herein by the City.

Request

The request seeks to adopt a new MCP to update conditions and demonstrate compliance with the Bonita Beach Road Corridor Overlay including uses, property development regulations and Conditions 3.a and 3.g, update Condition 4.c concerning heritage trees, amend Conditions 5.a and 5.b concerning open storage screening and amend Condition 8 concerning open storage use. These requests are outlined in more detail below.

Bonita Beach Road Corridor Overlay

The subject property lies within the outer edge of the Interstate Zone of the Bonita Beach Road Corridor Overlay. The existing MCP was approved in December of 2016 and therefor did not comply with the Bonita Beach Road Corridor Overlay and was set to expire thirty (30) days past the fifth anniversary date of adoption in December 2016, pending Executive Order State of Emergency extension(s). Pursuant to Land Development Code (LDC) Section 4-897(g)(2)iv, the applicant is required to bring the MCP into compliance with the Overlay since no buildings or infrastructure has been constructed. The applicant proposes to provide the required lighting, streetscape amenity such as a bench under a buffer shade tree, shaded pedestrian facility, bike racks, update property development regulations for reduced lot coverage, clarify open space and add the additional uses identified as permitted in the Interstate Zone of the Bonita Beach Road Corridor Overlay (except where noted otherwise in the schedule of uses), subject to the existing trip cap included in existing Condition 3e. Compliance with the LDC requirements are detailed in the LDC Bonita Beach Road Corridor Overlay analysis beginning on page 11 of this narrative.

Heritage Trees

The existing zoning ordinance Condition 4.c states, "Per the Tree Advisory Board recommendation, the application must preserve 9 Heritage Trees as identified on the MCP Stamped received June 8, 2016." In 2018, David M. Jones, Jr. and Associates, Inc. prepared the attached Memorandum of Record, Heritage Tree Exhibit and Tree Evaluations Exhibit A which determined the following:

- 1 tree in the southwest corner was 19" in diameter so it did not qualify as a heritage tree, but is proposed for preservation
- 2 trees scored poorly when evaluating health so therefore removal would not require replacement for mitigation of removal,
- 4 heritage trees will be impacted by fill requirements for the site when developed so will be removed and mitigated by replanting 4 trees, on site, of similar species or ecologic value with a minimum height of twenty feet (20' Ht.) at installation.
- 2 heritage trees are proposed for preservation, one along the north property line and another along the west.

This information was presented to the Heritage Tree Advisory Board on October 8, 2018. The board agreed with the new analysis and unanimously approved this proposed plan resulting in the preservation of the three (3) trees shown on the attached proposed revised MCP. A strike-through/underline of the conditions contained in Zoning Ordinance 16-07 is attached with Condition 4.c proposed to be revised as follows:

4.c. Per the Tree Advisory Board recommendation on October 8, 2018, the applicant must preserve the 3 ~~9 Heritage~~ Live Oak Trees as identified on the MCP and must mitigate removal of 4 Heritage Trees and mitigate by replanting 4 trees, on site, of similar species or ecologic value with a minimum height of twenty feet (20' Ht.) at installation. ~~stamped received June 8, 2016~~.

Buffers and Open Storage Use

The property has been zoned for commercial development since 1997 yet remains undeveloped. The property owner has received interest from multiple parties concerning the open storage use that is currently expired, but has been unable to secure a permanent Phase 2 use. In order to make the property economically viable until a permanent Phase 2 user secures the property, the owner would like to be able to lease the property for open storage use. Although time limitations were placed on the outdoor storage use in both the 2009 and 2016 approvals, other conditions were included to ensure compatibility of the open storage use with the adjacent properties. This is a low traffic generating use compared to other permitted uses on the site which furthers the intent of condition 3.e which includes a trip cap of 1,099 vehicles per day and 105 vehicles per hour for the site. Allowing the requested use by a planned development public hearing amendment process is keeping with the intent to bring the site more into compliance with the Bonita Beach Road Corridor Overlay which only requires a special exception for Storage, open in the Interstate Zone of the Bonita Beach Road Corridor Overlay and the site is going through a more thorough review process as a public hearing amendment to the PD. Allowing the use on this site will reduce the likelihood of the use to be requested on a less appropriate site within the overlay. As stated in the submitted narrative, the property owner has received interest from multiple parties concerning the open storage use and no interest in the Phase 2 uses. The only historical use on this property was an unpermitted limestone parking lot for the staging/storing of utility vehicles adjacent to the existing mobile homes to the north and east. This lot was used for the storage of utility service trucks during the 2004 and 2005 hurricane seasons and prior years. Although the site has been permitted for commercial use since 1997, the property was sold in 2010 and again in 2016, no applications for development orders, building or use permits have been submitted. The property was cited in 2006 for the storage of those utility vehicles, which was not permitted under the 1997 CPD Schedule of Uses. Zoning Ordinance 09-13 approved a 2-phase development. Phase 1 limited the open storage use to a seven year time period, with the expectation that the property would develop with those uses anticipated in Phase 2. Zoning Ordinance 16-07 limited the open storage use for three years. The site remains vacant due to these time limitations which have precluded the applicant's ability to successfully secure a user for the site. The applicant believes that the required buffers and conditions of approval continue to provide adequate compatibility for the open storage use. The site is not visible from I-75 and is not visible from Bonita Beach Road since it is approximately 580 feet north of Bonita Beach Road behind an existing hotel, gas stations and fast food uses. LDC Section 4-898 provides that Open storage is only allowed within the Bonita Beach

Road Corridor Overlay when permitted by Special Exception within the Interstate Zone and is not permitted at all in the other three zones. The subject property is going through the public hearing process, already includes the open storage use and is an appropriate location for this use within the Overlay as demonstrated by the prior approvals and the user interest in the site. Development of the site will result in adding a 284± linear foot vital extension of shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density mobile homes to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City. The existing buffer conditions were deemed compatible in 2016; however the applicant proposes to update conditions 5a and 5b to increase the visual screen to from 6' to 8' to north residential and from 60" to 6' (72") to the road easement for roads, drives or parking within 125 feet of residential or 8' (96") for open storage use visible from residential use. This application also requests to amend Condition 8 to add the following further conditions on the open storage uses and to allow the storage of pre-packaged palletized material:

A strike-through/underline of the conditions contained in Zoning Ordinance 16-07 is attached with Conditions 5.a, 5.b and 8 proposed to be revised as follows:

5.a. ~~In support of Deviation 2, t~~The applicant shall install a 6' opaque fence 5' south of the property line and provide a modified 5' Type C enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy trees such as oaks or mahoganies or a combination of canopy trees. For open storage use, the opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' continuous visual screen to residential. Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC 3.

5.b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. For open storage use, an 8' continuous visual screen must be provided when visible from residential use or zoning. If roads, drives or parking are located within 125 feet of residential, an opaque fence, hedge or combination berm and opaque fence or hedge must provide a 6' must be provided. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified for the eastern buffer consistent with the LDC.

8. Business Services Group II (with outdoor equipment and/or vehicle storage), Storage, Open, and Rental or Leasing Establishment uses

   e. Open storage, ~~vehicle and equipment dealers,~~ and business services group II (with outdoor equipment and/or vehicle storage) is further limited as follows: ~~to a period of no more than three years from the effective date of this ordinance, regardless of the property's ownership; however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of the ordinance all open storage uses shall terminate immediately~~.

      i. Must submit development order application within 120 days from approval of this ordinance.

      ii. 90 days instead of 180 days to respond to development order review

comments.

iii. Must obtain development order approval within 12 months from the effective date of this ordinance.

iv. Use is permitted for a period of no more than 65 months from development order approval date.

v. Maximum height of open storage is 15 feet.

vi. Storage of 53-foot tractor trailers is prohibited.

vii. No banners on boom trucks.

viii. Temporary trailer may be provided.

ix. Consistent with LDC Section 4-2073(b)(2), Storage areas do not need to be paved. Grass or other ground cover may be used provided it is kept in a sightly and dustfree manner and complies with other requirements of this ordinance. …

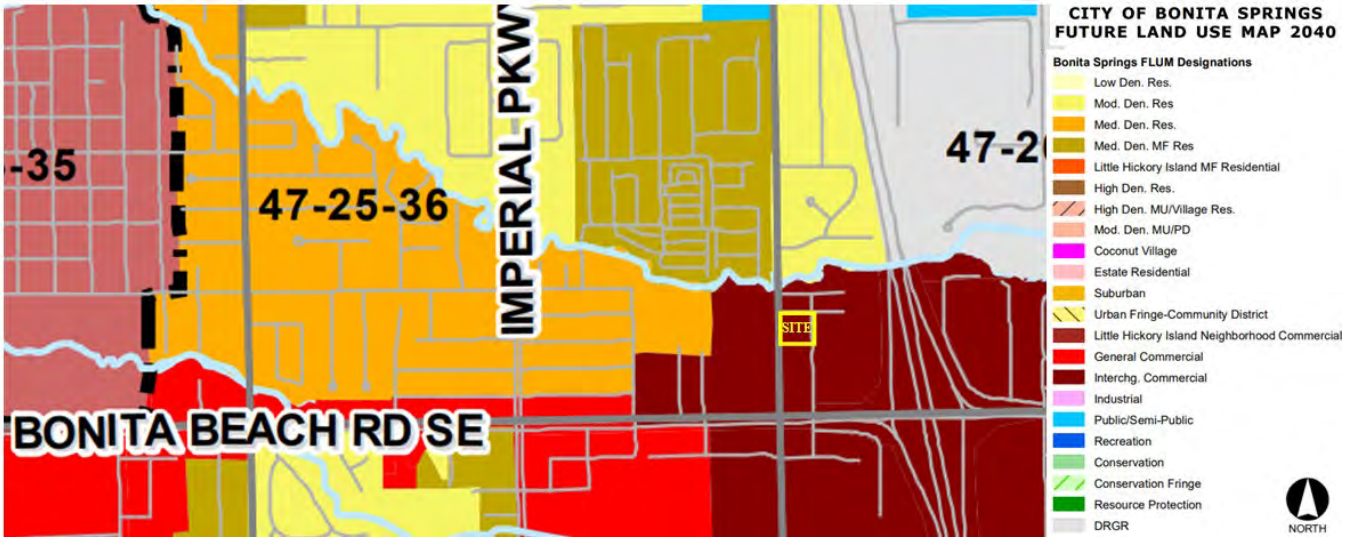
g. The storage, chipping, or mulching of landscape material is prohibited. Storage of pre-packaged palletized material is permitted.

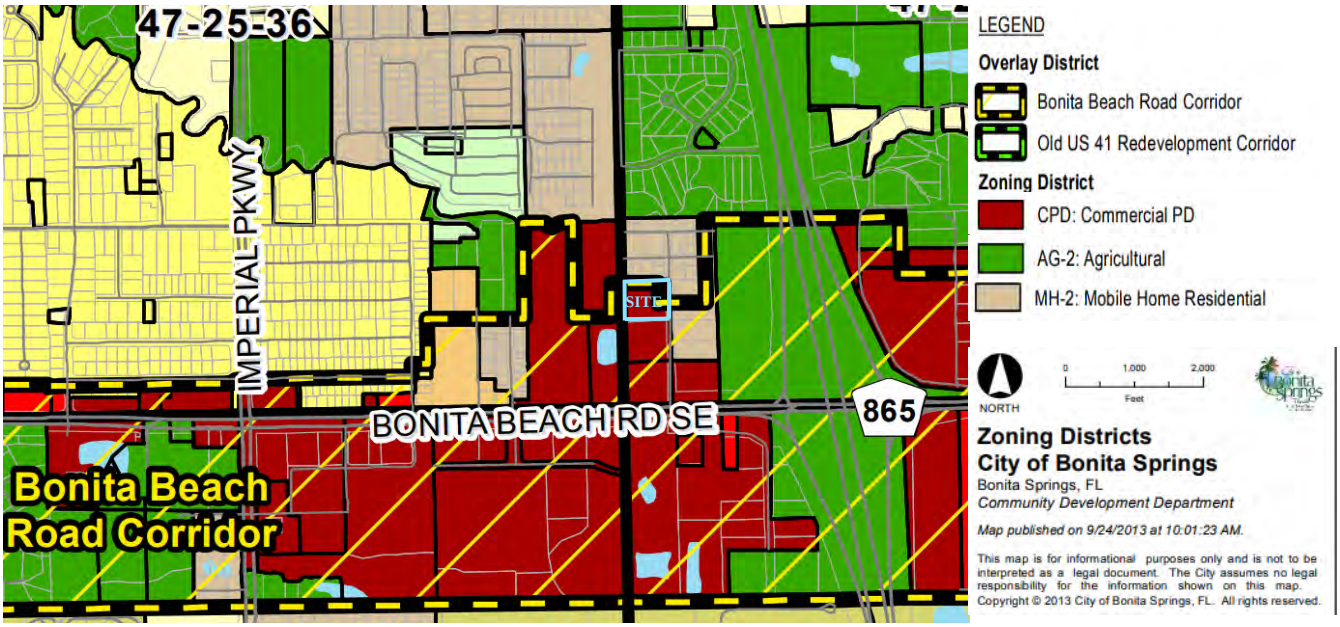
Subject and Adjacent Properties

The area is characterized with intense commercial uses to the west and south and high density residential uses to the north and east. The subject and surrounding properties future land use designation, zoning, Bonita Beach Road Overlay designation and current land use are summarized in the following table.

	Future Land Use	BBRC Overlay	Zoning	Use
Subject	Interchange Commercial	Yes	CPD	Vacant
North	Interchange Commercial	No	MH-2	Mobile Homes on lots
East	Interchange Commercial	N ½ No S ½ Yes	MH-2	Oakland Drive then 2 Mobile Home Parks
South	Interchange Commercial	Yes	CPD	Days Inn & Suites Hotel
West	Interchange Commercial	No	CPD	Flamingo Island Flea Market overflow parking

Below are excerpts of the Future Land Use Map and Zoning Map followed by a detailed description of the area.





North

Adjacent to the north are properties within the Interchange Commercial future land use map designation, zoned Mobile Home MH-2 and developed with high density residential consisting of individual lots with mobile homes averaging at 10± dwelling units per acre. The mobile homes are an existing inconsistent use in this future land use category, however may remain until voluntarily removed or reduced by attrition. If redeveloped, the future land use designation allows a maximum 1.2 FAR for nonresidential uses or a maximum density of up to 15 dwelling units per acre for multi-family residential and maximum allowable height of 75 feet. The City's Carpenter Lane Park is located at the end of Oakland Drive and Carpenter Lane along the Imperial River.

West

Adjacent to the west is property within the Interchange Commercial future land use map designation, zoned CPD and consists of Flamingo Island Flea Market overflow parking area.

East

Adjacent to the east is Oakland Drive, a two lane, privately maintained dirt road, and then property within the Interchange Commercial future land use map designation, zoned MH-2 and developed with higher density residential comprised of mobile home parks on two large lots. The mobile homes are an existing inconsistent use in this future land use category, however may remain until voluntarily removed or reduced by attrition. If redeveloped, the future land use designation allows a maximum 1.2 FAR for nonresidential uses or a maximum density of up to 15 dwelling units per acre for multi-family residential and maximum allowable height of 75 feet. Three lots south of this area is the Frank Clesen CPD, which is occupied by a fast food restaurant, gas station and convenience store fronting on Bonita Beach Road.

South

Adjacent to the south is property within the Interchange Commercial future land use map designation, zoned as Patel CPD (Lee County zoning resolution number Z-97-084) and developed with Days Inn & Suites Hotel. South of the hotel is a gas station and convenience store approved by the Kwik Pick Store CPD. This site was previously included in the original zoning resolution for the subject property.

The existing approved MCP is a bubble plan and a new MCP is proposed which provides the Phase 1 open storage conditions, Phase 2 building and parking layout and incorporates the existing buffer conditions and applicable requirements of the Bonita Beach Road Corridor Overlay Interstate Zone. The same singular vehicular access point onto Oakland Drive is proposed in generally the same location as the existing gated

access point into the property for the Phase 1 open storage use. A second access is proposed as part of Phase 2. The request proposes to incorporate the existing approved Deviations 1 regarding the west buffer. Deviation 2 is being withdrawn since it is no longer necessary due to the Bonita Beach Road Corridor Overlay LDC Section 4-899(b)(4)d.ii allowing the solid fence, opaque landscape hedge, or combination berm and solid fence or opaque landscape hedge not less than six feet in height to be constructed along the property line without landscaping.

Deviation 1 approved no buffer to the west to Flamingo Island Flea Market overflow parking since the western portion of the site contains a 5' drainage easement and an existing drainage way averaging 35' to 55' in width (containing a ditch of 20'-30' in width). This area is recommended to remain as originally approved in Z-97-084, ZO-09-13 and ZO-16-07 for a continued drainage way and open space area. It was previously determined that adequate buffering is provided with the existing vegetated banks of the drainage area. The proposed design does not modify the drainage way and provides approximately 39'± of open space with vegetated banks between the proposed parking area and adjacent commercial development. Existing condition 5d provides that any exotic removal that results in loss of the native vegetation along these banks are required to be replaced and maintained with native vegetation for a low and mid-story buffer.

Existing Deviation 2/Condition 5.a approved a north buffer of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy trees such as oaks or mahoganies or a combination of canopy trees. As previously stated, the applicant is proposing additional language to require that the opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' continuous visual screen to residential. Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC 3. The applicant is maintaining the previous condition that was in support of Deviation 2 that parking, access ways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25' of the northern property line. Building setbacks shall only be permitted at 20' when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.

To protect the residential properties across Oakland Drive, Condition 5.b requires the applicant to enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. As previously stated, the applicant is proposing additional language to require an opaque fence or hedge or combination berm and opaque fence or hedge to provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified for the east buffer consistent with the LDC. The south buffer is commercial to commercial so a 5' Type A buffer is required and provided.

Comprehensive Plan Consistency Analysis

Policy 1.1.3: Height - While each individual land use category may include a maximum allowable height, the actual allowable height for any given property will be stated in the Land Development Code based on consideration of compatibility with surrounding existing land uses and future land use patterns.

The 2009 CPD amendment approval allowed a height of 75 feet for a hotel use, 55 feet for commercial, industrial or restaurant and 25 feet for open storage which is consistent with the Interchange

Commercial future land use category's maximum height of 75 feet. The 2016 CPD amendment approval reduced the maximum height to 55 feet for a hotel use; 45 feet for commercial, office, industrial or restaurant use and 15 feet for open storage. The subject application does not propose any changes to these existing height limitations which were previously found compatible with surrounding residential and commercial uses. The requested amendment remains consistent with Policy 1.1.3.

> *Policy 1.1.4: Allowable Uses - The listing of appropriate land uses in each of the individual land use categories identifies those uses generally expected to be appropriate. However, other uses which are similar in character, intensity and impacts to those listed may also be deemed to be appropriate.*

The existing schedule of uses was found consistent with this Policy. Intense commercial uses are consistent with the existing land use patterns or those that are proposed within the Interchange Commercial area. As previously stated, the application intends to add the additional uses identified as permitted in the Interstate Zone of the Bonita Beach Road Corridor Overlay (except where noted otherwise in the schedule of uses), subject to the existing trip cap included in existing Condition 3.e and the proposed MCP. Although the applicant would prefer that these uses remain in order to encourage Phase 2 development which is desired by the City, the applicant agrees to require a special exception for a drive-through and remove non-store retailers to bring the site more into compliance with the Bonita Beach Road Corridor Overlay should the Phase 1 Open Storage use be approved. The property has been zoned for commercial development since 1997 yet remains undeveloped. Exclusive interest has been from multiple parties concerning the open storage use which will immediately improve the property's appearance concurrently generating revenue to repay the owner for the site improvements required in advance of allowing Open Storage and over time fund the equity needed to complete Phase 2 of the development. In order to make the property economically viable until a permanent Phase 2 user secures the property, the owner would like to be able to lease the property for open storage use. Although time limitations were placed on the outdoor storage use in both the 2009 and 2016 approvals, other conditions were included to ensure compatibility of the open storage use with the adjacent residential and commercial properties. The site is not visible from I-75 and is not visible from Bonita Beach Road since it is approximately 580 feet north of Bonita Beach Road behind an existing hotel, gas stations and fast food uses. LDC Section 4-898 provides that Open storage is only allowed within the Bonita Beach Road Corridor Overlay when permitted by Special Exception within the Interstate Zone and is not permitted at all in the other three overlay zones. The subject property is going through the public hearing process, already includes the open storage use and is an ideal use particularly given users of Open Storage often travel interstates. The subject property's near proximity and short access to I-75 eliminates a user of Open Storage from traveling longer distances on Bonita Beach Road. It is an appropriate location for this use within the Overlay as demonstrated by the prior approvals and the user interest in the site. The existing conditions of approval and the proposed amendments ensure compatibility of the proposed use. The proposed amendment remains consistent with Policy 1.1.4.

> *Policy 1.1.22: In order to minimize incompatibility when commercial, industrial or more intensive land uses share a common boundary with residential land uses, lower intensity uses shall be located adjacent to residential uses and the Land Development Code shall include provisions for buffering in the form of fences, walls, vegetation or spatial buffers to minimize the impacts upon the residential use.*

The existing conditions of approval provide setback and buffering requirements as well as height limitations that were deemed consistent with this Policy and no changes are proposed to the existing setbacks and height limitations. The buffers are proposed to be revised to increase screening to ensure the open storage use provides the required 8' visual screen to existing residential to the north and east or 6' visual screen to the east if roads, drives are parking are within 125' of residential. The proposed revised time limitations for the open storage use does not change the fact that the conditioned buffers

and setbacks provide compatibility with the adjacent residential uses. The request remains consistent with Policy 1.1.22.

> *Objective 1.16: Bonita Beach Road Corridor and Bonita Beach Road Corridor Quadrant Map: Establish regulations to implement the Bonita Beach Road Visioning Study by Toole Design Group dated November 1, 2016 for the Bonita Beach Road Corridor, which is generally located between the Gulf of Mexico and the City limits to the East. The corridor serves as the main gateway to the City, and is intended for an interconnected mix of uses including commercial, civic, residential, and mixed-use development, with emphasis on compatibility, a human-scale of development, walkability and bike-ability, and a vibrant and aesthetically-pleasing streetscape.*

The project site is located on Oakland Drive, a dead end side street within the Bonita Beach Road Overlay Corridor Interstate Zone. The site is not visible from I-75 and is not visible from Bonita Beach Road since it is approximately 580 feet north of Bonita Beach Road behind an existing hotel, gas stations and fast food uses. Its unique location makes it appropriate for the potential open storage use proposed revised time limitations and remaining Phase 2 uses. The request brings the MCP into compliance with the LDC requirements for developments within the Bonita Beach Road Corridor. Development of the site will provide a 6' sidewalk with landscape buffer providing shade with a bench or other streetscape amenity and extension of Oakland Drive along the site's 284± linear feet of frontage connecting the residential uses to the north and east with the commercial uses to the south benefiting the surrounding properties and the City. The request is consistent with Objective 1.16.

The subject property is located in the Interchange Commercial future land use category. The Comprehensive Plan describes the Interchange Commercial land use designation as follows:

> *Policy 1.1.15: Interchange Commercial - Intended for uses that serve the traveling public such as automobile service/gas stations, hotel/motel, restaurants and gift shops; and a broad range of tourist-oriented, general commercial, light industrial, commercial office, and multi-family residential up to 10 dwelling units per acre within the approximately 385 acres of gross land area in the land use category.*
>
> a. *If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.*
> b. *Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves.*
> c. *Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.*

The existing approved schedule of uses provides a wide range of commercial, light industrial, or hotel/motel uses which are permitted in the Interchange Commercial land use designation. The proposed inclusion of the uses permitted in the Bonita Springs Road Corridor Overlay Interstate Zone are also consistent with the Interchange Commercial land use designation and appropriate for the area. No changes are proposed to the existing approved maximum height of 55 feet which is less than the maximum of 75 feet allowed in this category. No changes are proposed to the existing maximum intensity of 25,000 square feet which is a floor area ratio of 0.27. The maximum floor area ratio of 1.2 would allow up to 112,000± square feet. The request remains consistent with Policy 1.1.15.

> *Objective 1.11: Development orders and permits for new development or redevelopment shall be issued only if public facilities and services for potable water, sanitary sewer, solid waste, and stormwater management are necessary to meet the City's adopted Level of Service (LOS) standards are available concurrent* with the impacts of the development…

Policy 1.11.1: Refers to the availability of public facilities and services necessary to support development

concurrent with its impacts, prior to the issuance of a development order or permit. The subject property is within the Bonita Springs Utilities franchise area for both water and sewer. Solid waste capacity is available to service the site. Access to the site will be provided via the existing access on Oakland Drive for Phase 1. An additional access will be provided with Phase 2. The existing conditions of approval 3.a through 3.g provide transportation requirements including improving portions of Oakland Drive and a trip cap. Minor revisions are proposed to these conditions to clarify the sidewalk width, provide a streetscape amenity, provide for a cross-access easement to the north, and require Oakland Drive improvements along the property frontage. The approximate location of storm water management areas are shown on the proposed MCP. Detailed storm water management design and utility connections will be provided at the time of local development order review. The proposed amendment to the CPD is consistent with Objective 1.11 and Policy 1.11.1.

Land Development Code Analysis

Planned Development General Standards

The proposed amendment complies with the general standards for planned developments provided in the Land Development Code Section 4-325 as follows:

(a) All planned developments shall be consistent with the provisions of the Bonita Plan.

The proposed amendment to the CPD is consistent with the Bonita Plan as demonstrated above.

(b) All planned developments, unless otherwise excepted, shall be designed and constructed in accordance with the provisions of all applicable city development regulations in force at that time.

The proposed development will comply with applicable city development regulations, together with continuation of the previously approved deviations.

(c) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water. In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian and cyclist activity and community interaction.

The proposed development has been previously approved and is designed to minimize any potential negative effects on the surrounding properties and the public interest generally. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge

or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The proposed development plan provides open space in the form of perimeter buffers and internal landscaping. The development plan adequately accommodates the proposed structure, required open space, buffers, parking, access, utilities, and storm water management areas. There are no environmentally sensitive features on site. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City.

(d) The tract or parcel shall have access to existing or proposed roads:

(1) In accordance with chapter 3 and as specified in the Bonita Plan traffic circulation element or the official trafficways map of the county;

(2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of service on specific roads have been established in the Bonita Plan; and

(3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.

Access to the site will be provided via the existing access on Oakland Drive which connects to Bonita Beach Road for Phase 1. An additional access is proposed with Phase 2 which will provide a cross access easement to the north. The existing conditions of approval 3.a through 3.g provide transportation requirements including improving portions of Oakland Drive and a trip cap. Minor revisions are proposed to these conditions to clarify the sidewalk width, provide a streetscape amenity, provide for a cross-access easement to the north, and require Oakland Drive improvements along the property frontage. No changes are proposed to the approved development intensity. Ingress and egress are provided without requiring any potential site related industrial traffic to move through residential areas.

(e) If within the Lee Tran public transit service area, the development shall be designed to facilitate the use of the transit system.

The subject property is located within the Ultra On Demand Transit Service area.

(f) Development and subsequent use of the planned development shall not create or increase hazards to persons or property, whether on or off the site, by increasing the probability or degree of flood, erosion or other danger, nor shall it impose a nuisance on surrounding land uses or the public's interest generally through emissions of noise, glare, dust, odor, air or water pollutants.

The proposed development will not create or increase any hazards to persons or property nor shall it impose a nuisance on surrounding land uses or the public's interest generally. The conditions of approval as amended by this request continue to provide sufficient protection and compatible development that will be further reviewed at the time of local development order approval.

(g) Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural, historical or archaeological

features of the site, particularly mature native trees and other threatened or endangered native vegetation. Alteration of the vegetation or topography that unnecessarily disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. That habitat is significant that is critical for the survival of rare, threatened or endangered species of flora or fauna.

There are no natural, historical, archaeological or environmentally sensitive features existing on site however the site does contain mature native trees. The Tree Advisory Board reviewed and unanimously approved the proposed plan resulting in the preservation of the three (3) trees shown on the attached proposed revised MCP.

(h) A fundamental principle of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment. This shall be coordinated with the achievement of other goals, e.g., the preservation or conservation of environmentally sensitive land and waters or archaeological sites.

There are no environmentally sensitive lands or archaeological features existing on site. The proposed master concept plan and site design provides creative use of the open space requirement by placing the dry detention area to the north to provide additional separation to the adjacent residential uses. The proposed design continues to incorporate the drainage way and provides approximately 39' of open space with vegetated banks between the proposed parking area and adjacent commercial development. The enhanced buffer along Oakland Drive and the internal landscape areas where the parking is proposed will provide shade for the proposed sidewalk and bench or other streetscape amenity to produce an architecturally integrated human environment while allowing the remainder of the site to function appropriately for its intended use.

(i) Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.

As previously stated, the surrounding land and land uses to the west and south are compatible commercial development. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The existing conditions of approval were deemed compatible with the surrounding residential and commercial uses. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and

the City. The proposed amendment will allow compatible infill development of the site with buffering, setbacks and height limitations that minimize any negative impacts of the planned development on surrounding land and land uses.

(j) Where a proposed planned development is surrounded by existing development or land use with which it is compatible and of an equivalent intensity of use, the design emphasis shall be on the integration of this development with the existing development, in a manner consistent with current regulation.

The surrounding existing development to the west and south are compatible and of an equivalent intensity of use so the design provides for continuation of the existing drainage ditch on the west and LDC required buffering to the commercial use to the south. The proposed Oakland Drive and associated pedestrian way and buffer will integrate with the existing pedestrian facilities to the south and will connect to the north property line, providing a vital segment of Oakland Drive with shaded pedestrian facilities including a bench or other streetscape amenity connecting the adjacent residential uses to the commercial uses to the south.

(k) Where the proposed planned development is surrounded by existing development or land use with which it is not compatible or which is of a significantly higher or lower intensity of use (plus or minus ten percent of the gross floor area per acre if a commercial or industrial land use, or plus or minus 20 percent of the residential density), or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs.

As previously stated, the surrounding land and land uses to the west and south are compatible commercial development. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The existing conditions of approval were deemed compatible with the surrounding residential and commercial uses. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City. The proposed amendment will allow compatible infill development of the site with buffering, setbacks and height limitations that minimize any negative impacts of the planned development on surrounding land and land uses.

(l) In large residential or commercial planned developments, the site planner is encouraged to

create subunits, neighborhoods or internal communities which promote pedestrian activity and community interaction.

This standard is not applicable to the subject application.

(m) In order to enhance the viability and value of the resulting development, the designer shall ensure the internal buffering and separation of potentially conflicting uses within the planned development.

There are no conflicting uses within the planned development.

(n) Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.

The project site is small and does not require varying use, height, bulk or intensity.

(o) Unless otherwise provided for in this article, minimum parking and loading requirements shall be as set forth in article VI, divisions 25 and 26, of this chapter. Where it can be reasonably anticipated that specified land uses are generators of occasional peak demand for parking space, a portion of the required parking may be pervious or semi-pervious surfaces subject to the condition that it be constructed and maintained so as to prevent erosion of soil. In all cases, however, sufficient parking shall be provided to prevent the spilling over of parking demand onto adjacent properties or rights-of-way at times of peak demand.

The proposed development will provide sufficient parking consistent with City requirements.

(p) Joint use of parking by various land uses within the planned development may be permitted by special condition where it can be demonstrated or required that the demand for parking by the various uses will not conflict. Joint parking agreements between uses within and uses without the planned development shall be governed by agreement per general regulation (see section 4-1730), without exception.

Joint use of parking is not proposed for this development.

(q) Internal consistency through sign control, architectural controls, uniform planting schedules and other similar controls is encouraged.

The proposed development will provide internal consistency throughout the development.

<u>Bonita Beach Road Corridor Overlay LDC Requirements</u>

The subject parcel is located within the Interstate Zone of the Bonita Beach Road Corridor Overlay. The Master Concept Plan (MCP) is required to be brought into compliance with the Overlay pursuant to LDC Section 4-897(g)(2)iv. The existing schedule of uses is very limited compared to that which is allowed

within the Overlay. Since the existing approval includes condition 3.e with a cap on trips, the application requests to keep the existing schedule of uses, but also allow utilization of the Interstate Zone Uses allowed pursuant to LDC Section 4-898 (except where noted otherwise in the schedule of uses) to expand the development opportunities and economic viability of the site with uses specifically designated for this area.

The CPD complies with the Property Development Regulations for the Interstate Zone contained in LDC Section 4-899(a) as follows:

- Pursuant to Note (1), the site is less than 3 acres and therefor does not require a block layout plan.
- Setbacks:

	Overlay	CPD
Minimum Street:	20'	20' (Private Local Road)
Maximum Street: Not applicable pursuant to Note (3) since on a secondary street		
Side:	0'/15'	20'/25'*
Rear:	20'	25'
Maximum Height	35'/55' per 4-1874	55'
Maximum Lot Coverage:	40%	58% being revised to 40%[1]
Minimum Open Space :	N/A	42% being revised to 30%

*Although Deviation 2 is no longer necessary, no changes are proposed to the existing condition that parking, access ways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25' of the northern property line. Building setbacks shall only be permitted at 20' when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.

The CPD complies with the following additional design standards contained in LDC Section 4-899(b):

(1) The site is not visible from Bonita Beach Road. Drive-thru is a permitted use today and has been a permitted use since the 1997 zoning approval. Although the applicant would prefer that this use remain in order to encourage Phase 2 development which is desired by the City, the applicant agrees to require a special exception to bring the site more into compliance with the Bonita Beach Road Corridor Overlay should the Phase 1 Open Storage use be approved. The applicant believes that the required buffers and conditions of approval provide adequate compatibility for the drive-thru use. Any auto oriented use will need to demonstrate at time of local development order that any drive-thru and associated stacking will be located along the side and rear property lines.

(2) A note has been added to the MCP that lighting will be provided on the building or free standing along the street right of way. A photometric plan will be provided at the time of local development order.

(3) Parking requirements
   a. The minimum LDC required parking will be provided and demonstrated at the time of local development order for the end user. Provided parking will not exceed more than 15 percent more than the minimum required.
   b. Not applicable. No reduction by parking study is proposed.
   c. Not applicable since no on-street parking exists.
   d. Not applicable since the adjacent existing parking lot to the south is not designed to allow for connection and the use to the west is separated by the existing drainage ditch.

[1] The maximum lot coverage is proposed to be revised to match the 40% requirement in the Bonita Beach Road Corridor Overlay Interstate Zone. This lot coverage is consistent with the original CPD approval in 1997. In the 2009 approval, there appears to be a typo in the Lot Coverage and Open Space requirements because these do not typically add up to 100%. For example LDC Section 3-417 requires 20% open space for commercial uses and conventional commercial zoning districts all have a maximum lot coverage of 40%. This apparent typo of Lot Coverage 58% and Open Space 42% was carried over on the 2016 approval, however the MCP depicted a 20% open space requirement. The applicant requests to update these requirements to Maximum Lot Coverage of 40% and Minimum Open Space of 30%.

e. Not applicable as no valet parking is proposed.
f. A note has been added to the MCP that bike racks will be provided which will be demonstrated at the time of local development order approval.

(4) Parking placement
   a. On-street parking is not proposed since the road is a privately maintained roadway with existing residential uses.
   b. The MCP demonstrates one full bay of parking along the frontage line, consistent with the Interstate Zone.
   c. Not applicable to the Interstate Zone.
   d. Buffering adjacent property.
      i. The right-of-way buffer is not proposed within the easement since it is a privately maintained road.
      ii. Deviation 2 is no longer necessary. The MCP has drives or parking areas less than 125 feet from residential uses to the north and east and revised conditions 5a requires a 6' opaque fence or 8' visual screen for open storage and revised condition 5b requires a 6' visual screen or 8' for open storage, consistent with this requirement.

(5) Continuous shaded bike facilities and pedestrian facilities.
   a. Compliance with Chapter 3 must be demonstrated at the time of local development order.
   b. The right-of-way buffer is not proposed within the easement since it is a privately maintained road.
   c. A note has been added to the MCP that the enhanced landscape buffer pursuant to condition 5b provides pedestrian shade which must be demonstrated at the time of local development order.

(6) A note has been added to the MCP that a minimum of 1 bench or other streetscape amenity must be provided.

(7) The MCP demonstrates a screened dumpster that is not located on a frontage line

The site has no frontage on Bonita Beach Road and is not located within one of the three Gateways listed in LDC Section 4-899(c).

LDC Findings

The proposed amendment to the CPD complies with the guidelines for decision-making embodied in Land Development Code section 4-131(d)(3) as follows:

a. The applicant has proved entitlement to the rezoning or special exception by demonstrating compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation;

The proposed rezoning is in compliance with the Bonita Plan as demonstrated above. The site will be developed in compliance with the Land Development Code, together with continuation of the existing approved deviations.

b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;

The site will meet or exceed all performance and locational standards set forth for the potential uses allowed, together with existing approved deviations.

c. The request, including the use of TDR or affordable housing bonus density units, is consistent

with the densities, intensities and general uses set forth in the Bonita Plan;

The request is consistent with intensities and uses set forth in the Bonita Plan. The proposed CPD amendment expands the economic viability of the site and allows for the infill development of a FAR below the maximum allowed within the Interchange Commercial future land use designation.

d. The request is compatible with existing or planned uses in the surrounding area;

As previously stated, the surrounding land and land uses to the west and south are compatible commercial development. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The existing conditions of approval were deemed compatible with the surrounding residential and commercial uses and the proposed revised conditions provide further compatibility. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City. The proposed amendment will allow compatible infill development of the site with buffering, setbacks and height limitations that minimize any negative impacts of the planned development on surrounding land and land uses.

e. Approval of the request 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;

Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities. No changes are proposed to the existing approved intensity or transportation conditions of approval except for minor revisions to clarify the sidewalk width, provide a streetscape amenity, provide for a cross-access easement to the north, and require Oakland Drive improvements along the property frontage. These conditions must be complied with at the time of local development order approval.

f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources;

Not applicable since there are no environmentally critical areas or natural resources located on site.

g. In the case of a planned development rezoning, the decision of the zoning board must also be supported by the formal findings required by section 4-299(a)(2) and (4);

4-299(a)(2) The recommendation made to the city council must be supported by formal findings that address the guidelines set forth in section 4-131. In addition, the findings must address whether the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

b. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.

c. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

(4) If the application includes a schedule of deviations pursuant to section 4-326, the zoning board's recommendation must approve, approve with modification or reject each requested deviation based upon a finding that each item:

a. Enhances the achievement of the objectives of the planned development; and

b. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.

If the zoning board concludes that the application omits necessary deviations, they may include those omitted deviations in its recommendation without an additional hearing.

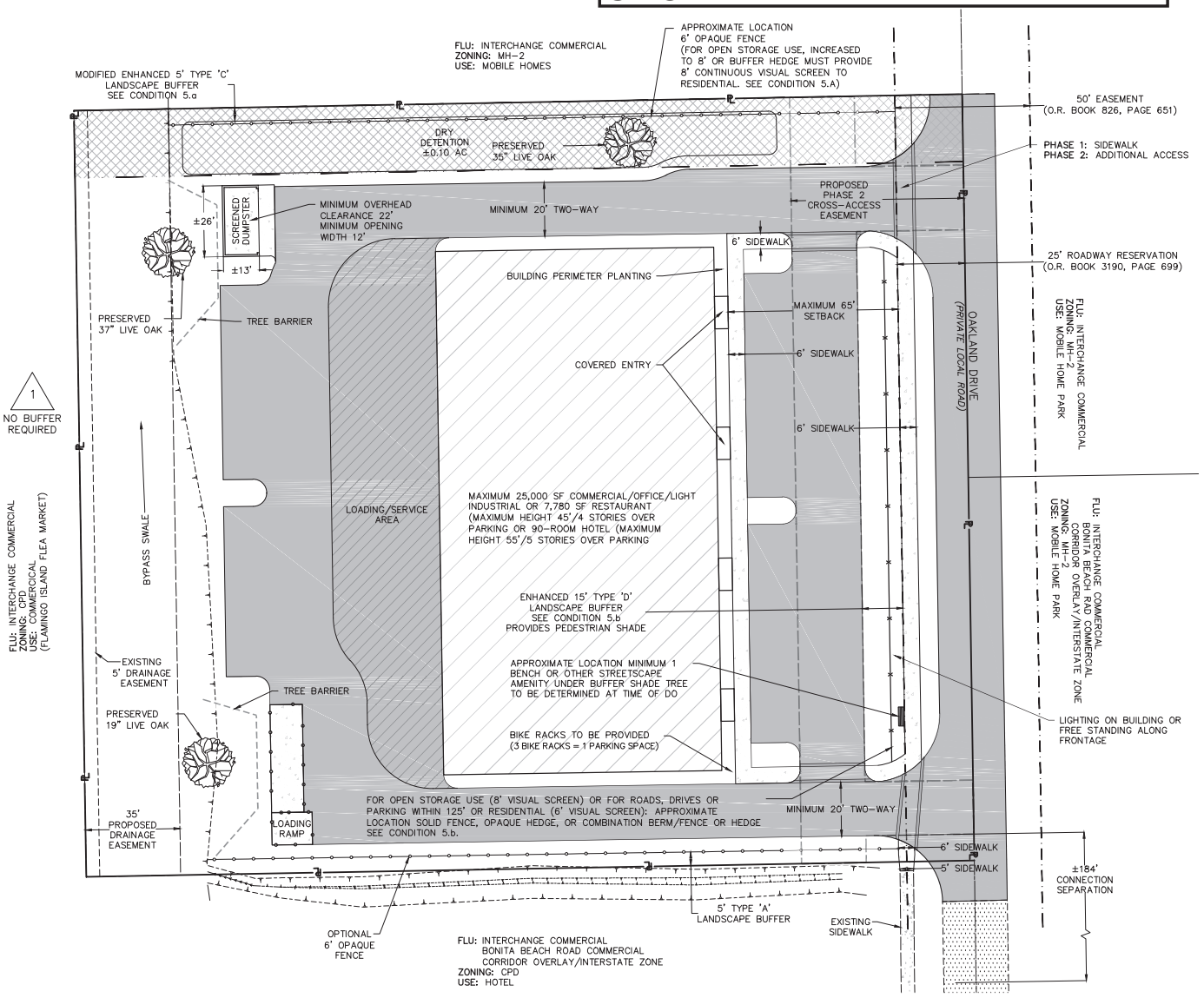
The proposed schedule of uses is appropriate at the subject location and includes uses consistent with the Interchange Commercial future land use category and the Bonita Beach Road Corridor Overlay Interstate Zone. The conditions proposed by the applicant with the master concept plan, schedule of uses, property development regulations and 20 conditions of approval provide sufficient safeguards and are appropriate for the proposed development. The requested continuation of deviation 1 enhances the achievements of the objectives of the planned development and preserves and promotes the general intent to protect the public health, safety and welfare.

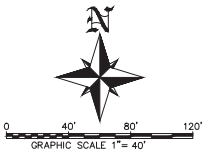
h. The zoning board must also find that public facilities are, or will be, available and adequate to serve the proposed land use.

There are existing public facilities in place and adequate to serve the proposed land use and existing approval. No changes are proposed to the existing approved intensity.

In conclusion, the proposed amendment to the CPD is in compliance with the Bonita Plan, the Land Development Code with continued approval of requested deviation, and other applicable codes and regulations; is consistent with the intensities and general uses set forth in the Bonita Plan, is compatible with existing or planned uses in the surrounding area; 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; will not adversely affect environmentally critical or sensitive areas and natural resources; the proposed use is appropriate at the subject location; the proposed conditions are reasonably related and appropriate for the project, the requested deviations enhance the achievement of the objectives of the planned development and preserve and promote the general intent to protect the public health safety and welfare; public facilities are available and adequate to serve the proposed use. For these reasons, the applicant respectfully submits that the CPD amendment should be approved.

CROSS EASEMENT EXHIBIT "D"





OPEN SPACE

REQUIRED: 0.65 ACRES (2.15 x 0.30)

PROVIDED: 0.65 ACRES

SITE SUMMARY

FUTURE LAND USE:	INTERCHANGE COMMERCIAL BONITA BEACH ROAD OVERLAY CORRIDOR/INTERSTATE ZONE
EXISTING ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
EXISTING LAND USE:	UNDEVELOPED
PROPOSED ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
GROSS AREA:	2.15± ACRES
STRAP NUMBER:	31-47-26-B4-00100.0050
STREET ADDRESS:	27917 OAKLAND DRIVE BONITA SPRINGS, FL 34135

PHASE 1: OPEN STORAGE, SOUTH ACCESS & OAKLAND ROW IMPROVEMENTS

PHASE 2: BUILDING, NORTH ACCESS & CROSS-ACCESS EASEMENT

LEGEND:

DEVIATION

TREE TO REMAIN

BUILDING

PAVEMENT

CONCRETE

PARKING, ACCESS WAYS/DRIVES, VEHICLE STORAGE, OPEN FOR ANY USE IS PROHIBITED WITHIN 25' OF THE NORTHERN PROPERTY LINE. BUILDING SETBACKS SHALL ONLY BE PERMITTED AT 20' WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE. ACCESSWAY, DRIVES, PARKING AND STORAGE, OPEN MAY ALSO BE PERMITTED IN ACCORDANCE WITH THE LDC WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE.

PREPARED FOR:

STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORIDA 33932

NO.	DATE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

MASTER CONCEPT PLAN
OAKLAND CPD
BONITA SPRINGS, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
01-23-2023	8332	MCP	DBA	RJV	DBA	1" = 40'	01

ATTACHMENT "A"
BACKGROUND & INFORMATIONAL ANALYSIS

Surrounding Land Use

Existing Zoning & Land Use	Future Land Use Map
Subject Parcel: Oakland CPD, Interstate Zone of Bonita Beach Road Corridor Overlay; Vacant	Interchange Commercial (10.0 dwelling units/acre, 1.2 FAR)
North: MH-2; Mobile homes	Interchange Commercial (10.0 dwelling units/acre, 1.2 FAR)
East: MH-2 and Interstate Zone of Bonita Beach Road Corridor Overlay; Mobile homes	Interchange Commercial (10.0 dwelling units/acre, 1.2 FAR)
South: Patel CPD, Interstate Zone of Bonita Beach Road Corridor Overlay; Days Inn Hotel	Interchange Commercial (10.0 dwelling units/acre, 1.2 FAR)
West: Flamingo Island Flea Market CPD, Overflow parking area for Flamingo Island Flea Market	Interchange Commercial (10.0 dwelling units/acre, 1.2 FAR)

Environmental Considerations

The 2.15 +/- acre parcel has been previously cleared of vegetation with the exception of a swath of oak trees. There are no environmentally sensitive lands on the property. The oak trees extend from the northern property line and generally run to the southwest and extend to about the midpoint of the property. Prior to Hurricane Irma there were eight heritage live oak trees (live oaks greater than 20" in diameter at 4.5' above grade). Hurricane Irma severely damaged two of the heritage trees with six healthy oaks remaining. The Tree Advisory Board approved four of the remaining heritage trees for removal on October 8, 2018, with a condition for replacement of each with a similar tree at twenty feet in height within the landscaping. The remaining two heritage trees will remain on site and another large live oak in the southwest of the site will also be preserved as shown on the Master Concept Plan.

A canal exists on the western boundary of the subject property. It is 20' – 30' in width and drains this property and all the other properties on the west side of Oakland Drive. The Applicant will retain this swale as indicated on the Master Concept Plan and proposes a drainage easement to further protect it.

During the 2016 amendment of this planned development, Community Development staff identified several listed species on the parcel. They consisted of three species of air plants growing on the heritage live oak trees and wading birds observed foraging in the canal. The air plants can be retained or transplanted onto trees to be retained. Since there is no proposed change to the canal where the wading birds were observed, no mitigation from the wildlife agencies will be required. Additionally, the Applicant will be required to vegetate the proposed dry detention areas with native vegetation, which will further provide foraging habitat for wading birds as well as improved water quality for storm water runoff. Due to the disturbed nature of the site and lack of native vegetation, Staff approved a waiver for updated environmental reports. An updated Florida Land Use, Cover, and Forms Classification System (FLUCCS) map was provided.

Some of the proposed uses of the site will generate pollutants such as oil, grease and gasoline. To address issues associated with such pollutants, staff recommends a wash out station be constructed for any open storage use. A maintenance provision to keep oil and gas absorbent material on-site for accidental spills and ensure proper storage of hazardous fluids is also recommended. This site is within the 10-year Wellfield Protection Zone. At the time of development, a Wellfield Protection permit will be required if regulated substances stored on site will exceed the amounts allowed per the Land Development Code. This permit may require additional containment measures for pollutants, onsite wells, and monitoring of the onsite wells.

To address visual impacts to adjacent properties, additional landscaping is proposed. There is approximately 275' of frontage along Oakland Drive which abuts numerous mobile homes. These adjacent properties will be buffered with an enhanced Type "D" buffer consisting of 5 trees per every 100 linear feet minus driveway connections and a double row hedge with a minimum of 15-gallon container size at 48" in height plantings at time of installation. These hedges will be required to grow to 60'' within one year after time of planting, providing a continuous visual screen. For open storage use, the hedges will be allowed to grow to 96" and an 8-foot-tall fence will also be required.

The previous zoning approval for the property was modified from LDC requirements through an approved deviation (#2). This required the Applicant to maintain the existing six (6) foot fence five (5) feet off the northern property line and provide a 5' Type C enhanced buffer. The hedge must be a 36'' hedge at time of installation and be maintained at 60'' high, providing a continuous visual screen within one year after time of planting. The trees must be canopy type trees such as oaks or slash pines or a combination of canopy trees. If the hedge does not provide a continuous visual screen at time of certificate of completion, the Applicant must install some type of opaque screening (filtering material) along the fence. For open storage use, the hedge must be maintained at 8' or 96".

Under the current review, staff finds the deviation no longer required. The project is within the Bonita Beach Road Corridor which allows for fences or walls required for buffering residential uses on the property line rather than set back 25' per the landscape code requirements. Should the adjacent properties redevelop with non-residential uses, buffering requirements will be required consistent with LDC 3.

The site contains a 0.427 acre man-made ditch considered Other Surface Waters by the South Florida Water Management District (SFWMD), which will be reviewed during permitting by that agency.

Engineering

At time of local development order, the Applicant will be required to submit engineering plans showing how the site will store and treat its surface water management, consistent with the City's Comprehensive Plan and LDC. The project will be designed in accordance with the South Florida Water Management District (SFWMD) regulatory requirements, and as outlined in the City's Comprehensive Plan, will provide water quality treatment volume for 150% of the SFWMD requirement. Consistent with the LDC, the Applicant will be required to demonstrate no adverse offsite stormwater impacts by incorporating the proposed project into the current City Interconnected Pond and Channel Routing (ICPR) Model. ICPR flood routing will need to be provided at time of local development order permitting.

Floodplain
Proposed structures, utilities and equipment shall be reviewed for elevation and flood design compliance at time of permit application.

Comprehensive Plan Considerations

Future Land Use:

The proposed project is located in the Interchange Commercial future land use category. In the Bonita Plan, the Interchange Commercial future land use category is described as follows:

Policy 1.1.15: Interchange Commercial *- Intended for uses that serve the traveling public such as automobile service/gas stations, hotel/motel, restaurants and gift shops; and a broad range of tourist-oriented, general commercial, light industrial, commercial office, and multi-family residential up to 10 dwelling units per acre with the approximately 385 acres of gross land area in the land use category.*

a. *If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.*
b. *Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves.*
c. *Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2*

The proposed project is commercial in nature and includes uses that are listed in Policy 1.1.15. The proposed height of any structures will comply with the height listed in Policy 1.1.15.b.

Transportation Element
The proposed amendments do not result in allowed uses that would significantly increase the trip generation to and from the site. Therefore, a TIS was not required. The proposed amendment does not alter the approved limit (trip cap) on trips to and from the site. The approved trip cap limits the number of trips generated by all combined uses on the site to a maximum of 1,099 vehicles per day and 105 vehicles per hour including pass-by trips. All development on the site will require the submittal of a Traffic Impact Statement in accordance with the LDC.

As conditioned, the Applicant will be providing for the projects pedestrian related improvements (infrastructure and amenities) onsite and along the subject properties Oakland Drive frontage, prior to and concurrent with, the project's respective phases of site development and occupancy/use of the property (Transportation Condition 4a).

Conservation and Coastal Management Element
The proposed CPD will provide 30% open space and will be consistent with Policy 7.2.2.

Planned Development Analysis, Formal Findings LDC 4-131 and LDC 4-299

Review criteria	Yes – Mostly - Partly - No
Demonstrate compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation; and	Yes.
The request meets or exceeds performance and location standards set forth for the proposed uses; and	Yes.
Including the use of TDR or affordable housing bonuses are the densities or intensities (general uses) consistent with the Comprehensive Plan; and	Yes.
The request is compatible with existing or planned uses in the surrounding area; and	Mostly; The proposal is for commercial development surrounded by commercial and existing residential, intending to serve the travelling public and residents. The existing residential structures cannot be voluntarily removed and replaced, unless a major planned development is sought. The open storage use will comply with code required buffers, as conditioned, and if approved as conditioned, will terminate after a set deadline. In addition, the open storage will develop the site to continue the street and sidewalk, serving those nearby residences for a safer connection through Oakland Drive. Further, the uses may serve nearby residents, as well as the general public, furthering the intent of the Bonita Beach Road Corridor Overlay. The proposed commercial development is located where commercial is intended.
Approval of the request 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	Yes; the conditions will provide the code-required improvements.
Will the request adversely affect environmentally critical areas and natural resources; and	No; the site has previously been disturbed.

Public facilities are, or will be, available and adequate to serve the proposed land use; and	Yes.
The proposed use or mix of uses is appropriate at the subject location; and	Yes, as conditioned.
The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest; and	Yes
The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development; and	Yes
Deviations enhance the achievement of the objectives of the planned development and preserve and promote the general intent of this chapter to protect the public health, safety and welfare	Yes; Staff analysis and recommendations of the deviations are found in the Staff report. In summary, there was one (1) deviation requested, Staff is recommending approval of one (1).

Request for Submittal Requirement 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, Development Orders, Limited Review Development Orders and other Administrative Action 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)

X Public Hearing - General Requirements **(4-194)**

X Public Hearing - Additional Requirements for:

- _____ Development of Regional Impact **(4-195(a))**
- X Planned Developments **(4-195(b))**
- _____ Master Concept Plan Extension **(4-303)**
- _____ Master Concept Plan Reinstatement **(4-303)**
- _____ Rezoning other than Planned Developments **(4-195(c))**
- _____ Mobile Home Park **(4-195(d))**
- _____ Special Exception **(4-195(e))**
- _____ Variances **(4-195(f))**

_____ Administrative Action Requirements **(4-196)**

_____ Development Order - Submittal Requirements **(3-133)**

- _____ Application Form and Contents **(3-135)**
- _____ Additional Required Submittals **(3-136)**

_____ Limited Review Development Order – Submittal Requirements **(3-133)**

- _____ Required Submittals **(3-160)**

PLEASE PRINT OR TYPE:

STAP Number: 31-47-26-B4-00100.0050

Name of Project: Oakland CPD

Name of Agent: Brent Addison

Street Address: 10511 Six Mile Cypress Parkway, Suite 101

City: Fort Myers State: FL Zip: 33966

Phone #: 239-939-5490 Fax #: 239-939-2523

E-mail: baddison@bankseng.com

Name of Applicant*: 2726 SCC LLC

Street Address: 12140 Carissa Commerce St., Suite 102

City: Fort Myers State: FL Zip: 33966

Phone #: 239-487-3800 Fax #: N/A

E-mail: stan.stouder@creconsultants.com

*** 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 _____	Please see the attached llist
#2 _____	
#3 _____	
#4 _____	
#5 _____	
#6 _____	
#7 _____	
#8 _____	
#9 _____	

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

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

This application only requests amendments to conditions 4c concerning heritage trees and 7e concerning open storage.

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

Jon Hounder mbr 2/22/21

Signature of Applicant

Directors Decision: ✓ **Request Approved** subject to comments. **Request Denied**

Comments: Please provide a revised MCP showing the revised heritage tree locations. Please provide a Soils, Vegetation, & Ground Cover Maps.

Signature: Mindy Judith **Date:** 4-30-2021

BANKS ENGINEERING

Professional Engineers, Planners & Land Surveyors

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

SECTION NUMBER	REQUIREMENT
4-194(b)(2)	Deed Restrictions & Narrative
4-196(1)	Plat Book Page
4-295(a)(5) / 4-370	Bonita Springs Plan Amendment (if applicable)
4-325(c)	Environ. Sensitive Lands Map
4-1339	Environmental Assessment
4-295(a)(4)c	Soils, Vegetation and Ground Cover Maps
4-295(a)(4)c	Topography Map (if available)
4-295(a)(6)c	Density Calcs (if applicable)
4-987	Aviation Hazard (if applicable)
3-353	Sanitary Sewer Facilities (if applicable)
4-295	Traffic Impact Statement (if applicable)
4-295(a)(4)d	Public Transit Routes Map (if applicable)
4-295(a)(4)e	Existing Easements and R-O-W Map
4-295(a)(6)b	Master Concept Plan (Option 2)
4-295(a)(8)	Schedule of Uses
4-295(a)(9)	Schedule of Deviations & Justifications
4-295(b)(1)	Surface Water Management Plan
4-295(b)(2)	Protected Species Management Plan
4-295(b)(3)	Program for Phased Development (if applicable)
4-194	Hazardous Material Emegerncy Plan (if applicable)
4-195(d)	Mobile Home park Rezoning Information
4-295(a)(4)(f)	Map of Historical & Archaeological Sites
4-295(a)(4)(f)	Possible Impacts on Historical & Archaeological Sites

PUBLIC HEARING APPLICATION FOR PLANNED DEVELOPMENT

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

Applicant's Name: 2726 SCC, LLC

Project Name: Oakland CPD

STRAP Number(s): 31-47-26-B4-00100.0050

Application Form: X **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: _____

TYPE OF APPLICATION

_____ DRI _____ PD – Existing Development _____ PD – Amendment

_____ Option 1 _____ Option 2

****

PART I
APPLICANT\PROPERTY OWNERSHIP INFORMATION

A. Name(s) of applicant(s): 2726 SCC, LLC

Mailing Address: Street: P.O. Box 6122

City: Fort Myers Beach State: FL Zip: 33932

Phone Number: Area Code: 239 Number: 481-3800 Ext: _____

E-mail: stan.stouder@CREconsultants.com

B. Relationship of applicant to property:

X Owner _____ Trustee _____ *Option holder* _____ *Lessee* _____ *Contract Purchaser*

_____ *Other (indicate):* _____

If applicant is NOT the owner or the person authorized by the Covenant of Unified Control, submit a ***Notarized Authorization Form*** *from the owner or his authorized representative. Label as Exhibit I-B.*

** If the application is City-initiated, enter the date the action was initiated by the 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". **[Sec. 4-193]***

C. Name of owner(s) of property: 2726 SCC, LLC

Mailing Address: Street: P.O. Box 6122

City: Fort Myers Beach State: FL Zip: 33932

Phone Number: Area Code: 239 Number: 481-3800 Ext: _____

Fax Number: Area Code: _____ Number: _____

D. Date property was acquired by present owner(s): 03/01/2016

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

F. Is owner(s) or contract purchaser(s) required to file a disclosure form? _____NO X YES. If yes, please complete and submit Exhibit I-F (attached).

G. Are there any existing deed restrictions or other covenants on this property which may affect this request?

X NO _____ YES. If yes, submit a copy of the deed restrictions or other covenants and a statement explaining how the restrictions may affect the requested action. Label as "Exhibit I-G".

H. Authorized Agent(s): List names of authorized agents (submit additional sheets if necessary).

Name: Banks Engineering

Address: 10511 Six Mile Cypress Parkway, Suite 101, Fort Myers, FL 33966

Contact Person: D. Brent Addison, P.E.

Phone: 239-939-5490 E-mail: baddison@bankseng.com

PART II
GENERAL INFORMATION

A. Request:

1. Rezoning from N/A TO:(check all applicable)

_____ RPD - Residential	_____ MPD - Mixed Use
_____ MHPD - Mobile Home	_____ RVPD - Recreational Vehicle
_____ CPD - Commercial	_____ CFPD - Community Facilities
_____ IPD - Industrial	_____ AOPD - Airport Operations

2. Option Chosen: _____ Option 1 _____ Option 2

3. Other - Provide specific details. Amend PD to adopt new MCP and revise conditions

B. Legal Description and Boundary Sketch: Is property within a platted subdivision recorded in the official Plat Books of Lee County?

X NO. Attach a legible copy of the legal description (label it Exhibit II-B-1.) and Certified sketch of description as set out in chapter 5J-17.053. (labeled Exhibit II-B-2.). **If the legal description is available on computer disc (Word or Word Perfect) please provide a copy at time of application.**

_____ YES. Property is identified as:

Subdivision Name: Oakland Acres (MB 51 PG 471)

Plat Book: _____ Page: _____ Unit: _____ Block: _____ Lot: 5 & 6

Section: 31 Township: 47-S Range: 26-E _____

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

C. Project Street Address: 27971 Oakland Dr., Bonita Springs, FL 34135

D. General Location Of Property (referenced to major streets): west side of Oakland Drive, 580'± north of Bonita Beach Road S.E. in the northwest quadrant of the I-75 and Bonita Beach Road intersection

E. City of Bonita Springs Plan Information

1. City of Bonita Springs Land Use Classification: Interchange Commercial

2. Are you proposing any City of Bonita Springs amendments which could affect the subject property?
X NO _____ Y ES If yes, submit a copy of the proposed amendment (labeled as “Exhibit II-E-I”) along with a statement as to how the proposed amendment will affect your property (labeled as “Exhibit II-E-2").

F. Drainage, Water Control and Other Environmental Issues

1. Is the property within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s?
_____ NO C _____ YES. If yes, specify the minimum elevation required for the first habitable floor).
14' NGVD (MSL)

2. Are there any environmentally sensitive lands such as, but not limited to: wetlands, mangrove forests, creek & river shorelines, sand dunes, xeric scrub, mature pine forests, or other unique land forms as defined in the Bonita Plan Goal 15 and it's Objectives and Policies, Objective 4.1, Policies 7.1.1 d. 2, 7.2.3, Goal 14 and Policies 14.1.1 through 14.3.5 and applicable sections of the Land Development Code (LDC). Are there any listed species occupied habitat as defined in the Bonita Plan or LDC on the subject property, Bonita Plan Policy 7.1.1 d. 2, 7.4.1 through 7.10.3, Objective 7.12 and Policies 7. 12.1 through 7.12.3, and applicable sections of the LDC?

   X _____ NO _____ YES If yes, delineate these areas on a map or aerial photo and label it Exhibit II-F-1. Also, complete Exhibit II-F-2 attached hereto.

G. Present Use of Property: Is the property vacant? _____ NO X _____ YES

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 proposed use of the building or structure(s)will be in compliance with all applicable requirements of the Land Development Regulations. **[Sec. 4-194(b)(3)]**

Briefly describe current use of the property: Vacant and fenced

H. Property Dimensions

1. Width (average if irregular parcel): 284 Feet
2. Depth (average if irregular parcel): 311 Feet
3. Frontage on road or street: 281 Feet on Oakland Drive (Name of street)
4. Total land area: 2.15± acres Acres or Square Feet

I. Land Area Calculations

1. Undevelopable Areas:
   a. Freshwater wetland areas: 0
   b. Other wetland areas: 0
   c. Submerged land subject to tidal influence: 0
   d. Total (a + b + c): 0
2. Remaining developable land (H.4 less I.1.d): 2.15± acres

PART III
PROPOSED DEVELOPMENT

A. Nature of Request

1. Will the development contain living units? X_____NO _____YES. If the answer is yes, please indicate the total number of living units proposed, by type:

_____ Single Family _____ Mobile Homes _____ Recreational Vehicles

_____ Zero-Lot-Line _____ Duplex/Two Family _____ Townhouses

_____ Multiple Family _____ TOTAL ALL TYPES

2. If the development will contain living units, please complete Exhibit III-A-2 (attached) and enter the following information:

   a. PERMITTED total units (from Exhibit III-A-2): _____

   b. PROPOSED total units (from A-1. above): _____

   c. PROPOSED density (from Exhibit III-A-2): _____

3. Will the development contain non-residential areas? ____NO X____YES. If the answer is yes, please indicate the size [gross square footage (gsf) unless indicated otherwise] of each general class of uses below:

Retail: *_____ Total gsf

Offices: *_____ Total gsf

Medical: *_____ gsf Non-medical: _____ gsf

Hotel/Motel: *_____ Total units

Size of units: _____ 0-425 sq. Ft. _____426-725 sq. Ft. _____ 726 or more sq. Ft.

Industrial: *_____ Total gsf

Under roof: _____ gsf Not under roof: _____ gsf

Mines, Quarries, or General Excavation: Acres to be excavated: N/A_____

Other-specify: *25,000 SF commercial/light industrial, 7,780 SF restaurant or 90-room hotel_____

Number of Beds (if applicable): _____ OR: _____gsf

4. Building Height

**____Maximum height of buildings (in feet above grade)

**____Number of Habitable Floors

**Commercial/Office Industrial/Restaurant: 45'/3 stories over parking; Hotel/Motel: 55'/5 stories over parking

5. Aviation Hazard: Do you propose any structures, lighting, or other features that might affect safe flight conditions?

X_____ NO _____ YES. If yes, please submit an explanation and label it Exhibit III-A-5.

B. Facilities

1. Fire District: Bonita Springs

2. Water Supply

a. Estimated daily consumption of potable water:

1. Residential units: _____ gpd
2. Mobile Home units: _____ gpd
3. Rec. Vehicle units: _____ gpd
4. Commercial: _____ gpd
5. Industrial: 4,000 gpd

b. Source of potable water: BSU Watermain

c. Do you have a written agreement from the utility company to serve your project?
X NO _____YES. If yes, please submit a copy of the agreement.

d. Source of Non-potable water: BSU Watermain

3. Sanitary Sewer Service

a. Estimated daily production of wastewater:

1. Residential units: _____ gpd
2. Mobile Home units: _____ gpd
3. Recreational Vehicles: _____ gpd
4. Commercial: _____ gpd
5. Industrial: 4,000 gpd

b. Is any special effluent anticipated? X NO _____ YES. If yes, please complete Exhibit III-B-3 (attached).

c. Source of sanitary sewer service: BSU Sewer main

d. Do you have a written agreement from the utility company to serve your project?
X NO_____ YES. If yes, please submit a copy of the agreement.

e. Will a private on-site disposal facility be used? X NO _____YES. If yes, please complete Exhibit III-B-3 (attached).

f. Are individual sewage disposal systems proposed? X NO _____YES.

C. Transportation

1. Has this project been exempted from filing a Traffic Impact Statement?

_____ NO X YES _____ NOT REQUIRED (Exist. development). If it has been exempted, attach a copy of the exemption and label it Exhibit III-C.

EXHIBIT II-F-2
ENVIRONMENTAL ISSUES

A. **Topography**: Describe the range of surface elevations of the property:

There is an existing drainage ditch/bypass swale along the west property line and the remainder of the site varies 8.13'± - 10.92'±

B. **Sensitive Lands:** Identify any environmentally sensitive lands, including, but not limited to, wetlands (as defined in the Comprehensive Plan), flow ways, creek beds, sand dunes, other unique land forms [see the Comprehensive Plan for listed species occupied habitat (see Sec. 4-1337 et seq. of the Land Development Code).

There are no environmentally sensitive lands on the site which has been previously disturbed.

C. **Preservation/Conservation of Natural Features**: Describe how the lands listed in B. above will be protected by the completed project:

There are no environmentally sensitive lands on the site. Two heritage live oaks and a 19" diameter live oak are proposed for preservation.

D. **Shoreline Stabilization:** If the project is located adjacent to navigable natural waters, describe the method of shoreline stabilization, if any, being proposed:

The project is not located adjacent to navigable waters.

EXHIBIT III-A-2
PRELIMINARY DENSITY CALCULATIONS*

A. Gross Residential Acres

1. Total land area: _____ acres
2. Area to be used for non-residential uses: (Line A.2.a. plus A.2.b.): _____ acres
   a. R-O-W providing access to non-residential uses: _____ acres
   b. Non-residential use areas: _____ acres
3. Gross residential acres (Line A.1 less A.2): _____ acres
   a. Uplands areas _____ acres
   b. Freshwater Wetlands areas _____ acres
   c. Other Wetland areas _____ acres

B. Comprehensive Plan Land Use Classification: _____ (If more than one classification, calculations for each classification must be submitted)

Density Standards (from the Comprehensive Plan)

1. Maximum density for Land Use Classification: _____ units\gross res. acre
2. Maximum total density for Land Use Classification: _____ units\gross res. acre

MAXIMUM PERMITTED DWELLING UNITS

C. High Density Residential, High Density Mixed Use/Village, "Old 41" Town Center Mixed Use Redevelopment Overlay Area.

1. Standard density uplands units (A.3.a. times B.1) _____ units
2. Standard density wetlands units (A.3.b. & A.3.c. times B.1) _____ units
3. Total standard density units (sum of C.1 & C.2) _____ units
4. Max. Total density units [A.3.a. times ((B.1 plus 1/2 of (B.2 less B.1))] _____ units
5. **Sub-total permitted std. density units** (line C.3 or C.4 - whichever is less): _____ **Units Sub-total**
6. BONUS UNITS (REQUESTED)
   a. Low-moderate housing density: _____ units
   b. TDR units: _____ units
   c. **Sub-total (C.6.a plus C.6.b)** _____ units
7. **Total Permitted Units (C.5. plus C.6.c):** _____ **Units Total**

   NOTE: may not exceed (A.3.a. times B.2) plus (A.3.b. and A.3.c. times .05).

* Subject to staff review and correction.

D. Moderate Density Mixed Use/Planned Development, Medium Density Multi-Family Residential, Medium Density Residential, Moderate Density Residential

1. Standard density uplands units (A.3.a. times B.1) _____ units
2. Standard density freshwater wetlands units (A.3.b. times B.1) _____ units
3. Total standard density units (sum of D.1 & D.2) _____ units
4. Maximum upland density (A.3.a. times 8) _____ units
5. **Total permitted units** (line D.3 or D.4 - whichever is less): _____ **Units**

E. Suburban Density Residential, Low Density Residential, Estate Residential

1. Standard density uplands units (A.3.a. times B.1) _____ units
2. Standard density freshwater wetlands units (A.3.b times B.1) _____ units
3. Total standard density (sum of E.1 & E.2) _____ units
4. Maximum upland density (A.3.a. times 4) _____ units
5. **Total permitted units** (line E.3 or E.4 - whichever is less): _____ **Units Total**

F. Conservation, Resource Protection, DRGR

1. Total acres of "Open Land" _____ acres
2. Maximum density (F.1 times 0.2*) _____ units
3. Total permitted units: _____ units

EXHIBIT III-B-3
SANITARY SEWER FACILITIES

A. **Special Effluent**: If special effluent is anticipated, please specify what it is and what strategies will be used to deal with its' special characteristics:

N/A

B. **Private On-site Facilities:** If a private on-site wastewater treatment and disposal facility is proposed, please provide a detailed description of the system including:

1. Method and degree of treatment:

N/A

2. Quality of the effluent:

N/A

3. Expected life of the facility:

N/A

4. Who will operate and maintain the internal collection and treatment facilities:

N/A

5. Receiving bodies or other means of effluent disposal:

N/A

C. **Spray Irrigation:** If spray irrigation will be used, specify:

1. The location and approximate area of the spray fields:

N/A

2. Current water table conditions:

N/A

3. Proposed rate of application:

N/A

4. Back-up system capacity:

N/A

PART V

AFFIDAVIT

I, **Stan Stouder, Manager of 2726 SCC, LLC** 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 the 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.

Stan Stouder — 1/21/21

Signature of Owner or Owner-authorized Agent — Date

Stan Stouder, Manager of 2726 SCC, LLC

Typed or printed name and title

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 20th day of January 2021, by Stan Stouder, who is personally known to me or who has produced _____ as identification.

(SEAL) Notary Public State of Florida
Shirley Bulgerin
My Commission GG 095083
Expires 08/12/2021

Shirley Bulgerin

Signature of notary public

Shirley Bulgerin

Printed name of notary public

EXHIBIT I-F
DISCLOSURE OF INTEREST FORM FOR:

STRAP NO. 31-47-26-B4-00100.0050 **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
Stan Stauder 12140 Carissa Comm Ct. #102 FMY, FL 33966	100%

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
N/A	

Date of Contract: N/A

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

N/A

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: Stan Stouder
(Applicant)

Stan Stouder, Manager of 2726 SCC, LLC
(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument acknowledged before me this 20th day of January 2021, by Stan Stouder, who is personally known to me or who has produced _____ as identification.

Notary Public State of Florida
Shirley Bulgerin
My Commission GG 095083
Expires 08/12/2021

Shirley Bulgerin
Signature of Notary Public

Shirley Bulgerin
Printed Name of Notary Public

EXHIBIT I-B-4
COVENANT OF UNIFIED CONTROL

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as **27971 Oakland Dr., Bonita Springs, FL 34135** (street address) and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for planned development zoning. We hereby designate **Banks Engineering** as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorization of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended covenant of unified control is delivered to the City of Bonita Springs.

The undersigned recognize the following and will be guided accordingly in the pursuit of development of the project:

1. The property will be developed and used in conformity with the approved master concept plan including all conditions placed on the development and all commitments agreed to by the applicant in connection with the planned development rezoning.
2. The legal representative identified herein is responsible for compliance with all terms, conditions, safeguards, and stipulations made at the time of approval of the master concept plan, even if the property is subsequently sold in whole or in part, unless and until a new or amended covenant of unified control is delivered to and recorded by the City of Bonita Springs.
3. A departure from the provisions of the approved plans or a failure to comply with any requirements, conditions, or safeguards provided for in the planned development process will constitute a violation of the Land Development Code.
4. All terms and conditions of the planned development approval will be incorporated into covenants and restrictions which run with the land so as to provide notice to subsequent owners that all development activity within the planned development must be consistent with those terms and conditions.
5. So long as this covenant is in force, City of Bonita Springs can, upon the discovery of noncompliance with the terms, safeguards, and conditions of the planned development, seek equitable relief as necessary to compel compliance. The City of Bonita Springs will not issue permits, certificates, or licenses to occupy or use any part of the planned development and the City may stop ongoing construction activity until the project is brought into compliance with all terms, conditions and safeguards of the planned development.

Stan Stouder
Owner
Stan Stouder, Manager of 2726 SCC, LLC
Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 20th day of January 2021, by Stan Stouder, who is personally known to me or who has produced _____ as identification.

Notary Public Shirley Bulgerin
Shirley Bulgerin
(Name typed, printed or stamped)
(Serial Number, if any)

Notary Public State of Florida
Shirley Bulgerin
My Commission GG 095083
Expires 08/12/2021

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 09-13

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY OAKLAND CPD TO REZONE THE EXISTING COMMERCIAL PLANNED DEVELOPMENT (CPD) TO ALLOW STORAGE, OPEN IN PHASE 1; AND COMMERCIAL/OFFICE USES, RESTAURANT, OR A 90 ROOM HOTEL IN PHASE 2, ON LAND LOCATED AT 27971 OAKLAND DRIVE, BONITA SPRINGS, FLORIDA, ON 2.15 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Oakland CPD has filed an application for rezoning 2.15 +/- acres from Commercial Planned Development (CPD) to CPD, to allow 47,330 square feet of Storage, Open in Phase 1, and up to 32,700 square feet of commercial/office uses, a 7,780 square foot restaurant, or a 90 room hotel in Phase 2,

WHEREAS, the subject property is located at 27971 Oakland Drive, Bonita Springs, Florida, and is described more particularly as:

"See Exhibits"

WHEREAS, a Public Hearing was advertised and heard on October 2, 2009 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD08-B0S00006 who gave full consideration to the evidence available and recommended approval (5-0, Healy & Brandeth absent); and gave full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all interested parties. The September 18, 2009 Staff Report prepared by Community Development and evidence submitted at the Zoning Board hearing is on file with the City Clerk.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bonita Springs, Lee County, Florida:

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the rezoning with the following conditions and deviations:

A. CONDITIONS

1. The development of this project must be consistent with the Master Concept Plan entitled "Oakland Drive CPD," prepared by ConsulTech Development Services, Inc. and Lake Hickory Ventures, Inc. stamped received August 21, 2009 (Attachment A), except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of

local development order approval. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

For Phase 1, the site can store up to 47,330 square feet of Storage, Open. For Phase 2, the total gross floor area may not exceed 32,700 square feet of commercial/office uses, a 7,780 square foot restaurant, or a 90 room hotel in Phase 2.

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

a. Schedule of Uses

Accessory Uses and Structures
ATM
Banks and Financial Establishments, Groups I & II
~~Bar and Cocktail lounge~~
Business Services, Group I & II
Caterers
Cleaning and Maintenance Services
Consumption on Premises, indoor only, in conjunction with a full-service restaurant or hotel/motel. Outdoor consumption requires a special exception (public hearing required)
Drive-through facility for any permitted use
Entrance Gates and Gatehouses
Essential Service Facilities, Group I
Excavation, Water Retention
Fences, Walls
Gift and Souvenir Shop
Hotel/Motel (no to exceed 90 rooms)
Insurance Companies
Medical Office
Non-Store Retailers, Group I
Parks, Group I
Parking Lot, Accessory
Personal Services, Groups I, II, III & IV
Rental or Leasing Establishments: Groups I, II, III, & IV
Restaurants, Group III
Schools, Commercial
Signs, in accordance with Chapter 6 Land Development Code
Specialty Retail Shops, Groups I & II
Storage, Open (Phase 1 Only), as limited by Condition 9
Temporary Uses

b. Site Development Regulations

Minimum Area and Dimensions:
Lot Area: ± 2.15 acres

Lot Depth:	± 284 feet
Lot Width:	± 316 feet

Minimum Setbacks for Phase 1 (Storage, Open):

Street:	Variable, according to the Functional classification of the street or road (LDC Section 34-2192 et seq)
Side yard:	20'
Rear yard:	25'

Minimum Building Setbacks for Phase 2:

Front:	100'
Side yard:	60'
Rear yard:	100'

Maximum Building Height Phase 1:

Storage, Open	25'

Maximum Building Height Phase 2:

Commercial/Office/Restaurant	55'/3 stories over parking
Hotel/Motel	75'/5 stories over parking

Maximum Lot Coverage:	58%
Minimum Open Space:	42%

3. Transportation Conditions

   a. The developer is responsible for the costs and improvements of Oakland Drive from the southern property line to the northern property line as a site-related improvement. This segment of the roadway must be completed prior to the certificate of completion for Phase 2. As part of Phase 1, the applicant will improve to city public road standards Oakland Drive from the southern property line to the north side entranceway. This segment of the roadway must be completed prior to the certificate of completion for Phase 1. During Phas1, the applicant will provide a smooth transition from the road improvement above to the existing road (grading).

   b. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the City of Bonita Springs Land Development Code may be required to obtain local development order; and

   c. The Developer must comply with concurrency requirements (all conditions required by the Bonita Springs Comprehensive Plan

and the Land Development Code) in order to obtain a local development order; and

d. A detailed traffic analysis including traffic from Bonita Exchange, will be required at local development order to determine and proportionately mitigate for any operational or geometric deficiencies at the intersections.

e. The traffic analysis will have to include the traffic generated by the Bonita Exchange development to determine the overall impact in the build out year.

f. The developer must provide a pedestrian connection between this project and the project to the south at time of certificate of completion for Phase 2. This may be a private sidewalk, public sidewalk in the Oakland Drive right-of-way to connect with the Best Western sidewalk to the Bonita Beach Road sidewalk, or other measures approved by Community Development as a part of the local development order process.

4. Environmental Conditions

a. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers; and

b. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage at time of installation; and

c. Per the Tree Advisory Board recommendation, the applicant must preserve 8 Heritage Trees.

d. The applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water quality treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.

5. Perimeter buffers

a. In support of Deviation 2, the applicant must maintain the existing 6' fence 2' off the property line and provide a 5' Type C enhanced buffer. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy

type trees such as oaks or slash pines or a combination of canopy trees. If the hedge does not provide a continuous visual screen at time of certificate of completion for phase 1, the applicant must install some type of opaque screening (filtering material) along the fence.

b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting.

c. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size).

6. Flood Regulations

a. The following "Floodway Notes" must be added/amended on the MCP:

Floodway Notes
Development in areas waterward of the regulatory floodway is prohibited, unless all conditions specified in the zoning approval are met. FEMA and City of Bonita Springs development order approvals will be required for any proposed improvements affecting floodway and flood plain storage prior to future development order approval for entire property and/or any outparcel.

b. The applicant agrees that no encroachment shall be placed within the floodway as defined by the FEMA Flood Insurance Rate Maps that are in effect at time of local development order approval, approved at the time of development order issuance, unless one of the following two conditions are applied for:

i. Certification with supporting technical data, made by a registered professional engineer, is needed demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge". Note that the words "supporting technical data" are paraphrased as "hydrologic and hydraulic analyses" in National Flood Insurance Program document (Answers to Questions about the NFIP, F-084 (5/06), FEMA). Appropriate supporting data or analyses to clarify any potential floodway encroachment issue is required. Certificates of No Rise are required prior to local development order approval.

or

ii. A Conditional Letter of Map Revision (CLOMR) will be required by contacting FEMA. A CLOMR is FEMA's comment on a proposed project that would affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway or effective Base Flood Elevations. Conditional Letter of Map Revisions (CLOMR) must be approved by FEMA prior to submitting a development order application to the City.

c. At the time of local development order application for Phase 2, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on adjacent properties in terms of drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basin areas; and (2) hydrologic and hydraulic calculations for the 5, 25, and 100-year design storm events in order to establish existing baseline conditions.

d. Development must be consistent with the local, State, and Federal regulations for development within any floodways, flood plains, or properties designated that will be effected by a tropical storm event.

7. Parking

a. Final parking ratios shall be determined at the time of a local development order consistent with the Land Development Code (LDC) for the use requested.

b. In support of Deviation 3, the applicant may reduce one standard parking space required for any of the schedule of uses to accommodate the recommendations by the Tree Advisory Board to preserve a pair of heritage trees as shown on the Master Concept Plan.

8. In support of Deviation 4, the height of a hotel/motel, office, or medical office building is permitted up to 75'/5 stories over parking.

9. Storage, Open and Rental or Leasing Establishment uses

a. Uses for Rental or Leasing Establishments: All Groups and Storage, Open areas must comply with special setbacks for specific uses set forth in LDC Section 34-2443(D)(6) except as approved administratively by the City Manager or designee.

b. In open storage areas, surface parking materials should be selected to effectively reduce the amount of pollution generated and remain consistent with water quality goals.

c. Open storage of flammables and/or hazardous waste is prohibited.

d. Buffering and landscaping must be installed as a part of Phase 1.

e. Open storage is limited to November 16, 2017, at which time only Phase 2 uses are permitted.

f. Diesel engines may not idle for more than 5 minutes at the site, with appropriate signage informing customers of this condition.

10. Outside speaker systems, loud speakers, or public address systems for any use are prohibited.

11. Consumption on premises requests in this CPD shall be reviewed individually as regulated by LDC, or through other approval processes as may be required by future regulations.

12. The hours of operation for a business operating under the Phase 1 Storage, Open use are from 7:00 AM to 9:00 PM daily.

13. Buildings exceeding 55 feet in height must maintain additional building separation as regulated by LDC Section 34-2175(B).

14. The development must comply with the commercial lighting standards found in the LDC, Chapter 3. Lighting for buildings along the property lines that abut residential shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.

15. The development must comply with the commercial design standards found in the LDC, Chapter 3.

16. The development must comply with the sign code found in the LDC, Chapter 6.

17. Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.

18. The development must comply with Ordinance No. 06-04 Noise Control.

19. The developer will use best efforts to incorporate principles for its building through the Florida Green Building Coalition program, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficient fixtures and appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.

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

21. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.

B. DEVIATIONS

1. Deviation 1 is approved, granting relief from LDC §3-416(D)(3) requiring a Type "A" buffer (5' wide) along the west property line to permit no buffer at that location.

2. Deviation 2 is approved, granting relief from LDC §3-416(D)(6) requiring a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less than 25 feet from the property line with a Type C buffer plantings to permit a Type "A" (5' wide) with no wall at that location, as conditioned in Condition 5a.

3. Deviation 3 is approved, granting relief from LDC §34-2020 specifying the required parking spaces for a wide range of uses to allow a deficit of one (1) parking space when calculating the parking requirements for this project.

4. Deviation 4 is approved, granting relief from LDC §34-935(E)(1)(b) specifying that the building height in no event may exceed 65' unless a variance or deviation is approved by the City Council to allow for a maximum height of 75' above the minimum flood elevation, as conditioned in Condition 8.

C. FINDINGS AND CONCLUSIONS:

Based upon an analysis of the application and the standards for approval of planned development rezonings, Bonita Springs City Council makes the following findings and conclusions:

1. The applicant has proven entitlement to the rezoning to Commercial Planned Development (CPD) by demonstrating compliance with the Bonita Springs Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.

2. The requested CPD zoning as conditioned:

    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 Bonita Springs Comprehensive Plan; and

    c. is compatible with existing or planned uses in the surrounding area; and

    d. will not adversely affect environmentally critical areas or natural resources.

3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities, as conditioned.

4. Urban services, as defined in the Bonita Springs Comprehensive Plan, are available and adequate to serve the proposed land use, as conditioned.

5. The proposed uses are appropriate at the subject location, as conditioned.

6. The recommended conditions to the master concept plan and other applicable regulations provide sufficient safeguards to the public interest.

7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development, as conditioned.

8. The deviations granted, as conditioned:

    a. enhance the objectives of the planned development; and

b. preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

SECTION TWO: EFFECTIVE DATE

This ordinance shall take effect thirty (30) days from the date of adoption.

DULY PASSED AND ENACTED by the Council of the City of Bonita Springs, Lee County, Florida, this 16th day of November, 2009.

AUTHENTICATION:

Mayor

City Clerk

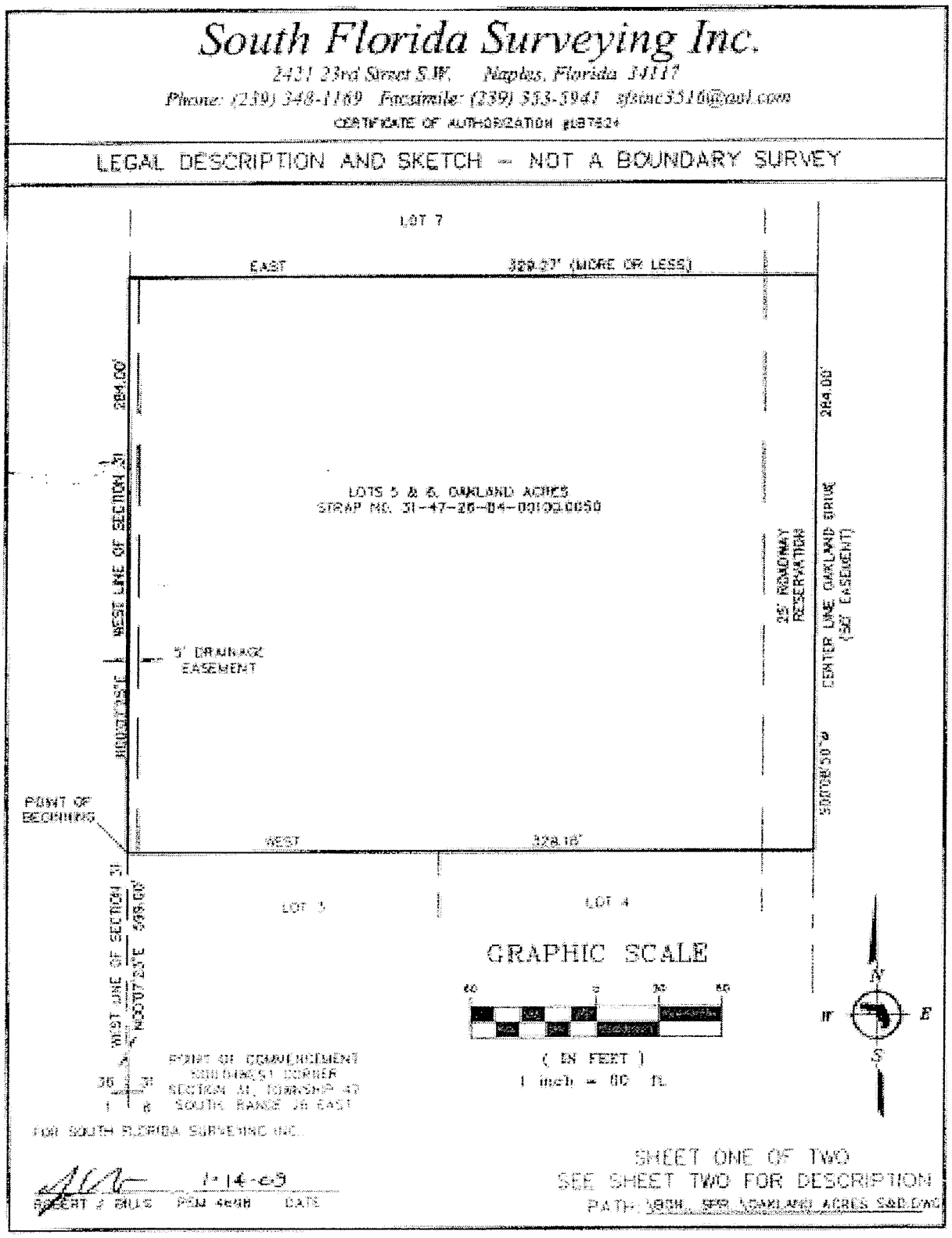
APPROVED AS TO FORM: _____
City Attorney

Vote:

Ferreira	Aye	Nelson	Aye
Lonkart	Aye	Simons	Aye
McCourt	Aye	Spear	Aye
Martin	Aye		

Date filed with City Clerk: 11-16-09

Exhibit A


South Florida Surveying Inc.
2431 23rd Street S.W. Naples, Florida 34117
Phone: (239) 348-1169 Facsimile: (239) 353-3941 sfsinc3516@aol.com
CERTIFICATE OF AUTHORIZATION #LB7624
LEGAL DESCRIPTION AND SKETCH - NOT A BOUNDARY SURVEY
LOT 7
EAST
329.27' (MORE OR LESS)
284.00'
WEST LINE OF SECTION 31
LOTS 5 & 6, OAKLAND ACRES
STRAP NO. 31-47-26-B4-00103.0050
5' DRAINAGE EASEMENT
25' ROADWAY RESERVATION
CENTER LINE OAKLAND DRIVE (50' EASEMENT)
284.05'
POINT OF BEGINNING
WEST
328.18'
LOT 5
LOT 4
WEST LINE OF SECTION 31
499.60'
GRAPHIC SCALE
60 0 30 60
(IN FEET)
1 inch = 60 ft.
N
W
E
S
POINT OF COMMENCEMENT
SECTION 31, TOWNSHIP 47
SOUTH, RANGE 26 EAST
FOR SOUTH FLORIDA SURVEYING INC.
1-14-09
DATE
SHEET ONE OF TWO
SEE SHEET TWO FOR DESCRIPTION

South Florida Surveying Inc.

3421 23rd Street S.W. Naples, Florida 34117

Phone: (239) 348-1169 Facsimile: (239) 353-5941 sfsinc3516@aol.com

CERTIFICATE OF AUTHORIZATION #LB7624

LEGAL DESCRIPTION AND SKETCH – NOT A BOUNDARY SURVEY

LEGAL DESCRIPTION:

LOT 5 & 6, OAKLAND ACRES, AS SAME IS RECORDED IN MISC. BOOK 51 AT PAGE 471 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID LOTS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA THENCE NORTH 00°07'25" EAST, ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 599.00 FEET, TO THE POINT OF BEGINNING;

AND FROM SAID POINT OF BEGINNING, CONTINUE NORTH 00°07'25" EAST, STILL ALONG THE SAID WEST LINE OF SECTION 31, A DISTANCE OF 284.00 FEET;
THENCE EAST, A DISTANCE OF 329.27 FEET, MORE OR LESS, TO THE CENTERLINE OF THE 50 FOOT WIDE OAKLAND DRIVE;
THENCE SOUTH 00°08'50" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 284.00 FEET;
THENCE WEST, A DISTANCE OF 329.16 FEET, TO THE POINT OF BEGINNING.

SUBJECT TO A 25 FOOT WIDE ROADWAY RESERVATION OVER AND ACROSS THE EASTERLY 25 FEET AND A 5 FOOT WIDE DRAINAGE EASEMENT OVER AND ACROSS THE WESTERLY 5 FEET THEREOF.

SAID PARCEL CONTAINS 2.19 ACRES TO CENTER LINE OF OAKLAND DRIVE.

SHEET TWO OF TWO
SEE SHEET ONE FOR SKETCH

PATH: \BOB SPR \OAKLAND ACRES S&O.DWG

EXISTING 6' CL FENCE
(TO REMAIN)
PHASE I
5' Type "A" DoTar
EXISTING 6' CL FENCE
(TO REMAIN)
PHASE I
EXISTING 6' CL FENCE
(TO REMAIN)
PHASE I
EXISTING DITCH
(TO BE RELOCATED)
160ft
235ft
630ft
Attachment A
SECTION A-A
LEGEND
ConsulTech
Development Services, Inc.
LETAP INVESTMENTS L.L.C.
192 TOPANGA DRIVE.
BONITA SPRINGS, FLORIDA 34134
(239) 000-0000
OAKLAND DRIVE CPD
24371 OAKLAND DRIVE
STRAP #s
31-47-26-B1-0010B.0030
CITY OF BONITA SPRINGS,
FLORIDA 34135

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 16 - 07

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY 2726 SCC LLC, TO AMEND CITY OF BONITA SPRINGS ZONING ORDINANCE NO. 09-13, OAKLAND CPD; AMENDING THE MASTER CONCEPT PLAN, SCHEDULE OF USES, DEVELOPMENT STANDARDS, AND CONDITIONS OF APPROVAL; REDUCING COMMERCIAL INTENSITY; LOCATED AT 27971 OAKLAND DRIVE, BONITA SPRINGS, FLORIDA; ON 2.15 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, 2726 SCC LLC, has filed an application to amend City of Bonita Springs Zoning Ordinance No. 09-13, Oakland Park Commercial Planned Development, to incorporate the following changes:

1. Amend the Master Concept Plan, Schedule of Uses, Development Standards, and Conditions of Approval; and
2. Reduce the commercial intensity from 32,700 square feet to 25,000 square feet of commercial and light industrial uses.

WHEREAS, the subject property is located at 27971 Oakland Drive, Bonita Springs, Florida, and is described more particularly as:

See Exhibit "A"

WHEREAS, a Public Hearing was advertised and heard on November 15, 2016 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD16-29060-BOS, who gave full consideration to the evidence available and recommended approval (5-2, with Barnes-Buchanan and Donnelly voting to deny) of the applicant's request and gave full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all interested parties. The Staff Report prepared by Community Development and submitted on September 13, 2016, and evidence submitted at the Zoning Board hearing is on file with the City Clerk.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bonita Springs, Lee County, Florida:

SECTION ONE: APPROVAL OF REQUEST

Bonita Springs City Council hereby approves the request to amend City of Bonita Springs Zoning Ordinance No. 09-13, Oakland Park CPD, subject to the following amendments, showing additions by underlining and deletions by cross-hatching the text below:

A. Conditions:

1. The development of this project must be consistent with the Master Concept Plan entitled "Oakland ~~Drive~~ CPD," prepared by ~~ConsulTech Development Services, Inc. and Lake Hickory Ventures, Inc.~~ Q. Grady Minor and Associates, P.A. stamped received June 8, 2016 ~~August 21, 2009~~ (Attachment A), except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of local development order approval. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

   ~~For Phase 1, the site can store up to 47,330 square feet of Storage, Open. For Phase 2,~~ tThe total gross floor area may not exceed ~~32,700~~ 25,000 square feet of commercial/~~office~~ light industrial uses, a 7,780 square foot restaurant, or a 90-room hotel ~~in Phase 2.~~

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

   a. Schedule of Uses

      Accessory Uses and Structures
      Administrative Offices
      ATM
      ~~Banks and Financial Establishments, Groups I & II~~
      Business Services, Group I & II
      Caterers
      Cleaning and Maintenance Services
      Consumption on Premises, indoor only, in conjunction with a full-service restaurant or hotel/motel. Outdoor consumption requires a special exception (public hearing required)
      Contractors and Builders Group I
      Drive-through facility for any permitted use
      Entrance Gates and Gatehouses
      Essential Service Facilities, Group I
      Excavation, Water Retention
      Fences, Walls
      ~~Gift and Souvenir Shop~~
      Hotel/Motel (no to exceed 90 rooms)
      ~~Insurance Companies~~
      ~~Medical Office~~
      Insurance Companies
      Medical Office
      Non-Store Retailers, Group I
      Parks, Group I
      Parking Lot, Accessory
      Personal Services, Groups I, II, III & IV (excluding massage establishment or parlors, steam or turkish baths, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a heath or beauty spa)

Rental or Leasing Establishments: Groups ~~I,~~ and II, ~~III, & IV~~ (limited to indoor use only)
Restaurants, Group III
Schools, Commercial
Signs, in accordance with Chapter 6 Land Development Code
Specialty Retail Shops, Groups ~~I &~~ II
Storage, Open ~~(Phase 1 Only)~~ as limited by Condition ~~9~~ 8
Temporary/mobile office as limited by Condition 8
Temporary Uses
Mini-warehouse

Site Development Regulations

Minimum Area and Dimensions:

Lot Area:	~~± 2.15 acres~~	20,000 S.F.
Lot Depth:	~~± 284 feet~~	100'
Lot Width:	~~± 316 feet~~	100'

Minimum Setbacks ~~for Phase 1 (Storage, Open):~~

Street:	Variable, according to the functional classification of the street or road (LDC Section ~~34-2192~~ 4-1893 et seq)
Side yard:	20'/25'*
Rear yard:	25'

~~*Minimum Building Setbacks for Phase 2:*~~

~~Front:~~	~~100'~~
~~Side yard:~~	~~60'~~
~~Rear yard:~~	~~100'~~

*In support of Deviation 2, parking, access ways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25' of the northern property line. Building setbacks shall only be permitted at 20' when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.

Maximum Building Height ~~Phase 1:~~

Storage, Open	~~25'~~ 15'

~~*Maximum Building Height Phase 2:*~~

Commercial/Office Industrial/Restaurant	~~55~~ 45'/3 stories over parking
Hotel/Motel	~~75~~ 55'/5 stories over parking

Maximum Lot Coverage: 58%

Minimum Open Space: 42%

3. Transportation Conditions

a. The developer is responsible for the costs and improvements of Oakland Drive from the southern property line to the northern property line as a site-related improvement. The applicant shall improve Oakland Drive from 5' to the north of its driveway to the limits of its southern property line prior to local development order approval and occupancy of any use of the site to a local private road standard. This entire segment of the roadway along the property's frontage must be completed as a part of any local development order with a permanent building ~~Phase 2~~ consistent with LDC 3-531. A 5' wide sidewalk is shall be installed and completed prior to the certificate of completion for any phase of development and/or occupancy of the site.

b. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the City of Bonita Springs Land Development Code may be required to obtain local development order; and

c. The Developer must comply with concurrency requirements (all conditions required by the Bonita Springs Comprehensive Plan and the Land Development Code) in order to obtain a local development order; and

d. ~~A detailed traffic analysis including traffic from Bonita Exchange, will be required at local development order to determine and proportionately mitigate for any operational or geometric deficiencies at the intersections.~~

e. ~~The traffic analysis will have to include the traffic generated by the Bonita Exchange development to determine the overall impact in the build out year.~~

d. At time of local development order application the developer shall submit a Traffic Impact Statement that includes the following analysis in addition to the City of Bonita Springs Traffic Impact Statement Guidelines:

i. A Project Trip Distribution figure generated by percentage and a Peak Hour Project Traffic Assignment figure (including AM and PM peak hour turning movements) and peak hour directional trips along Bonita Beach Road.

Secondary Links - If the directional peak hour project trips assigned to a direct link equal or exceed 2% of the directional

peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the adjacent roadway segments. The adjacent roadway segments to the direct link shall include both segments on either end of the direct link and any segments of roadways that intersect the direct link. The adjacent roadway segments shall be referred to as Secondary Links.

Additional Links - If the directional peak hour project trips assigned to any secondary link equal or exceed 2% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the secondary link. These adjacent roadway segments shall be referred to as Additional Links.

If the directional peak hour project trips assigned to any additional link equal or exceed 3% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the additional link. These adjacent roadway segments shall also be referred to as Additional Links.

Directional peak hour project trips shall continue to be assigned in this manner until the value of directional peak hour project trips is less than the directional peak hour capacity of the level of service standard for that segment. When the percentage is less than 3% of the capacity, then project trip assignment will stop after that link has been assigned.

ii. The AM and PM peak hour turning movements for the intersection of Bonita Beach Road and Oakland Drive. These volumes should include both background and project trips, which clearly distinguish between background trips and site generated trips.

iii. The applicant shall analyze and conduct a traffic signal operations analysis for the development's impacts on the intersections at Bonita Beach Road and Oakland Drive, and shall address mitigation through conditions to the Development Order mitigation.

e. Trip cap. The total daily and peak hour trips of the combined uses will not exceed 1,099 vehicles per day (Average Daily Traffic – ADT) and 105 vehicles per hour (including pass-by trips).

f. The County retains the right to modify the median opening at Oakland and Bonita Beach Road, if necessary, to maintain the safety and efficiency of the arterial street (Florida Statute 316.00 Powers of local authorities).

g. At time of development order, the applicant will work with staff to include additional conditions related to the Bonita Beach Road Visioning, to the greatest extent feasibly possible, which will be incorporated into the development order.

4. Environmental Conditions

a. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers; and

b. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage of the bottom of the basin at time of installation; and

c. Per the Tree Advisory Board recommendation, the applicant must preserve ~~8~~ 9 Heritage Trees as identified on the MCP stamped received June 8, 2016.

d. The applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water quality treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.

e. Any use with open storage and/or a business services group II use (with outdoor equipment and/or vehicle storage) that contains potential pollutants such as oil, grease and gasoline shall be required at a minimum to provide additional safeguards at time of local development order, which may include a wash out station, a maintenance provision to keep oil and gas absorbent material on-site for accidental spills, and proper storage and containment of materials in accordance with Florida Friendly Yards and Florida Department of Environmental Protection.

5. Perimeter buffers

a. In support of Deviation 2, the applicant ~~must maintain the existing~~ shall install a 6' opaque fence ~~2'~~ 5' ~~off~~ south of the property line and provide a modified 5' Type C enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy type trees such as oaks or mahoganies or a combination of canopy trees. ~~If the hedge does not provide a continuous visual screen at time of certificate of completion for phase 1, the applicant must install some type of opaque screening along~~

~~the fence.~~ Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC 3.

b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting.

c. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size).

d. In support of Deviation 1, the existing vegetated banks along the western property line shall be maintained. Any exotic removal that results in loss of the native vegetation along these banks shall be replaced and maintained with native vegetation for a low and mid-story buffer.

6. Flood Regulations

~~a. The following "Floodway Notes" must be added/amended on the MCP:~~

~~Floodway Notes~~
~~Development in areas waterward of the regulatory floodway is **prohibited**, unless all conditions specified in the zoning approval are met. FEMA and City of Bonita Springs development order approvals will be required for any proposed improvements affecting floodway and flood plain storage prior to future development order approval for entire property and/or any outparcel.~~

~~b. The applicant agrees that no encroachment shall be placed within the floodway as defined by the FEMA Flood Insurance Rate Maps that are in effect at time of local development order approval, approved at the time of development order issuance, unless one of the following two conditions are applied for:~~

~~i. Certification with supporting technical data, made by a registered professional engineer, is needed demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge". Note that the words "supporting technical data" are paraphrased as "hydrologic and hydraulic analyses" in National Flood Insurance Program document (Answers to Questions About the NFIP, F-084 (5/06), FEMA). Appropriate supporting data or analyses to clarify any potential floodway encroachment issue is required. Certificates of No Rise are required prior to local development order approval.~~

~~or~~

~~ii. A Conditional Letter of Map Revision (CLOMR) will be required by contacting FEMA. A CLOMR is FEMA's comment on a proposed project that would affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway or effective Base Flood Elevations. Conditional Letter of Map Revisions (CLOMR) must be approved by FEMA prior to submitting a development order application to the City.~~

~~c.~~ a. At the time of local development order application for any site grading work ~~for Phase 2~~, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on adjacent properties ~~in terms~~ due to of drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basin areas; and (2) hydrologic and hydraulic calculations for the 5, 25, and 100-year design storm events in order to establish existing baseline conditions.

~~d.~~ b. Development must be consistent with the local, State, and Federal regulations for development within any floodways, flood plains, or properties designated that will be ~~effected~~ affected by a tropical storm event.

7. Parking

a. Final parking ratios shall be determined at the time of a local development order consistent with the Land Development Code (LDC) for the uses requested.

b. ~~In support of Deviation 3, the applicant may reduce one standard parking space required for any of the schedule of uses to accommodate the recommendations by the Tree Advisory Board to preserve a pair of heritage trees as shown on the Master Concept Plan.~~

c. In support of Deviation 2, parking is prohibited within 25' of the northern property line until the property to the north redevelops into a non-residential use.

d. Parking within the Oakland Drive right of way is prohibited.

~~8.~~ ~~In support of Deviation 4, the height of a hotel/motel, office, or medical office building is permitted up to 75'/5 stories over parking.~~

8. ~~9.~~ Business Services Group II, Storage, Open, and Rental or Leasing Establishment uses

a. ~~Uses for Rental or Leasing Establishments:~~ All ~~Groups and Storage, Open~~ areas must comply with special setbacks for specific uses set forth in LDC Section ~~34-2443(D)(6)~~ 4-2014(D)(6) except as approved administratively by the City Manager or designee; and

b. In open storage areas, surface parking materials should be selected to effectively reduce the amount of pollution generated and remain consistent with water quality goals; and

c. Open storage of flammables and/or hazardous waste is prohibited; and

d. Buffering and landscaping must be installed prior to any occupancy of the property ~~as a part of Phase~~ 1. Buffering for this use must be either increased or open storage must be positioned in such a manner that there is no view of any open storage from Oakland Drive.

e. Open storage, vehicle and equipment dealers, and business services group II (with outdoor equipment and/or vehicle storage) is limited to ~~November 16, 2016, at which time only Phase 2 uses are permitted.~~ a period of no more than three years from the effective date of this ordinance regardless of the property's ownership; however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of this ordinance all open storage uses shall terminate immediately.

f. Diesel engines may not idle for more than 5 minutes at or on the site, with appropriate signage informing customers of this condition.

g. The storage, chipping, or mulching of landscape material is prohibited

h. Hours of operation for this use is limited from 7:00 am to 7:00 pm, from Monday through Saturday. Activities related to this use on Sundays or before or after hours is prohibited.

9. ~~10~~. Outside speaker systems, loud speakers, or public address systems for any use are prohibited.

10. ~~11.~~ Consumption on premises requests in this CPD shall be reviewed individually as regulated by LDC, or through other approval processes as may be required by future regulations.

11. ~~2~~ ~~The hours of operation for a business operating under the Phase 1 Storage, Open use are from 7:00 AM to 9:00 PM daily.~~ Should the property be developed as a hotel / motel, the property development regulations contained for conventional zoning in LDC §4-1529, excluding subsection (4) d of this section.

12. ~~3~~ Buildings exceeding 55 feet in height must maintain additional building separation as regulated by LDC Section ~~34-2175(B)~~ 4-1874(3).

13. ~~4~~ The development must comply with the commercial lighting standards found in the LDC, Chapter 3. Lighting for buildings along the property lines that abut residential shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.

14 ~~5.~~ All development must comply with the commercial design standards found in the LDC, Chapter 3. Mini-warehouse, warehouse, and industrial uses shall comply with the commercial design standards.

15 ~~6~~. The development must comply with the sign code found in the LDC, Chapter 6.

16 ~~7~~. Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.

17 ~~8~~. ~~The development must comply with Ordinance 06-04 Noise Control.~~ All development and uses must comply with City's Noise Control ordinance.

18 ~~9~~. ~~The developer will use best efforts to incorporate principles for its building through the Florida Green Building Coalition program, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficient fixtures and appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.~~ The developer will make every effort to incorporate principles for its buildings through the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) and/or Florida Green Building Coalition program, standards for commercial building structures, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficiency fixtures and appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.

19 ~~20~~. This development must comply with all of the requirements of the LDC at the time of the local development order approval, except as may be granted by deviation approved as part of this planned development.

20 ~~1~~. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.

B. DEVIATION

1. Deviation 1 is approved, granting relief from LDC ~~§3-416~~ §3-418(D)(3) requiring a Type "A" buffer (5' wide) along the west property line to permit no buffer at that location.

2. Deviation 2 is approved, granting relief from LDC ~~§3-416~~ §3-418(D)(6) requiring a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less than 25 feet from the property line with a Type C buffer plantings to permit a Type "A" (5' wide) with no wall at that location, as conditioned in Condition 5a.

3. Deviation 3 is ~~approved, granting relief from LDC §34-2020 specifying the required parking spaces for a wide range of uses to allow a deficit of one (1) parking space when calculating the parking requirements for this project.~~ WITHDRAWN.

4. Deviation 4 is ~~approved, granting relief from LDC §34-935(E)(1)(b) specifying that the building height in no event may exceed 65' unless a variance or deviation is approved by the City Council to allow for a maximum height of 75' above the minimum flood elevation, as conditioned in Condition 8~~. WITHDRAWN.

C. FINDINGS AND CONCLUSIONS:

Based upon an analysis of the application and the standards for approval of planned development rezonings, Bonita Springs City Council makes the following findings and conclusions:

1. The applicant has not proven entitlement to the amend the Commercial Planned Development (CPD) by demonstrating compliance with the Bonita Springs Comprehensive Plan, the Land Development Code, and other applicable codes and regulations as conditioned.

2. The requested CPD zoning:

    a. meets and 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 Bonita Springs Comprehensive Plan; and
    c. is not compatible with existing or planned uses in the surrounding area; and

d. will not adversely affect environmentally critical areas or natural resources.

3. Approval of the request may place an undue burden upon existing transportation or planned infrastructure facilities. However, modifications can be made to the existing infrastructure that could mitigate these impacts.

4. Urban services, as defined in the Bonita Springs Comprehensive Plan, will be available and adequate to serve the proposed land use.

5. The proposed mix of uses are not appropriate at the subject location.

6. Adequate conditions to the master concept plan and other applicable regulations will provide sufficient safeguards to the public interest.

7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development can be recommended to offset the impacts.

8. The deviations recommended for approval:

    a. enhance the objectives of the planned development; and
    b. preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

SECTION TWO: EFFECTIVE DATE

This ordinance shall take effect thirty (30) days from the date of adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 19th day of December, 2016.

AUTHENTICATION:

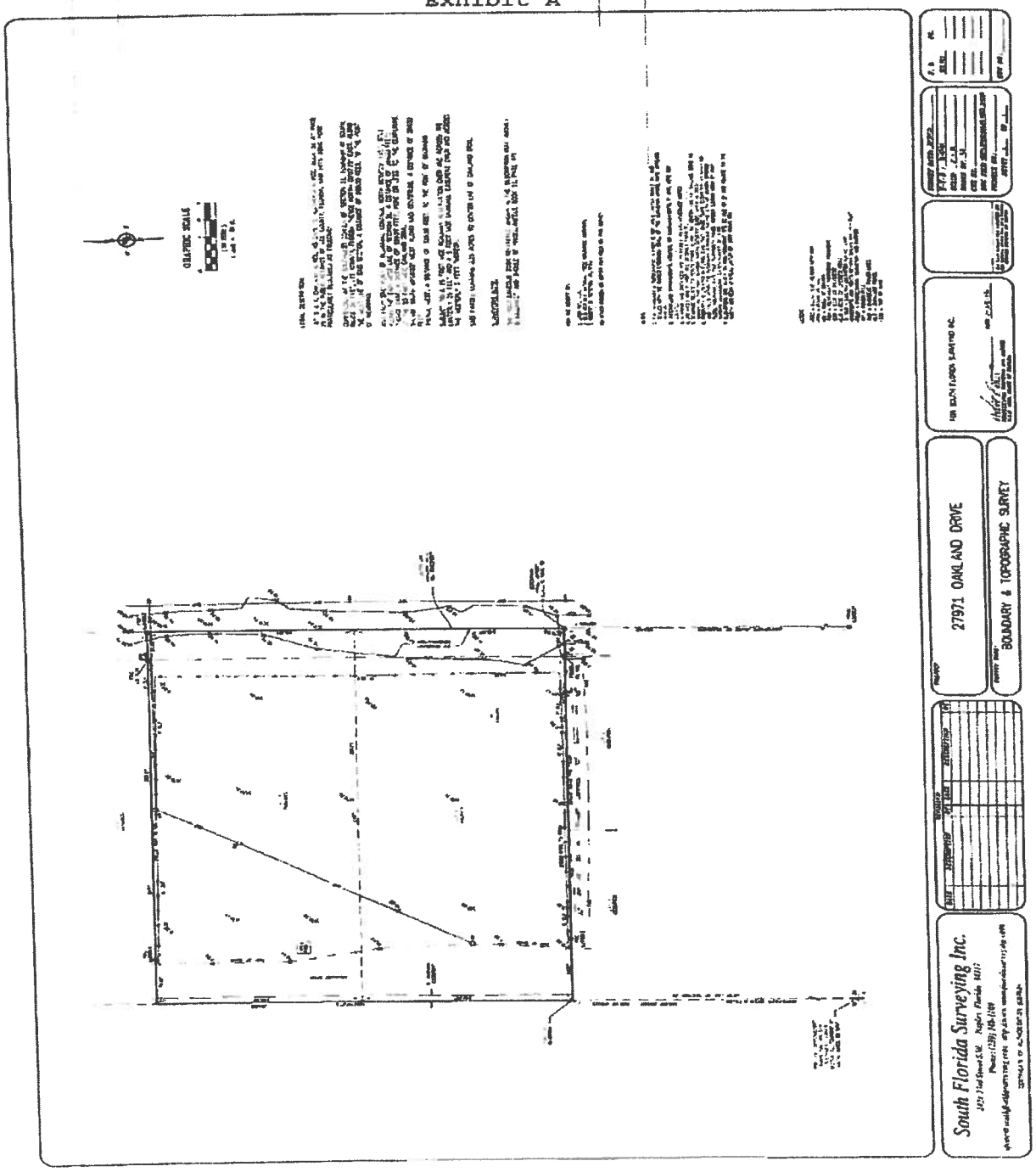
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:				
	DeWitt	Aye	Quaremba	Aye
	Forbes	Aye	Simmons	Aye
	Gibson	Aye	Slachta	Aye
	O'Flinn	Aye		

Date filed with City Clerk: 1/3/17

PD15-29060-BOS
Exhibit A



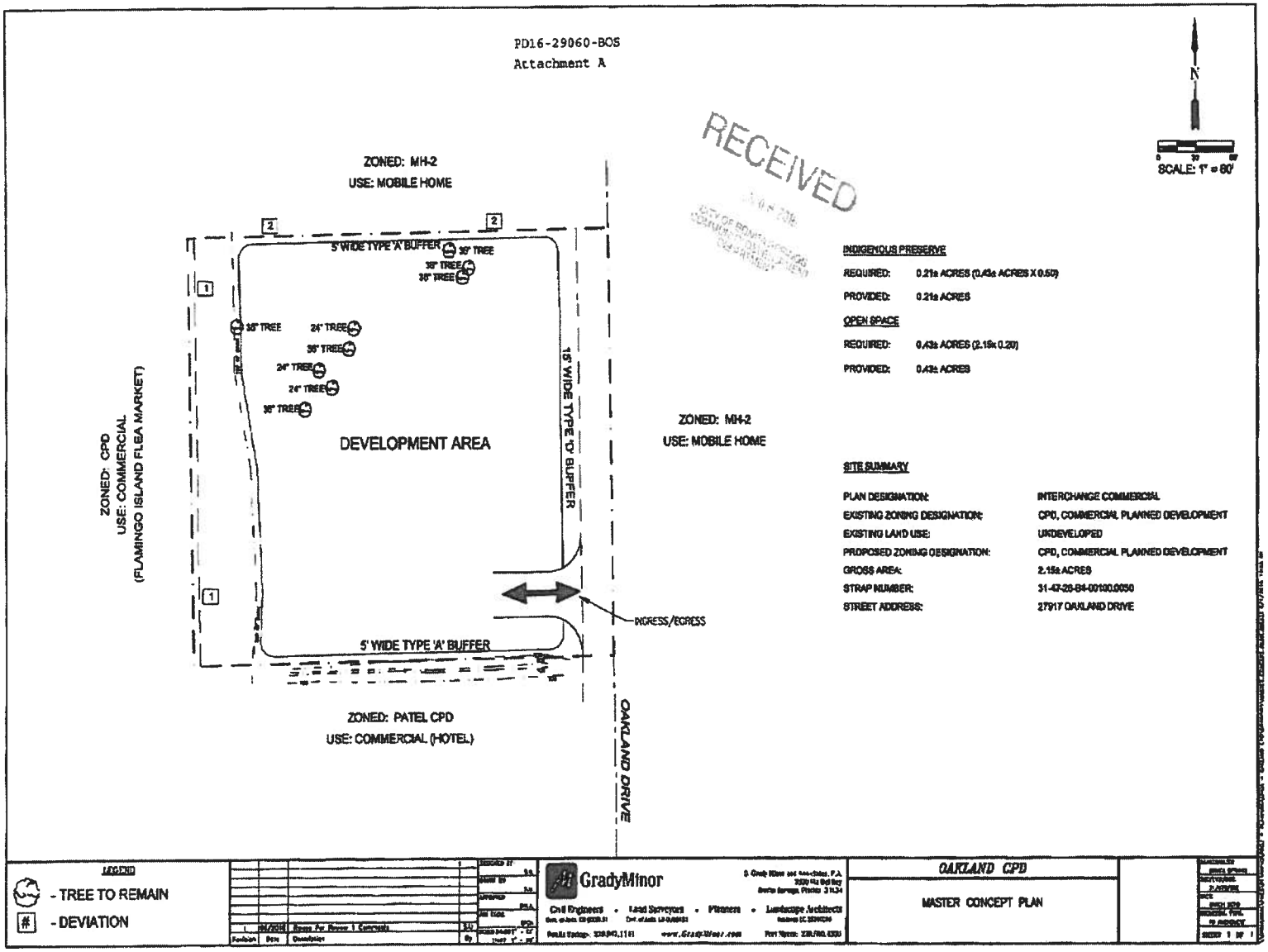

PD16-29060-BOS
Attachment A
RECEIVED
N
SCALE: 1" = 80'
ZONED: MH-2
USE: MOBILE HOME
5' WIDE TYPE 'A' BUFFER
36" TREE
24" TREE
DEVELOPMENT AREA
15' WIDE TYPE 'D' BUFFER
ZONED: CPD
USE: COMMERCIAL
(FLAMINGO ISLAND FLEA MARKET)
ZONED: MH-2
USE: MOBILE HOME
INGRESS/EGRESS
5' WIDE TYPE 'A' BUFFER
ZONED: PATEL CPD
USE: COMMERCIAL (HOTEL)
OAKLAND DRIVE
INDIGENOUS PRESERVE
REQUIRED: 0.21± ACRES (0.43± ACRES X 0.50)
PROVIDED: 0.21± ACRES
OPEN SPACE
REQUIRED: 0.43± ACRES (2.15± 0.20)
PROVIDED: 0.43± ACRES
SITE SUMMARY
PLAN DESIGNATION: INTERCHANGE COMMERCIAL
EXISTING ZONING DESIGNATION: CPD, COMMERCIAL PLANNED DEVELOPMENT
EXISTING LAND USE: UNDEVELOPED
PROPOSED ZONING DESIGNATION: CPD, COMMERCIAL PLANNED DEVELOPMENT
GROSS AREA: 2.15± ACRES
STRAP NUMBER: 31-47-26-B4-00100.0050
STREET ADDRESS: 27917 OAKLAND DRIVE
LEGEND
- TREE TO REMAIN
- DEVIATION
GradyMinor
Civil Engineers • Land Surveyors • Planners • Landscape Architects
OAKLAND CPD
MASTER CONCEPT PLAN

Exhibit A

South Florida Surveying Inc.
2431 23rd Street S.W. Naples, Florida 34117
Phone: (239) 348-1169 Facsimile: (239) 353-3941
CERTIFICATE OF AUTHORIZATION #LB7524
LEGAL DESCRIPTION AND SKETCH – NOT A BOUNDARY SURVEY
LOT 7
EAST
329.27' (MORE OR LESS)
264.00'
LOTS 5 & 6, OAKLAND ACRES
STRAP NO. 31-47-26-04-00105.0050
5' DRAINAGE EASEMENT
25' ROADWAY RESERVATION
CENTER LANE OAKLAND DRIVE
(SEE EASEMENT)
S89°03'30"E
POINT OF BEGINNING
WEST
328.18'
LOT 5
LOT 4
WEST LINE OF SECTION 31
GRAPHIC SCALE
(IN FEET)
1 inch = 60 ft.
POINT OF COMMENCEMENT
SOUTHWEST CORNER
SECTION 31, TOWNSHIP 47
SOUTH, RANGE 26 EAST
FOR SOUTH FLORIDA SURVEYING INC.
1-16-09
DATE
SHEET ONE OF TWO
SEE SHEET TWO FOR DESCRIPTION
PATH: S:\SSH_SFR\OAKLAND ACRES SUB.DWG

South Florida Surveying Inc.

3421 23rd Street S.W. Naples, Florida 34117

Phone: (239) 348-1169 Facsimile: (239) 353-5931 sfsinc3516@aol.com

CERTIFICATE OF AUTHORIZATION #LB7624

LEGAL DESCRIPTION AND SKETCH – NOT A BOUNDARY SURVEY

LEGAL DESCRIPTION:

LOT 5 & 6, OAKLAND ACRES, AS SAME IS RECORDED IN MISC. BOOK 51 AT PAGE 471 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID LOTS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA THENCE NORTH 00°07'25" EAST, ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 599.00 FEET, TO THE POINT OF BEGINNING:

AND FROM SAID POINT OF BEGINNING, CONTINUE NORTH 00°07'25" EAST, STILL ALONG THE SAID WEST LINE OF SECTION 31, A DISTANCE OF 284.00 FEET,
THENCE EAST, A DISTANCE OF 329.27 FEET, MORE OR LESS, TO THE CENTERLINE OF THE 50 FOOT WIDE OAKLAND DRIVE;
THENCE SOUTH 00°08'50" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 284.00 FEET;
THENCE WEST, A DISTANCE OF 329.16 FEET, TO THE POINT OF BEGINNING.

SUBJECT TO A 25 FOOT WIDE ROADWAY RESERVATION OVER AND ACROSS THE EASTERLY 25 FEET AND A 5 FOOT WIDE DRAINAGE EASEMENT OVER AND ACROSS THE WESTERLY 5 FEET THEREOF.

SAID PARCEL CONTAINS 2.15 ACRES TO CENTER LINE OF OAKLAND DRIVE.

SHEET TWO OF TWO
SEE SHEET ONE FOR SKETCH
PART OF SEC. 31, T47S, R26E, OAKLAND ACRES, LEE CO.

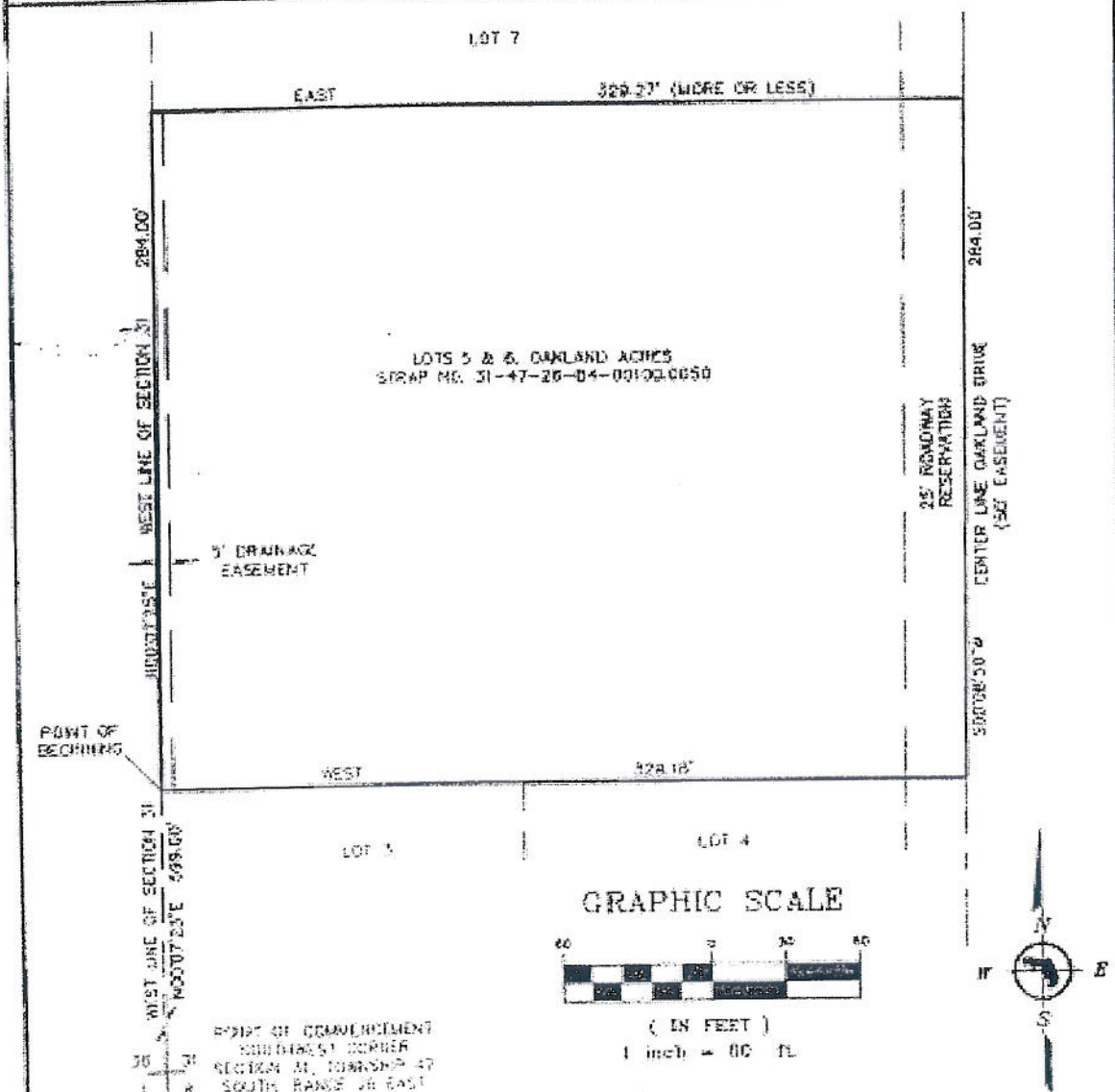
South Florida Surveying Inc.

2431 23rd Street S.W. Naples, Florida 34117

Phone: (239) 348-1169 Facsimile: (239) 353-5941 sfsinc3516@aol.com

CERTIFICATE OF AUTHORIZATION #LB7624

LEGAL DESCRIPTION AND SKETCH – NOT A BOUNDARY SURVEY



FOR SOUTH FLORIDA SURVEYING INC

1-14-09

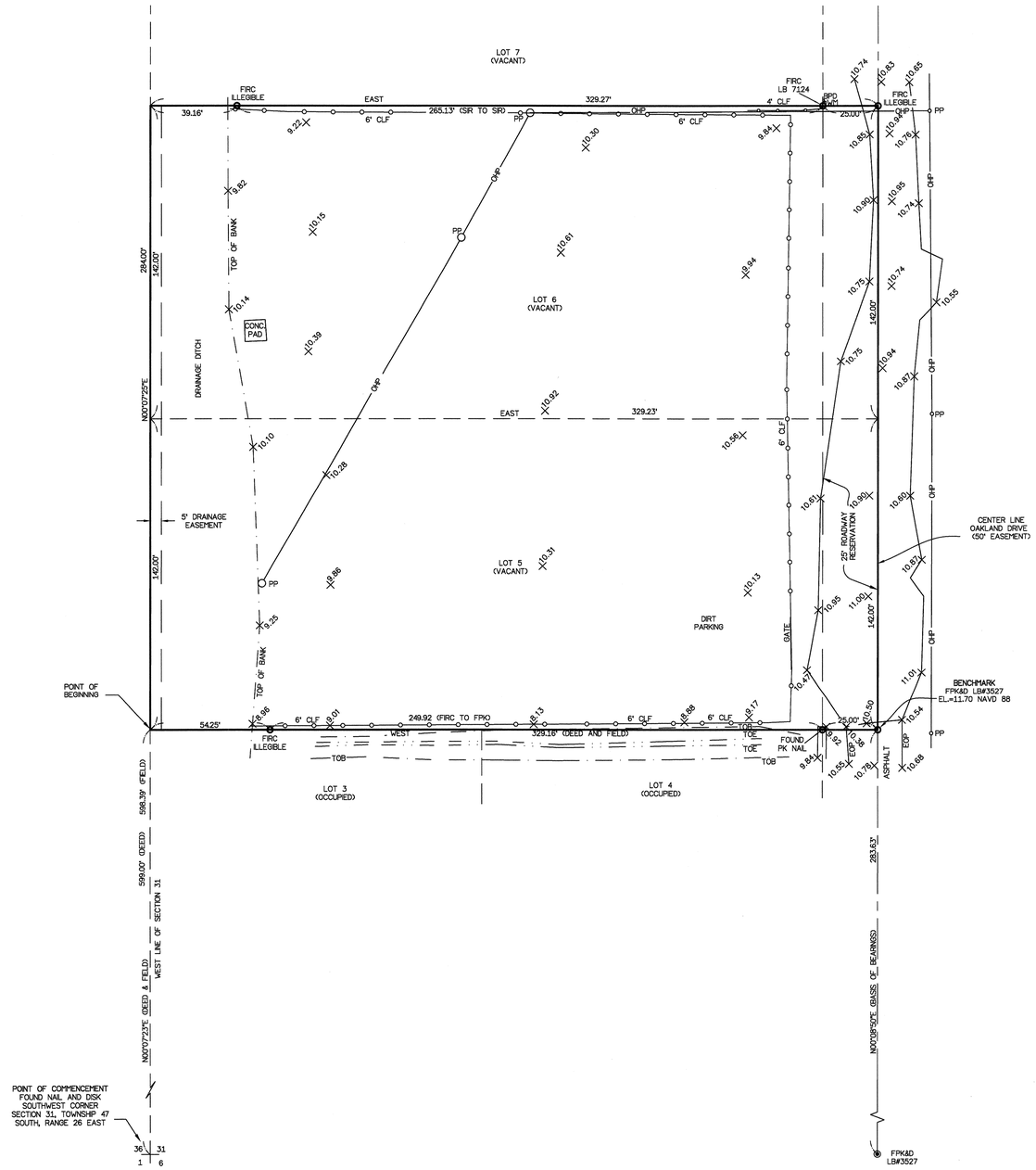
ROBERT J. BILLS PSM 4698 DATE

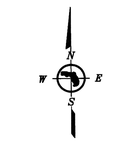
SHEET ONE OF TWO

SEE SHEET TWO FOR DESCRIPTION

PATH: \BSH_SFR \OAKLAND ACRES S&B.DWG

PD21-85799-BOS - Exhibit II-B-2





GRAPHIC SCALE

30 0 15 30

(IN FEET)
1 inch = 30 ft.

LEGAL DESCRIPTION:

LOT 5 & 6, OAKLAND ACRES, AS SAME IS RECORDED IN MISC. BOOK 51 AT PAGE 23 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID LOTS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA THENCE NORTH 00°07'25" EAST, ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 599.00 FEET, TO THE POINT OF BEGINNING;

AND FROM SAID POINT OF BEGINNING, CONTINUE NORTH 00°07'25" EAST, STILL ALONG THE SAID WEST LINE OF SECTION 31, A DISTANCE OF 284.00 FEET;
THENCE EAST, A DISTANCE OF 329.27 FEET, MORE OR LESS, TO THE CENTERLINE OF THE 50 FOOT WIDE OAKLAND DRIVE;
THENCE SOUTH 00°08'50" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 284.00 FEET;
THENCE WEST, A DISTANCE OF 329.16 FEET, TO THE POINT OF BEGINNING.

SUBJECT TO A 25 FOOT WIDE ROADWAY RESERVATION OVER AND ACROSS THE EASTERLY 25 FEET AND A 5 FOOT WIDE DRAINAGE EASEMENT OVER AND ACROSS THE WESTERLY 5 FEET THEREOF.

SAID PARCEL CONTAINS 2.15 ACRES TO CENTER LINE OF OAKLAND DRIVE.

SURVEYOR'S NOTE:

THE MISCELLANEOUS BOOK REFERENCE SHOWN IN THE DESCRIPTION (SEE ABOVE) IS INCORRECT AND SHOULD BE MISCELLANEOUS BOOK 51, PAGE 471.

FOR THE BENEFIT OF:

1. 2726 SCC, LLC;
2. OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY;
3. ROBERT D. ROYSTON, JR., P.A.;

NO OTHER PERSON OR ENTITY MAY RELY ON THIS SURVEY

NOTES:

1. THIS BOUNDARY & TOPOGRAPHIC SURVEY IS NOT VALID UNLESS SIGNED BY, AND SEALED WITH THE RAISED EMBOSSED SEAL, OF THE SURVEYOR WHOSE NAME APPEARS HEREON.
2. UNDERGROUND IMPROVEMENTS, UTILITIES, OR ENCROACHMENTS, IF ANY, WERE NOT LOCATED.
3. BEARINGS AND DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED.
4. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
5. BEARINGS RELATE TO POINTS FOUND ALONG THE CENTER LINE OF OAKLAND DRIVE AS SHOWN ON THIS MAP, BEARING NORTH 00°08'50" EAST, WHICH IS DEED.
6. PROPERTY IS LOCATED IN FLOOD ZONE "AE", (BASE FLOOD ELEVATION 13 NAVD 88) AND FALLS WITHIN THE FLOODWAY ACCORDING TO THE CITY OF BONITA SPRINGS FLOOD INSURANCE RATE MAP "COMMUNITY PANEL NUMBER 120680 0659 G", MAP NUMBER 12071C0659F, DATED AUGUST 28, 2008.
7. ELEVATIONS ARE BASED ON NGS MONUMENT "75 81 A10 RM 2" AND RELATE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)

LEGEND

-FIRC = FOUND 5/8" RE-BAR WITH CAP
-FPK = FOUND PK NAIL
-BB = BASIS OF BEARING
-PRM = PERMANENT REFERENCE MONUMENT
-EOP = EDGE OF PAVEMENT
-ELR = EDGE OF LIMEROCK ROAD
-X 10.0 = EXISTING ELEVATION N.A.V.D. 1988
-EASEMENTS AND RIGHTS-OF-WAY SHOWN ARE PER PLAT.
-PS&M = PROFESSIONAL SURVEYOR AND MAPPER
-PP = POWER POLE
-OHP = OVERHEAD POWER LINES
-CLF = CHAIN LINK FENCE
-TOB = TOP OF BANK

South Florida Surveying Inc.
2421 23rd Street S.W. Naples, Florida 34117
Phone: (239) 348-1169
sfsinc@southfloridasurveying.com http://www.southfloridasurveying.com
CERTIFICATE OF AUTHORIZATION #LB7624

REVISIONS:

DATE	DESCRIPTION	BY	DATE	DESCRIPTION	BY

PROJECT
27971 OAKLAND DRIVE

SURVEY TYPE:
BOUNDARY & TOPOGRAPHIC SURVEY

FOR SOUTH FLORIDA SURVEYING INC.:

DATE: 1-05-16

ROBERT J. BILLS
PROFESSIONAL SURVEYOR AND MAPPER
P.S.M. 4698, STATE OF FLORIDA

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

SURVEY DATE: 12/30/15
S-T-R : 31-47-26
SCALE: 1" = 30'
DRAWN BY: RJB
CHK BY:
DWG FILE: \BONITA SPRINGS\OAKLAND ACRES L5-6.DWG
PROJECT NO.:
SHEET 1 OF 1

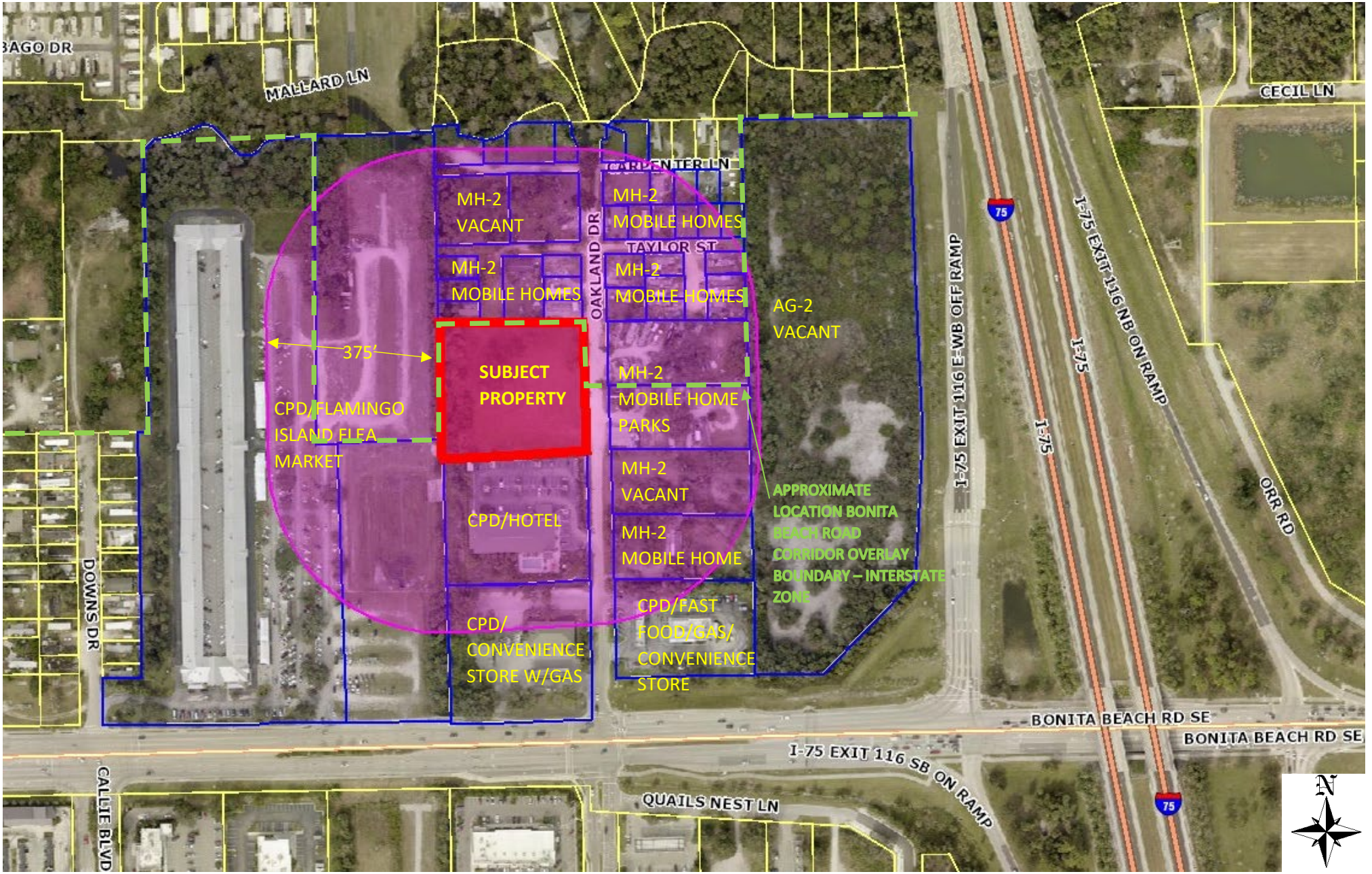
F. B. SEE FILE
PC.
DWG NO.:

AERIAL AND AERA LOCATION MAP



AERIAL AND AERA LOCATION MAP




MALLARD LN
CECIL LN
CARPENTER LN
TAYLOR ST
OAKLAND DR
MH-2
VACANT
MH-2
MOBILE HOMES
MH-2
MOBILE HOMES
MH-2
MOBILE HOMES
AG-2
VACANT
375'
SUBJECT
PROPERTY
MH-2
MOBILE HOME
PARKS
CPD/ FLAMINGO
ISLAND FLEA
MARKET
MH-2
VACANT
CPD/HOTEL
MH-2
MOBILE HOME
APPROXIMATE
LOCATION BONITA
BEACH ROAD
CORRIDOR OVERLAY
BOUNDARY – INTERSTATE
ZONE
CPD/FAST
FOOD/GAS/
CONVENIENCE
STORE
CPD/
CONVENIENCE
STORE W/GAS
DOWNS DR
I-75 EXIT 116 E-WB OFF RAMP
I-75
I-75 EXIT 116 NB ON RAMP
ORR RD
BONITA BEACH RD SE
BONITA BEACH RD SE
I-75 EXIT 116 SB ON RAMP
QUAILS NEST LN
CALLIE BLVD
75
75
N

Oakland CPD Amendment
Narrative of Request
Exhibit II-E-2 & IV-D
PD21-85799-BOS
Revised December 2022

Introduction
The applicant, 2726 SCC, LLC, is requesting to amend the approved Oakland Park Commercial Planned Development (CPD) latest Ordinance 16-07 to adopt a new Master Concept Plan (MCP) to update conditions and demonstrate compliance with the Bonita Beach Road Corridor Overlay including uses, property development regulations and Conditions 3.a and 3.g, update Condition 4.c concerning heritage trees, amend Conditions 5.a and 5.b concerning open storage screening and amend Condition 8 concerning open storage use. The proposed development will be a benefit to the City by facilitating infill development within the Bonita Beach Road Corridor Overlay increasing property taxes from this investment.

The subject property is 2.15± acres located at 27971 Oakland Drive on the west side of Oakland Drive, approximately 580 feet north of Bonita Beach Road S.E. in the northwest quadrant of the I-75 and Bonita Beach Road intersection as shown in the below aerial. The site is vacant and fenced, previously cleared land with an existing drainage swale along the west boundary and 284± feet of frontage on Oakland Drive. The area is characterized with intense commercial uses to the west and south and high density residential consisting of older mobile homes to the north and east.



Background

The subject property was originally rezoned to Commercial Planned Development (CPD) in 1997 by Lee County Zoning Resolution Z-97-084 which included the parcel adjacent to the south. The property to the south was developed with a hotel, while the only historical use on the subject property was an unpermitted limestone parking lot for the staging/storing of utility vehicles adjacent to the existing mobile homes to the north and east. This lot was used for the storage of utility service trucks during the 2004 and 2005 hurricane seasons and prior years. Although the site has been permitted for commercial use since 1997, the property was sold in 2010 and again in 2016, no applications for development orders, building or use permits have been submitted. The property was cited in 2006 for the storage of those utility vehicles, which was not permitted under the 1997 CPD Schedule of Uses. The property was rezoned from CPD to CPD in 2009 by City of Bonita Springs Zoning Ordinance No. 09-13 for 2 phases with phase 1 allowing up to 47,330 square feet of open storage with a time limit of seven years and phase 2 allowed 32,700 square feet of commercial/office use, a 7,780 square foot restaurant, or a 90-room hotel. The anticipation was that phase 2 would develop on the site within that seven year time limit, but the site remains undeveloped. The property was purchased by the current owner in 2016 and the zoning was amended by City of Bonita Springs Zoning Ordinance No. 16-07 which reduced the commercial intensity from 32,700 square feet to 25,000 square feet, amended the Master Concept Plan, Schedule of Uses, Development Standards and Conditions of Approval. As part of these conditions, 9 heritage trees were required to be preserved (Condition 4.c) and the open storage use was limited to 3-5 years from date of approval (8.e). The site remains vacant due to these time limitations which have precluded the applicant's ability to successfully secure a user for the site which is a precursor to the applicant making the improvements requested herein by the City.

Request

The request seeks to adopt a new MCP to update conditions and demonstrate compliance with the Bonita Beach Road Corridor Overlay including uses, property development regulations and Conditions 3.a and 3.g, update Condition 4.c concerning heritage trees, amend Conditions 5.a and 5.b concerning open storage screening and amend Condition 8 concerning open storage use. These requests are outlined in more detail below.

Bonita Beach Road Corridor Overlay

The subject property lies within the outer edge of the Interstate Zone of the Bonita Beach Road Corridor Overlay. The existing MCP was approved in December of 2016 and therefor did not comply with the Bonita Beach Road Corridor Overlay and was set to expire thirty (30) days past the fifth anniversary date of adoption in December 2016, pending Executive Order State of Emergency extension(s). Pursuant to Land Development Code (LDC) Section 4-897(g)(2)iv, the applicant is required to bring the MCP into compliance with the Overlay since no buildings or infrastructure has been constructed. The applicant proposes to provide the required lighting, streetscape amenity such as a bench under a buffer shade tree, shaded pedestrian facility, bike racks, update property development regulations for reduced lot coverage, clarify open space and add the additional uses identified as permitted in the Interstate Zone of the Bonita Beach Road Corridor Overlay (except where noted otherwise in the schedule of uses), subject to the existing trip cap included in existing Condition 3e. Compliance with the LDC requirements are detailed in the LDC Bonita Beach Road Corridor Overlay analysis beginning on page 11 of this narrative.

Heritage Trees

The existing zoning ordinance Condition 4.c states, "Per the Tree Advisory Board recommendation, the application must preserve 9 Heritage Trees as identified on the MCP Stamped received June 8, 2016." In 2018, David M. Jones, Jr. and Associates, Inc. prepared the attached Memorandum of Record, Heritage Tree Exhibit and Tree Evaluations Exhibit A which determined the following:

- 1 tree in the southwest corner was 19" in diameter so it did not qualify as a heritage tree, but is proposed for preservation
- 2 trees scored poorly when evaluating health so therefore removal would not require replacement for mitigation of removal,
- 4 heritage trees will be impacted by fill requirements for the site when developed so will be removed and mitigated by replanting 4 trees, on site, of similar species or ecologic value with a minimum height of twenty feet (20' Ht.) at installation.
- 2 heritage trees are proposed for preservation, one along the north property line and another along the west.

This information was presented to the Heritage Tree Advisory Board on October 8, 2018. The board agreed with the new analysis and unanimously approved this proposed plan resulting in the preservation of the three (3) trees shown on the attached proposed revised MCP. A strike-through/underline of the conditions contained in Zoning Ordinance 16-07 is attached with Condition 4.c proposed to be revised as follows:

4.c. Per the Tree Advisory Board recommendation on October 8, 2018, the applicant must preserve the 3 ~~9 Heritage~~ Live Oak Trees as identified on the MCP and must mitigate removal of 4 Heritage Trees and mitigate by replanting 4 trees, on site, of similar species or ecologic value with a minimum height of twenty feet (20' Ht.) at installation. ~~stamped received June 8, 2016~~.

Buffers and Open Storage Use

The property has been zoned for commercial development since 1997 yet remains undeveloped. The property owner has received interest from multiple parties concerning the open storage use that is currently expired, but has been unable to secure a permanent Phase 2 use. In order to make the property economically viable until a permanent Phase 2 user secures the property, the owner would like to be able to lease the property for open storage use. Although time limitations were placed on the outdoor storage use in both the 2009 and 2016 approvals, other conditions were included to ensure compatibility of the open storage use with the adjacent properties. This is a low traffic generating use compared to other permitted uses on the site which furthers the intent of condition 3.e which includes a trip cap of 1,099 vehicles per day and 105 vehicles per hour for the site. Allowing the requested use by a planned development public hearing amendment process is keeping with the intent to bring the site more into compliance with the Bonita Beach Road Corridor Overlay which only requires a special exception for Storage, open in the Interstate Zone of the Bonita Beach Road Corridor Overlay and the site is going through a more thorough review process as a public hearing amendment to the PD. Allowing the use on this site will reduce the likelihood of the use to be requested on a less appropriate site within the overlay. As stated in the submitted narrative, the property owner has received interest from multiple parties concerning the open storage use and no interest in the Phase 2 uses. The only historical use on this property was an unpermitted limestone parking lot for the staging/storing of utility vehicles adjacent to the existing mobile homes to the north and east. This lot was used for the storage of utility service trucks during the 2004 and 2005 hurricane seasons and prior years. Although the site has been permitted for commercial use since 1997, the property was sold in 2010 and again in 2016, no applications for development orders, building or use permits have been submitted. The property was cited in 2006 for the storage of those utility vehicles, which was not permitted under the 1997 CPD Schedule of Uses. Zoning Ordinance 09-13 approved a 2-phase development. Phase 1 limited the open storage use to a seven year time period, with the expectation that the property would develop with those uses anticipated in Phase 2. Zoning Ordinance 16-07 limited the open storage use for three years. The site remains vacant due to these time limitations which have precluded the applicant's ability to successfully secure a user for the site. The applicant believes that the required buffers and conditions of approval continue to provide adequate compatibility for the open storage use. The site is not visible from I-75 and is not visible from Bonita Beach Road since it is approximately 580 feet north of Bonita Beach Road behind an existing hotel, gas stations and fast food uses. LDC Section 4-898 provides that Open storage is only allowed within the Bonita Beach

Road Corridor Overlay when permitted by Special Exception within the Interstate Zone and is not permitted at all in the other three zones. The subject property is going through the public hearing process, already includes the open storage use and is an appropriate location for this use within the Overlay as demonstrated by the prior approvals and the user interest in the site. Development of the site will result in adding a 284± linear foot vital extension of shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density mobile homes to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City. The existing buffer conditions were deemed compatible in 2016; however the applicant proposes to update conditions 5a and 5b to increase the visual screen to from 6' to 8' to north residential and from 60" to 6' (72") to the road easement for roads, drives or parking within 125 feet of residential or 8' (96") for open storage use visible from residential use. This application also requests to amend Condition 8 to add the following further conditions on the open storage uses and to allow the storage of pre-packaged palletized material:

A strike-through/underline of the conditions contained in Zoning Ordinance 16-07 is attached with Conditions 5.a, 5.b and 8 proposed to be revised as follows:

5.a. ~~In support of Deviation 2, t~~The applicant shall install a 6' opaque fence 5' south of the property line and provide a modified 5' Type C enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy trees such as oaks or mahoganies or a combination of canopy trees. For open storage use, the opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' continuous visual screen to residential. Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC 3.

5.b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. For open storage use, an 8' continuous visual screen must be provided when visible from residential use or zoning. If roads, drives or parking are located within 125 feet of residential, an opaque fence, hedge or combination berm and opaque fence or hedge must provide a 6' must be provided. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified for the eastern buffer consistent with the LDC.

8. Business Services Group II (with outdoor equipment and/or vehicle storage), Storage, Open, and Rental or Leasing Establishment uses

   e. Open storage, ~~vehicle and equipment dealers,~~ and business services group II (with outdoor equipment and/or vehicle storage) is further limited as follows: ~~to a period of no more than three years from the effective date of this ordinance, regardless of the property's ownership; however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of the ordinance all open storage uses shall terminate immediately~~.

      i. Must submit development order application within 120 days from approval of this ordinance.

      ii. 90 days instead of 180 days to respond to development order review

comments.

iii. Must obtain development order approval within 12 months from the effective date of this ordinance.

iv. Use is permitted for a period of no more than 65 months from development order approval date.

v. Maximum height of open storage is 15 feet.

vi. Storage of 53-foot tractor trailers is prohibited.

vii. No banners on boom trucks.

viii. Temporary trailer may be provided.

ix. Consistent with LDC Section 4-2073(b)(2), Storage areas do not need to be paved. Grass or other ground cover may be used provided it is kept in a sightly and dustfree manner and complies with other requirements of this ordinance. …

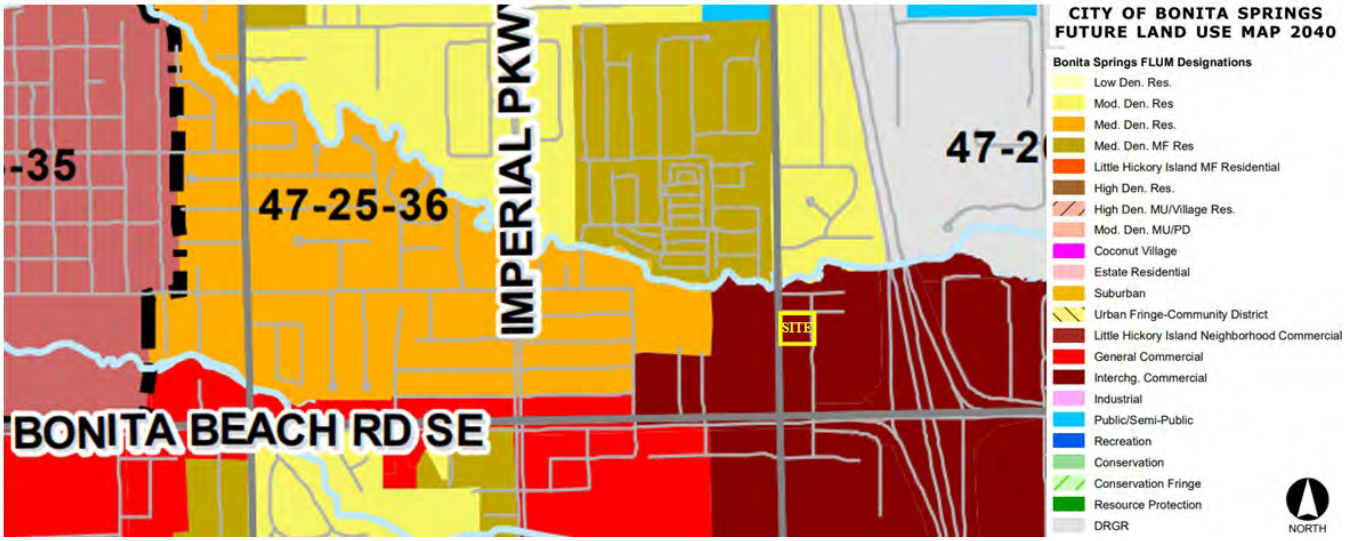
g. The storage, chipping, or mulching of landscape material is prohibited. Storage of pre-packaged palletized material is permitted.

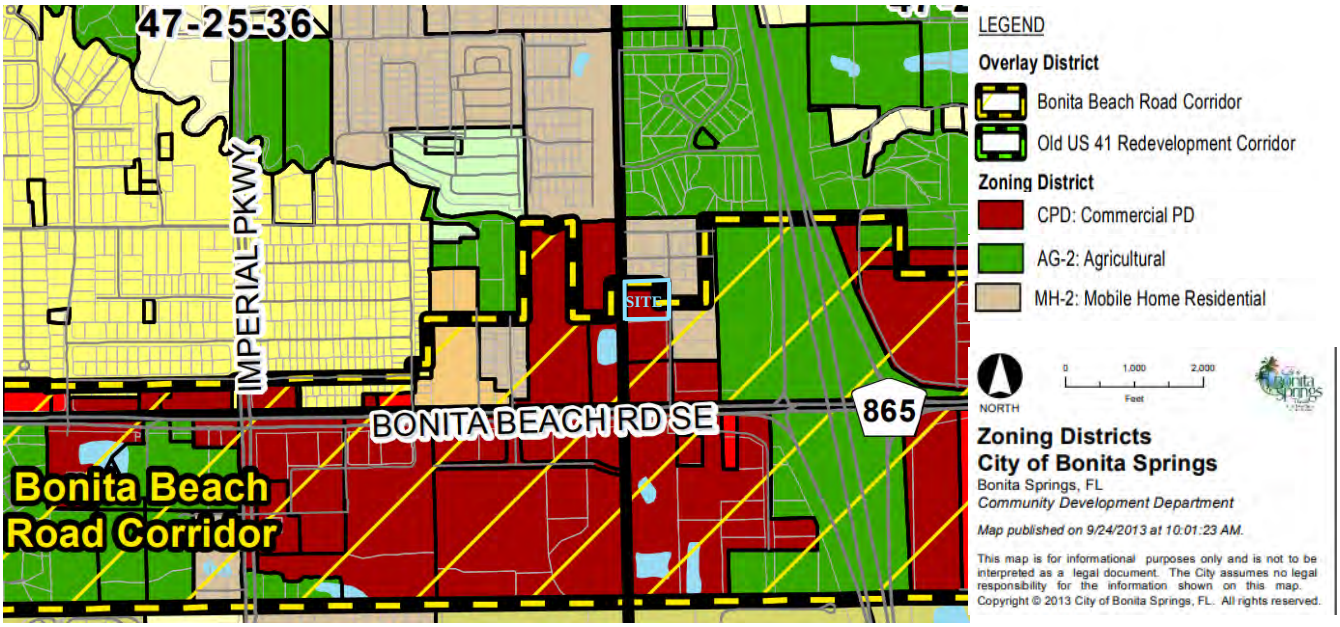
Subject and Adjacent Properties

The area is characterized with intense commercial uses to the west and south and high density residential uses to the north and east. The subject and surrounding properties future land use designation, zoning, Bonita Beach Road Overlay designation and current land use are summarized in the following table.

	Future Land Use	BBRC Overlay	Zoning	Use
Subject	Interchange Commercial	Yes	CPD	Vacant
North	Interchange Commercial	No	MH-2	Mobile Homes on lots
East	Interchange Commercial	N ½ No S ½ Yes	MH-2	Oakland Drive then 2 Mobile Home Parks
South	Interchange Commercial	Yes	CPD	Days Inn & Suites Hotel
West	Interchange Commercial	No	CPD	Flamingo Island Flea Market overflow parking

Below are excerpts of the Future Land Use Map and Zoning Map followed by a detailed description of the area.





North

Adjacent to the north are properties within the Interchange Commercial future land use map designation, zoned Mobile Home MH-2 and developed with high density residential consisting of individual lots with mobile homes averaging at 10± dwelling units per acre. The mobile homes are an existing inconsistent use in this future land use category, however may remain until voluntarily removed or reduced by attrition. If redeveloped, the future land use designation allows a maximum 1.2 FAR for nonresidential uses or a maximum density of up to 15 dwelling units per acre for multi-family residential and maximum allowable height of 75 feet. The City's Carpenter Lane Park is located at the end of Oakland Drive and Carpenter Lane along the Imperial River.

West

Adjacent to the west is property within the Interchange Commercial future land use map designation, zoned CPD and consists of Flamingo Island Flea Market overflow parking area.

East

Adjacent to the east is Oakland Drive, a two lane, privately maintained dirt road, and then property within the Interchange Commercial future land use map designation, zoned MH-2 and developed with higher density residential comprised of mobile home parks on two large lots. The mobile homes are an existing inconsistent use in this future land use category, however may remain until voluntarily removed or reduced by attrition. If redeveloped, the future land use designation allows a maximum 1.2 FAR for nonresidential uses or a maximum density of up to 15 dwelling units per acre for multi-family residential and maximum allowable height of 75 feet. Three lots south of this area is the Frank Clesen CPD, which is occupied by a fast food restaurant, gas station and convenience store fronting on Bonita Beach Road.

South

Adjacent to the south is property within the Interchange Commercial future land use map designation, zoned as Patel CPD (Lee County zoning resolution number Z-97-084) and developed with Days Inn & Suites Hotel. South of the hotel is a gas station and convenience store approved by the Kwik Pick Store CPD. This site was previously included in the original zoning resolution for the subject property.

The existing approved MCP is a bubble plan and a new MCP is proposed which provides the Phase 1 open storage conditions, Phase 2 building and parking layout and incorporates the existing buffer conditions and applicable requirements of the Bonita Beach Road Corridor Overlay Interstate Zone. The same singular vehicular access point onto Oakland Drive is proposed in generally the same location as the existing gated

access point into the property for the Phase 1 open storage use. A second access is proposed as part of Phase 2. The request proposes to incorporate the existing approved Deviations 1 regarding the west buffer. Deviation 2 is being withdrawn since it is no longer necessary due to the Bonita Beach Road Corridor Overlay LDC Section 4-899(b)(4)d.ii allowing the solid fence, opaque landscape hedge, or combination berm and solid fence or opaque landscape hedge not less than six feet in height to be constructed along the property line without landscaping.

Deviation 1 approved no buffer to the west to Flamingo Island Flea Market overflow parking since the western portion of the site contains a 5' drainage easement and an existing drainage way averaging 35' to 55' in width (containing a ditch of 20'-30' in width). This area is recommended to remain as originally approved in Z-97-084, ZO-09-13 and ZO-16-07 for a continued drainage way and open space area. It was previously determined that adequate buffering is provided with the existing vegetated banks of the drainage area. The proposed design does not modify the drainage way and provides approximately 39'± of open space with vegetated banks between the proposed parking area and adjacent commercial development. Existing condition 5d provides that any exotic removal that results in loss of the native vegetation along these banks are required to be replaced and maintained with native vegetation for a low and mid-story buffer.

Existing Deviation 2/Condition 5.a approved a north buffer of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy trees such as oaks or mahoganies or a combination of canopy trees. As previously stated, the applicant is proposing additional language to require that the opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' continuous visual screen to residential. Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC 3. The applicant is maintaining the previous condition that was in support of Deviation 2 that parking, access ways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25' of the northern property line. Building setbacks shall only be permitted at 20' when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.

To protect the residential properties across Oakland Drive, Condition 5.b requires the applicant to enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. As previously stated, the applicant is proposing additional language to require an opaque fence or hedge or combination berm and opaque fence or hedge to provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified for the east buffer consistent with the LDC. The south buffer is commercial to commercial so a 5' Type A buffer is required and provided.

Comprehensive Plan Consistency Analysis

Policy 1.1.3: Height - While each individual land use category may include a maximum allowable height, the actual allowable height for any given property will be stated in the Land Development Code based on consideration of compatibility with surrounding existing land uses and future land use patterns.

The 2009 CPD amendment approval allowed a height of 75 feet for a hotel use, 55 feet for commercial, industrial or restaurant and 25 feet for open storage which is consistent with the Interchange

Commercial future land use category's maximum height of 75 feet. The 2016 CPD amendment approval reduced the maximum height to 55 feet for a hotel use; 45 feet for commercial, office, industrial or restaurant use and 15 feet for open storage. The subject application does not propose any changes to these existing height limitations which were previously found compatible with surrounding residential and commercial uses. The requested amendment remains consistent with Policy 1.1.3.

> *Policy 1.1.4: Allowable Uses - The listing of appropriate land uses in each of the individual land use categories identifies those uses generally expected to be appropriate. However, other uses which are similar in character, intensity and impacts to those listed may also be deemed to be appropriate.*

The existing schedule of uses was found consistent with this Policy. Intense commercial uses are consistent with the existing land use patterns or those that are proposed within the Interchange Commercial area. As previously stated, the application intends to add the additional uses identified as permitted in the Interstate Zone of the Bonita Beach Road Corridor Overlay (except where noted otherwise in the schedule of uses), subject to the existing trip cap included in existing Condition 3.e and the proposed MCP. Although the applicant would prefer that these uses remain in order to encourage Phase 2 development which is desired by the City, the applicant agrees to require a special exception for a drive-through and remove non-store retailers to bring the site more into compliance with the Bonita Beach Road Corridor Overlay should the Phase 1 Open Storage use be approved. The property has been zoned for commercial development since 1997 yet remains undeveloped. Exclusive interest has been from multiple parties concerning the open storage use which will immediately improve the property's appearance concurrently generating revenue to repay the owner for the site improvements required in advance of allowing Open Storage and over time fund the equity needed to complete Phase 2 of the development. In order to make the property economically viable until a permanent Phase 2 user secures the property, the owner would like to be able to lease the property for open storage use. Although time limitations were placed on the outdoor storage use in both the 2009 and 2016 approvals, other conditions were included to ensure compatibility of the open storage use with the adjacent residential and commercial properties. The site is not visible from I-75 and is not visible from Bonita Beach Road since it is approximately 580 feet north of Bonita Beach Road behind an existing hotel, gas stations and fast food uses. LDC Section 4-898 provides that Open storage is only allowed within the Bonita Beach Road Corridor Overlay when permitted by Special Exception within the Interstate Zone and is not permitted at all in the other three overlay zones. The subject property is going through the public hearing process, already includes the open storage use and is an ideal use particularly given users of Open Storage often travel interstates. The subject property's near proximity and short access to I-75 eliminates a user of Open Storage from traveling longer distances on Bonita Beach Road. It is an appropriate location for this use within the Overlay as demonstrated by the prior approvals and the user interest in the site. The existing conditions of approval and the proposed amendments ensure compatibility of the proposed use. The proposed amendment remains consistent with Policy 1.1.4.

> *Policy 1.1.22: In order to minimize incompatibility when commercial, industrial or more intensive land uses share a common boundary with residential land uses, lower intensity uses shall be located adjacent to residential uses and the Land Development Code shall include provisions for buffering in the form of fences, walls, vegetation or spatial buffers to minimize the impacts upon the residential use.*

The existing conditions of approval provide setback and buffering requirements as well as height limitations that were deemed consistent with this Policy and no changes are proposed to the existing setbacks and height limitations. The buffers are proposed to be revised to increase screening to ensure the open storage use provides the required 8' visual screen to existing residential to the north and east or 6' visual screen to the east if roads, drives are parking are within 125' of residential. The proposed revised time limitations for the open storage use does not change the fact that the conditioned buffers

and setbacks provide compatibility with the adjacent residential uses. The request remains consistent with Policy 1.1.22.

> *Objective 1.16: Bonita Beach Road Corridor and Bonita Beach Road Corridor Quadrant Map: Establish regulations to implement the Bonita Beach Road Visioning Study by Toole Design Group dated November 1, 2016 for the Bonita Beach Road Corridor, which is generally located between the Gulf of Mexico and the City limits to the East. The corridor serves as the main gateway to the City, and is intended for an interconnected mix of uses including commercial, civic, residential, and mixed-use development, with emphasis on compatibility, a human-scale of development, walkability and bike-ability, and a vibrant and aesthetically-pleasing streetscape.*

The project site is located on Oakland Drive, a dead end side street within the Bonita Beach Road Overlay Corridor Interstate Zone. The site is not visible from I-75 and is not visible from Bonita Beach Road since it is approximately 580 feet north of Bonita Beach Road behind an existing hotel, gas stations and fast food uses. Its unique location makes it appropriate for the potential open storage use proposed revised time limitations and remaining Phase 2 uses. The request brings the MCP into compliance with the LDC requirements for developments within the Bonita Beach Road Corridor. Development of the site will provide a 6' sidewalk with landscape buffer providing shade with a bench or other streetscape amenity and extension of Oakland Drive along the site's 284± linear feet of frontage connecting the residential uses to the north and east with the commercial uses to the south benefiting the surrounding properties and the City. The request is consistent with Objective 1.16.

The subject property is located in the Interchange Commercial future land use category. The Comprehensive Plan describes the Interchange Commercial land use designation as follows:

> *Policy 1.1.15: Interchange Commercial - Intended for uses that serve the traveling public such as automobile service/gas stations, hotel/motel, restaurants and gift shops; and a broad range of tourist-oriented, general commercial, light industrial, commercial office, and multi-family residential up to 10 dwelling units per acre within the approximately 385 acres of gross land area in the land use category.*
>
> a. *If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.*
> b. *Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves.*
> c. *Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.*

The existing approved schedule of uses provides a wide range of commercial, light industrial, or hotel/motel uses which are permitted in the Interchange Commercial land use designation. The proposed inclusion of the uses permitted in the Bonita Springs Road Corridor Overlay Interstate Zone are also consistent with the Interchange Commercial land use designation and appropriate for the area. No changes are proposed to the existing approved maximum height of 55 feet which is less than the maximum of 75 feet allowed in this category. No changes are proposed to the existing maximum intensity of 25,000 square feet which is a floor area ratio of 0.27. The maximum floor area ratio of 1.2 would allow up to 112,000± square feet. The request remains consistent with Policy 1.1.15.

> *Objective 1.11: Development orders and permits for new development or redevelopment shall be issued only if public facilities and services for potable water, sanitary sewer, solid waste, and stormwater management are necessary to meet the City's adopted Level of Service (LOS) standards are available concurrent* with the impacts of the development…

Policy 1.11.1: Refers to the availability of public facilities and services necessary to support development

and setbacks provide compatibility with the adjacent residential uses. The request remains consistent with Policy 1.1.22.

> *Objective 1.16: Bonita Beach Road Corridor and Bonita Beach Road Corridor Quadrant Map: Establish regulations to implement the Bonita Beach Road Visioning Study by Toole Design Group dated November 1, 2016 for the Bonita Beach Road Corridor, which is generally located between the Gulf of Mexico and the City limits to the East. The corridor serves as the main gateway to the City, and is intended for an interconnected mix of uses including commercial, civic, residential, and mixed-use development, with emphasis on compatibility, a human-scale of development, walkability and bike-ability, and a vibrant and aesthetically-pleasing streetscape.*

The project site is located on Oakland Drive, a dead end side street within the Bonita Beach Road Overlay Corridor Interstate Zone. The site is not visible from I-75 and is not visible from Bonita Beach Road since it is approximately 580 feet north of Bonita Beach Road behind an existing hotel, gas stations and fast food uses. Its unique location makes it appropriate for the potential open storage use proposed revised time limitations and remaining Phase 2 uses. The request brings the MCP into compliance with the LDC requirements for developments within the Bonita Beach Road Corridor. Development of the site will provide a 6' sidewalk with landscape buffer providing shade with a bench or other streetscape amenity and extension of Oakland Drive along the site's 284± linear feet of frontage connecting the residential uses to the north and east with the commercial uses to the south benefiting the surrounding properties and the City. The request is consistent with Objective 1.16.

The subject property is located in the Interchange Commercial future land use category. The Comprehensive Plan describes the Interchange Commercial land use designation as follows:

> *Policy 1.1.15: Interchange Commercial - Intended for uses that serve the traveling public such as automobile service/gas stations, hotel/motel, restaurants and gift shops; and a broad range of tourist-oriented, general commercial, light industrial, commercial office, and multi-family residential up to 10 dwelling units per acre within the approximately 385 acres of gross land area in the land use category.*
>
> a. *If affordable housing is provided, residential density may be increased by up to five additional dwelling units per acre.*
> b. *Maximum allowable height of structures shall be 75 feet from the base flood elevation to the eaves.*
> c. *Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2.*

The existing approved schedule of uses provides a wide range of commercial, light industrial, or hotel/motel uses which are permitted in the Interchange Commercial land use designation. The proposed inclusion of the uses permitted in the Bonita Springs Road Corridor Overlay Interstate Zone are also consistent with the Interchange Commercial land use designation and appropriate for the area. No changes are proposed to the existing approved maximum height of 55 feet which is less than the maximum of 75 feet allowed in this category. No changes are proposed to the existing maximum intensity of 25,000 square feet which is a floor area ratio of 0.27. The maximum floor area ratio of 1.2 would allow up to 112,000± square feet. The request remains consistent with Policy 1.1.15.

> *Objective 1.11: Development orders and permits for new development or redevelopment shall be issued only if public facilities and services for potable water, sanitary sewer, solid waste, and stormwater management are necessary to meet the City's adopted Level of Service (LOS) standards are available concurrent* with the impacts of the development…

Policy 1.11.1: Refers to the availability of public facilities and services necessary to support development

concurrent with its impacts, prior to the issuance of a development order or permit. The subject property is within the Bonita Springs Utilities franchise area for both water and sewer. Solid waste capacity is available to service the site. Access to the site will be provided via the existing access on Oakland Drive for Phase 1. An additional access will be provided with Phase 2. The existing conditions of approval 3.a through 3.g provide transportation requirements including improving portions of Oakland Drive and a trip cap. Minor revisions are proposed to these conditions to clarify the sidewalk width, provide a streetscape amenity, provide for a cross-access easement to the north, and require Oakland Drive improvements along the property frontage. The approximate location of storm water management areas are shown on the proposed MCP. Detailed storm water management design and utility connections will be provided at the time of local development order review. The proposed amendment to the CPD is consistent with Objective 1.11 and Policy 1.11.1.

Land Development Code Analysis

Planned Development General Standards

The proposed amendment complies with the general standards for planned developments provided in the Land Development Code Section 4-325 as follows:

(a) All planned developments shall be consistent with the provisions of the Bonita Plan.

The proposed amendment to the CPD is consistent with the Bonita Plan as demonstrated above.

(b) All planned developments, unless otherwise excepted, shall be designed and constructed in accordance with the provisions of all applicable city development regulations in force at that time.

The proposed development will comply with applicable city development regulations, together with continuation of the previously approved deviations.

(c) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water. In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian and cyclist activity and community interaction.

The proposed development has been previously approved and is designed to minimize any potential negative effects on the surrounding properties and the public interest generally. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge

or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The proposed development plan provides open space in the form of perimeter buffers and internal landscaping. The development plan adequately accommodates the proposed structure, required open space, buffers, parking, access, utilities, and storm water management areas. There are no environmentally sensitive features on site. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City.

(d) The tract or parcel shall have access to existing or proposed roads:

(1) In accordance with chapter 3 and as specified in the Bonita Plan traffic circulation element or the official trafficways map of the county;

(2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of service on specific roads have been established in the Bonita Plan; and

(3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.

Access to the site will be provided via the existing access on Oakland Drive which connects to Bonita Beach Road for Phase 1. An additional access is proposed with Phase 2 which will provide a cross access easement to the north. The existing conditions of approval 3.a through 3.g provide transportation requirements including improving portions of Oakland Drive and a trip cap. Minor revisions are proposed to these conditions to clarify the sidewalk width, provide a streetscape amenity, provide for a cross-access easement to the north, and require Oakland Drive improvements along the property frontage. No changes are proposed to the approved development intensity. Ingress and egress are provided without requiring any potential site related industrial traffic to move through residential areas.

(e) If within the Lee Tran public transit service area, the development shall be designed to facilitate the use of the transit system.

The subject property is located within the Ultra On Demand Transit Service area.

(f) Development and subsequent use of the planned development shall not create or increase hazards to persons or property, whether on or off the site, by increasing the probability or degree of flood, erosion or other danger, nor shall it impose a nuisance on surrounding land uses or the public's interest generally through emissions of noise, glare, dust, odor, air or water pollutants.

The proposed development will not create or increase any hazards to persons or property nor shall it impose a nuisance on surrounding land uses or the public's interest generally. The conditions of approval as amended by this request continue to provide sufficient protection and compatible development that will be further reviewed at the time of local development order approval.

(g) Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural, historical or archaeological

features of the site, particularly mature native trees and other threatened or endangered native vegetation. Alteration of the vegetation or topography that unnecessarily disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. That habitat is significant that is critical for the survival of rare, threatened or endangered species of flora or fauna.

There are no natural, historical, archaeological or environmentally sensitive features existing on site however the site does contain mature native trees. The Tree Advisory Board reviewed and unanimously approved the proposed plan resulting in the preservation of the three (3) trees shown on the attached proposed revised MCP.

(h) A fundamental principle of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment. This shall be coordinated with the achievement of other goals, e.g., the preservation or conservation of environmentally sensitive land and waters or archaeological sites.

There are no environmentally sensitive lands or archaeological features existing on site. The proposed master concept plan and site design provides creative use of the open space requirement by placing the dry detention area to the north to provide additional separation to the adjacent residential uses. The proposed design continues to incorporate the drainage way and provides approximately 39' of open space with vegetated banks between the proposed parking area and adjacent commercial development. The enhanced buffer along Oakland Drive and the internal landscape areas where the parking is proposed will provide shade for the proposed sidewalk and bench or other streetscape amenity to produce an architecturally integrated human environment while allowing the remainder of the site to function appropriately for its intended use.

(i) Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.

As previously stated, the surrounding land and land uses to the west and south are compatible commercial development. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The existing conditions of approval were deemed compatible with the surrounding residential and commercial uses. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and

the City. The proposed amendment will allow compatible infill development of the site with buffering, setbacks and height limitations that minimize any negative impacts of the planned development on surrounding land and land uses.

(j) Where a proposed planned development is surrounded by existing development or land use with which it is compatible and of an equivalent intensity of use, the design emphasis shall be on the integration of this development with the existing development, in a manner consistent with current regulation.

The surrounding existing development to the west and south are compatible and of an equivalent intensity of use so the design provides for continuation of the existing drainage ditch on the west and LDC required buffering to the commercial use to the south. The proposed Oakland Drive and associated pedestrian way and buffer will integrate with the existing pedestrian facilities to the south and will connect to the north property line, providing a vital segment of Oakland Drive with shaded pedestrian facilities including a bench or other streetscape amenity connecting the adjacent residential uses to the commercial uses to the south.

(k) Where the proposed planned development is surrounded by existing development or land use with which it is not compatible or which is of a significantly higher or lower intensity of use (plus or minus ten percent of the gross floor area per acre if a commercial or industrial land use, or plus or minus 20 percent of the residential density), or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs.

As previously stated, the surrounding land and land uses to the west and south are compatible commercial development. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The existing conditions of approval were deemed compatible with the surrounding residential and commercial uses. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City. The proposed amendment will allow compatible infill development of the site with buffering, setbacks and height limitations that minimize any negative impacts of the planned development on surrounding land and land uses.

(l) In large residential or commercial planned developments, the site planner is encouraged to

create subunits, neighborhoods or internal communities which promote pedestrian activity and community interaction.

This standard is not applicable to the subject application.

(m) In order to enhance the viability and value of the resulting development, the designer shall ensure the internal buffering and separation of potentially conflicting uses within the planned development.

There are no conflicting uses within the planned development.

(n) Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.

The project site is small and does not require varying use, height, bulk or intensity.

(o) Unless otherwise provided for in this article, minimum parking and loading requirements shall be as set forth in article VI, divisions 25 and 26, of this chapter. Where it can be reasonably anticipated that specified land uses are generators of occasional peak demand for parking space, a portion of the required parking may be pervious or semi-pervious surfaces subject to the condition that it be constructed and maintained so as to prevent erosion of soil. In all cases, however, sufficient parking shall be provided to prevent the spilling over of parking demand onto adjacent properties or rights-of-way at times of peak demand.

The proposed development will provide sufficient parking consistent with City requirements.

(p) Joint use of parking by various land uses within the planned development may be permitted by special condition where it can be demonstrated or required that the demand for parking by the various uses will not conflict. Joint parking agreements between uses within and uses without the planned development shall be governed by agreement per general regulation (see section 4-1730), without exception.

Joint use of parking is not proposed for this development.

(q) Internal consistency through sign control, architectural controls, uniform planting schedules and other similar controls is encouraged.

The proposed development will provide internal consistency throughout the development.

<u>Bonita Beach Road Corridor Overlay LDC Requirements</u>

The subject parcel is located within the Interstate Zone of the Bonita Beach Road Corridor Overlay. The Master Concept Plan (MCP) is required to be brought into compliance with the Overlay pursuant to LDC Section 4-897(g)(2)iv. The existing schedule of uses is very limited compared to that which is allowed

within the Overlay. Since the existing approval includes condition 3.e with a cap on trips, the application requests to keep the existing schedule of uses, but also allow utilization of the Interstate Zone Uses allowed pursuant to LDC Section 4-898 (except where noted otherwise in the schedule of uses) to expand the development opportunities and economic viability of the site with uses specifically designated for this area.

The CPD complies with the Property Development Regulations for the Interstate Zone contained in LDC Section 4-899(a) as follows:

- Pursuant to Note (1), the site is less than 3 acres and therefor does not require a block layout plan.
- Setbacks:

	Overlay	CPD
Minimum Street:	20'	20' (Private Local Road)
Maximum Street: Not applicable pursuant to Note (3) since on a secondary street		
Side:	0'/15'	20'/25'*
Rear:	20'	25'
Maximum Height	35'/55' per 4-1874	55'
Maximum Lot Coverage:	40%	58% being revised to 40%[1]
Minimum Open Space :	N/A	42% being revised to 30%

*Although Deviation 2 is no longer necessary, no changes are proposed to the existing condition that parking, access ways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25' of the northern property line. Building setbacks shall only be permitted at 20' when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.

The CPD complies with the following additional design standards contained in LDC Section 4-899(b):

(1) The site is not visible from Bonita Beach Road. Drive-thru is a permitted use today and has been a permitted use since the 1997 zoning approval. Although the applicant would prefer that this use remain in order to encourage Phase 2 development which is desired by the City, the applicant agrees to require a special exception to bring the site more into compliance with the Bonita Beach Road Corridor Overlay should the Phase 1 Open Storage use be approved. The applicant believes that the required buffers and conditions of approval provide adequate compatibility for the drive-thru use. Any auto oriented use will need to demonstrate at time of local development order that any drive-thru and associated stacking will be located along the side and rear property lines.

(2) A note has been added to the MCP that lighting will be provided on the building or free standing along the street right of way. A photometric plan will be provided at the time of local development order.

(3) Parking requirements
   a. The minimum LDC required parking will be provided and demonstrated at the time of local development order for the end user. Provided parking will not exceed more than 15 percent more than the minimum required.
   b. Not applicable. No reduction by parking study is proposed.
   c. Not applicable since no on-street parking exists.
   d. Not applicable since the adjacent existing parking lot to the south is not designed to allow for connection and the use to the west is separated by the existing drainage ditch.

[1] The maximum lot coverage is proposed to be revised to match the 40% requirement in the Bonita Beach Road Corridor Overlay Interstate Zone. This lot coverage is consistent with the original CPD approval in 1997. In the 2009 approval, there appears to be a typo in the Lot Coverage and Open Space requirements because these do not typically add up to 100%. For example LDC Section 3-417 requires 20% open space for commercial uses and conventional commercial zoning districts all have a maximum lot coverage of 40%. This apparent typo of Lot Coverage 58% and Open Space 42% was carried over on the 2016 approval, however the MCP depicted a 20% open space requirement. The applicant requests to update these requirements to Maximum Lot Coverage of 40% and Minimum Open Space of 30%.

e. Not applicable as no valet parking is proposed.
f. A note has been added to the MCP that bike racks will be provided which will be demonstrated at the time of local development order approval.

(4) Parking placement
   a. On-street parking is not proposed since the road is a privately maintained roadway with existing residential uses.
   b. The MCP demonstrates one full bay of parking along the frontage line, consistent with the Interstate Zone.
   c. Not applicable to the Interstate Zone.
   d. Buffering adjacent property.
      i. The right-of-way buffer is not proposed within the easement since it is a privately maintained road.
      ii. Deviation 2 is no longer necessary. The MCP has drives or parking areas less than 125 feet from residential uses to the north and east and revised conditions 5a requires a 6' opaque fence or 8' visual screen for open storage and revised condition 5b requires a 6' visual screen or 8' for open storage, consistent with this requirement.

(5) Continuous shaded bike facilities and pedestrian facilities.
   a. Compliance with Chapter 3 must be demonstrated at the time of local development order.
   b. The right-of-way buffer is not proposed within the easement since it is a privately maintained road.
   c. A note has been added to the MCP that the enhanced landscape buffer pursuant to condition 5b provides pedestrian shade which must be demonstrated at the time of local development order.

(6) A note has been added to the MCP that a minimum of 1 bench or other streetscape amenity must be provided.

(7) The MCP demonstrates a screened dumpster that is not located on a frontage line

The site has no frontage on Bonita Beach Road and is not located within one of the three Gateways listed in LDC Section 4-899(c).

LDC Findings

The proposed amendment to the CPD complies with the guidelines for decision-making embodied in Land Development Code section 4-131(d)(3) as follows:

a. The applicant has proved entitlement to the rezoning or special exception by demonstrating compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation;

The proposed rezoning is in compliance with the Bonita Plan as demonstrated above. The site will be developed in compliance with the Land Development Code, together with continuation of the existing approved deviations.

b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;

The site will meet or exceed all performance and locational standards set forth for the potential uses allowed, together with existing approved deviations.

c. The request, including the use of TDR or affordable housing bonus density units, is consistent

with the densities, intensities and general uses set forth in the Bonita Plan;

The request is consistent with intensities and uses set forth in the Bonita Plan. The proposed CPD amendment expands the economic viability of the site and allows for the infill development of a FAR below the maximum allowed within the Interchange Commercial future land use designation.

d. The request is compatible with existing or planned uses in the surrounding area;

As previously stated, the surrounding land and land uses to the west and south are compatible commercial development. The existing conditions of the CPD require buffering along the north side of the subject property where it directly abuts residential uses. The conditions also require an enhanced buffer along the northern and eastern property line to shield the headlights and vehicles from intruding into the surrounding residential uses. The north buffer consists of a 6' opaque fence 5' south of the property line with a modified 5' Type C enhanced buffer (5 trees and 18 shrubs/100 LF). The hedge must be 36" at installation and maintained at 60" high within one year after planting. The trees must be canopy trees. The opaque fence or hedge must provide an 8' high continuous visual screen for open storage use. Parking, access ways/drives, vehicle storage, or open storage for any use is prohibited within 25' of the north property line. Open storage is limited to a maximum height of 15 feet. Building setback will only be permitted at 20' when property to the north redevelops as non-residential. The east buffer along Oakland Drive is an enhanced Type D buffer (5 trees/100 LF with double staggered hedge) with the hedge row 48" (minimum 15 gallon) at time of installation and maintained at 60 " high within one year after planting. An opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' (96") visual screen to the street easement for open storage use visible from residential or a 6' (72") visual screen for roads, drives or parking within 125 feet of residential. The existing conditions of approval were deemed compatible with the surrounding residential and commercial uses and the proposed revised conditions provide further compatibility. Development of the site will result in adding a 284± linear foot vital extension of Oakland Drive with a shaded 6' wide sidewalk pedestrian facilities with landscape buffer connecting the high density residential to the north and east to the commercial uses to the south including a bench or other streetscape amenity to be located under a buffer shade tree. These improvements would provide a benefit to the surrounding properties and the City. The proposed amendment will allow compatible infill development of the site with buffering, setbacks and height limitations that minimize any negative impacts of the planned development on surrounding land and land uses.

e. Approval of the request 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;

Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities. No changes are proposed to the existing approved intensity or transportation conditions of approval except for minor revisions to clarify the sidewalk width, provide a streetscape amenity, provide for a cross-access easement to the north, and require Oakland Drive improvements along the property frontage. These conditions must be complied with at the time of local development order approval.

f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources;

Not applicable since there are no environmentally critical areas or natural resources located on site.

g. In the case of a planned development rezoning, the decision of the zoning board must also be supported by the formal findings required by section 4-299(a)(2) and (4);

4-299(a)(2) The recommendation made to the city council must be supported by formal findings that address the guidelines set forth in section 4-131. In addition, the findings must address whether the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

b. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.

c. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

(4) If the application includes a schedule of deviations pursuant to section 4-326, the zoning board's recommendation must approve, approve with modification or reject each requested deviation based upon a finding that each item:

a. Enhances the achievement of the objectives of the planned development; and

b. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.

If the zoning board concludes that the application omits necessary deviations, they may include those omitted deviations in its recommendation without an additional hearing.

The proposed schedule of uses is appropriate at the subject location and includes uses consistent with the Interchange Commercial future land use category and the Bonita Beach Road Corridor Overlay Interstate Zone. The conditions proposed by the applicant with the master concept plan, schedule of uses, property development regulations and 20 conditions of approval provide sufficient safeguards and are appropriate for the proposed development. The requested continuation of deviation 1 enhances the achievements of the objectives of the planned development and preserves and promotes the general intent to protect the public health, safety and welfare.

h. The zoning board must also find that public facilities are, or will be, available and adequate to serve the proposed land use.

There are existing public facilities in place and adequate to serve the proposed land use and existing approval. No changes are proposed to the existing approved intensity.

In conclusion, the proposed amendment to the CPD is in compliance with the Bonita Plan, the Land Development Code with continued approval of requested deviation, and other applicable codes and regulations; is consistent with the intensities and general uses set forth in the Bonita Plan, is compatible with existing or planned uses in the surrounding area; 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; will not adversely affect environmentally critical or sensitive areas and natural resources; the proposed use is appropriate at the subject location; the proposed conditions are reasonably related and appropriate for the project, the requested deviations enhance the achievement of the objectives of the planned development and preserve and promote the general intent to protect the public health safety and welfare; public facilities are available and adequate to serve the proposed use. For these reasons, the applicant respectfully submits that the CPD amendment should be approved.

Oakland CPD Amendment

PD21-85799-BOS

PROPOSED AMENDMENT TO CONDITIONS OF CITY OF BONITA SPRINGS

ZONING ORDINANCE NO. 16-07

Revised December 2022

A. Conditions:

1. The development of this project must be consistent with the Master Concept Plan entitled "Oakland CPD," prepared by ~~Q. Grady Minor and Associates, P.A. stamped received June 8, 2016~~ **Banks Engineering dated December 15, 2022** (Attachment A), except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of local development order approval. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

   The total gross floor area may not exceed 25,000 square feet of commercial/light industrial uses, a 7,780 square foot restaurant, or a 90-room hotel.

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

   a. Schedule of Uses

Accessory Uses and Structures
Administrative Offices
ATM
Business Services, Group I & II
~~Caterers~~
Cleaning and Maintenance Services
Consumption on Premises, indoor only, in conjunction with a full-service restaurant or hotel/motel. Outdoor consumption requires a special exception (public hearing required)
Contractors and Builders Group I
Drive-through facility for any permitted use **(requires Special Exception)**
Entrance Gates and Gatehouses
Essential Service Facilities, Group I
Excavation, Water Retention
Fences, Walls
Health Care Facilities, Group I
Hotel/Motel (not to exceed 90 rooms)
~~Insurance Companies~~
~~Medical Office~~
~~Non-Store Retailers, Group I~~
Parks, Group I

Parking Lot, Accessory
Personal Services, Groups I, II, III & IV (excluding massage establishment or parlors, steam or turkish baths, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a health or beauty spa)
Rental or Leasing Establishments: Groups I and II (limited to indoor use only)
Restaurants, Group III
Schools, Commercial
Signs, in accordance with Chapter 6 Land Development Code
Specialty Retail Shops, Group II
Storage, Open as limited by Condition 8
Temporary/mobile office as limited by Condition 8
Temporary Uses
Mini-warehouse
Bonita Beach Road Corridor Overlay Interstate Zone Permitted Uses per LDC, except where otherwise noted above

Site Development Regulations

Minimum Area and Dimensions:

Lot Area:	20,000 S.F.
Lot Depth:	100’
Lot Width:	100’

Minimum Setbacks:

Street:	Variable, according to the functional classification of the street or road (LDC Section 1893 et seq)
Side yard:	20’/25’*
Rear yard:	25’

*In support of Deviation 2, parking, access ways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25’ of the northern property line. Building setbacks shall only be permitted at 20’ when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.

Maximum Building Height:

Storage, Open	15’
Commercial/Office Industrial/Restaurant	45’/3 stories over parking
Hotel/Motel	55’/5 stories over parking

Maximum Lot Coverage: ~~58%~~ 40%

Minimum Open Space: ~~42%~~ 30%

3. Transportation conditions

a. The developer is responsible for the costs and improvements of Oakland Drive from the southern property line to the northern property line as a site-related improvement. The applicant shall improve Oakland Drive ~~from 5’ to the north of its driveway to the limits of its southern property line prior to local development order approval and occupancy of any use of the site~~ to a local private road standard. This entire segment of the roadway along the property’s frontage must be completed as a part of any local development order ~~with a permanent building consistent with LDC 3-531~~. A ~~5~~ **6**’ wide sidewalk **and minimum 1 bench or other streetscape amenity under a buffer shade tree** shall be installed and completed prior to the certificate of completion for any phase of development and/or occupancy of the site.

b. Approval of this zoning request does not address mitigation of the project’s vehicular or pedestrian traffic impacts. Additional conditions consistent with the City of Bonita Springs Land Development Code may be required to obtain local development order; and

c. The Developer must comply with concurrency requirements (all conditions required by the Bonita Springs Comprehensive Plan and the Land Development Code) in order to obtain a local development order;

d. At time of local development order application the developer shall submit a Traffic Impact Statement that includes the following analysis in addition to the City of Bonita Springs Traffic Impact Statement Guidelines:

i. A Project Trip Distribution figure generated by percentage and a Peak Hour Project Traffic Assignment figure (including AM and PM peak hour turning movements) and peak hour directional trips along Bonita Beach Road.

Secondary Links – if the directional peak hour project trips assigned to a direct link equal or exceed 2% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the adjacent roadway segments. The adjacent roadway segments to the direct link shall include both

segments on either end of the direct link and any segments of roadways that intersect the direct link. The adjacent roadway segments shall be referred to as Secondary Links.

Additional Links – If the directional peak hour project trips assigned to any secondary link equal or exceed 2% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the secondary link. These adjacent roadway segments shall be referred to as Additional Links.

If the directional peak hour project trips assigned to any additional link equal or exceed 3% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the additional link. These adjacent roadways segments shall also be referred to as Additional Link.

Directional peak hour project trips shall continue to be assigned in this manner until the value of directional peak hour project trips is less than the directional peak hour capacity of the level of service standard for that segment. When the percentage is less than 3% of the capacity, then project trip assignment will stop after that link has been assigned.

ii. The AM and PM peak hour turning movements for the intersection of Bonita Beach Road and Oakland Drive. These volumes should include both background and project trips, which clearly distinguish between background trips and site generated trips.

iii. The applicant shall analyze and conduct a traffic signal operations analysis for the development's impacts on the intersections at Bonita Beach Road and Oakland Drive, and shall address mitigation through conditions to the Development Order mitigation.

e. Trip cap. The total daily and peak hour trips of the combined uses will not exceed 1,099 vehicles per day (Average Daily Traffic – ADT) and 105 vehicles per hour (including pass-by trips).

f. The County retains the right to modify the median opening at Oakland and Bonita Beach Road, if necessary, to maintain the safety and efficiency of the arterial street (Florida Statute 316.00 Powers of local authorities).

g. At time of development order, the applicant will work with staff to include additional conditions related to the Bonita Beach Road Visioning, to the greatest extent feasibly possible, which will be incorporated into the development order.

i. A cross access easement as depicted on the Master Concept Plan and consistent with the draft on file with this zoning case will be recorded upon approval of a development order including a building and the northern driveway.

4. Environmental Conditions

a. The applicant must provide one hundred (100) percent native vegetation planting within all required buffers; and

b. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage of the bottom of the basin at time of installation; and

c. Per the Tree Advisory Board recommendation on October 8, 2018, the applicant must preserve **the 3** ~~9 Heritage~~ **Live Oak** Trees as identified on the MCP **and must mitigate removal of 4 Heritage Trees and mitigate by replanting 4 trees, on site, of similar species or ecologic value with a minimum height of twenty feet (20' Ht.) at installation.** ~~stamped received June 8, 2016~~.

d. The applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water quality treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.

e. Any use with open storage and/or a business services group II use (with outdoor equipment and/or vehicle storage) that contains potential pollutants such as oil, grease and gasoline shall be required at a minimum to provide additional safeguards at time of local development order, which may include a wash out station, a maintenance provision to keep oil and gas absorbent material on-site for accidental spills, and proper storage and containment of materials in accordance with Florida Friendly Yards and Florida Department of Environmental Protection.

5. Perimeter buffers

a. ~~In support of Deviation 2, t~~ **T**he applicant shall install a 6' opaque fence 5' south of the property line and provide a modified 5' Type C enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy trees such as oaks or mahoganies or a combination of canopy trees. **For open storage use, the opaque fence or hedge or combination berm and**

opaque fence or hedge must provide an 8' continuous visual screen to residential. Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC 3.

b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. **For open storage use, an 8' continuous visual screen must be provided when visible from residential use or zoning. If roads, drives or parking are located within 125 feet of residential, an opaque fence, hedge or combination berm and opaque fence or hedge not less than 6' must be provided. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified for the eastern buffer consistent with the LDC.**

c. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size).

d. In support of Deviation 1, the existing vegetated banks along the western property line shall be maintained. Any exotic removal that results in loss of the native vegetation along these banks shall be replaced and maintained with native vegetation for a low and mid-story buffer.

6. Flood regulations

a. At the time of local development order application for any site grading work, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on adjacent properties due to of drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basin areas; and (2) hydrologic and hydraulic calculations for the 5, 25, and 100-year design storm events in order to establish existing baseline conditions.

b. Development must be consistent with the local, State, and Federal regulations for development within any floodway, flood plains, or properties designated that will be affected by a tropical storm event.

7. Parking

a. Final parking ratios shall be determined at the time of a local development order consistent with the Land Development Code (LDC) for the uses requested.

b. In support of Deviation 2, parking is prohibited within 25' of the northern property line until the property to the north redevelops into a nonresidential use.

c. Parking within the Oakland Drive right of way is prohibited.

8. Business Services Group II **(with outdoor equipment and/or vehicle storage)**, Storage, Open, and Rental or Leasing Establishment uses

a. All areas must comply with special setbacks for specific uses set forth in LDC Section 4-2014(D)(6) except as approved administratively by the City Manager or designee; and

b. In open storage areas, surface parking materials should be selected to effectively reduce the amount of pollution generated and remain consistent with water quality goals; and

c. Open storage of flammables and/or hazardous waste is prohibited; and

d. Buffering and landscaping must be installed prior to any occupancy of the property. Buffering for this use must be either increased or open storage must be positioned in such a manner that there is no view of any open storage from Oakland Drive.

e. Open storage~~, vehicle and equipment dealers,~~ and business services group II (with outdoor equipment and/or vehicle storage) is **further** limited **as follows:** ~~to a period of no more than three years from the effective date of this ordinance, regardless of the property's ownership; however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of the ordinance all open storage uses shall terminate immediately~~.

i. Must submit development order application within 120 days from approval of this ordinance.

ii. 90 days instead of 180 days to respond to development order review comments.

iii. Must obtain development order approval within 12 months from the effective date of this ordinance.

iv. Use is permitted for a period of no more than 65 months from development order approval date.

v. Maximum height of open storage is 15 feet.

vi. Storage of 53-foot tractor trailers is prohibited.

vii. No banners on boom trucks.

viii. Temporary trailer may be provided.

ix. Consistent with LDC Section 4-2073(b)(2), Storage areas do not need to be paved. Grass or other ground cover may be used

provided it is kept in a sightly and dustfree manner and complies with other requirements of this ordinance.

f. Diesel engines may not idle for more than 5 minutes at or on the site, with appropriate signage informing customers of this condition.

g. The storage, chipping, or mulching of landscape material is prohibited. **Storage of pre-packaged palletized material is permitted.**

h. Hours of operation for this use is limited from 7:00am to 7:00pm, from Monday through Saturday. Activities related to this use on Sundays or before or after hours is prohibited.

9. Outside speaker systems, loud speakers, or public address systems for any use are prohibited.

10. Consumption on premises requests in this CPD shall be reviewed individually as regulated by LDC, or through other approval processes as may be required by future regulations.

11. Should the property be developed as a hotel / motel, the property development regulations contained for conventional zoning in LDC §4-1529, excluding subsection (4) d of this section.

12. Buildings exceeding 55 feet in height must maintain additional building separation as regulated by LDC Section 4-1874(3).

13. The development must comply with the commercial lighting standards found in the LDC, Chapter 3. Lighting for buildings along the property lines that abut residential shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.

14. All development must comply with the commercial design standards found in the LDC, Chapter 3. Mini-warehouse, warehouse, and industrial uses shall comply with the commercial design standards.

15. The development must comply with the sign code found in the LDC, Chapter 6.

16. Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.

17. All development and uses must comply with City's Noise Control ordinance.

18. The developer will make every effort to incorporate principles for its buildings through the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) and/or Florida Green Building Coalition program, standards for commercial building structures, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficiency fixtures and

appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.

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

20. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.

B. DEVIATION

1. Deviation 1 is approved, granting relief from LDC §3-418(D)(3) requiring a Type "A" buffer (5' wide) along the west property line to permit no buffer at that location.

2. Deviation 2 is **WITHDRAWN** ~~approved, granting relief from LDC §3-418(D)(6) requiring a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less then 25 feet from the property line with a Type C buffer plantings to permit a Type "A" (5' wide) with no wall at that location, as conditioned in Condition 5a.~~

3. Deviation 3 is WITHDRAWN.

4. Deviation 4 is WITHDRAWN.

Oakland CPD Amendment
Schedule of Uses
Exhibit IV-G
PD21-85799-BOS
Revised December 2022

Accessory Uses and Structures
Administrative Offices
ATM
Business Services, Group I & II
Cleaning and Maintenance Services
Consumption on Premises, indoor only, in conjunction with a full-service restaurant or hotel/motel. Outdoor consumption requires a special exception (public hearing required)
Contractors and Builders Group I
Drive-through facility for any permitted use (requires Special Exception)
Entrance Gates and Gatehouses
Essential Service Facilities, Group I
Excavation, Water Retention
Fences, Walls
Health Care Facilities, Group I
Hotel/Motel (not to exceed 90 rooms)
Parks, Group I
Parking Lot, Accessory
Personal Services, Groups I, II, III & IV (excluding massage establishment or parlors, steam or turkish baths, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a health or beauty spa)
Rental or Leasing Establishments: Groups I and II (limited to indoor use only)
Restaurants, Group III
Schools, Commercial
Signs, in accordance with Chapter 6 Land Development Code
Specialty Retail Shops, Group II
Storage, Open as limited by Condition 8
Temporary/mobile office as limited by Condition 8
Temporary Uses
Mini-warehouse
Bonita Beach Road Corridor Overlay Interstate Zone Permitted Uses per LDC, except where otherwise noted above

Oakland CPD Amendment
Schedule of Deviations and Justifications
Exhibit IV-H
PD21-85799-BOS – Revised December 2022

The applicant proposes to continue the application and use of existing approved deviation 1 regarding the west buffer. Existing deviation 2 from Land Development Code (LDC) section 3-418(d)(6) regarding the north buffer is being withdrawn since it is no longer necessary due to the Bonita Beach Road Corridor Overlay LDC Section 4-899(b)(4)d.ii allowing the solid fence, opaque landscape hedge, or combination berm and solid fence or opaque landscape hedge not less than six feet in height to be constructed along the property line without landscaping.

Deviation 1 is approved, granting relief from LDC §3-418(d)(3) requiring a Type "A" buffer (5' wide) along the west property line to permit no buffer at that location.

> Justification: Deviation 1 approved no buffer to the west to Flamingo Island Flea Market overflow parking since the western portion of the site contains a 5' drainage easement and an existing drainage way averaging 35' to 55' in width (containing a ditch of 20'-30' in width). This area is recommended to remain as originally approved in Z-97-084, ZO-09-13 and ZO-16-07 for a continued drainage way and open space area. It was previously determined that adequate buffering is provided with the existing vegetated banks of the drainage area. The proposed design does not modify the drainage way and provides approximately 39'± of open space with vegetated banks between the proposed parking area and adjacent commercial development. Existing condition 5.d provides that any exotic removal that results in loss of the native vegetation along these banks are required to be replaced and maintained with native vegetation for a low and mid-story buffer. This deviation enhances the achievement of the objectives of the planned development and preserves and promotes the general intent to protect the public health, safety and welfare.

Deviation 2 is WITHDRAWN.

Deviation 3 was WITHDRAWN.

Deviation 4 was WITHDRAWN.

.

FIFM RE LLC
7007 EAST 88TH AVE
HENDERSON CO 80640

FIFM RE LLC
7007 EAST 88TH AVE
HENDERSON CO 80640

FIFM RE LLC
7007 EAST 88TH AVE
HENDERSON CO 80640

SCHROEDER WILLIAM E +
10800 SOUTHWEST HWY
WORTH IL 60482

ANABI REAL ESTATE DEVELOPMENT
REAL ESTATE
1450 N BENSON AVE
UPLAND CA 91786

BONITA SPRINGS HOTEL LLC
27991 OAKLAND DR
BONITA SPRINGS FL 34135

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

SALDIVAR MARY ELLEN TR
27870 LIME ST
BONITA SPRINGS FL 34135

BONITA LEE FLORIDA CO INC
622 DELAWARE AVE
SAINT CLOUD FL 34769

BONITA-LEE FLORIDA CO INC
622 DELAWARE AVE
SAINT CLOUD FL 34769

MCDONALDS CORP
PO BOX 182571
COLUMBUS OH 43218

FUENTES MARY G
PO BOX 503
BONITA SPRINGS FL 34133

BESSE AVELINA & JASON T
14320 SUNDIAL PL
LAKEWOOD RANCH FL 34202

DEHERRERA ENRIQUETA C +
PO BOX 3031
BONITA SPRINGS FL 34133

FUENTES MARY G
PO BOX 503
BONITA SPRINGS FL 34133

TORRES JUAN MONTES +
PO BOX 3378
BONITA SPRINGS FL 34135

PATINO MARIA G
PO BOX 367962
BONITA SPRINGS FL 34135

PATINO MARIA G
PO BOX 367962
BONITA SPRINGS FL 34135

CLINECO 2 INCORPORATED
27101 LOST LAKE LN
BONITA SPRINGS FL 34134

CITY OF BONITA SPRINGS
9101 BONITA BEACH RD
BONITA SPRINGS FL 34135

Page Break

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CLINECO 2 INCORPORATED
27330 RIDGE LAKE CT
BONITA SPRINGS FL 34134

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

LOPEZ LEONEL
PO BOX 3391
BONITA SPRINGS FL 34135

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

TORRES LAZARO
PO BOX 3378
BONITA SPRINGS FL 34133

WEISS LORETTA S
14511 OCEAN BLUFF DR
FORT MYERS FL 33908

BEACH ROAD & 29 LLC
PO BOX 366748
BONITA SPRINGS FL 34136

BOTTCHER ANNE
PO BOX 233
BONITA SPRINGS FL 34133

PATINO ARNULFO
PO BOX 184
ESTERO FL 33929

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

GOMEZ PAZ PEDRO J
PO BOX 748
BONITA SPRINGS FL 34133

HERNANDEZ MARIBEL CHAVEZ +
12067 TAYLOR ST
BONITA SPRINGS FL 34135

WEISS LORETTA S
14511 OCEAN BLUFF DR
FORT MYERS FL 33908

FOREMAN PETER
5830 SW 64TH AVE
DAVIE FL 33314

GALLAGHER GAVIN A
126 MILL RIVER RD
SOUTH SALEM NY 10590

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

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JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

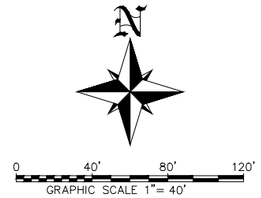
PATINO MARIA G +
12084 TAYLOR ST
BONITA SPRINGS FL 34135

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JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

PATINO MARIA G +
12084 TAYLOR ST
BONITA SPRINGS FL 34135





DOT FLUCFCS CODES:

FLUCFCS CODE 740 DISTURBED LANDS	±1.66 AC
FLUCFCS CODE 427 LIVE OAKS	±0.06 AC
FLUCFCS CODE 520 STREAMS AND WATERWAYS	±0.27 AC
TOT-L SITE	**±1.99 -C**

* THERE ARE NO ENVIRONMENTALLY SENSITIVE LANDS ON THE PROPERTY

PREP-RED FOR:
STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORIDA 33932

NO.	D-TE	REVISION DESCRIPTION	BY

129

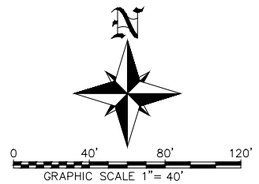
BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS P-RKW-Y
FORT MYERS, FLORID- 33966
PHONE: (239) 939-5490 F-X: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.B-NKSENG.COM
D. BRENT -DDISON
P.E. LIC. #70611

FLUCCS/VEGETATION MAP
OAKLAND CPD
BONITA SPRINGS, FLORIDA

DATE	PROJECT	DR-WING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
04-05-2022	8332	F/V M	DBA	RJV	DBA	1" = 40'	01

S:\JOBS\8300\8332\ENGINEERING\M-STR CONCEPT PL-N\8332_FLUCCS-VEGET-TION M-P_01-14-2022.DWG 4/5/2022 12:01 PM RJ WELSH





MAP UNIT LEGEND			
MAP UNIT LEGEND	MAP UNIT NAME	ACRES OF AOI	PERCENT OF AOI
127	ORSINO FINE SAND–URBAN LAND COMPLEX, 0 TO 5 PERCENT SLOPES	1.9	100.0%
TOTALS FOR AREA OF INTEREST		1.9	100.0%

PREP-RED FOR:
STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORID- 33932

NO.	D-TE	REVISION DESCRIPTION	BY

130

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WWW.B-NKSENG.COM

D. BRENT -DDISON
P.E. LIC. #70611

SOIL MAP EXHIBIT
OAKLAND CPD
BONITA SPRINGS, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
02-14-2022	8332	SME	SH	RJV	SH	1" = 40'	01

S:\JOBS\8300\8332\ENGINEERING\MASTER CONCEPT PLAN\8332_SOIL MAP EXHIBIT_04-12-2022.DWG 4/12/2022 8:47 AM RJV

DMJA
DAVID M. JONES, JR. AND ASSOCIATES, INC.
LANDSCAPE ARCHITECTS • SITE PLANNERS

MEMORANDUM FOR RECORD

Date: **September 26, 2018**

To: **D. Brent Addison, P.E., Vice President, Banks Engineering,**
BAddison@BanksEng.com

From: **Jarod Prentice, Design Associate, I.S.A. Certified Arborist (FL-5296AM)**

Project: Oakland Drive CPD, Bonita Springs

Subject: Heritage Tree Inspection

David M. Jones, Jr. and Associates, Inc. (DMJA) inspected the subject project site on September 18, 2018 for identification and verification of Heritage Trees existing on the development site. The site was found to be vacant yet with a previous use recognizable. Several scattered Sabal Palm trees were found about the property. Additionally, several large live oaks were also found situated to the northwest corner and property boundaries north and west. Please see the Heritage Tree Exhibit attached for location and sizes of the nine total Live Oak species and relative location(s) of Sabal Palms situated on the development site.

Based on ground-level inspection, eight of nine total Live Oaks found meet the City of Bonita Springs Landscape Code criteria for Heritage Tree; qualified as being of size twenty inches (20") Diameter at Breast Height (D.B.H.) and species, in this case being Live Oak. Except as noted below, these trees were generally observed without obvious signs of structural defect(s) or signs/symptoms of pest or disease.

Further observation of trees numbered #4 and #5, shown on the Heritage Tree Exhibit, presented significant structural defects with apparent signs of disease and internal trunk decay. Trees #4 and #5 were specifically evaluated to assess their condition of health, which both scored poorly. Please see the attached 'Exhibit A' for factors of evaluation, methods of scoring and resultant scores for trees #4 and #5.

The Heritage Tree Exhibit also provides a visual overlay to the location of the trees found on site and in relation to the proposed development improvements. Given the necessary addition of fill soils and the proposed siting of development impacts; we recommend removal of Heritage Trees #1-#6, shown on the Heritage Tree Exhibit. Furthermore, given the poor health condition of trees #4 and #5, these should qualify as exempt from replacement mitigation described in the City of Bonita Springs Landscape Code.

In summary, nine Live Oak species were identified on site. Eight of which qualify as Heritage Tree. Six of those eight are recommended for removal; two of those six, being in poor health, not to be replaced with mitigation trees. The remaining four Heritage Live Oaks are proposed for replacement mitigation by replanting another tree, on site, of similar species or ecologic value with a minimum height of twenty feet (20' Ht.) at installation.

Should there be any questions or concerns regarding the information provided herein, please feel free to contact us.

ATTACHMENTS

Cc: Greg Diserio, RLA, DMJA

ZONING: COMMERCIAL PLANNED DEVELOPMENT

EXISTING HERITAGE TREES

HERITAGE TREES LOCATED ON SITE (SEE ADJACENT GRAPHIC FOR ASSOCIATED TREE IDENTIFICATIONS) .

TREE #1: 39" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #2: 35" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #3: 27" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #4: 26" D.B.H. LIVE OAK TO BE REMOVED; BASED ON POOR TREE HEALTH CONDITION PER ARBORISTS REPORT (EXHIBIT ?)

TREE #5: 33" D.B.H. LIVE OAK TO BE REMOVED; BASED ON POOR TREE HEALTH CONDITION PER ARBORISTS REPORT (EXHIBIT ?)

TREE #6: 21" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

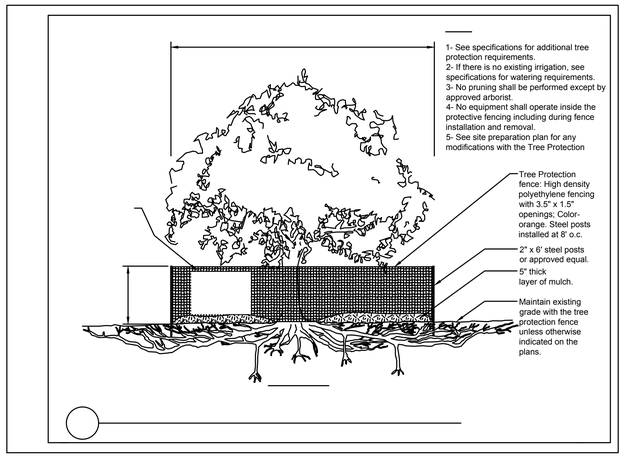
TREE #7: 37" D.B.H. LIVE OAK TO BE RETAINED.

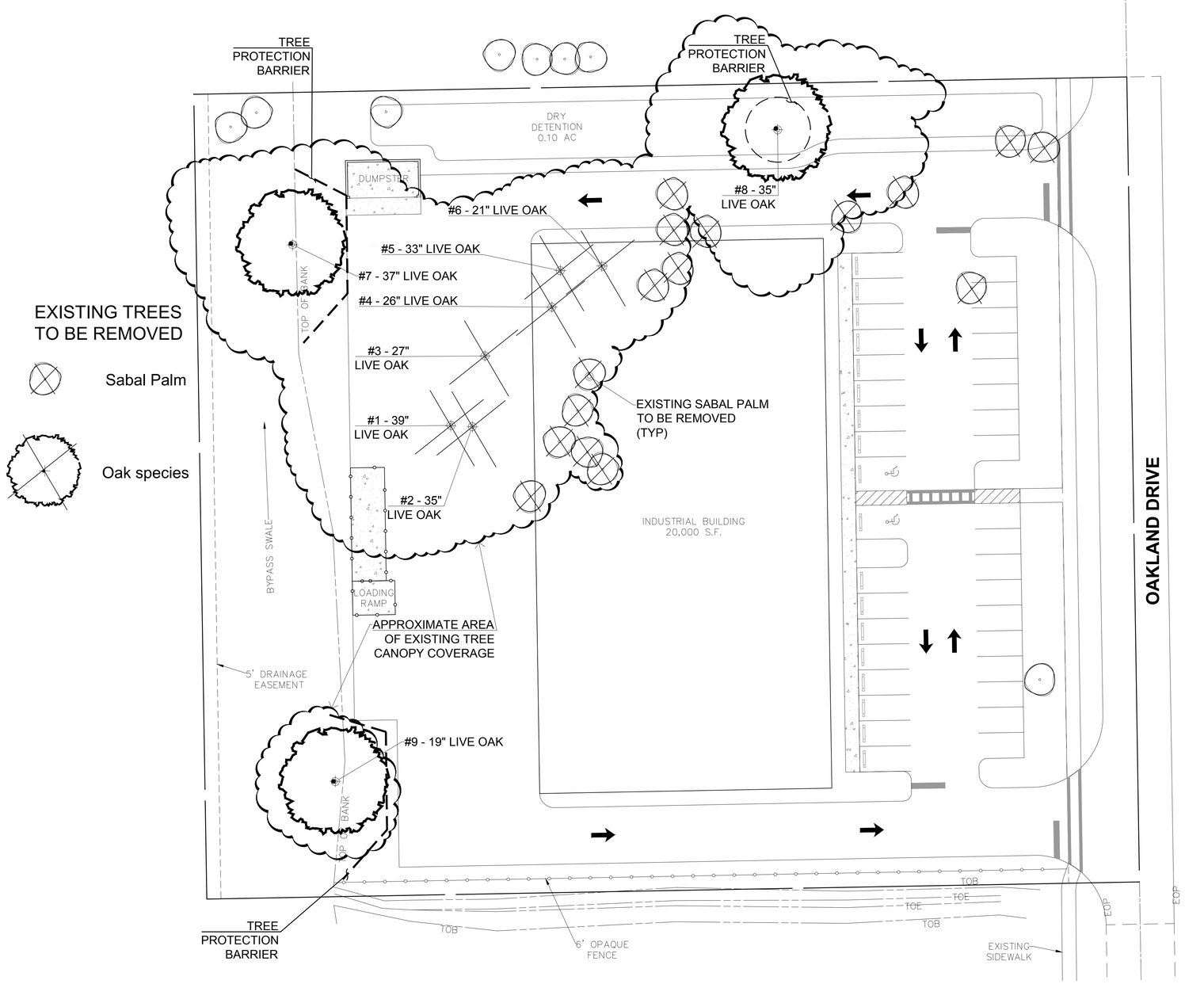
TREE #8: 35" D.B.H. LIVE OAK TO BE RETAINED.

TREE #9: 19" D.B.H. LIVE OAK TO BE RETAINED.

HERITAGE TREE MITIGATION

SIX HERITAGE TREES, LIVE OAK SPECIES TWENTY INCHES OR GREATER) ARE TO BE REMOVED FROM THE DEVELOPMENT SITE. FOUR OF WHICH ARE BASED ON DEVELOPMENT IMPACTS FROM FILL AND REQUIRE MITIGATION. WHILE TWO, DESCRIBED ABOVE, REQUIRE NO MITIGATION DUE TO POOR HEALTH, SEE ARBORISTS REPORT EXHIBIT FOR SPECIFIC INFORMATION. PER BONITA SPRINGS LAND DEVELOPMENT CODE, SECTION 3-417 (b) (1) (b) (4) ; EACH HERITAGE TREE REMOVED MUST BE REPLACED WITH A TREE HAVING A MINIMUM HEIGHT OF TWENTY FEET (20') . FOUR REPLACEMENT TREES ARE REQUIRED WITH A MINIMUM HEIGHT OF 20'.





HERITAGE TREE REMOVAL AND PRESERVATION PLAN

SCALE 1" = 20'

0' 10' 20' 40' 60'

DMJA
DAVID M. JONES, JR. AND ASSOCIATES, INC.
LANDSCAPE ARCHITECTS AND PLANNERS
2221 McGregor Blvd.
Fort Myers, Florida 33901
Phone: (239) 337 - 5525
Fax: (239) 337 - 4494
4161 Tamiami Trail
Building 5, Unit 501
Port Charlotte, Florida 33952
Phone: (941) 235 - 2217
Fax: (239) 337 - 4494
L.A. LICENSE: LC COOOO63

PROJECT INFORMATION:

OAKLAND DR. C.P.D.

BONITA SPRINGS, FL

PREPARED FOR:

BANKS ENGINEERING
10511 Six Mile Cypress Pkwy, Ste 101
Fort Myers, Florida 33966
Office: (239) 939-5490
Fax: (239) 939-2523

CONSULTANT:

DESIGN PROFESSIONAL:

GREGORY J. DISERIO, RLA
RLA NO. 840 DATE:
STATE OF FLORIDA

PROJECT NO.	218xxx
PROJECT MJR.	GREG DISERIO
FILE NAME:	Oakland Dr.-CPD_LS
DESIGNER:	JAP
CAD TECH:	JAP
CHECKED BY:	GJD
ISSUED FOR:	Zoning

ISSUED DATE: Sept. 25, 2018
REVISIONS:
1
2
3
4

SHEET TITLE:
HERITAGE TREE EXHIBIT

SHEET NUMBER:
EX - 1

CALL 48 HOURS BEFORE YOU DIG
811
IT'S THE LAW! DIAL 811
Know what's BELOW. Call before you dig
SUNSHINE STATE ONE CALL OF FLORIDA, INC.

Tree Advisory Board
Monday, October 8, 2018, 4:00 P.M.
City of Bonita Springs
9101 Bonita Beach Road, Room 118
Bonita Springs, Florida 34135

MINUTES

1) MEETING CALLED TO ORDER

Tree Advisory Board Meeting called to order at 4 p.m.

2) ROLL CALL

Present	**Staff**
Janet Martin	Laura Gibson
Patti McKeon	Jane Swanson
Altony Lee	Carly Sanseverino
Jack Brown	**Guests**
Suzy Valentine	Jarod A. Prentice – David M. Jones & Assoc.
Phil Buck	Brent Addison
Ben Hershenson (via phone)	

3) PUBLIC COMMENT

No public comment.

4) APPROVAL OF MINUTES FOR TREE ADVISORY BOARD MEETING FOR: September 10, 2018

Ms. Martin asked for an amendment to the motion for the Habitat for Humanity-Streetsboro property to add that the mitigated trees "to be 15 feet tall or taller". The motion was appended to read:

Mr. Lee made a motion to allow the removal of the heritage trees in the plans way on Streetsboro and allow the mitigated trees to be 15 feet tall or taller and planted in the preserve area, the public area, around the border and other open areas within the development; Ms. Martin seconded; motion passed unanimously.

Mr. Lee moved to correct the motion in the September 10, 2018, minutes as above, Ms. Martin seconded; motion passed unanimously.

Ms. Valentine made a motion to approve the September 10, 2018, minutes as amended above, Mr. Buck seconded; motion passed unanimously.

5) NEW BUSINESS:
   A. Oakland Drive CPD – Heritage Tree Removal and Preservation Plan (Banks Engineering)

Mr. Brent Addison with Banks Engineering gave a presentation to the Board explaining where the trees to be mitigated are located.

Mr. Jarod Prentice, certified arborist, spoke about the condition and plans for the heritage trees on the site.

Ms. Martin asked Ms. Gibson if she had any feedback. Ms. Gibson said taking into consideration the new plans, the perimeter and the health of the heritage trees, she is comfortable with the request to remove the heritage trees.

Mr. Buck made a motion to approve removal of the trees and mitigate with trees as staff finds appropriate, motion was seconded and passed unanimously.

B. Discuss script ideas for "Green" Public Service Announcements for BTV

Ms. Swanson announced Mr. Antonio Correia from Bonita TV would like to work with the Tree Board to do some "Green" public service announcements.

Ideas from the Board:

- A public service announcement recommending people not plant the Norfolk Pines.
- Education on invasive non-native plants.
- Short burst for Arbor Day, what it is and what it means, which could be run in April.

Assignments:

- Ms. McKeon will work on a script for invasives.
- Ms. Valentine to work on a script for Norfolk Pines.
- Mr. Lee will write a script for having a green picnic in the park.

6) OLD BUSINESS:
   A. Arbor Day Discussion

Mr. Lee will reach out to the Special Events Committee to see if the Tree Board could have a presence at Celebrate Bonita. Ms. Martin asked Mr. Lee if he could find out between now and next meeting so they can firm up plans.

Ms. Martin asked the Board for suggestions for a planting of some kind. The Board discussed ideas of locations to plant trees.

Mr. Lee will reach out to the High School to find out what their irrigation situation is and if the Board could plant a tree in honor of the opening of the new high school.

The Board discussed displaying the student Arbor Day posters at City Hall. Mr. Brown will work on ideas for the poster contest.

Ms. Martin asked Ms. Swanson if she could email Mr. Ryals to see if saplings constituted a planting for the Arbor Day Society.

Ms. Swanson asked the Board when they wanted to display the street sign banners. The Board discussed displaying the banners in April for Arbor Day.

B. Continue Discussions of Tree Planting Opportunities – YMCA / Rotary, etc.

The rotary has not come back to the Tree Board regarding tree plantings, Ms. Martin stated they may want to remove this agenda item from the list of opportunities.

Mr. Lee recommended the proposed pocket park on West Terry Street. Ms. Swanson will ask Ms. Perino about the West Terry pocket park and if there may be possibilities for plantings there.

C. Discuss Landscape Review Process Date

The Board discussed scheduling the Landscape Review Process discussion when there are no other projects on the agenda.

D. Other

Ms. Valentine spoke again about the landscaping around the Felts Avenue bio reactor, on the northwest corner (Felts and Ragsdale) and the southeast corner (Shriver and Abernathy) which is overgrown with exotic invasives (Albizia and Brazilian pepper).

Ms. Swanson will speak with Public Works about the landscaping around the bio reactor.

The Board discussed the feasibility of keeping trees in parking lot areas where the number of spaces may be negotiable. The Board decided to keep this discussion in mind next time they review a project.

7) ESTABLISH NEXT MEETING: November 5, 2018

Since the regularly scheduled meeting falls on a holiday (November 12 is Veterans Day) the next meeting was confirmed for ***Monday, November 5, 2018***.

8) ADJOURNMENT

Meeting adjourned 5:09 p.m.

Respectfully Submitted:

Nadine Chiaramonte

Nadine Chiaramonte – Office Assistant

Any person requiring special accommodations at any of the meetings because of a disability or physical impairment should contact Meg Weiss, Director Administrative Services, 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 proceedings is made, to include the testimony and evidence upon which such appeal is to be based.

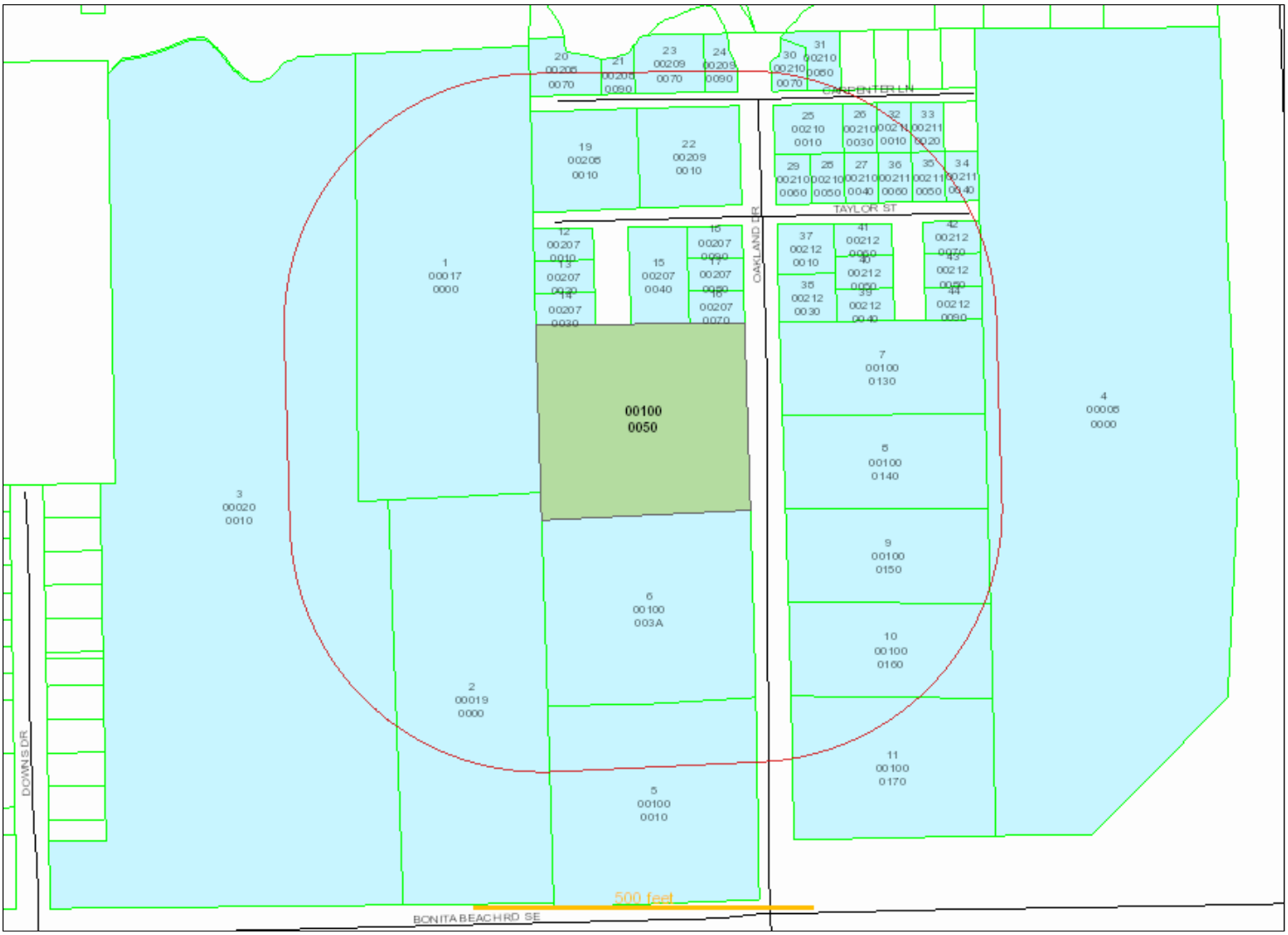
Condition of Health Evaluation

Scoring System:	No apparent problems - 4	Minor Problems -3	Major Problems - 2	Extreme Problems - 1
	Observations and noted deficiencies are indicated by - X			

Trees Observed

Factors:	Tree # 1	Tree # 2	Tree # 3	Tree # 4	Tree # 5	Tree # 6	Tree # 7	Tree # 8	Tree # 9	Tree # 10	Tree # 11
SPECIES				Q.V.	Q.V.						
CALIPER INCHES				26"	33"						
(unless otherwise specified)	D.B.H	D.B.H	D.B.H	D.B.H	D.B.H	D.B.H	D.B.H	D.B.H	D.B.H	D.B.H	D.B.H
Root Zone											
Poor root anchorage					X						
Compaction / Poor Drainage											
Mechanical injury				X	X						
Poor collar flare				X							
Girdling roots					X						
Chemical symptoms											
Presence of insects or											
Mushrooms/Conks											
Hardscape features w/in 10'											
Points for structure				3	2						
Points for health				3	3						
Trunk											
Cavities: Minor / Major					X						
Significant lean											
Mechanical injury					X						
Cracks, vertical crevasses				X	X						
Swollen or sunken areas				X	X						
Presence of insects or				X	X						
Conks				X							
Co dominant leaders					X						
Points for structure				2	2						
Points for health				2	2						
Scaffold branches											
Poor vertical branch				X	X						
Strong attachments											
Included bark				X	X						
Decay and cavities				X	X						
Proper wound closer											
Improper wound closer				X	X						
Dead wood				X	X						
Insects or disease					X						
Points for structure				2	2						
Points for health				3	2						
Small branches and twigs											
Vigorous currents shoots											
Good distribution in canopy											
Poor distribution in canopy				X	X						
Weak or dead twigs				X	X						
Insects or disease											
Points for health				3	3						
Foliage, buds, flowers											
Small foliage size				X							
Chlorosis of foliage				X	X						
Nutrient Disorders											
Pesticide pollution/injury											
Wilted or dead leaves					X						
Dry buds											
Insects or disease											
Points for health				3	3						
Total Points Possible	32	32	32	32	32	32	32	32	32	32	32
Total Points Awarded	0	0	0	21	19	0	0	0	0	0	0
Total Health Condition %	**0**	**0**	**0**	**65.625**	**59.375**	**0**	**0**	**0**	**0**	**0**	**0**

Divide total points awarded by total points possible (32) to arrive at the percentage. Based on a total of 100%.			
TREE EVALUATION (MAY 2018)	Above Average = 100% - 90%	Average = 89% - 79%	Below Average = 78% - 68%
		Poor Health = 67% - 55%	Failure = <55%



Date of Report: October 14, 2021

Buffer Distance: 375 feet Re un

Parcels Affected: 44

Subject Parcel: **31-47-26-B4-00100.0050**

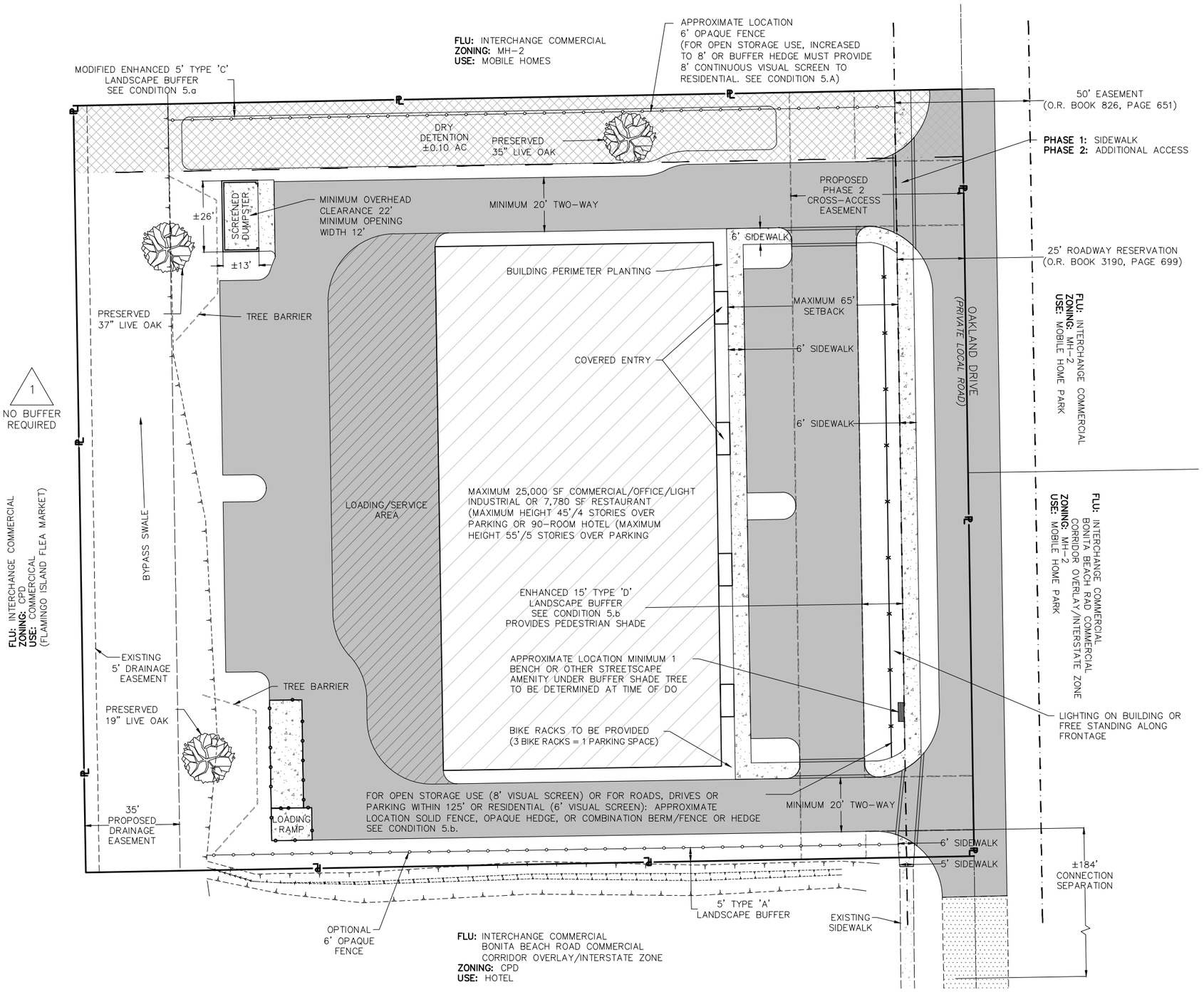
To change, add or remove subject parcels please change the parcel selection in GeoView

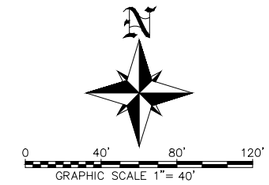
[Click here to download the map image, mailing labels (Avery 5161) and CSV formatted information.]

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
FIFM RE LLC 7007 EAST 88TH AVE HENDERSON CO 80640	**36-47-25-B3-00017.0000** ACCESS UNDETERMINED BONITA SPRINGS FL	E 286 FT OF NE 1/4 OF SE 1/4 OF SE 1/4	1
FIFM RE LLC 7007 EAST 88TH AVE HENDERSON CO 80640	**36-47-25-B3-00019.0000** 11998 BONITA BEACH RD SE BONITA SPRINGS FL 34135	PARL IN SE 1/4 OF SE 1/4 AS DESC OR 282/194 LESS OR 2021/479	2
FIFM RE LLC 7007 EAST 88TH AVE HENDERSON CO 80640	**36-47-25-B3-00020.0010** 11902 BONITA BEACH RD SE BONITA SPRINGS FL 34135	PARL LOC IN SE 1/4 OF THE SE 1/4	3
SCHROEDER WILLIAM E 10800 SOUTHWEST HWY WORTH IL 60482	**31-47-26-B4-00008.0000** ACCESS UNDETERMINED BONITA SPRINGS FL	E 1/2 OF SW 1/4 OF SW 1/4 LESS I-75 R/W	4
ANABI REAL ESTATE DEVELOPMENT REAL ESTATE 1450 N BENSON AVE UPLAND CA 91786	**31-47-26-B4-00100.0010** 12030 BONITA BEACH RD SE BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 471 LOTS 1 + 2	5
BONITA SPRINGS HOTEL LLC	**31-47-26-B4-00100.003A**	OAKLAND ACRES	6

2799 OAKLAND DR BONITA SPRINGS FL 34 35	2799 OAKLAND DR BONITA SPRINGS FL 34 35	MB 5 PG 47 LOTS 3 + 4	
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00100.0130** 27966 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES MB 51 PG 470 LOT 13	7
SALDIVAR MARY ELLEN TR 27870 LIME ST BONITA SPRINGS FL 34135	**31-47-26-B4-00100.0140** 27974 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 470 LOT 14	8
BONITA LEE FLORIDA CO INC 622 DELAWARE AVE SAINT CLOUD FL 34769	**31-47-26-B4-00100.0150** 27986 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 471 LOT 15	9
BONITA-LEE FLORIDA CO INC 622 DELAWARE AVE SAINT CLOUD FL 34769	**31-47-26-B4-00100.0160** 27990 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 471 LOT 16	10
MCDONALDS CORP PO BOX 182571 COLUMBUS OH 43218	**31-47-26-B4-00100.0170** 27996/998 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES MB 51 PG 471 LOTS 17 + 18 LESS I-75 R/W	11
FUENTES MARY G PO BOX 503 BONITA SPRINGS FL 34133	**31-47-26-B4-00207.0010** 12000 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK.7 MB 51 PG 470 LOT 1	12
BESSE AVELINA & JASON T 14320 SUNDIAL PL LAKEWOOD RANCH FL 34202	**31-47-26-B4-00207.0020** 12008 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 PB 51 PG 470 LOT 2	13
DEHERRERA ENRIQUETA C + PO BOX 3031 BONITA SPRINGS FL 34133	**31-47-26-B4-00207.0030** 12016 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 PB 51 PG 470 LOT 3	14
FUENTES MARY G PO BOX 503 BONITA SPRINGS FL 34133	**31-47-26-B4-00207.0040** 12038 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 PB 51 PG 470 LOTS 4 THRU 6	15
TORRES JUAN MONTES + PO BOX 3378 BONITA SPRINGS FL 34135	**31-47-26-B4-00207.0070** 27800 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 7 PB 51 PG 470 LOT 7	16
PATINO MARIA G PO BOX 367962 BONITA SPRINGS FL 34135	**31-47-26-B4-00207.0080** 27790 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK.7 MB 51 PG 470 LOT 8	17
PATINO MARIA G PO BOX 367962 BONITA SPRINGS FL 34135	**31-47-26-B4-00207.0090** 27780 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 MB 51 PG 470 LOT 9	18
CLINECO 2 INCORPORATED 27101 LOST LAKE LN BONITA SPRINGS FL 34134	**31-47-26-B4-00208.0010** 12001 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 8 MB 51 PG 470 LOTS 1 THRU 6	19
CITY OF BONITA SPRINGS 9101 BONITA BEACH RD BONITA SPRINGS FL 34135	**31-47-26-B4-00208.0070** 12001 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 8 MB 51 PG 470 LOTS 7 + 8	20
CLINECO 2 INCORPORATED 27330 RIDGE LAKE CT BONITA SPRINGS FL 34134	**31-47-26-B4-00208.0090** 12015 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 8 MB 51 PG 470 LOT 9	21
IMPERIAL RIVER OAKS LLC 1185 IMMOKALEE RD STE 110 NAPLES FL 34110	**31-47-26-B4-00209.0010** 27770 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 9 MB 51 PG 470 LOTS 1 THRU 6	22
IMPERIAL RIVER OAKS LLC 1185 IMMOKALEE RD STE 110 NAPLES FL 34110	**31-47-26-B4-00209.0070** 12025 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK.9 MB 51 PG 470 LOTS 7 + 8	23
IMPERIAL RIVER OAKS LLC 1185 IMMOKALEE RD STE 110 NAPLES FL 34110	**31-47-26-B4-00209.0090** 12045 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 9 MB 51 PG 470 LOT 9	24
LOPEZ LEONEL PO BOX 3391 BONITA SPRINGS FL 34135	**31-47-26-B4-00210.0010** 27761 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 10 PB 51 PG 470 LOTS 1 +2	25

GOMEZ PAZ P DRO J PO BOX 748 BONITA SPRINGS FL 34133 =	**31-47-26-B4-00210.0030** 12076 CARP= NT R LN BO=NITA SPRINGS FL 34135	OAKLAND PARK TRAIL R SIT S BLK 10 PB 51 PG 470 LOT 3	26 =
JOHN P K=INGSTON SR TRUST LLC = PO BOX 1083 BONITA SPRI=NGS FL 34133	**31-47-26-B4-00210.0040** 12075 TAYLOR S=T BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 10 PB 51 PG 470 = LOT 4	27 =
HERNANDEZ MARIBEL CHAVEZ + 12067 TAYLOR ST BONITA SPRINGS FL 34135	**31-47-26-B4-00210.0050** 12067 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 10 PB 51 PG 467 LOT 5	28
TORRES LAZARO PO BOX 3378 BONITA SPRINGS FL 34133	**31-47-26-B4-00210.0060** 27771 OAKLAND DR BONITA S=RINGS FL 34135	OAKLAND PARK TRAILER SITES= BL=K 10 PB 51 PG 467 LOT 6	29
WEISS LORETTA S 14511 OCEAN BLUFF DR FORT MYERS FL 33908	**31-47-26-B4-00210.0070** 12057 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 10 MB 51 PG 470 LOT 7	30
WEISS LORETTA S 14511 OCEAN BLUFF DR FORT MYERS FL 33908	**31-47-26-B4-00210.0080** 12067 CARPENTER LN BONITA S=RINGS FL 34135	OAKLA=D PARK TRAILER SITES= BL=K 10 PB 51 PG 470 LOT 8	31
FOREMAN PETER 5830 SW 64TH AVE DAVIE FL 33314	**31-47-26-B4-00211.0010** 12086 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 11 PB 51 PG 470 LOT 1	32
BEACH ROAD & 29 LLC PO BOX 366748 BONITA SPRINGS FL 34136	**31-47-26-B4-00211.0020** 12096 CARPENTER LN BONITA S=RINGS FL 34135	OAKLAND TRAILER SITES TRACT 11 MB 51 PG 470 LOT 2	33
GALLAGHER GAVIN A 126 MILL RIVER RD SOUTH SALEM NY 10590	**31-47-26-B4-00211.0040** 12101 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 11 MB 51 PG 470 ALL LOT 4	34
BOTTCHER ANNE = PO BOX 233 = BONITA SPRINGS FL 34133	**31-47-26-B4-00211.0050** 12093 TAYLOR S=T BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK.11 MB 51 PG 470 LOT 5	35
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00211.0060** 12085 TAYLOR ST BONITA SPRINGS FL 3413=5	OAKLAND PARK TRAILER SITE BLK 11 MB 51 PG 470 = LOT 6	36
PATINO ARNULFO PO BO=X 184 ESTERO FL 33929	**31-47-26-B4-00212.0010** 27781 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES= BL=K 12 PB 51 PG 470 LOT 1 + LOT PT 2	37
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRI=NGS FL 34133	**31-47-26-B4-00212.0030** 27801 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER=SITES= BLK 12 MB 51 PG 470 = LOT 3 + S 1/2 LOT 2	38
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00212.0040** 12076 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER S=TES BLK 12 MB 51 PG 470 LOT 4	39
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRI=NGS FL 34133	**31-47-26-B4-00212.0050** 12072 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 12 PB 51 PG 470 = LOT 5	40
JOHN P KINGSTON SR TRUST LLC O BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00212.0060** 12068 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BL=K 12 MB 51 G 470 LOT 6	41
JOHN P KINGSTON SR TRUST LLC O BOX 1083 BONITA S=RINGS FL 34133	**31-47-26-B4-00212.0070** 12088 TAYLOR ST BONITA SPRINGS FL=34135	OAKLAND PARK =TRAILER=SITE BLK 12 B 51 =G 470 LOT 7	42
ATINO MARIA G + 12084 TAYLO ST BONITA SP INGS FL 34135	**31-47-26-B4-00212.0080** 12084 TAYLO ST BONITA SP INGS FL 34135	OAKLAND K TRLR S=ITES BLK 12 B 51 G 470 LOT 8	43
PA=TINO MA IA G + 12084 TAYLOR S=T BONITA SPRINGS FL 34135 =	**31-47-26-B4-00212.0090** 12080 TAYLOR S=T BONITA SPRINGS FL 34135 =	OAKLAND PARK TRLER S=ITES BLK 12 PB 51 PG 470 LOT 9 =	44 =





OPEN SPACE

REQUIRED: 0.65 ACRES (2.15 x 0.30)

PROVIDED: 0.65 ACRES

SITE SUMMARY

FUTURE LAND USE:	INTERCHANGE COMMERCIAL BONITA BEACH ROAD OVERLAY CORRIDOR/INTERSTATE ZONE
EXISTING ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
EXISTING LAND USE:	UNDEVELOPED
PROPOSED ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
GROSS AREA:	2.15± ACRES
STRAP NUMBER:	31-47-26-B4-00100.0050
STREET ADDRESS:	27917 OAKLAND DRIVE BONITA SPRINGS, FL 34135

PHASE 1: OPEN STORAGE, SOUTH ACCESS & OAKLAND ROW IMPROVEMENTS

PHASE 2: BUILDING, NORTH ACCESS & CROSS-ACCESS EASEMENT

LEGEND:

- # DEVIATION
- TREE TO REMAIN
- BUILDING
- PAVEMENT
- CONCRETE
- PARKING, ACCESS WAYS/DRIVES, VEHICLE STORAGE, OPEN FOR ANY USE IS PROHIBITED WITHIN 25' OF THE NORTHERN PROPERTY LINE. BUILDING SETBACKS SHALL ONLY BE PERMITTED AT 20' WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE. ACCESSWAY, DRIVES, PARKING AND STORAGE, OPEN MAY ALSO BE PERMITTED IN ACCORDANCE WITH THE LDC WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE.

PREPARED FOR:
STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORIDA 33932

NO.	DATE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

MASTER CONCEPT PLAN
OAKLAND CPD
BONITA SPRINGS, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
01-23-2023	8332	MCP	DBA	RJV	DBA	1" = 40'	01

S:\JOBS\8300\8332\ENGINEERING\MASTER CONCEPT PLAN\8332_MCP_01-16-2023.DWG 1/23/2023 8:10 AM RJ KEUTH

SCHEDULE OF USES:

CONSUMPTION ON PREMISES, INDOOR ONLY, IN CONJUNCTION WITH A FULL-SERVICE RESTAURANT OR HOTEL/MOTEL. OUTDOOR CONSUMPTION REQUIRES A SPECIAL EXCEPTION (PUBLIC HEARING REQUIRED)

DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE (REQUIRES SPECIAL EXCEPTION)

HOTEL/MOTEL (NOT TO EXCEED 90 ROOMS)

RENTAL OR LEASING ESTABLISHMENTS: GROUPS I AND II (LIMITED TO INDOOR USE ONLY)

STORAGE, OPEN AS LIMITED BY CONDITION 8

TEMPORARY USES

MINI-WAREHOUSE

BONITA BEACH ROAD CORRIDOR OVERLAY INTERSTATE ZONE PERMITTED USES PER LDC

SITE DEVELOPMENT REGUL-TIONS

MINIMUM -RE- -ND DIMENSIONS:

LOT AREA:	20,000 S.F.
LOT DEPTH:	100'
LOT WIDTH:	100'

MINIMUM SETB-CKS:

STREET/ FRONT (PUBLIC ROAD):	20 FEET* *MAXIMUM 25', LDC SEC.4-899(a), NOTES 2 & 5, AS AMENDED
SIDE YARD:	0 FEET /15 FEET
REAR YARD:	20 FEET

M-XIMUM BUILDING HEIGHT:

STORAGE, OPEN	15'
COMMERCIAL/LIGHT INDUSTRIAL/RESTAURANT	45'/3 STORIES OVER PARKING
HOTEL/MOTEL	55'/5 STORIES OVER PARKING

M-XIMUM LOT COVER-GE: 40%

MINIMUM OPEN SP-CE: 30%

SCHEDULE OF DEVI-TIONS -ND JUSTIFIC-TIONS

DEVI-TION 1 IS APPROVED, GRANTING RELIEF FROM LDC §3-418(D)(3) REQUIRING A TYPE "A" BUFFER (5' WIDE) ALONG THE WEST PROPERTY LINE TO PERMIT NO BUFFER AT THAT LOCATION.

JUSTIFIC-TION: DEVIATION 1 APPROVED NO BUFFER TO THE WEST TO FLAMINGO ISLAND FLEA MARKET OVERFLOW PARKING SINCE THE WESTERN PORTION OF THE SITE CONTAINS A 5' DRAINAGE EASEMENT AND AN EXISTING DRAINAGE WAY AVERAGING 35' TO 55' IN WIDTH (CONTAINING A DITCH OF 20'-30' IN WIDTH). THIS AREA IS RECOMMENDED TO REMAIN AS ORIGINALLY APPROVED IN Z-97-084, ZO-09-13 AND ZO-16-07 FOR A CONTINUED DRAINAGE WAY AND OPEN SPACE AREA. IT WAS PREVIOUSLY DETERMINED THAT ADEQUATE BUFFERING IS PROVIDED WITH THE EXISTING VEGETATED BANKS OF THE DRAINAGE AREA. THE PROPOSED DESIGN DOES NOT MODIFY THE DRAINAGE WAY AND PROVIDES APPROXIMATELY 39'± OF OPEN SPACE WITH VEGETATED BANKS BETWEEN THE PROPOSED PARKING AREA AND ADJACENT COMMERCIAL DEVELOPMENT. EXISTING CONDITION 5.D PROVIDES THAT ANY EXOTIC REMOVAL THAT RESULTS IN LOSS OF THE NATIVE VEGETATION ALONG THESE BANKS ARE REQUIRED TO BE REPLACED AND MAINTAINED WITH NATIVE VEGETATION FOR A LOW AND MID-STORY BUFFER. THIS DEVIATION ENHANCES THE ACHIEVEMENT OF THE OBJECTIVES OF THE PLANNED DEVELOPMENT AND PRESERVES AND PROMOTES THE GENERAL INTENT TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

DEVI-TION 2 WAS WITHDRAWN.

DEVI-TION 3 WAS WITHDRAWN.

DEVI-TION 4 WAS WITHDRAWN.

PREP-RED FOR:

STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORIDA 33932

NO.	D-TE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida

10511 SIX MILE CYPRESS P-RKW-Y
FORT MYERS, FLORID- 33966
PHONE: (239) 939-5490 F-X: (239) 939-2523

ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690

WWW.B-NKSENG.COM

MASTER CONCEPT PLAN

OAKLAND CPD

BONITA SPRINGS, FLORIDA

DATE	PROJECT	DR-WING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
01-23-2023	8332	MCP	DBA	RJV	DBA	N.T.S.	02

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Oakland CPD

Summary of Pre-Application Neighborhood Meeting

A meeting was held on January 21, 2019 at the Bonita Springs Fire Department. There were six (6) people from the public in attendance. The applicant presented the proposed changes to the PD. No one in the public had concerns about the changes. They did ask why this meeting was necessary and asked questions about items not related to the project.

Attached please find the following backup documentation:

- Public Notice – Affidavit of meeting notice in The News Press dated November 08, 2020 regarding Public Information Session
- Surround Property Owner's Notice
- Sign-In Sheet
- PowerPoint Presentation

The News-Press
media group
news-press.com A GANNETT COMPANY

Attn: Stacy Ellis Hewitt
BANKS ENGINEERING
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FL 33966

PUBLIC MEETING NOTICE
CITY OF BONITA SPRINGS NEIGHBORHOOD INFORMATION MEETING
PUBLIC PRESENTATION DATE: January 21, 2019 at 5:30 p.m.
MEETING LOCATION: Bonita Springs Fire Department Station #24, 27701 Bonita Grande Drive, Bonita Springs, FL 34135.
APPLICANT: 2726 SCC LLC c/o Brent Addison, P.E., Banks Engineering (239-939-5490/ baddison@bankseng.com)
PROJECT NAME: Oakland CPD
PROJECT LOCATION: 27971 Oakland Drive, Bonita Springs, FL 34135, West side of Oakland Drive, approximately 580 feet north of Bonita Beach Road S.E.
ACTION REQUESTED: Amendment to existing Commercial Planned Development to revise two conditions.
AD# 3310112 December 24, 2018

STATE OF FLORIDA COUNTY OF LEE:
Before the undersigned authority personally appeared Cheryl Eller, who on oath says that he or she is a Legal Assistant of the News-Press, a daily newspaper published at Fort Myers in Lee County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

Notice Publc Hearing

In the Twentieth Judicial Circuit Court was published in said newspaper in the issues of:

12/24/18

Affiant further says that the said News-Press is a paper of general circulation daily in Lee County and published at Fort Myers, in said Lee County, Florida, and that the said newspaper has heretofore been continuously published in said Lee County, Florida each day and has been entered as periodicals matter at the post office in Fort Myers, in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 26th of December 2018, by Cheryl Eller who is personally known to me.

Milagros A. Isberto
Notary Public for the State of Florida
My Commission expires July 11, 2020

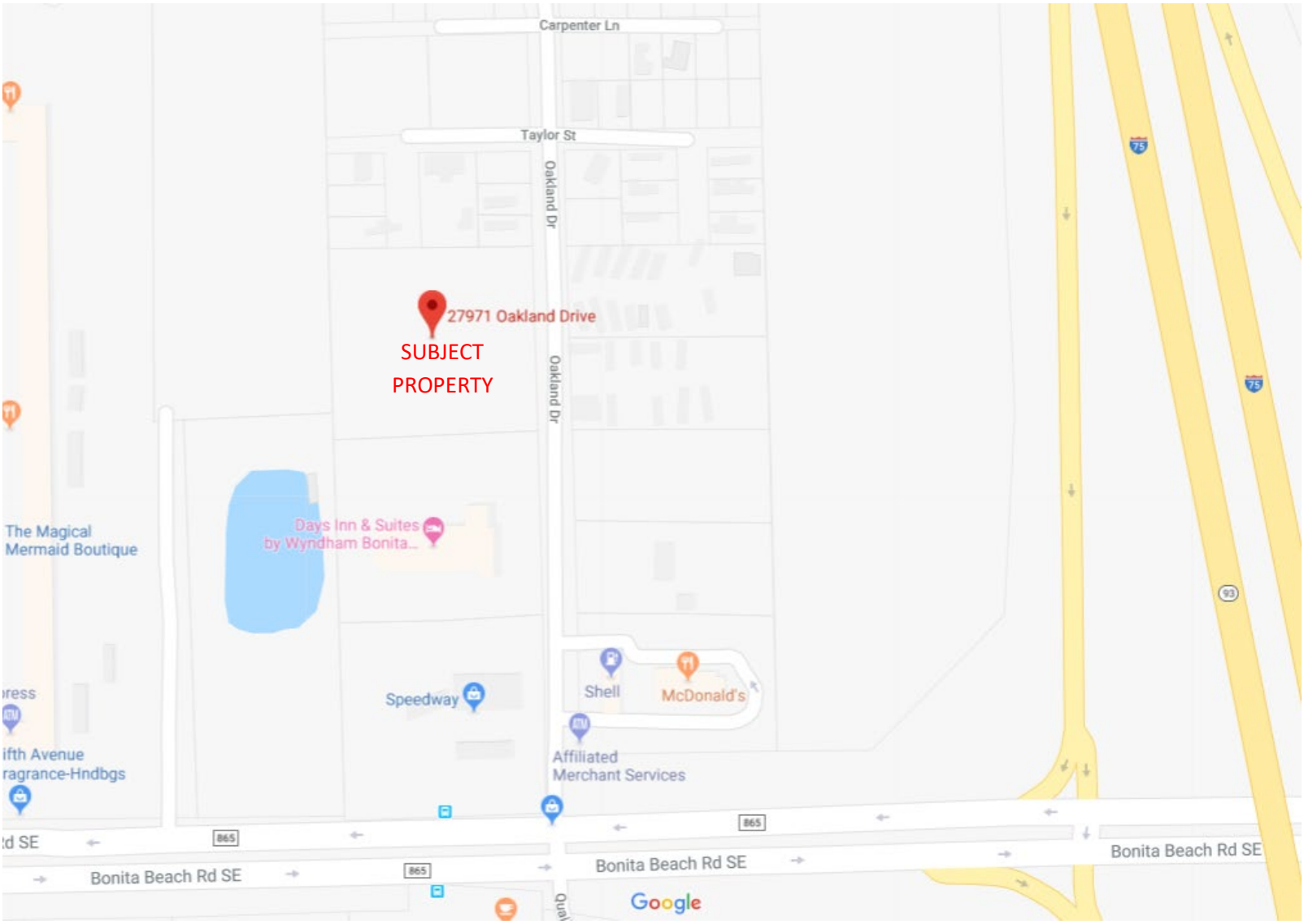
MILAGROS A. ISBERTO
Notary Public - State of Florida
Commission # FF 997151
My Comm. Expires Jul 11, 2020
Bonded through National Notary Assn.

NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NAME:	Oakland CPD
REQUEST:	Amendment to existing Commercial Planned Development to revise two conditions.
LOCATION:	27971 Oakland Drive, City of Bonita Springs, Florida 34135 West side of Oakland Drive, approximately 580 feet north of Bonita Beach Road S.E. (See location map opposite side of page)
PROPERTY OWNER'S REPRESENTATIVE:	D. BRENT ADDISON, P.E, BANKS ENGINEERING (239) 939-5490

Notice is hereby given that the applicant's representative, Banks Engineering, will hold a neighborhood information meeting at **5:30 p.m. on Monday, January 21, 2019** on the above case. The meeting will be held at the Bonita Springs Fire Department Station #24, 27701 Bonita Grande Drive, Bonita Springs, FL 34135.

At the neighborhood meeting, the applicant will explain the development proposal, inform attendees of the character and nature of the process for review, and respond to comments and questions that attendees may have about the application.


Carpenter Ln
Taylor St
Oakland Dr
Oakland Dr
27971 Oakland Drive
SUBJECT
PROPERTY
The Magical
Mermaid Boutique
Days Inn & Suites
by Wyndham Bonita...
Speedway
Shell
McDonald's
Affiliated
Merchant Services
865
865
865
Bonita Beach Rd SE
Bonita Beach Rd SE
Bonita Beach Rd SE
75
75
93
Google

OAKLAND CPD AMENDMENT -CONDITION REVISION

1st Public Info Meeting: January 21, 2019 @5:30 PM

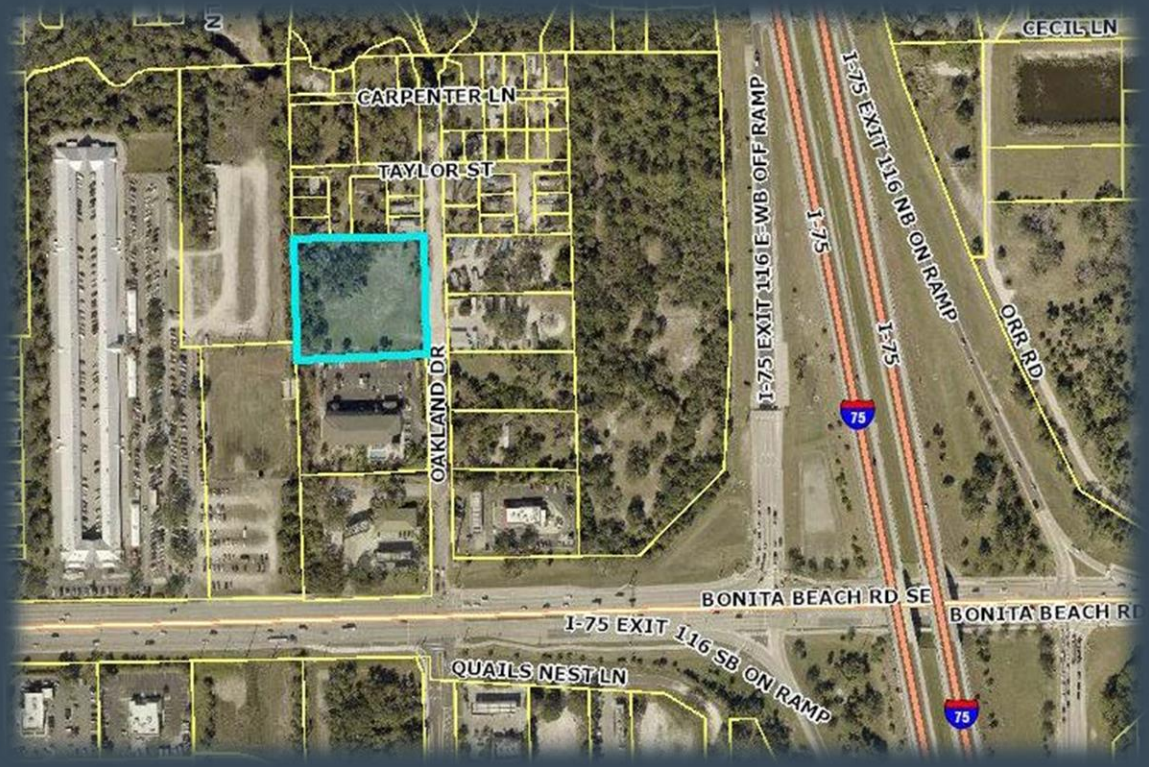
Please Sign In

Thank you for coming! Please leave your name and contact information.

NAME	EMAIL	PHONE
Brent Addison	baddison@bonkseng.com	239-939-5490
GREG DISERIO	GDISERIO@DWNAFL.COM	239-337-5525
Pedro Gomez Paz	12076 Carpenter LN BONITA S.	239-841-6960
SHARON KINGSTON	KSHARON712@GMAIL.COM	239-273-1092
Neil Neal	12020 Riverreach Dr	239-405-4680
Stan Stouder	stan.stouder@CRECONSULTANTS.COM	239-481-3900
Kazmierczak	channel24e201.com	239.994.2553
Stefania Ospina	maricruz0643@hotmail	(239)464-2519
Dick Clesen	richardclesen@gmail.com	239-949-0382

OAKLAND CPD

ORDINANCES 09-13 AND 16-07



Pre-application Neighborhood Meeting

JANUARY 21, 2019

INTRODUCTION

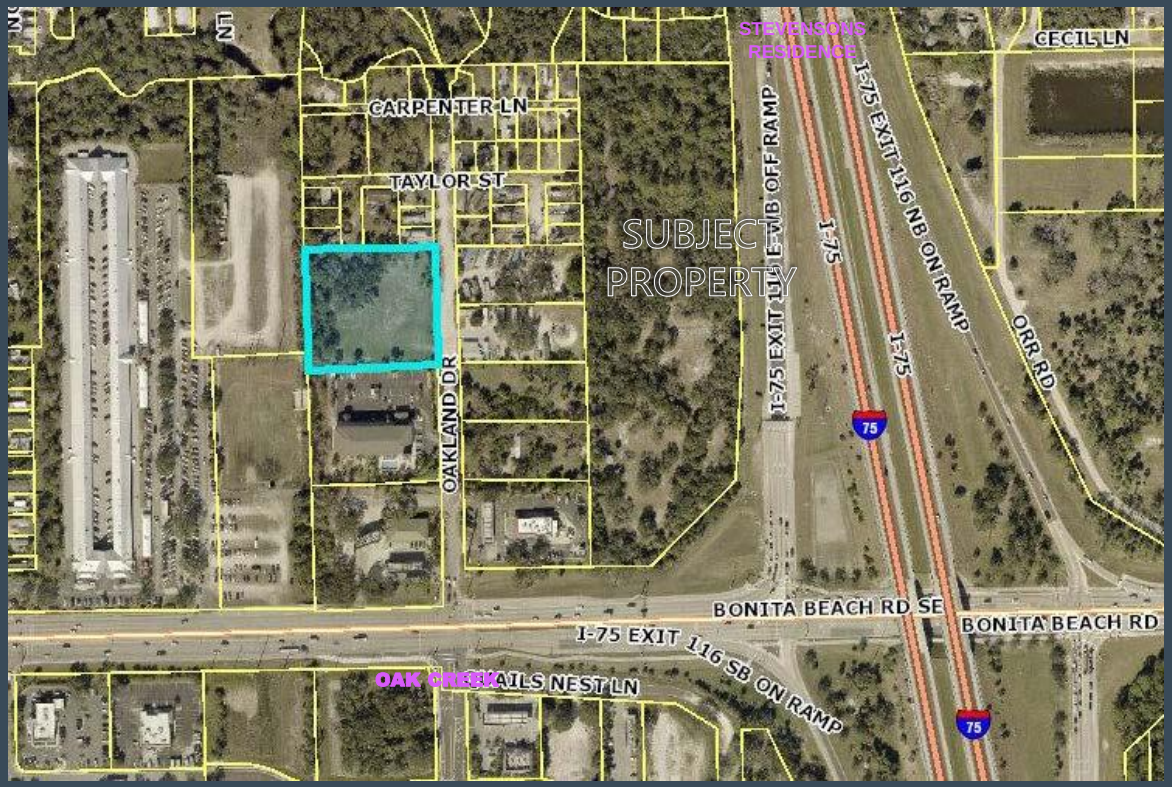
The applicant, 2726 SCC, LLC, is requesting approval to amend the approved Oakland CPD (Latest Ordinance 16 07). The proposed revisions include the following:

- Condition 4c.
  - Reduce the number of heritage trees being preserved from 9 trees to 3 Trees as approved by the Heritage Tree Advisory Board on October 8, 2018

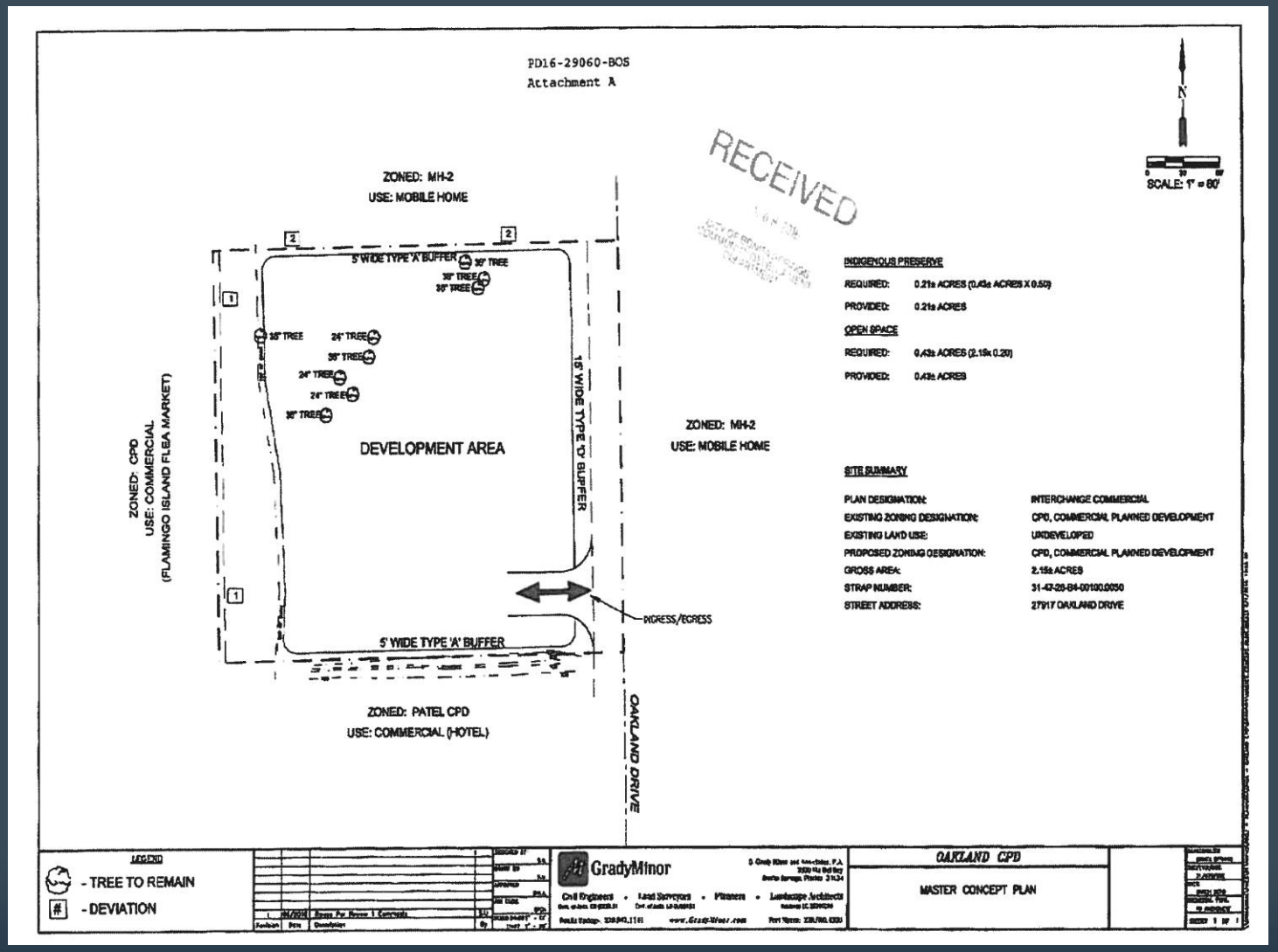
- Master Concept Plan
  - Provide a revised Master Concept Plan as the previous plan had shown the Heritage Tree locations

- Condition 8e.
  - Extend the time period allowed for Open Storage by revising the effective date to the approval of this application

PROJECT LOCATION



APPROVED MASTER CONCEPT PLAN



HERITAGE TREE REMOVAL AND PRESERVATION PLAN

SITE DATA

STRAP: 31-47-26-B4-00100.0050
SITE AREA: 88,683 S.F. (2.0 AC.)

ZONING: COMMERCIAL PLANNED DEVELOPMENT (C.P.D.)
LAND USE: INDUSTRIAL

EXISTING HERITAGE TREES

HERITAGE TREES LOCATED ON SITE (SEE ADJACENT GRAPHIC FOR ASSOCIATED TREE IDENTIFICATIONS) .

TREE #1: 39" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #2: 35" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #3: 27" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #4: 26" D.B.H. LIVE OAK TO BE REMOVED; BASED ON POOR TREE HEALTH CONDITION PER ARBORISTS REPORT (EXHIBIT ?)

TREE #5: 33" D.B.H. LIVE OAK TO BE REMOVED; BASED ON POOR TREE HEALTH CONDITION PER ARBORISTS REPORT (EXHIBIT ?)

TREE #6: 21" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #7: 37" D.B.H. LIVE OAK TO BE RETAINED.

TREE #8: 35" D.B.H. LIVE OAK TO BE RETAINED.

TREE #9: 19" D.B.H. LIVE OAK TO BE RETAINED.

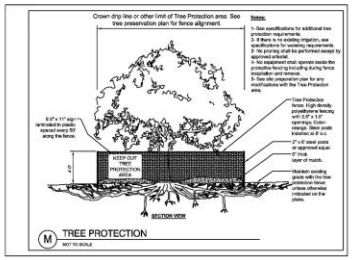
EXISTING TREES TO BE REMOVED

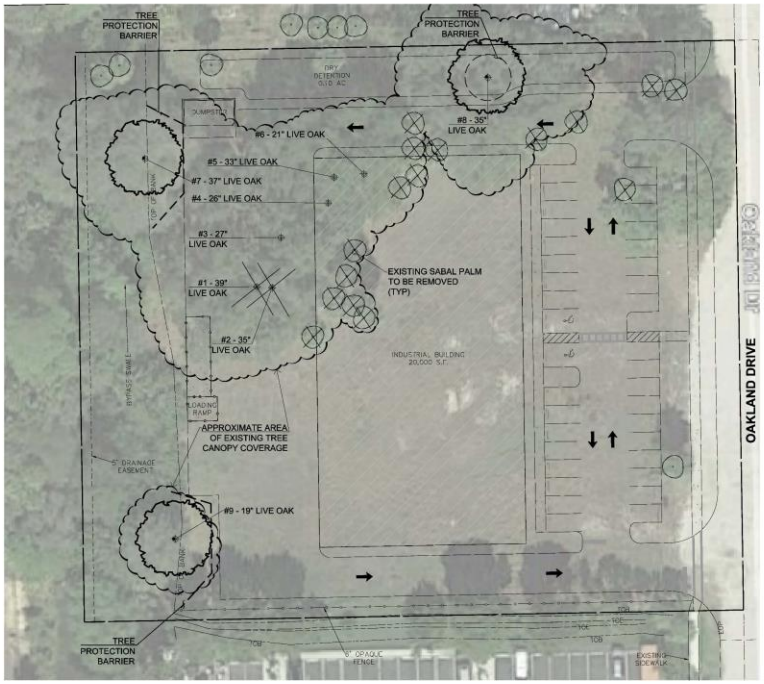
Sabal Palm

Oak species

HERITAGE TREE MITIGATION

SIX HERITAGE TREES, LIVE OAK SPECIES TWENTY INCHES OR GREATER) ARE TO BE REMOVED FROM THE DEVELOPMENT SITE. FOUR OF WHICH ARE BASED ON DEVELOPMENT IMPACTS FROM FILL AND REQUIRE MITIGATION. WHILE TWO, DESCRIBED ABOVE, REQUIRE NO MITIGATION DUE TO POOR HEALTH, SEE ARBORISTS REPORT EXHIBIT FOR SPECIFIC INFORMATION. PER BONITA SPRINGS LAND DEVELOPMENT CODE, SECTION 3-417 (b) (1) (b) (4) ; EACH HERITAGE TREE REMOVED MUST BE REPLACED WITH A TREE HAVING A MINIMUM HEIGHT OF TWENTY FEET (20') . FOUR REPLACEMENT TREES ARE REQUIRED WITH A MINIMUM HEIGHT OF 20'.





HERITAGE TREE REMOVAL AND PRESERVATION PLAN

SCALE 1" = 20'
0' 10' 20' 40' 60'

DMJA
DAVID M. JONES, JR. AND ASSOCIATES, INC.
LANDSCAPE ARCHITECTS AND PLANNERS

PROJECT INFORMATION:
OAKLAND DR. C.P.D.
BONITA SPRINGS, FL

PREPARED FOR:
BANKS ENGINEERING

CONSULTANT:

DESIGN PROFESSIONAL:

PROJECT NO: 218131
DESIGNER: JAP
CHECKED BY: GJD
ISSUED FOR: Public Information Meeting
ISSUED DATE: Jan. 21, 2019
REVISIONS:

SHEET TITLE: HERITAGE TREE EXHIBIT
SHEET NUMBER: EX - 1

PLANT IMAGE BOARD - SHRUBS



Dwarf Firebush



Mrs Schillers Viburnum



Cocoplum



Clusia / Pitch Apple / Autograph Tree



Muhly Grass



Green Island Ficus



Super King Ixora



Walter's Viburnum

DMJA

DAVID M. JONES, JR. AND ASSOCIATES, INC.

LANDSCAPE ARCHITECTS AND PLANNERS

PROJECT INFORMATION:

OAKLAND DR. C.P.D.

BONITA SPRINGS, FL

PREPARED FOR:

BANKS ENGINEERING

CONSULTANT:

DESIGN PROFESSIONAL:

PROJECT NO. 218131

PROJECT MGR. GREG DIBERIO

FILE NAME: Oakland Dr. (CPD)_LS

DESIGNER: JAP

CAD TECH: JAP

CHECKED BY: GJD

ISSUED FOR: Public Information Meeting

ISSUED DATE: Jan. 21, 2019

REVISIONS:

SHEET TITLE: PLANT IMAGE BOARD - SHRUBS

SHEET NUMBER: IB - 1

PLANT IMAGE BOARD - TREES



Green Buttonwood


Red Maple


Live Oak Species




Sabal Palm


Bald Cypress


Silver Buttonwood


Pigeon Plum


Royal Palm

DMJA

DAVID M. JONES, JR. AND ASSOCIATES, INC.

LANDSCAPE ARCHITECTS AND PLANNERS

3231 McGregor Blvd.
Fort Myers, Florida 33901
Phone: (239) 337 - 5825
Fax: (239) 337 - 4494

4161 Tamiami Trail
Building 5, Unit 501
Port Charlotte, Florida 33952
Phone: (941) 206 - 2317
Fax: (239) 337 - 4494

L.A. LICENSE LC 0000060

PROJECT INFORMATION:

OAKLAND DR. C.P.D.

BONITA SPRINGS, FL

PREPARED FOR:

BANKS ENGINEERING
10511 Six Mile Cypress Pkwy.
Ste 105
Fort Myers, Florida 33966
Office: (239) 939-5490
Fax: (239) 939-2523

CONSULTANT:

DESIGN PROFESSIONAL:

GREGORY J. OBERO, RLA
FLA.REG.NO. DATE
STATE OF FLORIDA

PROJECT NO.	218131
PROJECT MGR.	GREG OBERO
FILE NAME:	Oakland Dr.-CPD_LD
DESIGNER:	JAP
CAD TECH:	JAP
CHECKED BY:	GJO
ISSUED FOR:	Public Information Meeting

ISSUED DATE: Jan. 21, 2019

REVISIONS:
1.
2.
3.
4.

SHEET TITLE:
PLANT IMAGE BOARD - TREES

SHEET NUMBER:
IB - 1

811

OPEN STORAGE

Condition 8e. will be revised in order to change the effective date of the open storage time frame to reference the first Development Order Approval as shown below.

- Existing Language

e. Open storage, vehicle and equipment dealers, and business services group II (with outdoor equipment and/or vehicle storage) is limited to ~~November 16, 2016, at which time only Phase 2 uses are permitted.~~ a period of no more than three years from the effective date of this ordinance regardless of the property's ownership; however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of this ordinance all open storage uses shall terminate immediately.

- Proposed Language
  - e. Open storage, vehicle and equipment dealers, and business services group II (with outdoor equipment and/or vehicle storage) is limited to a period of no more than three years from the effective date of ~~this ordinance~~ the first Development Order regardless of the property s ownership; however, 2726 SCC LLC and it's tenants may continue an existing open storage use beyond the third anniversary of ~~this ordinance~~ the first Development Order for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of ~~this ordinance~~ the first Development Order all open storage uses shall terminate immediately.

Oakland CPD Amendment

PD21-85799-BOS

Summary of Post-Sufficiency Neighborhood Meeting

A meeting was held on November 7, 2022 at 5:30 p.m. at SWFL Inc., 25071 Chamber of Commerce Drive, Bonita Springs, FL 34135. The applicant waited 20 minutes and no one showed up. The applicant received calls and emails from a few individuals and provided them with information regarding the request.

Attached please find the following backup documentation:

- Public Notice – Affidavit of meeting notice in The News Press dated October 14, 2022 regarding Public Information Session
- Surround Property Owner's Mailed Notice and copy of labels mailed October 14, 2022
- Sign-In Sheet
- PowerPoint Presentation

0005446776 / FNP-0000002794

The News-Press media group
news-press.com A GANNETT COMPANY

Attn:
BANKS ENGINEERING
10511 BEN C PRATT/6 MILE
FORT MYERS, FL 33966

State of Wisconsin, County of Brown:
Before the undersigned authority personally appeared D. Roberts, who on oath says that he or she is a Legal Assistant of the News-Press, a daily newspaper published at Fort Myers in Lee County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

Notice of Meetings

In the Twentieth Judicial Circuit Court was published in said newspaper editions dated or by publication on the newspaper's website, if authorized, on:

10/14/2022

Affiant further says that the said News-Press is a paper of general circulation daily in Lee County and published at Fort Myers, in said Lee County, Florida, and that the said newspaper has heretofore been continuously published in said Lee County, Florida each day and has been entered as periodicals matter at the post office in Fort Myers, in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 29th of November 2022, by legal clerk who is personally known to me.

D. Roberts
Affiant

Kathleen Allen
Notary State of Wisconsin, County of Brown

1-7-25
My commission expires

# of Affidavits: 1

This is not an invoice

KATHLEEN ALLEN
Notary Public
State of Wisconsin

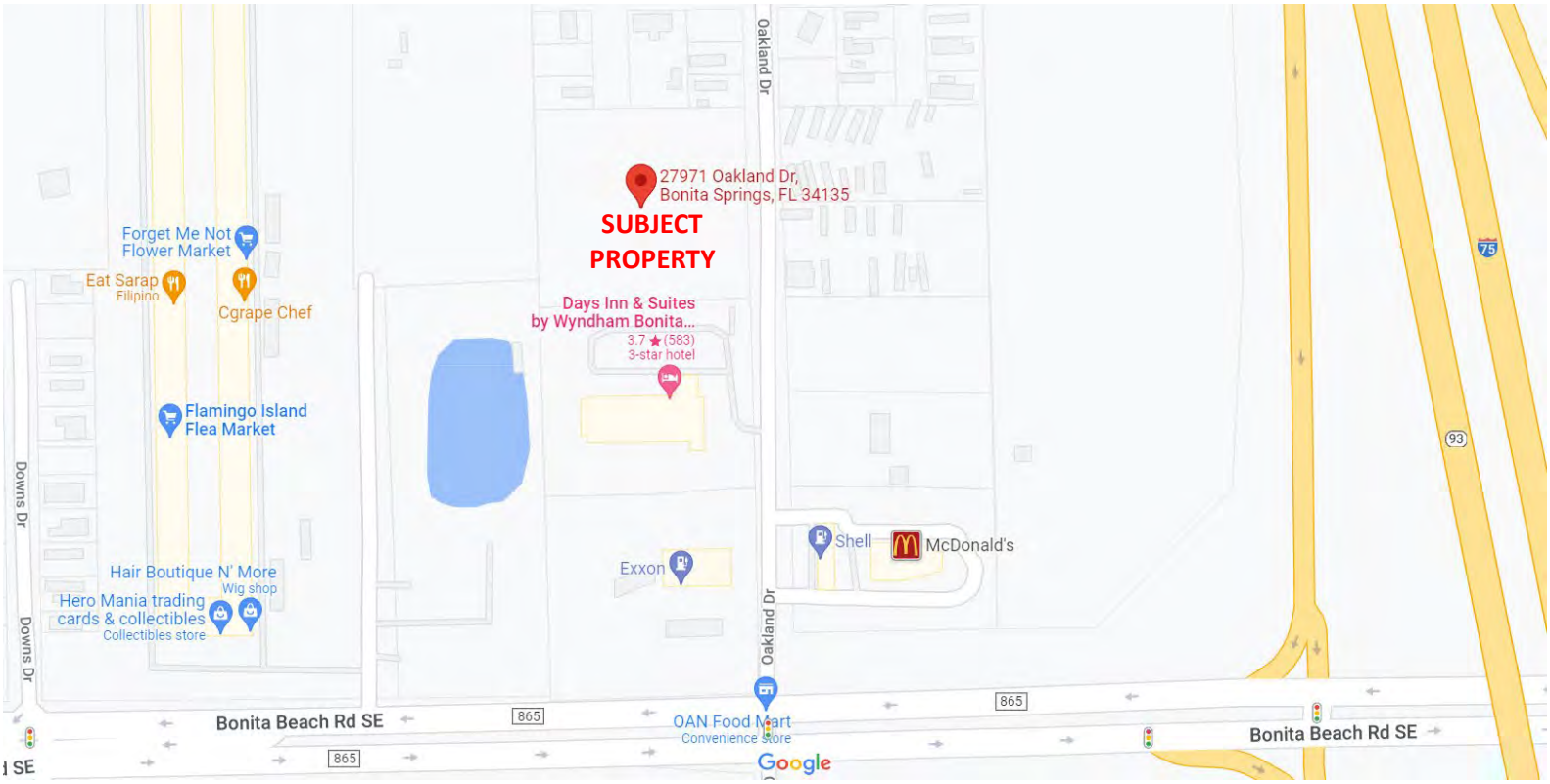
PUBLIC MEETING NOTICE
CITY OF BONITA SPRINGS NEIGHBORHOOD INFORMATION MEETING
PUBLIC PRESENTATION DATE: November 7, 2022 at 5:30 p.m.
MEETING LOCATION: SWFL Inc., 25071 Chamber of Commerce Dr, Bonita Springs, FL 34135
APPLICANT: 2726 SCC LLC, c/o Stacy Ellis Hewitt, AICP, Banks Engineering (239-770-2527/239-939-5490/shewitt@bankseng.com)
PROJECT NAME: Oakland CPD (City of Bonita Application No.: PD21-85799-BOS)
PROJECT LOCATION: 27971 Oakland Drive, City of Bonita Springs, Florida 34135, West side of Oakland Drive, approximately 580 feet north of Bonita Beach Road S.E. ACTION REQUESTED: A request to amend Zoning Ordinance 16-07 for the Oakland Commercial Planned Development, with the addition of a master concept plan and amended conditions.
AD #5446776 Oct. 14, 2022

NOTICE TO SURROUNDING PROPERTY OWNERS
Neighborhood Information Meeting

CASE NAME:	Oakland CPD (City of Bonita Application No.: PD21-85799-BOS)
REQUEST:	A request to amend Zoning Ordinance 16-07 for the Oakland Commercial Planned Development, with the addition of a master concept plan and amended conditions.
PROPERTY LOCATION:	27971 Oakland Drive, City of Bonita Springs, Florida 34135 West side of Oakland Drive, approximately 580 feet north of Bonita Beach Road S.E. (See location map opposite side of page)
APPLICANT/PROPERTY OWNER'S REPRESENTATIVE:	2726 SCC LLC, c/o Stacy Ellis Hewitt, AICP, Banks Engineering (239) 770-2527/239-939-5490 shewitt@bankseng.com

Notice is hereby given that the applicant's representative, Banks Engineering, will hold a post-sufficiency neighborhood information meeting at **5:30 p.m. on Monday, November 7, 2022** on the above case. The meeting will be held at **SWFL Inc., 25071 Chamber of Commerce Drive, Bonita Springs, FL 34135.**

At the neighborhood meeting, the applicant will explain the development proposal, inform attendees of the character and nature of the process for review, and respond to comments and questions that attendees may have about the application. Should you be unable to attend this meeting, but have questions or comments, please contact the Applicant/Property Owner's Representative.


27971 Oakland Dr,
Bonita Springs, FL 34135
SUBJECT
PROPERTY
Forget Me Not
Flower Market
Eat Sarap
Filipino
Cgrape Chef
Days Inn & Suites
by Wyndham Bonita...
3.7 ★ (583)
3-star hotel
Flamingo Island
Flea Market
Oakland Dr
Downs Dr
Shell
McDonald's
Exxon
Hair Boutique N' More
Wig shop
Hero Mania trading
cards & collectibles
Collectibles store
Bonita Beach Rd SE
865
OAN Food Mart
Convenience store
Google
75
93

Mailed to all listed individuals on Friday, October 14, 2022

IMPERIAL BONITA ESTATES CO-OP
27700 BOURBONNIERE DR
BONITA SPRINGS FL 34135

FIFM RE LLC
7007 EAST 88TH AVE
HENDERSON CO 80640

WI-FL CONNECTION LLP
11589 ARON CT
ESTERO FL 33928

LEE COUNTY
PO BOX 398
FORT MYERS FL 33902

VANDERHOEF CHRISTOPHER
21310 BRAXFIELD LOOP
ESTERO FL 33928

BONITA BOARDWALK LLC
414 ROSEMEADE LN
NAPLES FL 34105

BAUTISTA BERNARDINO &
27850 EDITH LN
BONITA SPRINGS FL 34135

FIFM RE LLC
7007 EAST 88TH AVE
HENDERSON CO 80640

FIFM RE LLC
7007 EAST 88TH AVE
HENDERSON CO 80640

SANTIAGO GUADALUPE J
PO BOX 680
BONITA SPRINGS FL 34133

ZURITA CIRILA
27932 DOWNS DR
BONITA SPRINGS FL 34135

BONITA BOARDWALK LLC
414 ROSEMEADE LN
NAPLES FL 34105

GONZALEZ ANTONIO JR +
10300 TARRAH LN
BONITA SPRINGS FL 34135

IBANEZ ADRIAN HERNANDEZ
27920 DOWNS DR
BONITA SPRINGS FL 34135

VICTORIA GROUP INVESTMENTS LLC
1726 BROKEN BOW DR E
JACKSONVILLE FL 32225

VICTORIA GROUP INVESTMENTS LLC
1726 BROKEN BOW DR E
JACKSONVILLE FL 32225

GONZALEZ MARIA E
27912 DOWNS DR
BONITA SPRINGS FL 34135

BONITA BOARDWALK LLC
414 ROSEMEADE LN
NAPLES FL 34105

HERNANDEZ JOSE ARISTIDES
4531 5TH AVE NW
NAPLES FL 34119

RAMIREZ REGINO ORNELAS
27991 DOWNS DR
BONITA SPRINGS FL 34135

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ZAMORA RAMIRO & JUANA
PO BOX 1704
BONITA SPRINGS FL 34133

BONITA BOARDWALK LLC
414 ROSEMEADE LN
NAPLES FL 34105

M OSPINA INCORPORATED
3114 16TH ST W
LEHIGH ACRES FL 33971

M OSPINA INCORPORATED
3114 16TH ST W
LEHIGH ACRES FL 33971

GONZALEZ SAN JUANA
PO BOX 366568
BONITA SPRINGS FL 34136

GONZALEZ ANTONIO JR +
10300 TARRAH LN
BONITA SPRINGS FL 34135

VICTORIA GROUP INVESTMENTS LLC
1726 BROKEN BOW DR
JACKSONVILLE FL 32225

TORRES MARTINIANO &
27926 DOWNS DR
BONITA SPRINGS FL 34135

FLOWERS STEVEN T +
27957 DOWNS DR
BONITA SPRINGS FL 34135

LOPEZ MATEO FERNANDO &
27967 DOWNS DR
BONITA SPRINGS FL 34135

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GONZALEZ ANTONIO JR +
10300 TARRAH LN
BONITA SPRINGS FL 34135

LOPEZ DEMECIO & THELMA
27940 DOWNS DR
BONITA SPRINGS FL 34135

ZAMORA RAMIRO & JUANA
PO BOX 1704
BONITA SPRINGS FL 34133

M OSPINA INCORPORATED
3114 16TH ST W
LEHIGH ACRES FL 33971

BONITA BOARDWALK LLC
414 ROSEMEADE LN
NAPLES FL 34105

VICTORIA GROUP INVESTMENTS LLC
1726 BROKEN BOW DR
JACKSONVILLE FL 32225

VICTORIA GROUP INVEST LLC +
1726 BROKEN BOW DR E
JACKSONVILLE FL 32225

LALAIN ALEXANDER MARCO
133 EAGLE CREST DR
SOUTH LYON MI 48178

FLOWERS ALBERT & ALICE
PO BOX 2353
BONITA SPRINGS FL 34133

EVANS ANNIE LAVERNE +
PO BOX 165
BONITA SPRINGS FL 34133

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ARNOLD IRA +
201 QUAIL FOREST BLVD
NAPLES FL 34105

SANTIAGO GUADALUPE J
PO BOX 680
BONITA SPRINGS FL 34133

CUEVAS-SANCHEZ FILEMON
27943 DOWNS DR
BONITA SPRINGS FL 34135

MITCHELL DENNIS S & PAMELA
11910 YELLOWSTONE DR
BONITA SPRINGS FL 34135

GREISBACH FRANZ & ULRIKE
11930 YELLOWSTONE DR
BONITA SPRINGS FL 34135

BULLOCK DUANE &
1880 HERITAGE RD
KINGSVILLE ON N9Y 2E6
CANADA

LAWHON DENISE
17754 GRANDE BAYOU CT
FORT MYERS FL 33908

BOWERS BRADLEY +
11931 MARATHON DR
BONITA SPRINGS FL 34135

WORKMAN JOSHUA & BETH A
11951 MARATHON DR
BONITA SPRINGS FL 34135

HANS MARGARET E
11910 MARATHON DR
BONITA SPRINGS FL 34135

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VICTORIA GROUP INVESTMENTS LLC
1726 BROKEN BOW DR EAST
JACKSONVILLE FL 32225

CUEVAS-SANCHEZ FILEMON
27943 DOWNS DR
BONITA SPRINGS FL 34135

IMPERIAL BONITA ESTATES LOT OW
27700 PRAIRIE DR
BONITA SPRINGS FL 34135

WOLFENBARGER JUDITH A +
11920 YELLOWSTONE DR
BONITA SPRINGS FL 34135

WINEBRENNER DAVID C TR
9510 N STIENBARGER LAKE RD
WAWAKA IN 46794

STEEN PATRICIA & THOMAS
11901 MARATHON DR
BONITA SPRINGS FL 34135

TWOMEY ROSEMARY
11921 MARATHON DR
BONITA SPRINGS FL 34135

PINKSTER JERRY A &
12700 MERLAU AVE
PLAINWELL MI 49080

BUSCH TAMERA L
603 BERNAS LN
NEW PRAGUE MN 56071

DEBOER SYBREN & JOANNA G
217-72 TOWN CENTRE DR
TOWNSEND ON N0A 1S0
CANADA

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NIENOW MARK & VALERIE L
1811 FLEMING ST
WAUSAU WI 54403

SPIESS THOMAS A TR
2828 KENWOOD BLVD
TOLEDO OH 43606

THIELMAN LINDA M &
11941 MALLARD LANE
BONITA SPRINGS FL 34135

S & L PROPERTIES BONITA SPRING
2651 KIRKING CT
PORTAGE WI 53901

HOME DEPOT USA INC
PROPERTY TAX DEPT # 6373
PO BOX 105842
ATLANTA GA 30348

HOME DEPOT USA INC
PROPERTY TAX DEPT # 6373
PO BOX 105842
ATLANTA GA 30348

ANABI REAL ESTATE DEVELOPMENT
REAL ESTATE
1450 N BENSON AVE
UPLAND CA 91786

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

BONITA LEE FLORIDA CO INC
622 DELAWARE AVE
SAINT CLOUD FL 34769

MCDONALDS CORP
PO BOX 182571
COLUMBUS OH 43218

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SPRINGER JON A & BONNIE J
1282 160TH ST
SAINT CROIX FALLS WI 54024

LONGTIN PIERRE &
11951 MALLARD LN
BONITA SPRINGS FL 34135

RYCKMAN LINDA ADAMS
2621 ESTERO BLVD #3
FORT MYERS BEACH FL 33931

B AND D GORMAN CORP
227 DOLPHIN COVE CT
BONITA SPRINGS FL 34134

HOME DEPOT USA INC
PROPERTY TAX DEPT # 6373
PO BOX 105842
ATLANTA GA 30348

SCHROEDER WILLIAM E +
10800 SOUTHWEST HWY
WORTH IL 60482

BONITA SPRINGS HOTEL LLC
27991 OAKLAND DR
BONITA SPRINGS FL 34135

SALDIVAR MARY ELLEN TR
27870 LIME ST
BONITA SPRINGS FL 34135

BONITA-LEE FLORIDA CO INC
622 DELAWARE AVE
SAINT CLOUD FL 34769

FUENTES MARY G
PO BOX 503
BONITA SPRINGS FL 34133

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BESSE AVELINA & JASON T
14320 SUNDIAL PL
LAKEWOOD RANCH FL 34202

FUENTES MARY G
PO BOX 503
BONITA SPRINGS FL 34133

MIRELES RICHARD
27790 OAKLAND DR
BONITA SPRINGS FL 34135

CLINECO 2 INCORPORATED
27101 LOST LAKE LN
BONITA SPRINGS FL 34134

CLINECO 2 INCORPORATED
27101 LOST LAKE LN
BONITA SPRINGS FL 34134

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

LOPEZ LEONEL
PO BOX 3391
BONITA SPRINGS FL 34135

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

TORRES LAZARO
PO BOX 3378
BONITA SPRINGS FL 34133

WEISS LORETTA S
14511 OCEAN BLUFF DR
FORT MYERS FL 33908

DEHERRERA ENRIQUETA C +
PO BOX 3031
BONITA SPRINGS FL 34133

TORRES JUAN MONTES +
PO BOX 3378
BONITA SPRINGS FL 34135

MIRELES RICHARD
27790 OAKLAND DR
BONITA SPRINGS FL 34135

CITY OF BONITA SPRINGS
9101 BONITA BEACH RD
BONITA SPRINGS FL 34135

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

GOMEZ PAZ PEDRO J
PO BOX 748
BONITA SPRINGS FL 34133

SAY SANTOS NAZARIO PEREZ
3553 BRINK CIR
BONITA SPRINGS FL 34134

WEISS LORETTA S
14511 OCEAN BLUFF DR
FORT MYERS FL 33908

GOMEZ FIDENCIO REYES
26861 PALM ST
BONITA SPRINGS FL 34135

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FOREMAN PETER
5830 SW 64TH AVE
DAVIE FL 33314

BOTTCHER ANNE
PO BOX 233
BONITA SPRINGS FL 34133

BOTTCHER ANNE
PO BOX 233
BONITA SPRINGS FL 34133

GOMEZ FIDENCIO REYES
26861 PALM ST
BONITA SPRINGS FL 34135

LOYALTY 2016 LLC
3510 25TH AVE SW
NAPLES FL 34117

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

PATINO MARIA G +
12084 TAYLOR ST
BONITA SPRINGS FL 34135

IMPERIAL RIVER ESTATES

BONITA SPRINGS FL 34135

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BEACH ROAD & 29 LLC
PO BOX 366748
BONITA SPRINGS FL 34136

GALLAGHER GAVIN A
126 MILL RIVER RD
SOUTH SALEM NY 10590

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

LEON ERNESTINO M +
PO BOX 979
BONITA SPRINGS FL 34133

PATINO ARNULFO
PO BOX 184
ESTERO FL 33929

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

JOHN P KINGSTON SR TRUST LLC
PO BOX 1083
BONITA SPRINGS FL 34133

PATINO MARIA G +
12084 TAYLOR ST
BONITA SPRINGS FL 34135

IMPERIAL RIVER ESTATES

BONITA SPRINGS FL 34135

NICOLAS ANTONIO &
27693 PINECREST LN
BONITA SPRINGS FL 34135

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RUIZ JOSEPH J &
27631 PINECREST LN
BONITA SPRINGS FL 34135

GUTIERREZ LUIS FERNANDO MARIN
12023 RIVER VIEW DR
BONITA SPRINGS FL 34135

MARCOZZI STEVEN & JENNIFER
12030 CIRCLE DR
BONITA SPRINGS FL 34135

MAUNG SHINE WIN & MON EI Z
12050 CIRCLE DR
BONITA SPRINGS FL 34135

FRANTA VLADIMIR & VERONIKA
ZLATE PIESKY 8
BRATISLAVA SK-821 04
SLOVAKIA

NEAL MARJORIE NELL
12020 RIVER VIEW DR
BONITA SPRINGS FL 34135

LAYMAN BRUCE
12040 RIVER VIEW DR
BONITA SPRINGS FL 34135

KELLEY BRIAN P & RENATA
27053 JARVIS RD
BONITA SPRINGS FL 34135

MACCLUGAGE MITCHELL B
27688 PINECREST LN
BONITA SPRINGS FL 34135

DICKERSON MARISOL
27694 PINECREST LN
BONITA SPRINGS FL 34135

PageBreak

NADLE GLENN J &
12025 RIVER VIEW DR
BONITA SPRINGS FL 34135

SORIANO LAIR
12019 RIVER VIEW DR
BONITA SPRINGS FL 34135

LEOMBRUNO NICHOLAS
12040 CIRCLE DR
BONITA SPRINGS FL 34135

ORTEZ MARGARITA +
26931 NICKI J CT
BONITA SPRINGS FL 34135

BAKER LAWRENCE +
12010 RIVER VIEW DR
BONITA SPRINGS FL 34135

STRATTON BARRY W & SONYA D
12030 RIVER VIEW DR
BONITA SPRINGS FL 34135

TEEMS BRITTON R & LYNN
12050 RIVER VIEW DR
BONITA SPRINGS FL 34135

MEJIA STEPHANIE L
27670 PINECREST LN
BONITA SPRINGS FL 34135

MACCLUGAGE MITCHEL B
471 NE 25TH ST APT 202
MIAMI FL 33137

EWERT NANCY C
27700 PINECREST LN
BONITA SPRINGS FL 34135

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Page Break

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PRI-CAR LLP
6601 BAYSHORE RD
NORTH FORT MYERS FL 33917

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

CITY OF BONITA SPRINGS
9101 BONITA BEACH RD
BONITA SPRINGS FL 34135

ANABI REAL ESTATE DEVELOPMENT
1450 NORTH BENSON AVE UNIT A
UPLAND CA 91786

NISA BONITA LLC
999 BRICKELL AVE STE 101
MIAMI FL 33131

BONITA EXCHANGE LLC
9015 STRADA STELL CT STE 102
NAPLES FL 34109

City of Bonita Springs
c/o Arleen Hunter, City Manager
9101 Bonita Beach Road
Bonita Springs, FL 34135

PageBreak

IMPERIAL RIVER OAKS LLC
1185 IMMOKALEE RD STE 110
NAPLES FL 34110

WEISS LORETTA S
14511 OCEAN BLUFF DR
FORT MYERS FL 33908

VINCES AUREA
2219 SE 27TH TER
CAPE CORAL FL 33904

EAST COAST WAFFLES INC
5986 FINANCIAL DR
NORCROSS GA 30071

MARC + SHANNON HAGLE CHARITABL
270 WEST NEW ENGLAND AVE
WINTER PARK FL 32789

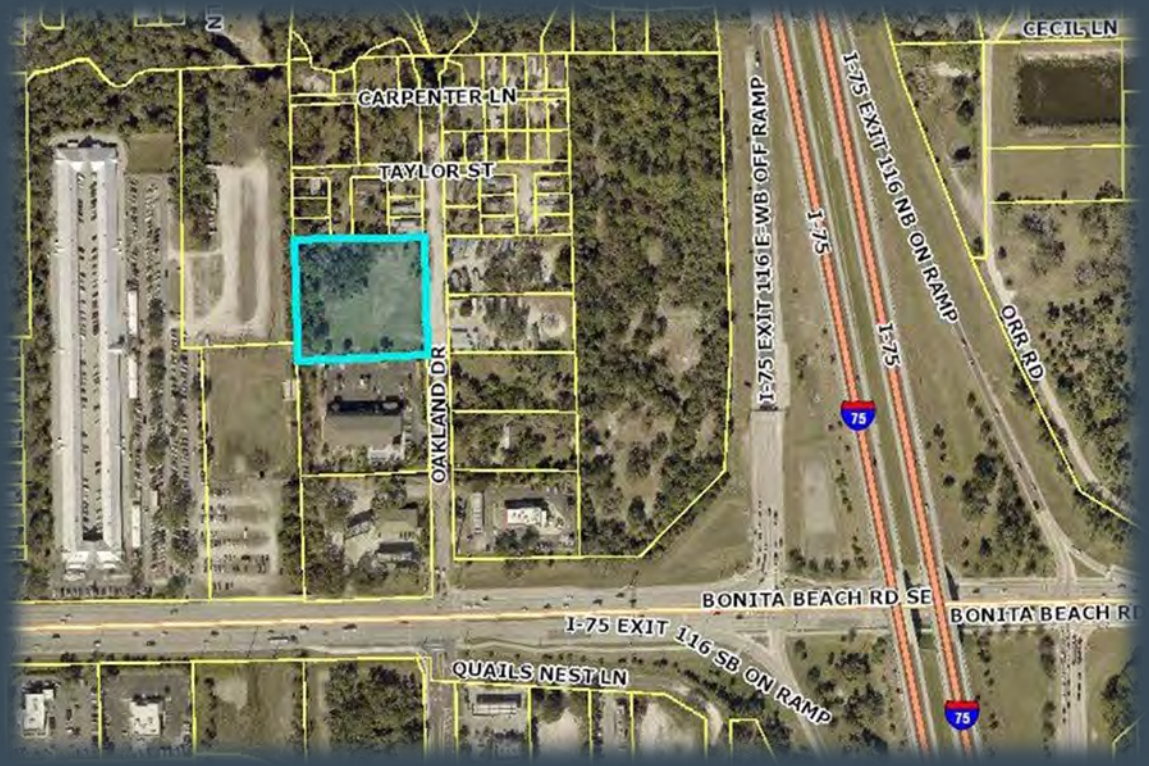
BONITA EXCHANGE LLC
9015 STRADA STELL CT STE 102
NAPLES FL 34109

PROJECT NAME:	Oakland CPD Post Sufficiency Neighborhood Information Meeting	MEETING DATE:	November 7, 2022	JOB NUMBER:	8332Z

PRINT NAME	PHONE	COMPANY (IF APPLICABLE)	EMAIL

OAKLAND CPD

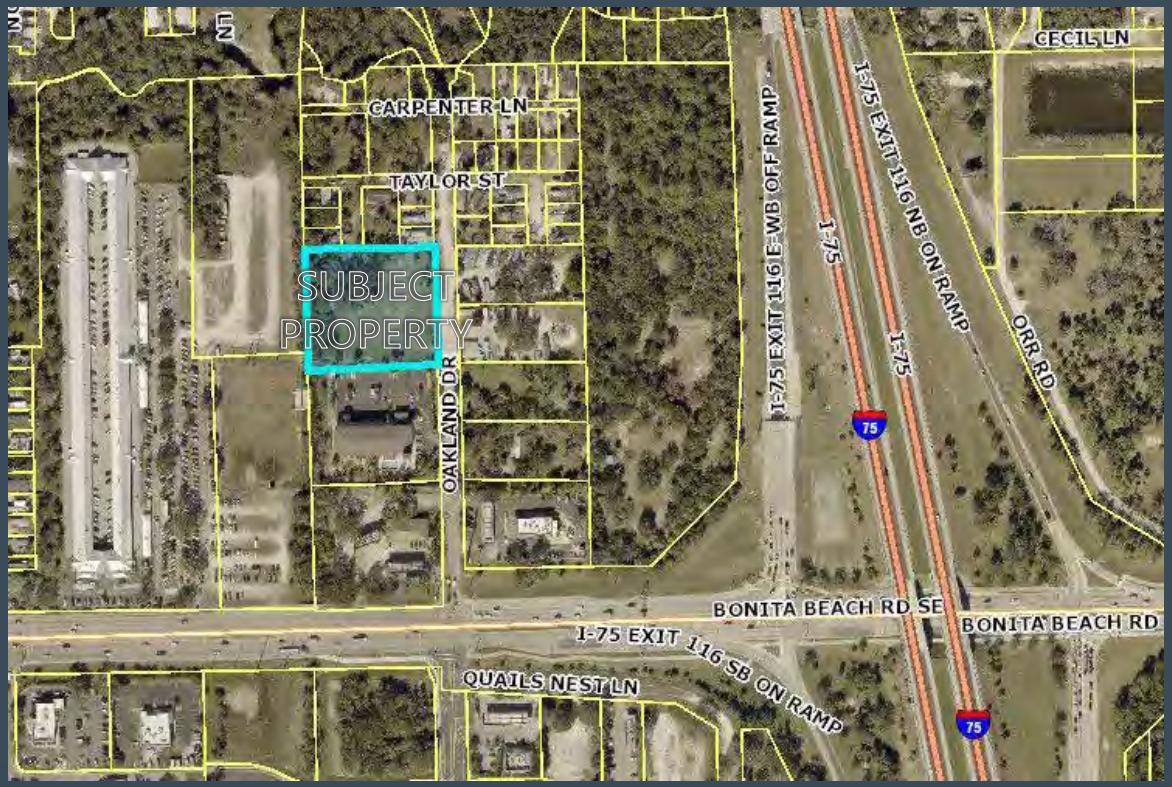
ORDINANCES 09-13 AND 16-07



Post Sufficiency Neighborhood Meeting

NOVEMBER 7, 2022

PROJECT LOCATION



2.15± AC on W side of Oakland Drive 580'± N of Bonita Beach Road SE
27971 Oakland Drive

INTRODUCTION

Property has been zoned CPD since 1997 in Lee County Resolution Z-97-084.

City of Bonita Springs amendments in 2009 (09-13) & 2016 (16-07).

The applicant, 2726 SCC, LLC, is requesting approval to amend the approved Oakland CPD (Latest Ordinance 16-07). The proposed revisions from meeting January 21, 2019 included the following:

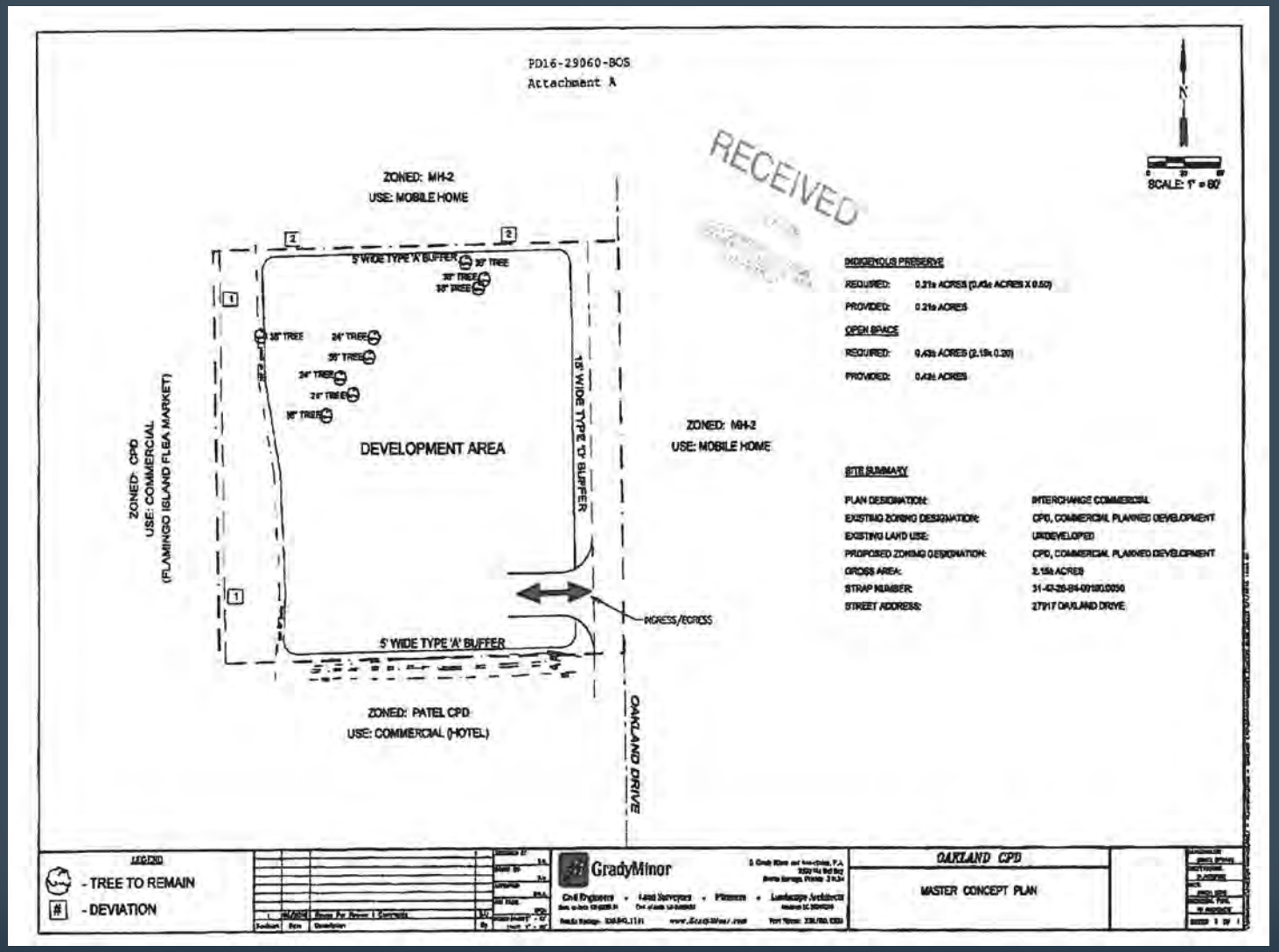
- Condition 4c.
  - Reduce the number of heritage trees being preserved from 9 trees to 3 Trees as approved by the Heritage Tree Advisory Board on October 8, 2018

- Master Concept Plan
  - Provide a revised Master Concept Plan as the previous plan had shown the Heritage Tree locations

- Condition 8e.
  - Extend the time period allowed for Open Storage by revising the effective date to the approval of this application

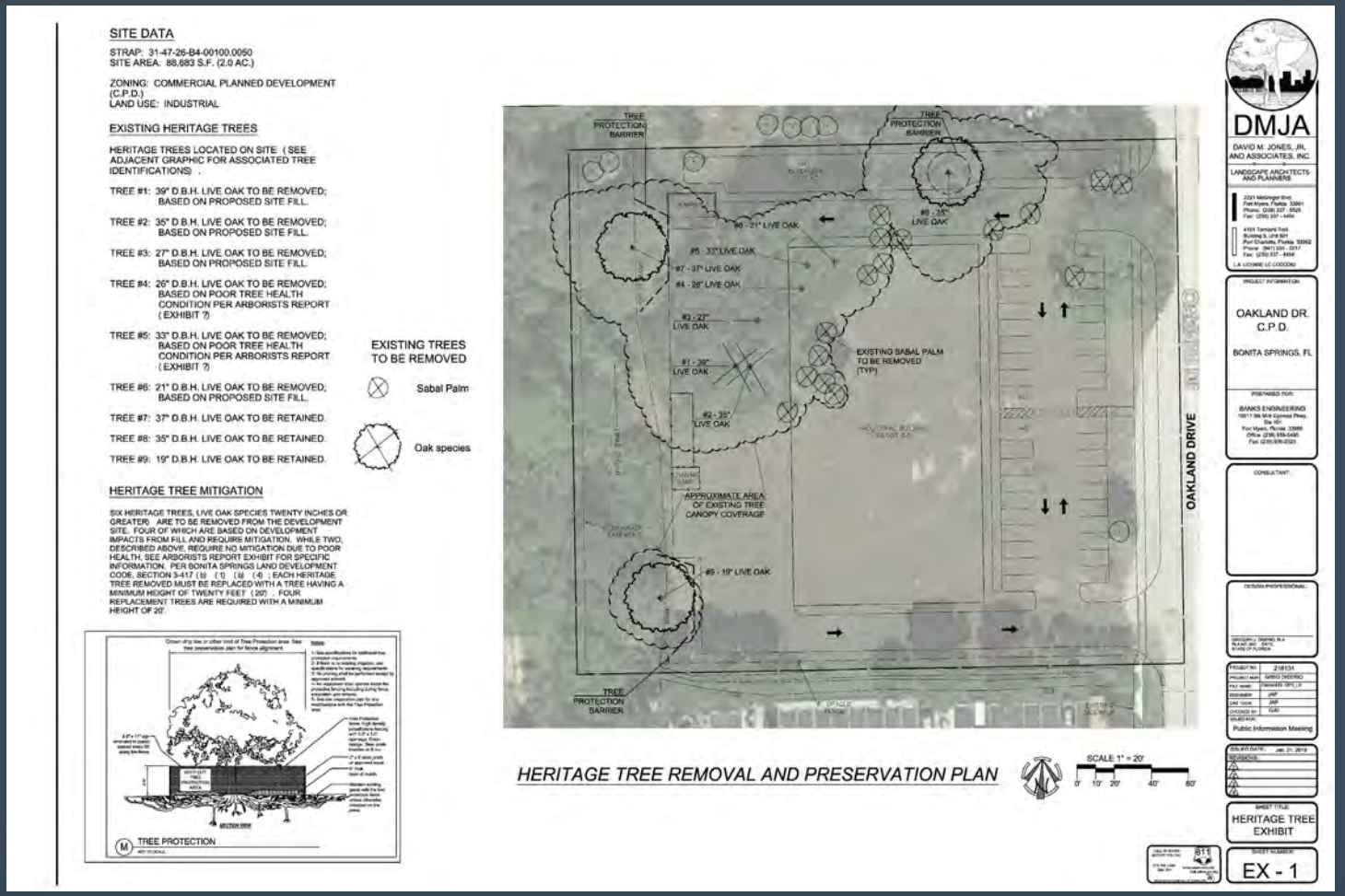
- Applicant has been coordinating with City staff on the application which has been found sufficient

APPROVED MASTER CONCEPT PLAN



25,000 SF Commercial/Light Industrial Uses, 7,780 SF Restaurant or 90-room hotel
Open Storage limited to 3 years – 5 years

HERITAGE TREE REMOVAL AND PRESERVATION PLAN



SITE DATA

STRAP: 31-47-26-B4-00100.0050
SITE AREA: 88,683 S.F. (2.0 AC.)

ZONING: COMMERCIAL PLANNED DEVELOPMENT (C.P.D.)
LAND USE: INDUSTRIAL

EXISTING HERITAGE TREES

HERITAGE TREES LOCATED ON SITE (SEE ADJACENT GRAPHIC FOR ASSOCIATED TREE IDENTIFICATIONS) .

TREE #1: 39" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #2: 35" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #3: 27" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #4: 26" D.B.H. LIVE OAK TO BE REMOVED; BASED ON POOR TREE HEALTH CONDITION PER ARBORISTS REPORT (EXHIBIT ?)

TREE #5: 33" D.B.H. LIVE OAK TO BE REMOVED; BASED ON POOR TREE HEALTH CONDITION PER ARBORISTS REPORT (EXHIBIT ?)

TREE #6: 21" D.B.H. LIVE OAK TO BE REMOVED; BASED ON PROPOSED SITE FILL.

TREE #7: 37" D.B.H. LIVE OAK TO BE RETAINED.

TREE #8: 35" D.B.H. LIVE OAK TO BE RETAINED.

TREE #9: 19" D.B.H. LIVE OAK TO BE RETAINED.

EXISTING TREES TO BE REMOVED

Sabal Palm

Oak species

HERITAGE TREE MITIGATION

SIX HERITAGE TREES, LIVE OAK SPECIES TWENTY INCHES OR GREATER ARE TO BE REMOVED FROM THE DEVELOPMENT SITE. FOUR OF WHICH ARE BASED ON DEVELOPMENT IMPACTS FROM FILL AND REQUIRE MITIGATION. WHILE TWO, DESCRIBED ABOVE, REQUIRE NO MITIGATION DUE TO POOR HEALTH. SEE ARBORISTS REPORT EXHIBIT FOR SPECIFIC INFORMATION. PER BONITA SPRINGS LAND DEVELOPMENT CODE, SECTION 3-417 (b) (1) (b) (4) ; EACH HERITAGE TREE REMOVED MUST BE REPLACED WITH A TREE HAVING A MINIMUM HEIGHT OF TWENTY FEET (20') . FOUR REPLACEMENT TREES ARE REQUIRED WITH A MINIMUM HEIGHT OF 20'.

TREE PROTECTION

TREE PROTECTION BARRIER

#6 - 21" LIVE OAK

#8 - 35" LIVE OAK

#5 - 33" LIVE OAK

#7 - 37" LIVE OAK

#4 - 26" LIVE OAK

#3 - 27" LIVE OAK

#1 - 39" LIVE OAK

EXISTING SABAL PALM TO BE REMOVED (TYP)

#2 - 35" LIVE OAK

APPROXIMATE AREA OF EXISTING TREE CANOPY COVERAGE

#9 - 19" LIVE OAK

OAKLAND DRIVE

HERITAGE TREE REMOVAL AND PRESERVATION PLAN

SCALE 1" = 20'

0' 10' 20' 40' 60'

DMJA

DAVID M. JONES, JR. AND ASSOCIATES, INC.

LANDSCAPE ARCHITECTS AND PLANNERS

OAKLAND DR. C.P.D.

BONITA SPRINGS, FL

Public Information Meeting

HERITAGE TREE EXHIBIT

EX - 1

PROPOSED CHANGES TO CONDITIONS

2. The following limits apply to the project and uses:
   a. Schedule of Uses

Accessory Uses and Structures
Administrative Offices
ATM
Business Services, Group I & II
~~Caterers~~
Cleaning and Maintenance Services
Consumption on Premises, indoor only, in conjunction with a full-service restaurant or hotel/motel. Outdoor consumption requires a special exception (public hearing required)
Contractors and Builders Group I
Drive-through facility for any permitted use (requires Special Exception)
Entrance Gates and Gatehouses
Essential Service Facilities, Group I
Excavation, Water Retention
Fences, Walls
Health Care Facilities, Group I
Hotel/Motel (not to exceed 90 rooms)
~~Insurance Companies~~
~~Medical Office~~
~~Non-Store Retailers, Group I~~
Parks, Group I
Parking Lot, Accessory
Personal Services, Groups I, II, III & IV (excluding massage establishment or parlors, steam or turkish baths, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a health or beauty spa)
Rental or Leasing Establishments: Groups I and II (limited to indoor use only)
Restaurants, Group III
Schools, Commercial
Signs, in accordance with Chapter 6 Land Development Code
Specialty Retail Shops, Group II
Storage, Open as limited by Condition 8
Temporary/mobile office as limited by Condition 8
Temporary Uses
Mini-warehouse
Bonita Beach Road Corridor Overlay Interstate Zone Permitted Uses per LDC

Maximum Building Height:

Storage, Open	15'
Commercial/Office Industrial/Restaurant	45'/3 stories over parking
Hotel/Motel	55'/5 stories over parking
Maximum Lot Coverage:	~~58%~~ 40%
Minimum Open Space:	~~42%~~ 30%

3. Transportation conditions

   a. The developer is responsible for the costs and improvements of Oakland Drive from the southern property line to the northern property line as a site-related improvement. The applicant shall improve Oakland Drive ~~from 5' to the north of its driveway to the limits of its southern property line prior to local development order approval and occupancy of any use of the site~~ to a local private road standard. This entire segment of the roadway along the property's frontage must be completed as a part of any local development order with a permanent building consistent with LDC 3-531. A ~~5'~~ 6' wide sidewalk and minimum 1 bench or other streetscape amenity under a buffer shade tree shall be installed and completed prior to the certificate of completion for any phase of development and/or occupancy of the site.

   e. Trip cap. The total daily and peak hour trips of the combined uses will not exceed 1,099 vehicles per day (Average Daily Traffic – ADT) and 105 vehicles per hour (including pass-by trips).

   f. The County retains the right to modify the median opening at Oakland and Bonita Beach Road, if necessary, to maintain the safety and efficiency of the arterial street (Florida Statute 316.00 Powers of local authorities).

   g. At time of development order, the applicant will work with staff to include additional conditions related to the Bonita Beach Road Visioning, to the greatest extent feasibly possible, which will be incorporated into the development order.

      i. A cross access easement as depicted on the Master Concept Plan and consistent with the draft on file with this zoning case will be recorded upon approval of a development order including a building and the northern driveway.

4. Environmental Conditions

   a. The applicant must provide one hundred (100) percent native vegetation planting within all required buffers; and

   b. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage of the bottom of the basin at time of installation; and

   c. Per the Tree Advisory Board recommendation on October 8, 2018, the applicant must preserve the 3 ~~9~~ ~~Heritage~~ Live Oak Trees as identified on the MCP and must mitigate removal of 4 Heritage Trees and mitigate by replanting ~~another 4~~ trees, on site, of similar species or ecologic value with a minimum height of twenty feet (20' Ht.) at installation. ~~stamped received June 8, 2016.~~

5. Perimeter buffers

   a. In support of Deviation 2, the applicant shall install a 6' opaque fence 5' south of the property line and provide a modified 5' Type C enhanced buffer. Trees and shrubs shall be planted in the 5' strip between the opaque fence and the northern property line. The hedge must be a 36" hedge at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. The trees must be canopy trees such as oaks or mahoganies or a combination of canopy trees. For open storage use, the opaque fence or hedge or combination berm and opaque fence or hedge must provide an 8' continuous visual screen to residential. Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC 3.

   b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48" hedge (minimum 15 gallon container size) at time of installation and be maintained at 60" high, providing a continuous visual screen within one year after time of planting. For open storage use or roads, drives or parking within 125 feet of residential, an opaque fence, ~~or~~ hedge or combination berm and opaque fence or hedge must provide a 6' continuous visual screen to the street easement. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified for the eastern buffer consistent with the LDC.

8. Business Services Group II, Storage, Open, and Rental or Leasing Establishment uses

   a. All areas must comply with special setbacks for specific uses set forth in LDC Section 4-2014(D)(6) except as approved administratively by the City Manager or designee; and

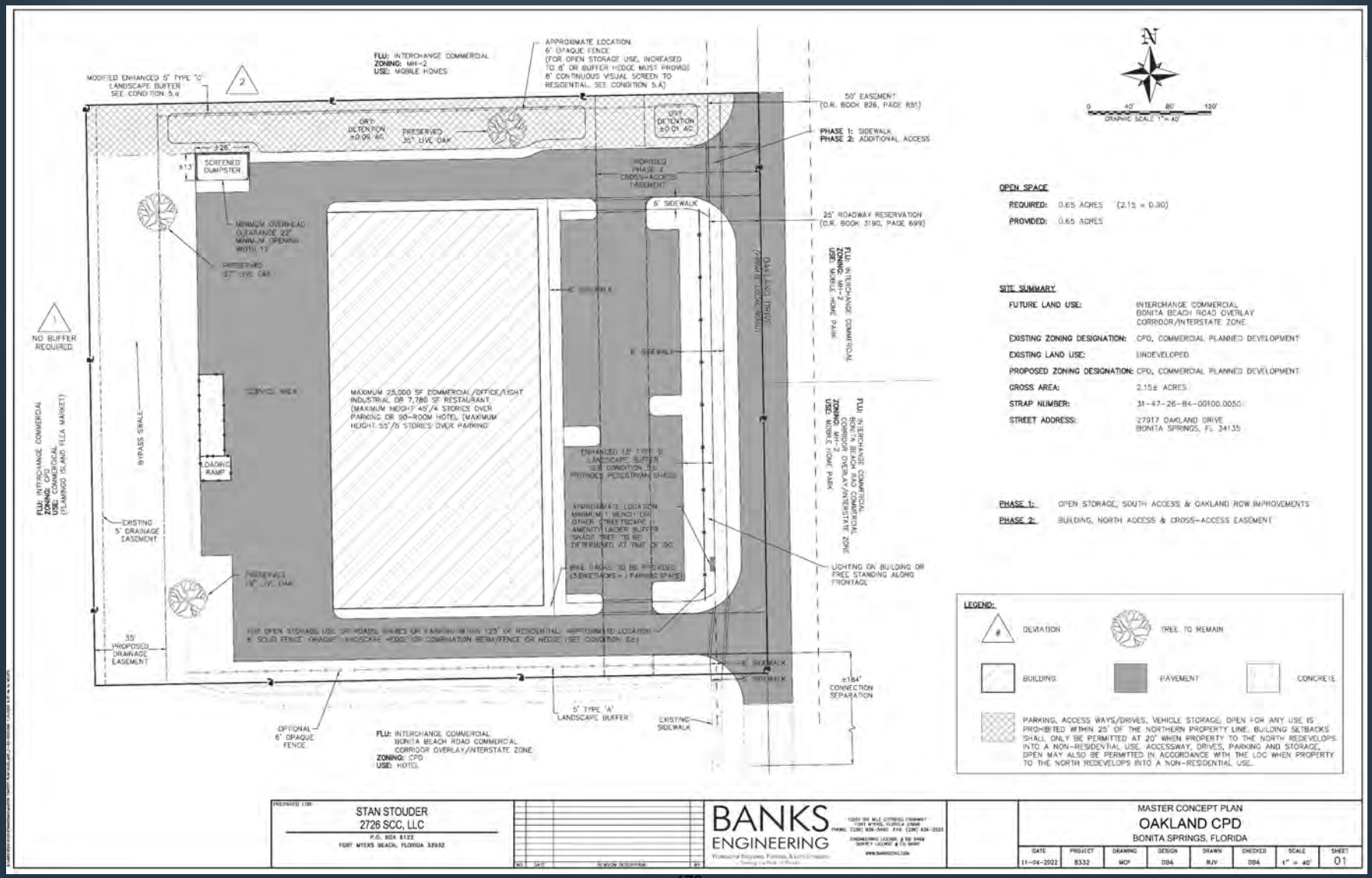
   b. In open storage areas, surface parking materials should be selected to effectively reduce the amount of pollution generated and remain consistent with water quality goals; and

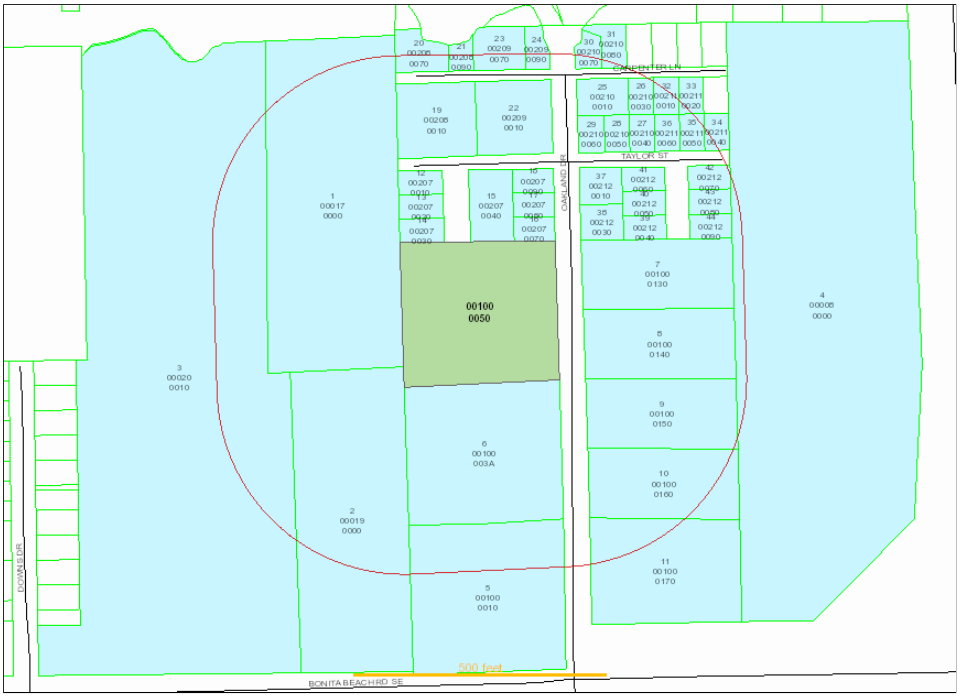
   c. Open storage of flammables and/or hazardous waste is prohibited; and

   d. Buffering and landscaping must be installed prior to any occupancy of the property. Buffering for this use must be either increased or open storage must be positioned in such a manner that there is no view of any open storage from Oakland Drive.

   e. Open storage~~, vehicle and equipment dealers,~~ and business services group II (with outdoor equipment and/or vehicle storage) is limited ~~to a period of no more than three years from the effective date of this ordinance~~ until a permanent Phase 2 use is established~~, regardless of the property's ownership; however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after the third anniversary of the ordinance all open storage uses shall terminate immediately~~.

PROPOSED MASTER CONCEPT PLAN





Date of Report: December 13, 2022

Buffer Distance: 375 feet Rerun

Parcels Affected: 44

Subject Parcel: **31-47-26-B4-00100.0050**

To change, add or remove subject parcels please change the parcel selection in GeoView

Click here to download the map image, mailing labels (Avery 5161) and CSV formatted information.

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
FIFM RE LLC 7007 EAST 88TH AVE HENDERSON CO 80640	**36-47-25-B3-00017.0000** ACCESS UNDETERMINED BONITA SPRINGS FL	E 286 FT OF NE 1/4 OF SE 1/4 OF SE 1/4	1
FIFM RE LLC 7007 EAST 88TH AVE HENDERSON CO 80640	**36-47-25-B3-00019.0000** 11998 BONITA BEACH RD SE BONITA SPRINGS FL 34135	PARL IN SE 1/4 OF SE 1/4 AS DESC OR 282/194 LESS OR 2021/479	2
FIFM RE LLC 7007 EAST 88TH AVE HENDERSON CO 80640	**36-47-25-B3-00020.0010** 11902 BONITA BEACH RD SE BONITA SPRINGS FL 34135	PARL LOC IN SE 1/4 OF THE SE 1/4	3
SCHROEDER WILLIAM E + 10800 SOUTHWEST HWY WORTH IL 60482	**31-47-26-B4-00008.0000** ACCESS UNDETERMINED BONITA SPRINGS FL	E 1/2 OF SW 1/4 OF SW 1/4 LESS I-75 R/W	4
ANABI REAL ESTATE DEVELOPMENT REAL ESTATE 1450 N BENSON AVE UPLAND CA 91786	**31-47-26-B4-00100.0010** 12030 BONITA BEACH RD SE BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 471 LOTS 1 + 2	5
BONITA SPRINGS HOTEL LLC 27991 OAKLAND DR BONITA SPRINGS FL 34135	**31-47-26-B4-00100.003A** 27991 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES MB 51 PG 471 LOTS 3 + 4	6
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00100.0130** 27966 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES MB 51 PG 470 LOT 13	7
SALDIVAR MARY ELLEN TR 27870 LIME ST BONITA SPRINGS FL 34135	**31-47-26-B4-00100.0140** 27974 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 470 LOT 14	8
BONITA LEE FLORIDA CO INC 622 DELAWARE AVE SAINT CLOUD FL 34769	**31-47-26-B4-00100.0150** 27986 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 471 LOT 15	9
BONITA-LEE FLORIDA CO INC 622 DELAWARE AVE SAINT CLOUD FL 34769	**31-47-26-B4-00100.0160** 27990 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES PB 51 PG 471 LOT 16	10
MCDONALDS CORP PO BOX 182571 COLUMBUS OH 43218	**31-47-26-B4-00100.0170** 27996/998 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND ACRES MB 51 PG 471 LOTS 17 + 18 LESS I-75 R/W	11
FUENTES MARY G PO BOX 503 BONITA SPRINGS FL 34133	**31-47-26-B4-00207.0010** 12000 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK.7 MB 51 PG 470 LOT 1	12
BESSE AVELINA 14320 SUNDIAL PL LAKEWOOD RANCH FL 34202	**31-47-26-B4-00207.0020** 12008 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 PB 51 PG 470 LOT 2	13
DEHERRERA ENRIQUETA C + PO BOX 3031 BONITA SPRINGS FL 34133	**31-47-26-B4-00207.0030** 12016 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 PB 51 PG 470 LOT 3	14
FUENTES MARY G PO BOX 503 BONITA SPRINGS FL 34133	**31-47-26-B4-00207.0040** 12038 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 PB 51 PG 470 LOTS 4 THRU 6	15
TORRES JUAN MONTES + PO BOX 3378 BONITA SPRINGS FL 34135	**31-47-26-B4-00207.0070** 27800 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 7 PB 51 PG 470 LOT 7	16
MIRELES RICHARD 27790 OAKLAND DR	**31-47-26-B4-00207.0080** 27790 OAKLAND DR	OAKLAND PARK TRAILER SITES BLK.7 MB 51 PG 470	17

BONITA SPRINGS FL 34135	BONITA SPRINGS FL 34135	LOT 8	
MIRELES RICHARD 27790 OAKLAND DR BONITA SPRINGS FL 34135	**31-47-26-B4-00207.0090** 27780 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 7 MB 51 PG 470 LOT 9	18
CLINECO 2 INCORPORATED 27101 LOST LAKE LN BONITA SPRINGS FL 34134	**31-47-26-B4-00208.0010** 12001 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 8 MB 51 PG 470 LOTS 1 THRU 6	19
CITY OF BONITA SPRINGS 9101 BONITA BEACH RD BONITA SPRINGS FL 34135	**31-47-26-B4-00208.0070** 12001 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 8 MB 51 PG 470 LOTS 7 + 8	20
CLINECO 2 INCORPORATED 27101 LOST LAKE LN BONITA SPRINGS FL 34134	**31-47-26-B4-00208.0090** 12015 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 8 MB 51 PG 470 LOT 9	21
IMPERIAL RIVER OAKS LLC 14511 OCEAN BLUFF DR FORT MYERS FL 33908	**31-47-26-B4-00209.0010** 27770 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 9 MB 51 PG 470 LOTS 1 THRU 6	22
IMPERIAL RIVER OAKS LLC 14511 OCEAN BLUFF DR FORT MYERS FL 33908	**31-47-26-B4-00209.0070** 12025 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK.9 MB 51 PG 470 LOTS 7 + 8	23
IMPERIAL RIVER OAKS LLC 14511 OCEAN BLUFF DR FORT MYERS FL 33908	**31-47-26-B4-00209.0090** 12045 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 9 MB 51 PG 470 LOT 9	24
LOPEZ LEONEL PO BOX 3391 BONITA SPRINGS FL 34135	**31-47-26-B4-00210.0010** 27761 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 10 PB 51 PG 470 LOTS 1 +2	25
GOMEZ PAZ PEDRO J PO BOX 748 BONITA SPRINGS FL 34133	**31-47-26-B4-00210.0030** 12076 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 10 PB 51 PG 470 LOT 3	26
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00210.0040** 12075 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 10 PB 51 PG 470 LOT 4	27
SAY SANTOS NAZARIO PEREZ 3553 BRINK CIR BONITA SPRINGS FL 34134	**31-47-26-B4-00210.0050** 12067 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 10 PB 51 PG 467 LOT 5	28
TORRES LAZARO PO BOX 3378 BONITA SPRINGS FL 34133	**31-47-26-B4-00210.0060** 27771 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 10 PB 51 PG 467 LOT 6	29
WEISS LORETTA S 14511 OCEAN BLUFF DR FORT MYERS FL 33908	**31-47-26-B4-00210.0070** 12057 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 10 MB 51 PG 470 LOT 7	30
WEISS LORETTA S 14511 OCEAN BLUFF DR FORT MYERS FL 33908	**31-47-26-B4-00210.0080** 12067 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 10 PB 51 PG 470 LOT 8	31
FOREMAN PETER 5830 SW 64TH AVE DAVIE FL 33314	**31-47-26-B4-00211.0010** 12086 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 11 PB 51 PG 470 LOT 1	32
BEACH ROAD & 29 LLC PO BOX 366748 BONITA SPRINGS FL 34136	**31-47-26-B4-00211.0020** 12096 CARPENTER LN BONITA SPRINGS FL 34135	OAKLAND TRAILER SITES TRACT 11 MB 51 PG 470 LOT 2	33
GALLAGHER GAVIN A 126 MILL RIVER RD SOUTH SALEM NY 10590	**31-47-26-B4-00211.0040** 12101 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 11 MB 51 PG 470 ALL LOT 4	34
BOTTCHER ANNE PO BOX 233 BONITA SPRINGS FL 34133	**31-47-26-B4-00211.0050** 12093 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK.11 MB 51 PG 470 LOT 5	35
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00211.0060** 12085 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 11 MB 51 PG 470 LOT 6	36
PATINO ARNULFO PO BOX 184 ESTERO FL 33929	**31-47-26-B4-00212.0010** 27781 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 12 PB 51 PG 470 LOT 1 + LOT PT 2	37
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00212.0030** 27801 OAKLAND DR BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 12 MB 51 PG 470 LOT 3 + S 1/2 LOT 2	38
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00212.0040** 12076 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 12 MB 51 PG 470 LOT 4	39
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00212.0050** 12072 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 12 PB 51 PG 470 LOT 5	40
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00212.0060** 12068 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITES BLK 12 MB 51 PG 470 LOT 6	41
JOHN P KINGSTON SR TRUST LLC PO BOX 1083 BONITA SPRINGS FL 34133	**31-47-26-B4-00212.0070** 12088 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRAILER SITE BLK 12 PB 51 PG 470 LOT 7	42
PATINO MARIA G + 12084 TAYLOR ST BONITA SPRINGS FL 34135	**31-47-26-B4-00212.0080** 12084 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PK TRLR SITES BLK 12 PB 51 PG 470 LOT 8	43
PATINO MARIA G + 12084 TAYLOR ST BONITA SPRINGS FL 34135	**31-47-26-B4-00212.0090** 12080 TAYLOR ST BONITA SPRINGS FL 34135	OAKLAND PARK TRLER SITES BLK 12 PB 51 PG 470 LOT 9	44

If you have a disability and the format of this document interferes with your ability to access some information, please contact us at (239) 444-6150 during regular business hours (8:00am-5:00pm, Monday-Friday), and we'll gladly assist.

CITY OF BONITA SPRINGS
Community Development Department
9220 Bonita Beach Road, Ste. 111
Bonita Springs, FL 34135
Phone: (239) 444-6150
email: permitting@cityofbonitaspringscd.org

MAILING NOTICES AFFIDAVIT

Property owners within 375 feet (or 500 feet in the case of on-premises consumption special exceptions) of the subject parcel(s) must be notified in writing of the proposed zoning action going before council within thirty CALENDAR (30) days of the initial Public Hearing. Property owners must be informed of their ability to participate in these hearings and/or given the opportunity to return a Citizen Response Form, should they have any comments or concerns regarding the matter. This affidavit must be returned assuring the following:

a. Affidavit for case # PD21-85799-BOS sent on December 16, 2022.
b. Names and addresses of property owners are those appearing on the latest tax rolls for Lee County.
c. The Zoning Board for land use adjustments and City Council public hearing dates, times, and locations of hearings that were provided in the notices.
d. All notices have been sent by first-class mail.

NOTE: AFTER THE NOTICES HAVE BEEN SENT, THE AFFIDAVIT OF THE MAILING NOTICES, 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.

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Megan Knight WHO ON OATH SAYS THAT HE/SHE HAS SENT 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:

ZONING APPLICATION CASE NUMBER: PD21-85799-BOS
SIGNATURE OF APPLICANT OR AGENT: Megan Knight
NAME (TYPED OR PRINTED): Megan Knight
SITE ADDRESS OR P.O. BOX: 10511 Six Mile Cypress Parkway
CITY, STATE & ZIP: Fort Myers, FL 33966

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me by means of physical presence ☒ or online notarization ☐,
this (day) 16 of (month) December, (year) 2022,
by (name of person making statement) Megan Knight.

Signature of Notary Public - State of Florida: Carrie M. Snyder
Name of Notary Typed, Printed, or Stamped: Carrie M. Snyder

Personally Known ☑ OR Produced Identification ☐
Type of Identification Produced: _____

NOTARY PUBLIC STATE OF FLORIDA
CARRIE M. SNYDER
MY COMMISSION # HH 232295
EXPIRES: February 22, 2026

This instrument Was Prepared By:

CROSS EASEMENT AGREEMENT

THIS CROSS EASEMENT AGREEMENT ("Agreement") made and entered into this____day of _____, 2022 **by 2726 SCC LLC, a Florida limited liability company ("Grantor"), whose address is 990 1st Avenue South, Ste. 201, Naples, Florida 34102 and _____ _____("Grantee") whose address is _____ _____.**

RECITALS

WHEREAS, Lee County Land Development Code (LDC) §10-285 establishes intersection spacing regulations providing for the public's health and safety; and

WHEREAS, the Grantor is the current titleholder of the property commonly known as 27971 Oakland Drive, Bonita Springs, Florida, having Folio ID# 31-47-26-B4-00100.0050 Florida, and legally described in attached Exhibit "A" ("Parcel A") and Grantee is the current titleholder of the property commonly known as 27800 Oakland Drive, Bonita Springs, Florida, having Folio ID# 31-47-26-B4-00207.0070 and legally described in attached Exhibit "B" ('Parcel B"); and

WHEREAS, as a condition of approval of a site development plan for Parcel A and in order to maintain compliance with Lee County Land Development Code (LDC) §10-285 the City of Bonita Springs, Florida requires that Grantor provide an ingress and egress easement to and for the benefit of Property B in order to maintain required distances between access points while still providing adequate ingress and egress to both Parcel A and Parcel B.

NOW, THEREFORE, for and in consideration of the premises, the sum of TEN DOLLARS ($10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the parties hereto agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.

2. Grantor does by these presents grant unto Grantee, his successors and assigns, to and for the benefit of Parcel B. a perpetual, non-exclusive, appurtenant easement over and across the "Access Easement" described in Exhibit "C", attached hereto and made a part hereof, which Access Easement shall run with the land as a burden on Parcel A and as a benefit to Parcel B for the purpose of access, ingress and egress, both vehicular and pedestrian.

3. Grantor, its successors and assigns, shall have the sole right to install improvements in the Access Easement in accordance with plans approved by the City of Bonita Springs, and shall be obligated to maintain in good condition and repair (making replacements when reasonably necessary) or cause to be maintained and kept in repair, at its sole cost and expense, the entry facilities constructed on the Access Easement.

4. The rights contained within this Agreement shall run with the land and inure to and be for the benefit of the Owner of Parcel B his successors and assigns, tenants, and subtenants, licensees, concessionaires, mortgagees in possession, customers and business invitees of such persons.

5. Whenever a transfer of ownership of any parcel takes place, the transferor will not be liable for a breach of this Agreement occurring after the date of the transfer.

IN WITNESS WHEREOF, the patties have caused this Cross Easement Agreement to be executed as of the day and year first above written.

STATE OF FLORIDA

COUNTY OF LEE

THE FOREGOING INSTRUMENT was acknowledge before me by □ physical presence or □ online notarization this_____ day of _____, 202__ by Stan Stouder, as Manager of 2726 SCC LLC LLC, who __is/are personally known to me or who ___has/have produced _____(type of ID) as identification.

_____
Notary Public – State of Florida
Printed Name_____
Commission No:_____
Expiration No:_____

South Florida Surveying Inc.
2421 23rd Street S.W. Naples, Florida 34117
Phone: (239) 348-1169 Facsimile: (239) 353-5941 sfsinc3516@aol.com
CERTIFICATE OF AUTHORIZATION #LB7624

LEGAL DESCRIPTION AND SKETCH – NOT A BOUNDARY SURVEY

LEGAL DESCRIPTION:

LOT 5 & 6, OAKLAND ACRES, AS SAME IS RECORDED IN MISC. BOOK 51 AT PAGE 471 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID LOTS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA THENCE NORTH 00°07'25" EAST, ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 599.00 FEET, TO THE POINT OF BEGINNING;

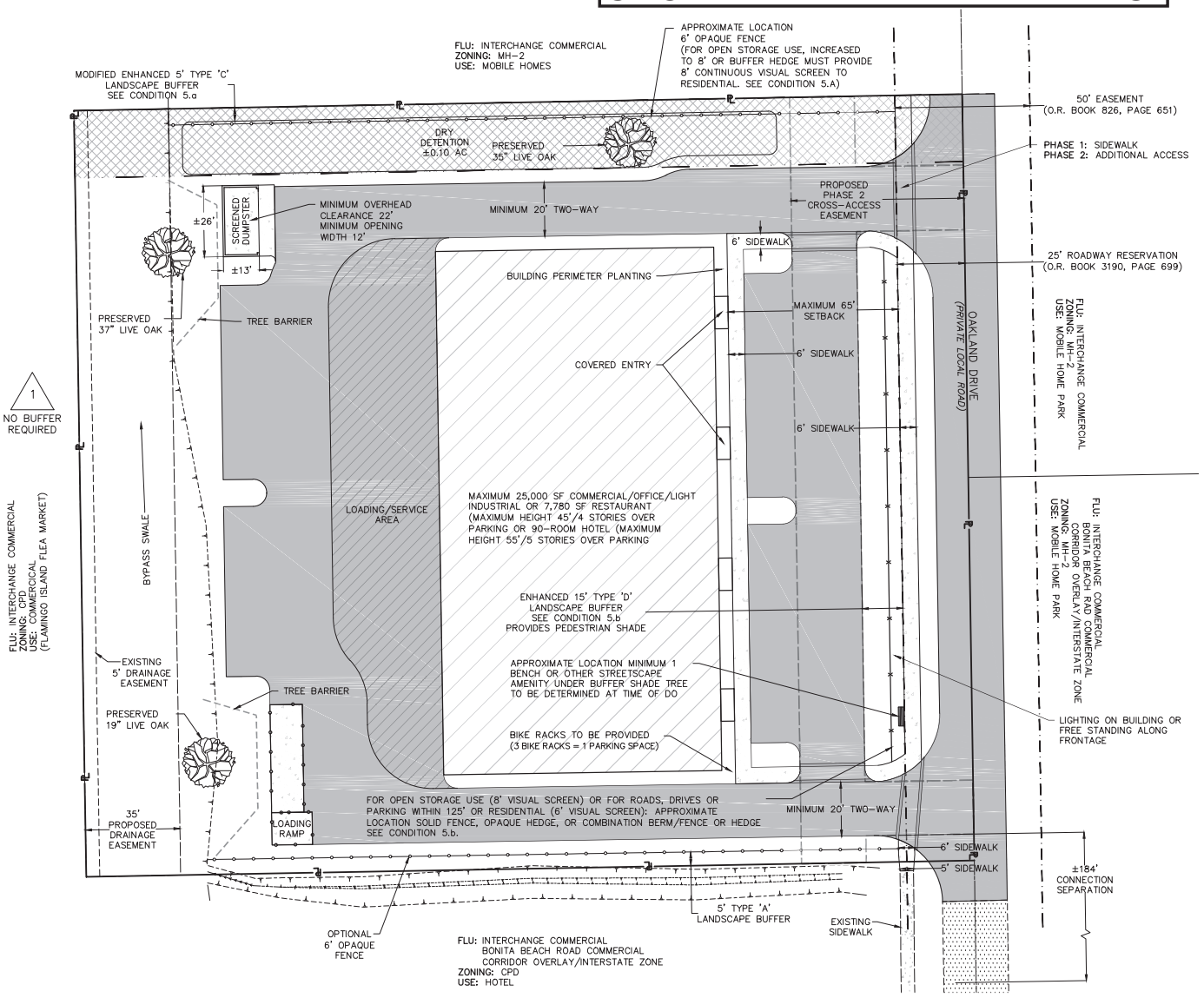
AND FROM SAID POINT OF BEGINNING, CONTINUE NORTH 00°07'25" EAST, STILL ALONG THE SAID WEST LINE OF SECTION 31, A DISTANCE OF 264.00 FEET,
THENCE EAST, A DISTANCE OF 329.27 FEET, MORE OR LESS, TO THE CENTERLINE OF THE 50 FOOT WIDE OAKLAND DRIVE;
THENCE SOUTH 00°08'50" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 264.00 FEET;
THENCE WEST, A DISTANCE OF 329.16 FEET, TO THE POINT OF BEGINNING.

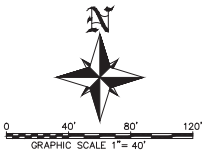
SUBJECT TO A 25 FOOT WIDE ROADWAY RESERVATION OVER AND ACROSS THE EASTERLY 25 FEET AND A 5 FOOT WIDE DRAINAGE EASEMENT OVER AND ACROSS THE WESTERLY 5 FEET THEREOF.

SAID PARCEL CONTAINS 2.15 ACRES TO CENTER LINE OF OAKLAND DRIVE.

SHEET TWO OF TWO
SEE SHEET ONE FOR SKETCH
PATH: \BOS_SPR\OAKLAND ACRES SKETCH

CROSS EASEMENT EXHIBIT "C"





OPEN SPACE

REQUIRED: 0.65 ACRES (2.15 x 0.30)

PROVIDED: 0.65 ACRES

SITE SUMMARY

FUTURE LAND USE:	INTERCHANGE COMMERCIAL BONITA BEACH ROAD OVERLAY CORRIDOR/INTERSTATE ZONE
EXISTING ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
EXISTING LAND USE:	UNDEVELOPED
PROPOSED ZONING DESIGNATION:	CPD, COMMERCIAL PLANNED DEVELOPMENT
GROSS AREA:	2.15± ACRES
STRAP NUMBER:	31-47-26-B4-00100.0050
STREET ADDRESS:	27917 OAKLAND DRIVE BONITA SPRINGS, FL 34135

PHASE 1: OPEN STORAGE, SOUTH ACCESS & OAKLAND ROW IMPROVEMENTS

PHASE 2: BUILDING, NORTH ACCESS & CROSS-ACCESS EASEMENT

LEGEND:

DEVIATION

TREE TO REMAIN

BUILDING

PAVEMENT

CONCRETE

PARKING, ACCESS WAYS/DRIVES, VEHICLE STORAGE, OPEN FOR ANY USE IS PROHIBITED WITHIN 25' OF THE NORTHERN PROPERTY LINE. BUILDING SETBACKS SHALL ONLY BE PERMITTED AT 20' WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE. ACCESSWAY, DRIVES, PARKING AND STORAGE, OPEN MAY ALSO BE PERMITTED IN ACCORDANCE WITH THE LDC WHEN PROPERTY TO THE NORTH REDEVELOPS INTO A NON-RESIDENTIAL USE.

PREPARED FOR:
STAN STOUDER
2726 SCC, LLC
P.O. BOX 6122
FORT MYERS BEACH, FLORIDA 33932

NO.	DATE	REVISION DESCRIPTION	BY

BANKS ENGINEERING
Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida
10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33966
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

MASTER CONCEPT PLAN
OAKLAND CPD
BONITA SPRINGS, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
01-23-2023	8332	MCP	DBA	RJV	DBA	1" = 40'	01

APPLICATION FOR REQUEST FOR CONTINUANCE, DEFERRAL, WITHDRAWAL, OR REHEARING

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

Check One: ☒ Continuance ☐ Deferral ☐ Withdrawal ☐ Rehearing ☐ Withdrawal of Administrative Appeal

If a deferral or continuance is requested, please indicate:

Length of time: 30 days

From: X Zoning Board ____ City Council

1. Date of Scheduled Hearing: 1/17/2023
2. Applicant/Project Name: 2726 SCC, LLC/Oakland CPD Amendment
3. Tracking/Hearing/Application Number: PD21-85799-BOS
4. Date Decision was Rendered: N/A
5. Type of Application (Check One):

   ☐ Rezoning ☐ Special Exception ☐ Variance ☒ Other
6. Reason for request (If rehearing is requested):

Megan Knight — 1/13/2023

Signature of applicant or authorized agent — Date

Megan Knight, Banks Engineering, Authorized Agent

Name (Printed) of applicant or authorized agent

10511 Six Mile Cypress Pkwy, Fort Myers, FL 33966

Address

STATE OF FLORIDA
COUNTY OF LEE

The following instrument was acknowledged before me this 13th day of January, 2023 by Megan Knight who is personally known to me or produced _____ as identification.

Signature of Notary Public — Jennifer M. Sheppard

Printed Name of Notary Public

JENNIFER M. SHEPPARD
MY COMMISSION # HH 154622
EXPIRES: November 16, 2025
Bonded Thru Notary Public Underwriters

CITY OF BONITA SPRINGS
COMMUNITY DEVELOPMENT DEPARTMENT
NOTICE OF PUBLIC HEARING
APPLICATION: PD21-85799-BOS

This is a courtesy notice of a proposed zoning action within 375 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?pageId=13788499

Zoning Board of Adjustments:	**City Council:**
January 17th, 2023 at 9:00am (Tentative) Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135	February 15th, 2023 at 9:00am (Tentative) Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135 March 1st, 2023 at 5:30pm (Tentative) Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135

CASE NUMBER: PD21-85799-BOS

CASE NAME: Oakland Commercial Planned Development

REQUEST: A request to amend Zoning Ordinance 16-07 for the Oakland Commercial Planned Development, with the addition of a master concept plan, amended conditions and an amended schedule of uses.

LOCATION: The subject property is located at 27971 Oakland Dr, Bonita Springs FL 34135. STRAP: 31-47-26-B4-00100.0050.

The City of Bonita Springs will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income, or marital status. To request an ADA-qualified reasonable modification at no charge to the requestor, please contact Lisa Roberson by calling (239) 949-6262 at least 48 hours prior to the meeting.

If a person decides to appeal a decision made by the Council on any matter at this meeting, such person must have a verbatim record of the proceeding to include the testimony and evidence upon which 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
mzizzo@cityofbonitaspringscd.org

Support _____ Oppose _____

Application: PD21-85799-BOS: Oakland Commercial Planned Development

_____
_____
_____
_____
_____
_____

DATE: _____
NAME: _____ PHONE: _____
ADDRESS: _____ CITY/STATE/ZIP: _____

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 a 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.

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 # PD21-85799-BOS must be posted by January 2, 2023.

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

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Megan Knight 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:

Megan Knight
SIGNATURE OF APPLICANT OR AGENT

Megan Knight, Banks Engineering
NAME (TYPED OR PRINTED)

10511 Six Mile Cypress Parkway
ST. OR P.O. BOX

Fort Myers, FL 33966
CITY, STATE & ZIP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 29 day of December, 2022, by Megan Knight, personally known to me or who produced _____ as identification and who did/did not take oath.

JENNIFER M. SHEPPARD
MY COMMISSION # HH 154622
EXPIRES: November 16, 2025
Bonded Thru Notary Public Underwriters

Signature of Notary Public

Jennifer M. Sheppard
Printed Name of Notary Public

My Commission Expires:
(Stamp with serial number)

December 19, 2022

City of Bonita Springs
Community Development Department
Attn: Mary Zizzo
9220 Bonita Beach Rd., Suite 109
Bonita Springs, FL 34135

Dear Board:
I am the owner of lot 2 and lot 3 addressed as 12008 and 12016 Taylor St. Bonita Springs, FL. It is directly adjacent to the north of 27971 Oakland Drive. I am in favor and support City Council's approval of Oakland CPD Amendment PD21-85799-BOS Bonita Springs, FL 34135.

Mr. Stouder graciously worked with my family to accommodate delivery of my mother's mobile home through his 27971 parcel in 2018. His willingness to assist and allow not only access but temporary removal of a portion of his fence helped my mother and conveys the nature of his desire to be a good neighbor and for improvements in the area.

My support is also based on these positive attributes:

- Approval of this CPD greatly improve the overall aesthetic of our neighborhood
- The subsequent development of any portion of the pothole laced Oakland Dr will allow for safer and easier access to all residents on Oakland drive as well as to the city's kayak launch at the end of Oakland.
- The CPD fencing and buffering requirement will further enhance specifically the aesthetic of this never improved vacant parcel.
- The installation of a sidewalk will improve my mother and her neighbor's safety and appearance of the street.
- Once approved and improved it may start other positive economic improvements to this interstate area.

The approval of this proposed development will dramatically improve this area and has my and my mothers support.

Thank you,

Avelina Besse
(239)777-5794 cell

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

Support ✓ Oppose _____

Application: PD21-85799-BOS: Oakland Commercial Planned Development

I am in full support of the proposed improvements. The plan will help greatly improve the safety, access and quality of life for my mother and all the residents of Oakland Park.

DATE: 12-19-22
NAME: Avelina Besse PHONE: 239-777-5794
ADDRESS: 14320 Sundial Pl CITY/STATE/ZIP: Lakewood Ranch, FL 34202

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 a 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.

Please confirm you got this by email.
Baileygdead@yahoo.com

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

Support _____ Oppose X NIMBY

Application: PD21-85799-BOS: Oakland Commercial Planned Development My Concerns are the Oakland Com. PD will adversely affect the lands directly north and create an Bonita Springs Slum and Wasteland with horrible conditions The PD-21-85799-BOS be made subject to a study of the 375 area radius streets and drainage and Social Impact of Slum creation and subject to that blacktop not end at the proj. site but all DIRT Roads with sidewalks and Sewage Systems up to the City Imperial River Parks This project will develop one parcel and destroy the area adjacent. God Bless Us

DATE: 12/18/22
NAME: Peter Robert PHONE: cell 954-588-6775
ADDRESS: Carpenter Lane CITY/STATE/ZIP: BS. FL
Email: Baileygdead@Yahoo.com

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.

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NAME: _____ PHONE: _____
ADDRESS: _____ CITY/STATE/ZIP: _____

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

Support ✓ Oppose _____

Application: PD21-85799-BOS; Oakland Commercial Planned Development

I am in full support of the proposed improvements. This plan will, of course greatly improve the safety, access and quality of life for all involved, tenants, & owners of said residents of Oakland Drive - (PARK).

DATE: 1-13-2023
NAME: MARY ELLEN SALDIVAR PHONE: 239-287-4133
ADDRESS: 27870 Lime St. CITY/STATE/ZIP: Bonita Spgs, FL 34135

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.

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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 a 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.

MARY ELLEN SALDIVAR
27870 LIME STREET
BONITA SPRINGS, FL 34135
239-287-4133

JANUARY 13, 2023

CITY OF BONITA SPRINGS
COMMUNITY DEVELOPMENT DEPARTMENT
ATT: MARY ZIZZO
9220 BONITA BEACH RD., SUITE 109
BONITA SPRINGS, FL 34135

Dear Board:
I am owner of 27974 Oakland Drive, Bonita Springs, and Florida 3413. It is directly adjacent to my property. I am in favor and support City Council's approval of Oakland CPD Amendment PD21-85799-BOS
Bonita Springs, FL 34135.

Mr. Stouder graciously worked with me with any on coming problems (situations) that I have had.

My support is also based on these positive attributes:

Approval of this CPD greatly improve the overall I aesthetic of our neighborhood
The subsequent development of any portion of the potholes laced Oakland Drive
Will allow for safer and easier access to all residents on Oakland drive as well as to the city's Kayak launch at the end of Oakland drive.
The CPD fencing and buffering requirements will further enhance specifically the aesthetic
Of this never improved vacant parcel.
The installation of a sidewalk will improve my property and our safety appearance of the street.
Once approved and improved it may start other positive economic improvements to this Interstate area.

The approval this proposed development will dramatically improve this area and has my support.

Thank you in advance,

Mary Ellen Saldivar

Copy

This was sent to the City of Bonita Springs Community Development Department.

Attn: Mary Zizzo

FISCHLER
PROPERTY COMPANY

April 20th, 2023

RE: 27971 Oakland Dr, Bonita Springs, FL 34 135

Bonita Springs City Council or whom it may concern,

I am reaching out to speak in support of the rezoning application for the property located at 27971 Oakland Dr, Bonita Springs, FL.

I am working with a client and local business owner who has had interest in leasing this property from the owner for well over 14+ months. They have a locally owned and operated landscaping business that has been operated in Lee County since 1976.

Finding suitable sites that not only have any proximity to the communities they serve, but further have the allowed Zoning in place, has been a nearly impossible task. We have searched for well over a year with this site being one of the only available and suitable sites along this corridor.

We have been patiently waiting as the Owner has pursued this rezoning endeavor to allow for their use to operate here. In summary, we are hopeful that council approves this site as the dire need for appropriate commercial properties to operate a business with ample open storage is becoming a need that our area has simply not planned for. Please see our bulleted notes below to further summarize our support of this rezoning:

- Open storage is much needed to serve the citizens of Bonita and is not a readily available zoning district today
- Approving the zoning application at exit 116 and I-75 will reduce traffic on BBR by crews every morning being able to get fuel and food already at this exit; with immediate access to I-75 directly
- Allowing companies to operate closer to their communities and employment base

They are ready to occupy immediately and we hope that City Council unanimously approves this application.

Sincerely,

Max Molloy

(239)-848-2050
Mcm@fischlerco.com
Fischler Property Company

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 23 - __

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST TO AMEND ZONING ORDINANCE 16-07 FOR THE OAKLAND COMMERCIAL PLANNED DEVELOPMENT, WITH THE ADDITION OF A MASTER CONCEPT PLAN, AMENDED CONDITIONS AND AN AMENDED SCHEDULE OF USES; LOCATED AT 27971 OAKLAND DRIVE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, 2726, LLC has filed an application to request to Amend Zoning Ordinance 16-07 for the Oakland Commercial Planned Development, with the addition of a master concept plan, amended conditions and an amended schedule of uses; and

WHEREAS, the subject property is located at 27971 Oakland Dr., Bonita Springs, FL 34135. STRAP: 31-47-26-B4-00100.0050, and as more particularly described in Exhibit "A" hereto; and

WHEREAS, a Public Hearing was advertised and heard on February 21, 2023 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board"), who gave full consideration to the evidence available and recommended approval (7-0) of the applicant's request and gave full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all interested parties. The Staff Report prepared by Community Development, and evidence submitted at the Zoning Board hearing is on file with the City Clerk; and

WHEREAS, the case was presented for First Reading for the City Council at their March 15, 2023, meeting; and

WHEREAS, City Council at their April 5, 2023, meeting considered the record of the Zoning Board on Case PD21-85799-BOS, and gave full consideration of the Staff Recommendation, the evidence and testimony.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bonita Springs, Lee County, Florida:

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request to amend Zoning Ordinance 16-07 for the Oakland Commercial Planned Development, with the addition of a master concept plan, amended conditions and an amended schedule of uses; showing additions by <u>underlining</u> and elections by ~~strikethrough~~ as provided below:

A. Conditions:

1. The development of this project must be consistent with the Master Concept Plan entitled "Oakland CPD," prepared by ~~Q. Grady Minor and Associates, P.A. stamped received June 8, 2016~~ Banks Engineering dated January 23, 2023, (Exhibit B), except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of local development order approval. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary

   The total gross floor area may not exceed 25,000 square feet of commercial/light industrial uses, a 7,780 square foot restaurant, or a 90-room hotel. This request approves open storage as a permitted use for a set duration, subject to conditions.

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

   a. Schedule of Uses
   ~~Accessory Uses and Structures~~
   ~~Administrative Offices~~
   ~~ATM~~
   ~~Business Services, Groups I and II~~
   ~~Caterers~~
   ~~Cleaning and Maintenance Services~~
   Consumption on Premises, Indoor only, in conjunction with a full-service restaurant or micro-brewery. Outdoor consumption requires a special exception (public hearing required)
   ~~Contractors and Builders, Groups I~~
   Drive-through facility for any permitted use (requires Special Exception)
   ~~Entrance Gates and Gatehouse~~
   ~~Essential Service Facilities, Group I~~
   ~~Excavation, Water Retention~~
   ~~Fences, Walls~~
   Hotel/Motel (not to exceed 90 rooms)
   ~~Insurance Companies~~
   ~~Non-Store Retailers, Group I~~
   ~~Parks, Group I~~
   ~~Parking Lot, Accessory~~
   ~~Personal Services, Groups I, II, III & IV (excluding massage establishment or parlors, steam or Turkish baths, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a health or beauty spa)~~
   Rental or Leasing Establishments: Groups I and II (limited to indoor use only)
   ~~Restaurants, Group III~~

~~Schools, Commercial~~
~~Signs, in accordance with Chapter 6 of the Land Development Code~~
~~Specialty Retail Shops, Group II~~
Storage, Open, as limited by Condition 8
~~Temporary/mobile office as limited by Condition 8~~
Temporary Uses
Mini-warehouse
Bonita Beach Corridor Overlay Interstate Zone Permitted Uses per the Land Development Code

b. Site Development Regulations

Minimum Area and Dimensions:

Lot Area:	20,000 S.F.
Lot Depth:	100’
Lot Width:	100’

Minimum Setbacks:

Street:	~~Variable, according to the functional classification of the street or road (LDC Section 1893 et seq)~~20*
Side yard:	0 feet15 feet~~20’/25’*~~
Rear yard:	20 feet~~25’~~

~~*In support of Deviation 2, parking, access ways/drives, vehicle storage, and/or storage, open for any use is prohibited within 25' of the northern property line. Building setbacks shall only be permitted at 20' when property to the north redevelops into a non-residential use. Accessway, drives, parking and storage, open may also be permitted in accordance with the LDC when property to the north redevelops into a non-residential use.~~Maximum 25’, LDC §4-899, Notes 2 & 5, as amended.

Maximum Building Height:

Storage, Open	15’
Commercial/Office Industrial/Restaurant	45’/3 stories over parking
Hotel/Motel	55’/5 stories over parking

Maximum Lot Coverage: ~~58%~~ 40 percent

Minimum Open Space: ~~42%~~ 30 percent

3. Transportation Conditions

a. The developer is responsible for the costs and construction of improving Oakland Drive to current local road standards, ~~and improvements of Oakland Drive~~ from the northern property line ~~5' to the north of its driveway~~ to the ~~limits of its~~ end of existing pavement at the southern property line to a local, private road standard, prior to local development order completion ~~approval~~ and occupancy of any use of the site~~to a local private road standard~~. ~~This entire segment of the roadway along the property's frontage must be completed as a part of any local development order with a permanent building consistent with LDC 3-531.~~ A ~~5~~6' wide sidewalk and minimum one (1) bench or other streetscape amenity under a shade structure or shade canopy tree is shall be installed and completed prior to the certificate of completion for any phase of development and/or occupancy of the site.

b. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the City of Bonita Springs Land Development Code may be required to obtain local development order approval; and

c. The Developer must comply with concurrency requirements (all conditions required by the Bonita Springs Comprehensive Plan and the Land Development Code) in order to obtain a local development order; and

~~d. At time of local development order application, the developer shall submit a Traffic Impact Statement that includes the following analysis, in addition to the City of Bonita Springs Traffic Impact Statement Guidelines:~~

~~i. A Project Trip Distribution figure generated by percentage and a Peak Hour Project Traffic Assignment figure (including AM and PM peak hour turning movements) and peak hour directional trips along Bonita Beach Road.~~

~~Secondary Links- If the directional peak hour project trips assigned to a direct link equal or exceed 2% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the adjacent roadway segments. The adjacent roadway segments to the direct link shall include both segments on either end of the direct link and any segments of roadways that intersect the direct link. The adjacent roadway segments shall be referred to as Secondary Links.~~

~~Additional Links - If the directional peak hour project trips assigned to any secondary link equal or exceed 2% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the secondary link. These adjacent roadway segments shall be referred to as Additional Links.~~

~~If the directional peak hour project trips assigned to any additional link equal or exceed 3% of the directional peak hour capacity of the level of service standard for that segment, then the project trips shall be assigned to the next roadway segment(s) adjacent to the additional link. These adjacent roadway segments shall also be referred to as Additional Links.~~

~~Directional peak hour project trips shall continue to be assigned in this manner until the value of directional peak hour project trips is less than the directional peak hour capacity of the level of service standard for that segment. When the percentage is less than 3% of the capacity, then the project trip assignment will stop after that link has been assigned.~~

~~ii. The AM and PM peak hour turning movements for the intersection of Bonita Beach Road and Oakland Drive. These volumes should include both background and project trips, which clearly distinguish between background trips and site generated trips.~~

~~iii. The Applicant shall analyze and conduct a traffic signal operations analysis for the development's impacts on the intersections at Bonita Beach Road and Oakland Drive, and shall address mitigation through conditions to the local Development Order mitigation.~~

e. Trip cap. The total daily and peak hour trips of the combined uses will not exceed 1,099 vehicles per day (Average Daily Traffic- ADT) and 105 vehicles per hour (including pass-by trips).

f. The County retains the right to modify the median opening at Oakland and Bonita Beach Road, if necessary, to maintain the safety and efficiency of the arterial street (Florida Statute 316.00 Powers of local authorities).

g. At time of <u>local</u> development order, the Applicant will work with staff to include additional conditions related to the ~~Bonita Beach Road Visioning and the~~ <u>Bonita Beach Road Corridor Overlay</u>, ~~to the greatest~~

~~extent feasibly possible,~~ which will be incorporated into the local development order.

i. A cross access easement as depicted on the Master Concept Plan attached herein, ("Exhibit D") will be recorded upon approval of a local development order including a building and the northern driveway.

4. Environmental Conditions

a. The Applicant must provide one hundred (100) percent native vegetation plantings within all required buffers; and

b. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that include native wetland plants (minimum one gallon container size) providing 50% coverage of the bottom of the basin at time of installation; and

c. Per the Tree Advisory Board recommendation on October 8, 2018, the Applicant must preserve ~~9~~3 ~~Heritage~~ Live Oak Trees, as identified on the MCP and must mitigate removal of 4 Heritage Trees and mitigate by replanting four (4) trees on site, of similar species or ecological value with a minimum height of twenty feet (20') at installation ~~stamped received June 8, 2016~~.

~~d. The Applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water quality treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.~~

e. Any use with open storage and/or a business services group II use (with outdoor equipment and/or vehicle storage) that contains potential pollutants such as oil, greases and gasoline shall be required at a minimum to provide additional safeguards at time of local development order, which may include a wash out station, a maintenance provision to keep oil and gas absorbent material on-site for accidental spills, and proper storage and containment of materials in accordance with Florida Friendly Yards and Florida Department of Environmental Protection.

5. Perimeter *B*~~b~~uffers

a. ~~In support of Deviation 2, t~~The applicant shall install a six (6) foot opaque fence five (5) feet south of the northern property line and a

modified five (5) foot Type “C” enhanced buffer. Trees and shrubs shall be planted in the 5’ strip between the opaque fence and the northern property line. The hedge must be a 36” hedge at time of installation and be maintained at 60” high, providing a continuous visual screen within one year after time of planting. The trees must be canopy type trees, such as oaks or mahoganies, or a combination of canopy trees. For the open storage use, the opaque fence or hedge or combination berm and opaque fence or hedge must provide an eight (8) foot continuous visual screen to residential. Should the property to the north redevelop with non-residential uses, buffering requirements may be modified for the northern buffer consistent with LDC Chapter 3.

b. To protect the residential properties across Oakland Drive, the applicant shall enhance the Type D hedge row with a 48” hedge (minimum 15-gallon container size) at time of installation and be maintained at 60” high, providing a continuous screen within one year after time of planting. For open storage use, the Applicant must provide an eight (8) foot continuous visual screen along the street easement. For roads, drives or parking within 125 feet of residential, an opaque fence, hedge or combination berm and opaque fence or hedge not less than six (6) feet in height shall be provided. Should the property to the east redevelop with non-residential uses, buffering requirements may be modified to the eastern buffer consistent with the LDC.

c. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that include native wetland plants (minimum one gallon container size).

d. In support of Deviation 1, the existing vegetated banks along the western property line shall be maintained. Any exotic removal that results in loss of the native vegetation along these banks shall be replaced and maintained with native vegetation for a low and mid-story buffer.

6. Flood Regulations

~~a. At the time of local development order application for any site grading work, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on adjacent properties due to drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basin areas; and (2) hydrologic and hydraulic calculations for the 5, 25, and 100-~~

~~year design storm events in order to establish existing baseline conditions.~~

b. Development must be consistent with the local, State, and Federal regulations for development within any floodways, flood plains, or properties designated that will be affected by a tropical storm event.

7. Parking

a. Final parking ratios shall be determined at time of a local development order consistent with the Land Development Code (LDC) for the uses requested.

b. Parking is prohibited within 25' of the northern property line until the property to the north redevelops into a non-residential use.

c. Parking within the Oakland Drive right-of-way is prohibited.

8. Business Services, Group II (<u>with outdoor equipment and/or vehicle storage</u>), Storage, Open, and Rental or Leasing Establishment uses.

a. Final parking ratios shall be determined at time of a local development order consistent with the Land Development Code (LDC) for the uses requested.

b. In open storage areas, surface parking materials should be selected to effectively reduce the amount of pollution generated and remain consistent with water quality goals; and

c. Open storage of flammables and/or hazardous waste is prohibited; and

d. Buffering and landscaping must be installed prior to any occupancy of the property. Buffering for this use must be either increased or open storage must be positioned in such a manner that there is no view of any open storage from Oakland Drive.

~~e.~~ Open storage~~, vehicle and equipment dealers,~~ and business services group II (with outdoor equipment and/or vehicle storage) is <u>further</u> limited <u>as follows:</u> ~~to a period of no more than three years from the effective date of this ordinance, regardless of the property's ownership: however, 2726 SCC LLC and its tenants may continue an existing open storage use beyond the third anniversary of this ordinance for an additional period of no more than two years if they obtain administrative approval, which will be dependent on whether redevelopment occurs to the western border of the parcel (mobile homes/Saldivar). Should the ownership of the property change after~~

~~the third anniversary of this ordinance all open storage uses shall terminate immediately.~~

i. Applicant must submit a local development order application within 120 days from adoption of the zoning ordinance.
ii. Applicant has 90 days to respond to development order request for additional information (RAI) comments.
iii. Applicant must obtain local development order approval within 12 months from the effective date of this zoning ordinance.
iv. Use is permitted for a period of no more than 65 months from local development order approval date. After such date, all open storage uses shall cease and active USE permits for open storage shall be revoked. Indoor storage, as defined, is permitted when accessory to a permitted use and which is contained wholly within a building designed in accordance with the LDC Chapter 3, Article IV.
v. Maximum height of open storage is 15 feet.
vi. Storage of 53-foot tractor-trailers is prohibited.
vii. No banners on boom trucks are permitted.
viii. A mobile sales office may be permitted during the open storage period, provided it meets LDC Chapter 3, Article IV.
ix. Consistent with the LDC Section 4-2073(b)(2), storage areas shall be kept in a sightly and dust-free manner and shall comply with other requirements of this ordinance.
x. Drive aisles shall be paved in accordance with the LDC.

f. Diesel engines may not idle for more than 5 minutes at or on the site, with appropriate signage informing customers of this condition.

g. The storage, chipping, or mulching of landscape material is prohibited. The storage of pre-packaged palletized material is permitted, consistent with the Fire Code.

h. Hours of operation for this use is limited from 7:00 am to 7:00 pm, from Monday through Saturday. Activities related to this use on Sundays or before or after hours is prohibited.

9. Outside speaker systems, loud speakers, or public address systems for any use are prohibited.
10. ~~Consumption on premises requests in this CPD shall be reviewed individually as regulated by LDC, or through other approval processes as may be required by future regulations.~~

11. ~~Should the property be developed as a hotel/ motel, the property development regulations contained for a conventional zoning in LDC §4-1529, excluding subsection (4)d of this section.~~

12. ~~Buildings exceeding 55 feet in height must maintain additional building separation as regulated by LDC Section 4-1874(3).~~

13. ~~The development must comply with the commercial building lighting standards found in the LDC, Chapter 3. Lighting for buildings along the property lines that abut residential shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.~~

14. ~~All development must comply with the commercial design standards found in the LDC, Chapter 3. Mini-warehouse, and industrial uses shall comply with the commercial design standards.~~

15. ~~The development must comply with the sign code found in the LDC, Chapter 6.~~

16. ~~Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.~~

17. All development and uses must comply with the City's Noise Control Ordinance.

18. The developer will make every effort to incorporate principles for its buildings through the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) and/or Florida Green Building Coalition program, standards for commercial building structures, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficiency fixtures and appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.

19. 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 deviation approved as part of this planned development.

20. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.

B. Deviations:

~~1. Deviation 1 is approved, granting relief from LDC §3-418(0)(3) requiring a Type "A" buffer (5' wide) along the west property line to permit no buffer at that location.~~

~~2. Deviation 2 is approved, granting relief from LDC §3-418(0)(6) requiring a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less than 25 feet from the property line with a Type C buffer plantings to permit a Type "A" (5' wide) with no wall at that location, as conditioned in Condition 5a.~~

1. Deviation (1) requests relief from LDC Section 3-418(d)(3), which requires a Type “A” buffer (5’ wide) along the west property line for commercial adjacent to commercial, to provide no buffer, subject to condition 5.d.

SECTION TWO: EFFECTIVE DATE

This Ordinance shall take effect immediately upon of adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 5th day of April, 2023.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:	Carr	Corrie
	Purdon	Quaremba
	Forbes	Steinmeyer
	Gibson	

Date filed with City Clerk: _____

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-091
May 3, 2023

REQUESTED MOTION: A ZONING RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR A SPECIAL EXCEPTION REQUEST TO ALLOW A CONDOMINIUM WAREHOUSE, PUBLIC USE FACILITY ON A PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898; LOCATED AT 28010/020 PERFORMANCE LANE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

REQUESTOR: Mary Zizzo, Esq., AICP, Community Development

AGENDA: Public Hearing

STRATEGIC PRIORITY: N/A

BACKGROUND: The request is for a special exception to allow for a motor condominium facility on property located within the Commercial Zone of the Bonita Beach Road Corridor Overlay at 28010/020 Performance Lane.

Staff reviewed the Applicant's narrative statement, detailed site plan, proposed cross-sections, and traffic impact statement for consistency with the special exception provisions.

On April 18, 2023, the Zoning Board heard the request and voted unanimously to approve the application, as conditioned by staff, with no suggested modifications. The Applicant agrees with the proposed conditions.

STAFF RECOMMENDATION: Approve as conditioned by staff.

ATTACHMENTS:

1. Zoning Board Meeting Minutes, April 18, 2023
2. Draft Resolution
3. Staff Report with Site Plan, and Proposed Cross-Sections

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	John Dulmer

City of Bonita Springs
Board for Land Use Hearings & Adjustments
and Zoning Board of Appeals

Meeting Minutes
Tuesday, April 18, 2023
9 a.m.

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I. CALL TO ORDER

Chairman Anthony Rascio called the meeting to order at 9:00 A.M.

II. INVOCATION

Invocation provided by Board Member Russ Winn.

III. PLEDGE OF ALLEGIANCE

Board Member Gary Gambrell led in the Pledge of Allegiance.

IV. ROLL CALL

The City Clerk called the roll:

Present 6 - Chairman Rascio, Board Members Galloway, Winn, Gambrell, Benson and Board Member Hershenson (Hershenson left the meeting at 9:58 a.m.)

Excused 1 – Board Member Waterhouse

V. APPROVAL OF MINUTES: February 21, 2023

Board Member Benson motioned to approve the minutes, Second by Board Member Herschensohn; the motion carried with six in favor and one absent.

VI. PUBLIC COMMENT

Chairman Rascio called for public comments; however, no one came forth.

VII. PUBLIC HEARINGS

EACH CASE WILL INCLUDE A PUBLIC COMMENT PERIOD AT THE CONCLUSION OF THE APPLICANT AND STAFF PRESENTATION

City Attorney Rooney swore in all those who intended to speak and/or give testimony.

Chairman Rascio asked board members if there was an objection to changing the order of agenda items, to hear Item C, BONITA SPRINGS MOTOR CONDOS SPECIAL EXCEPTION ahead of Item B, TOMMY'S EXPRESS CAR WASH SPECIAL EXCEPTION. There were no objections.

A. CASE NAME: THE GROVE RESIDENTIAL PLANNED DEVELOPMENT (PD22-94289-BOS)

AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO INCLUDE 24 MULTI-FAMILY UNITS AS THE PRINCIPAL USE OF THE PROPERTY, AND TO ADD ONE DEVIATION.

Wayne Arnold of Q Grady Minor, spoke on behalf of the applicant, presenting a summary of the deviation request and an overview of the proposed project, which included a summary of the proposed master concept plan and draft renderings (presentation on file in the Clerk's Office).

Michael Fiigon led the staff presentation, which included background information, staff analysis, findings, conclusions, and proposed conditions of approval. Staff recommended approval of the request with conditions. (Presentation and conditions on file in the Clerk's Office).

Chairman Rascio called for public comments; however, no one came forth.

Board Member Hershenson made a motion to approve the applicant's request for an amendment to a Residential Planned Development to include 24 multi-family units as the principal use of the property, and to add one deviation, Seconded by Board Member Winn; the motion carried with six in favor, one absent.

B. CASE NAME: TOMMY'S EXPRESS CAR WASH (BONITA BEACH ROAD) SPECIAL EXCEPTION (SPE22-92499-BOS)

A SPECIAL EXCEPTION REQUEST TO ALLOW A CAR WASH FACILITY ON PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898.

City Attorney Rooney swore in all those who intended to speak or who have not yet been sworn in.

Wayne Arnold of Q Grady Minor led the presentation for the applicant. Mr. Arnold, along with additional staff from Q Grady Minor, Michael Herrera and Jim Banks, presented an overview of the proposed project, which included the conceptual site plan, renderings, traffic impact statement, and a summary of the special exception request (presentation on file in the Clerk's Office). Also, Mr. Arnold responded to questions from board members.

Michael Fiigon led the staff presentation, which included a project synopsis, staff analysis and conclusions, special exception approval criteria, and proposed conditions of approval. Staff recommended approval of the special exception request with conditions. (Presentation and conditions on file in the Clerk's Office). Also, Mr. Fiigon responded to questions asked by board members.

Board member Gambrell asked about water runoff, asking if he is correct in his understanding that no soapy water/wastewater would reach the river? Mr. Fiigon and Mr. Arnold replied that he is correct in that understanding.

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Chairman Rascio asked if Bonita Springs Utilities has any issues with the additional wastewater entering their system? Mr. Fiigon stated BSU requires certain additives be removed before discharge into the system and a permit from BSU is required.

10:45 a.m. - Chairman Rascio recessed the meeting for a 15-minute break.
11:00 a.m. - Chairman Rascio reconvened the meeting.

Chairman Rascio called for public comments and reminded those intending to speak that they have been sworn in.

- Rick Steinmeyer – Asked the following questions: Will the wall on the west side be insulated from noise? Is there necessary to have a wall? Will rainwater drainage go under the wall toward the preserve or toward Bonita Beach Rd? Chairman Rascio stated the questions will be held until the end of the public comment portion of the meeting.

- Cathy Green - Spoke in opposition to approval of the special exception request. Expressed concern about drainage, flooding, and traffic safety issues.

- David Fox - Spoke in opposition to approval of the special exception request. Stated that he has a petition signed by 97 residents requesting that the special exception be denied (Copy of said petition not provided to the Clerk).

- Joe Franklin - Spoke in opposition to approval of the special exception request, expressing concerns about traffic increase issues and the impact of the additional stormwater to the residents.

- Frank Macias - Spoke in opposition to approval of the special exception request. Expressed concerns about traffic safety issues in the neighborhood.

- Brian Bruland - Spoke in opposition to approval of the special exception request. Expressed concern about traffic increase issues and emergency service access to the neighborhood.

With no additional members of the public coming forward to speak, Chairman Rascio thanked those who spoke and closed the public comment portion of the meeting. He then asked staff and/or the applicant to address Mayor Steinmeyer's questions. Mr. Arnold stated that they would be fine with eliminating the segment of the wall referenced, which is next to the Kinetico business, because it does not have a bearing on the sound study. The wall will be designed for rainwater intake and ultimately water will be discharged through pipes to Bonita Beach Rd.

Chairman Rascio made a motion to approve the exception request with staff conditions; motion not seconded; motion failed.

Board Member Galloway made a motion to deny the exception request, based on not meeting special exception criteria for approval, criteria for approval G, H, and I; motion not seconded; motion failed.

Board Member Gambrell made a motion to deny; seconded by Board Member Galloway. The City Clerk called a roll call vote. The motion to deny was approved by a vote of 3-2, follows:

Winn	Gambrell	Benson	Galloway	Rascio	Hershenson	Waterhouse
yes	yes	no	yes	no	absent	absent

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C. CASE NAME: BONITA SPRINGS MOTOR CONDOS SPECIAL EXCEPTION (SPE22-92936-BOS)

A SPECIAL EXCEPTION REQUEST TO ALLOW A CONDOMINIUM WAREHOUSE, PUBLIC USE FACILITY ON A PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898.

Bob Mulhere of Hole Montes presented on behalf of the applicant, Tom Taylor of Livingston Professional Center, who was also present in the council chambers. Mr. Mulhere provided an overview of the proposed project and summarized the special exception request (presentation on file in the Clerk's Office). In addition, Mr. Mulhere responded to questions asked by board members.

Chairman Rascio asked if it was anticipated that cars will be moved in and out daily. Mr. Mulhere replied to *no.* Chairman Rascio further asked if storage spaces will be purchased or leased. Mr. Mulhere stated they will all be *purchased*.

Board Member Benson asked if the facility is limited to automobiles storage, or if boats will be stored there as well. Mr. Mulhere stated that there may be boats, but they will also be stored inside. Mr. Mulhere further stated that there will be no fueling or repairs on the premises.

Mary Zizzo led the staff presentation, which included background information, staff analysis, findings, and conclusions. Staff recommended approval of the request with conditions. (Presentation and conditions on file in the Clerk's Office). In addition, Ms. Zizzo responded to questions asked by board members.

Chairman Rascio called for public comments; however, no one came forth.

Chairman Rascio made a motion to approve the applicant's request, with the conditions outlined by staff, Seconded by Board Member Hershenson; the motion carried with six in favor, one absent.

VIII. CASE UPDATE: Oakland CPD

IX. NEXT MEETING: May 16, 2023 at 9:00am (Tentative)

X. ADJOURNMENT
The Chairman adjourned the meeting at 11:54 a.m.

Respectfully submitted,

_____
Mike Sheffield, City Clerk

APPROVED:
BONITA SPRINGS ZONING BOARD:

Date:_____

AUTHENTICATED:

_____
Anthony Rascio, Chairman

DRAFT

Any person requiring special accommodation at any of the meetings because of a disability or physical impairment should contact Mike Sheffield, City Clerk by calling 239-949-6262, at least 48 hours prior to the meeting.

If a person decides to appeal a decision made by the Board in any matter considered at this meeting/hearing, such person may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.

DRAFT

CITY OF BONITA SPRINGS
ZONING RESOLUTION NO. 23 – XX

A ZONING RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR A SPECIAL EXCEPTION REQUEST TO ALLOW A CONDOMINIUM WAREHOUSE, PUBLIC USE FACILITY ON A PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898; LOCATED AT 28010/020 PERFORMANCE LANE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Applicant, Livingston Professional Center, LLC is the owner of record for the subject parcels; and

WHEREAS, the Applicant is seeking a special exception to allow a condominium warehouse, public use facility on a property located within the commercial zone of the Bonita Beach Road Corridor Overlay pursuant to Section 4-891 of the City's land development code ("LDC"); and

WHEREAS, a Public Hearing was advertised and heard on April 18, 2023 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case SPE22-92936-BOS who unanimously recommended approval after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all parties; and

WHEREAS, City Council at their May 3, 2023 meeting considered Case SPE22-92936-BOS, as well as a minutes of the Zoning Board hearing submitted as part of the City Council hearing record, and gave full consideration of the Staff Recommendation, the evidence and testimony, including the expert opinion of the Applicant.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bonita Springs, Lee County, Florida:

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request for a special exception with the following conditions:

Subject Property:

This Special Exception applies to property located at 28010 and 28020

Performance Lane, Bonita Springs, Florida 34134 (STRAP #02-48-B2-02700.0007) and the further described in Exhibit A and in accordance with the Site Plan, both of record and included in the hearing staff report.

Conditions:

1. Proposed site improvements should be generally consistent with the attached site plan and a maximum 31 units.
2. Use Restrictions. At time of local development order, the applicant shall submit a copy of the restrictive covenants for the condominium (or other legal entity) that addresses, at minimum, the following:
    a. Auto repair, boat repair, and repair of similar items is prohibited.
    b. Units are not intended to be, nor shall they operate as a dwelling unit, as defined in LDC Section 4-2.
    c. Operation of a business in individual storage units is prohibited.
    d. Open Storage, outdoor display and sale of merchandise is prohibited.
    e. The storage and handling of any hazardous materials shall be in accordance to the Materials Safety Data Sheet for that specific product as identified with the Environmental Protection Agency and applicable state and National Fire Protection Association (NFPA) regulations. The applicant will coordinate with Lee County Natural Resources and Florida Department of Environmental Protection for events (at least one per year) where the unit owners may dispose on site of any hazardous materials.
3. Additional information or changes to the plan not covered by this approval may require additional approvals. Such approvals will follow the processes outlined in the LDC.
4. As part of this approval, the Applicant will perfect the drainage easement shown on the site plan at time of local development order.
5. Approval of this special exception request does not guarantee approval of a local development or building permit.
6. At the time of local Development Order, an Alternate Betterment Plan for the landscape buffers shall be submitted, meeting the requirements of LDC Section 3-421. The Plan shall also meet the intent of the self-storage landscape buffer requirements, as found in LDC Section 4-2074 within the landscape area limitations shown on the Site Plan and Cross Sections approved with the Special Exception. Other landscape requirements shall be met, as found in the Landscape Code, starting at LDC Section 3-416, and other sections, as applicable.
7. At the time of local development order, all required multimodal facilities (infrastructure, crossings, amenities, furnishings, access points, easements, etc.) both internal and external to the site, shall meet or

exceed the intent of the design standards provided by Chapters 3 & 4 of the LDC, the City of Bonita Springs Bicycle Long Range Pedestrian Master Plan, the Bonita Beach Road Corridor Design Standards, and all applicable design standards, except as required by the Bonita Springs Fire Control and Rescue District and NFPA.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of special exception and as conditioned, the Bonita Springs City Council makes the following findings and conclusions:

1. The Applicant has proven entitlement for the requested special exception by demonstrating compliance with the Bonita Springs Comprehensive Plan and Land Development Code.

SECTION TWO: RECORD

This Resolution incorporates all exhibits, staff reports, attachments, evidence and testimony presented before the Zoning Board and City Council.

SECTION THREE: EFFECTIVE DATE

This Resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 3rd day of May, 2023.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Carr	Corrie
Purdon	Bogacz
Forbes	Steinmeyer
Fullick	

Date filed with City Clerk: _____

BONITA SPRINGS, FLORIDA
COMMUNITY DEVELOPMENT DEPARTMENT
ZONING DIVISION
STAFF REPORT

PROJECT NAME: **BONITA SPRINGS MOTOR CONDOS SPECIAL EXCEPTION**

TYPE OF CASE: **SPECIAL EXCEPTION**

CASE NUMBER: **SPE22-92936-BOS**

HEARING DATE: **APRIL 18, 2023**

PLANNER: **MARY ZIZZO, ESQ., AICP**

REQUEST AND STAFF RECOMMENDATION

A SPECIAL EXCEPTION REQUEST TO ALLOW A CONDOMINIUM WAREHOUSE, PUBLIC USE FACILITY ON A PROPERTY LOCATED WITHIN THE COMMERCIAL ZONE OF THE BONITA BEACH ROAD CORRIDOR OVERLAY, PURSUANT TO LDC 4-898.

Deviations Requested: None

Staff recommends **APPROVAL** of the request in conjunction with the conditions outlined later in this Staff Report.

I. APPLICATION SUMMARY:

A. Applicant: LIVINGSTON PROFESSIONAL CENTER, LLC

B. Agent: Robert J. Mulhere, FAICP, Jeremie Chastain, AICP
Hole Montes, Inc.

C. Request: A special exception request to allow a condominium warehouse, public use facility on a property located within the Commercial Zone of the Bonita Beach Road Corridor Overlay, pursuant to LDC Sec. 4-898.

D. Location: 28010/020 Performance Lane, Bonita Springs, Florida, 34135

E. Future Land Use Designation, Current Zoning and Use of Property:

Future Land Use: General Commercial

Current Zoning: Bonita Beach Road Corridor Overlay Commercial Zone

Current Use: Vacant

F. Surrounding Land Use:

Existing Zoning & Land Use	Future Land Use Map
North: Racetrac Fuel CPD, Commercial Zone, Bonita Beach Road Corridor Overlay; Racetrac Fuel Gas Station and Convenience Store	General Commercial
East: Commercial Zone, Bonita Beach Road Corridor Overlay; Oak Creek Charter School	General Commercial
South: Commercial Zone, Bonita Beach Road Corridor Overlay; Vacant	General Commercial
West: Card Room Commercial Planned Development (CPD), Historic Zone, Bonita Beach Road Corridor Overlay; Poker Room and Sports Challenge	General Commercial

II. BACKGROUND AND INFORMATIONAL ANALYSIS

Introduction/Synopsis

The request is for a special exception to allow a car condominium storage facility on property located within the Bonita Beach Road Corridor Overlay. The Applicant proposes 31-car condominium units in four (4) buildings. The 2.82 parcel is currently vacant and located within the Commercial Zone of the Bonita Beach Road Corridor Overlay, within the Greyhound Square Land Condominium development, and is surrounded by street frontage on all sides. Traffic will access the site from Furlong Street and Performance Lane, internal private roadways. The project's primary frontage faces Race Track Road, a local road south of Bonita Beach Road. During recent construction of Development Orders east and west of Race Track Road, drainage infrastructure improvements were made to this area and appropriate modifications made to the South Florida Water Management District (SFWMD) Permit. The project is designed to provide multi-modal transportation opportunities, including interconnected sidewalks along the project's respective frontages, as well as, site-related pedestrian-bicycle amenities/furnishings.



This principal use of a condominium self-storage use, as designed and proposed, is not specifically identified in the LDC. Pursuant to LDC Sec. 4-406, the director is authorized to determine that uses that are not specifically listed in the use activity groups or in any of the use regulation tables are permitted by right or by special exception in a particular zoning district based upon the placement of similar listed uses in the various districts. The primary use of condominium self-storage is similar in use to the mini-warehouse and warehouse, public uses which requires a special exception in the Commercial Zone. Historically, the City has treated other car condominium locations in a similar way (e.g. Bonita Breeze CPD).

LDC Sec. 4-2, Definitions

> Mini-warehouse means any building designed or used to provide separate storage rooms to individuals or businesses for a fee or rental, with such rooms being intended solely as dead storage depositories for personal property, inventory and equipment and not for any other commercial or industrial use. See Warehousing, public and Storage, dead.
>
> Warehouse, public, means indoor terminal facilities available to the general public at a fee for the dead storage of farm products, furniture and other household goods or commercial or private goods of any nature. See also Mini-warehouse.

The distinct difference for this use is that the indoor terminal facilities are available and owned by individual owners versus available to the general public at a fee. The use is still for the dead storage of farm products, furniture and other household goods or commercial or private goods of any nature.

Special Exception Review Criteria

Pursuant to LDC Sect. 4-131(c)(2), the following criteria are to be used to evaluate special exception requests:

Special Exception Review Criteria – LDC Sec. 4-131(c)(2)

(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.*
b. *The testimony of any applicant.*
c. *The recommendation of staff.*
d. *The testimony of the public.*
e. *Whether the request is consistent with the goals, objectives, policies and intent of the Bonita Plan.*
f. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*
g. *Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.*
h. *Whether the request will be compatible with existing or planned uses.*
i. *Whether the request will 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.*

Reviewing these criteria, Staff makes the following findings:

a. *Whether there exist changed or changing conditions that make approval of the request appropriate.*

The Applicant indicates that the trip generation of this use is appropriate due to the extensive redevelopment and traffic generation around this area. The site is located near an intersection that has warranted studies due to the traffic volume. Uses to maintain high-end vehicles and storing them have previously been found to be appropriate as there is an increase in net wealth and the presence of high end cars in the community. Naturally, a new market/demand for those facilities was created. Therefore, Staff finds that changing conditions do exist, as exemplified in the increased presence of these facilities within neighboring jurisdictions.

b. *The testimony of the public.*

The Applicant held their neighborhood meetings on March 31, 2022 and March 16, 2023. No members of the public were in attendance.

Courtesy notices were provided to the Residents/ Owners within 375' of the project. Three responses were received, citing opposition. Follow-up questions involved concerns of traffic and lack of knowledge about the requested use.

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

The property is located within the General Commercial future land use category of the Bonita Plan, which is intended to accommodate a wide range of commercial uses serving the general population of the City. Appropriate uses include a wide range of commercial retail and service uses for residents and visitors, hotels, offices, light industrial uses, schools, recreation, public and semi-public uses, multi-family uses and mixed residential and commercial use in planned developments. Goal 1 of the Future Land Use element includes promoting a high quality of life that preserves the natural environment and economic vitality of the community. Additionally, the site will be developed pursuant to the Future Land Use Goals and Transportation Objectives of the Bonita Plan.

The requested uses are consistent with the Bonita Plan.

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

The development will meet or exceed all performance and locational standards.

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

There are no environmentally critical areas or natural resources at this site.

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

The proposed use abuts commercial uses and a charter school. Self-storage facilities and facilities such as these are low traffic generators and generally muted. Typical buffering to address potential compatibility conflicts entail spatial buffering, enhanced landscaping, fences, and walls. Due to the design of this project, the fronts and backs of the buildings will act as walls. The LDC architectural requirements result in an attractive façade in addition to the LDC buffering standards, which assist in softening the exterior. The requested use is compatible, as conditioned, to provide a commercial service to those residents of the City who need to store their car(s).

g. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.

As conditioned, the requested uses will be compatible with the existing and planned uses surrounding the property. This development shall generate a lower traffic number and the peak times of the school shall not interfere. Further, this development will further the pedestrian accessibility for Greyhound Square. No vehicle work is proposed with this request.

h. 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 Applicant has applied for a special exception, as required by LDC Sec. 4-898. A narrative and site plan (Attachment A) were provided to support the request. The Applicant held the required neighborhood meeting prior to submitting the request, and again after the request was found sufficient by Staff. The request has been reviewed for compliance with the standards set forth in LDC Chapter Four. The development furthers the intent of the Bonita Beach Road Corridor Overlay while being cognizant of the supplementary regulations for self-storage facilities. The use will also complement the architecture of the Bonita Springs Poker Room and new Sports Challenge to the west.

Site Plan

The project, as proposed, complies with the minimum and maximum setback requirements of the Commercial Zone of the Bonita Beach Road Corridor Overlay, while providing a betterment plan to align with the intent of the buffering requirements for self-

storage facilities in the Supplementary District Regulations. The Applicant has worked diligently with Staff to provide a product to serve both regulatory intents.

Staff has no objections to the Applicant's analysis.

Surrounding Zoning

The property is located within the Commercial Zone of the Bonita Beach Road Corridor Overlay. Surrounding the property is a commercial planned development for the Poker Room and Sports Challenge, a charter school, a fuel station, and vacant land. Staff finds the request compatible with surrounding zoning.

Neighborhood Compatibility

The site is located near commercial planned developments and other commercial uses, within a commercial future land use category. It is Staff's opinion that the request is compatible with the surrounding neighborhood.

Environmental Considerations

The 2.8 +/- acre parcel was cleared of vegetation in 2009 as part of the Greyhound Square Development and environmental considerations were addressed at that time. The development retained indigenous preserve tracts to the east and south which are not adjacent to this parcel.

The project requires additional landscape buffering as a self-storage use, and staff worked with the applicant to provide buffer areas to meet both the self-storage use and Bonita Beach Road Corridor Overlay landscaping requirements. Due to the constraints of the site involving drainage, sidewalks, and various utility easements, the applicant will be required to provide an Alternate Betterment Landscape plan for the project at the time of Development Order submittal.

Use, storage, and disposal of regulated substances on the property typically used with motor cars shall be required to meet all local, state, and federal requirements.

Transportation Considerations

The Applicant submitted a Traffic Impact Statement (TIS) in accordance with the LDC.

The TIS demonstrates that the proposed use will generate only 10 two-way PM peak hour net trips which will not result in any significant traffic impacts. There is sufficient capacity along Race Track Road and Bonita Beach Road to accommodate the project traffic.

Objective 1.2 of the Transportation Element provides for the City's Complete Streets Policy, which is designed to provide for multi-modal transportation opportunities. The project will be providing multi-modal transportation opportunities, including sidewalks and interconnectivity of the project's respective frontages, as well as the provision of site related ped-cycle amenities/furnishings.

Comprehensive Plan Considerations

The subject property is located in the General Commercial future land use category, according to the Future Land Use Map of Bonita Springs. The category includes the following provisions:

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 within the approximately 1,468 acres of gross land area in the land use category; 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.*

The project is commercial in nature and is located on a commercial property within the City. It is Staff's opinion the requested use does not violate the provisions of the General Commercial future land use category as outlined in the Comprehensive Plan/Bonita Plan.

With regards to the Traffic Element of the Comprehensive Plan, the Applicant will be providing additional sidewalk connections across the property frontages, as required by the LDC. It is Staff's opinion the request does not violate the applicable provisions of the Traffic Element of the Comprehensive Plan.

It is the Staff opinion the request does not violate the applicable provisions of the Comprehensive Plan.

Findings & Conclusion

It is Staff's opinion that the special exception request for a car condominium use is consistent with the provisions of the Comprehensive Plan, is compatible with existing uses within the area, will not cause damage, hazards or nuisance, will not impact environmentally critical areas (none are on site), and is located in an area with adequate public facilities.

Based upon an analysis of the Application and the special exception approval criteria, Staff makes the following findings and conclusions, as conditioned:

1. The requested special exception, as conditioned:

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

b) is consistent with the Goals, Objectives, Policies and intent set forth in the City of Bonita Springs Comprehensive Plan;

c) is compatible with existing or planned uses in the surrounding area;

d) will not cause damage, hazard, nuisance or other detriment to persons or property;

e) will not have an adverse effect on surrounding properties; and

f) will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in the City's LDC.

III. RECOMMENDATION:

Staff recommends **APPROVAL** of the request with the following conditions:

1. Proposed site improvements should be generally consistent with the attached site plan, maximum 31 units (Attachment A).
2. Use Restrictions. At time of local development order, the applicant shall submit a copy of the restrictive covenants for the condominium (or other legal entity) that addresses, at minimum, the following:
    a. Auto repair, boat repair, and repair of similar items is prohibited.
    b. Units are not intended to be, nor shall they operate as a dwelling unit, as defined in LDC Section 4-2.
    c. Operation of a business in individual storage units is prohibited.
    d. Open Storage, outdoor display and sale of merchandise is prohibited.
    e. The storage and handling of any hazardous materials shall be in accordance to the Materials Safety Data Sheet for that specific product as identified with the Environmental Protection Agency and applicable state and National Fire Protection Association (NFPA) regulations. The applicant will coordinate with Lee County Natural Resources and Florida Department of Environmental Protection for events (at least one per year) where the unit owners may dispose on site of any hazardous materials.
3. Additional information or changes to the plan not covered by this approval may require additional approvals. Such approvals will follow the processes outlined in the LDC.

4. As part of this approval, the Applicant will perfect the drainage easement shown on the site plan at time of local development order.
5. Approval of this special exception request does not guarantee approval of a local Development Order or building permit.
6. At the time of local development order, an Alternate Betterment Plan (Plan) for the landscape buffers shall be submitted, meeting the requirements of LDC Section 3-421. The Plan shall also meet the intent of the self-storage landscape buffer requirements, as found in LDC Section 4-2074 within the landscape area limitations shown on the Site Plan and Cross Sections approved with the Special Exception. Other landscape requirements shall be met, as found in the Landscape Code, starting at LDC Section 3-416, and other sections, as applicable.
7. At the time of local development order, all required multimodal facilities (infrastructure, crossings, amenities, furnishings, access points, easements, etc.) both internal and external to the site, shall meet or exceed the intent of the design standards provided by Chapters 3 & 4 of the City of Bonita Springs Land Development Code, the City of Bonita Springs Bicycle Long Range Pedestrian Master Plan, the Bonita Beach Road Corridor Design Standards, and all applicable design standards, except as required by the Bonita Springs Fire Control and Rescue District and National Fire Protection Association (NFPA).

SUBJECT PROPERTY

The Applicant indicates the STRAP number is: 02-48-25-B2-02700.0007

EXHIBITS

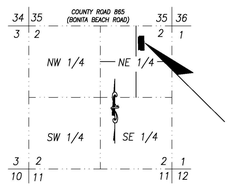
A. Sketch and Legal Description of the Subject Property

ATTACHMENTS

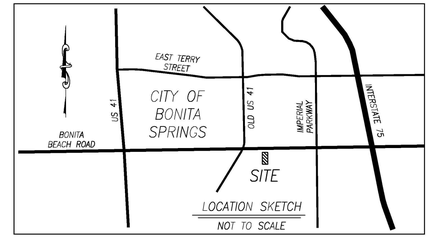
A. Proposed Site Plan
B. Example Cross Sections
C. Application Backup (Final Documents)

MAP OF BOUNDARY SURVEY OF CONDOMINIUM UNIT 7, GREYHOUND SQUARE LAND CONDOMINIUM, A COMMERCIAL LAND CONDOMINIUM, LYING IN SECTION 2, TOWNSHIP 48 SOUTH, RANGE 25 EAST, CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA

EXHIBIT A



FRACTIONAL LOCATION SKETCH
NOT TO SCALE



LOCATION SKETCH
NOT TO SCALE

LEGEND

- = BENCHMARK, FOUND PK NAIL AND DISK – "PCP LB 5151"
- = FOUND PK NAIL AND DISK – "LB 5151"
- = FOUND PK NAIL – NO IDENTIFICATION
- = SET PK NAIL AND DISK – "D&W LB 6896"
- = FOUND FLORIDA DEPARTMENT OF NATURAL RESOURCES BRASS DISK
- = FOUND DRILL HOLE IN CONCRETE SEAWALL
- = FOUND 5/8" REBAR – NO IDENTIFICATION
- = FOUND 5/8" REBAR AND CAP – "LB 5151"
- = SET 5/8" REBAR AND CAP – "D&W LB 6896"
- (C) = CALCULATED DATA
- (D) = LEGAL DESCRIPTION OR CONDOMINIUM INSTRUMENT DATA
- (M) = FIELD MEASURED DATA
- OHW = OVERHEAD WIRE
- O.R.B. = OFFICIAL RECORDS BOOK
- = WOOD UTILITY POLE
- = CONCRETE UTILITY POLE
- = CATCH BASIN WITH GRATE INLET
- = SPOT ELEVATION, NAVD 1988
- = INFORMATION SIGN
- = SANITARY SEWER MANHOLE
- = SANITARY SEWER CLEAN-OUT
- = TELEPHONE PEDESTAL
- = CABLE PEDESTAL
- = WATER VALVE
- = FIRE HYDRANT
- = ELECTRIC BOX OR TRANSFORMER
- = LIGHT POLE
- = STUB OUT
- = COMBINATION UTILITY BOX
- = CABBAGE PALM
- = SABAL PALM
- = PINE TREE

LINE TABLE		
LINE	BEARING (M)	DISTANCE (M)
L1	N88°49'43"E	1.32'
L2	N01°05'06"W	22.96'
L3	S88°54'32"W	74.49'
L4	N88°48'54"E	31.62'
L5	N00°49'11"W	33.05'
L6	N88°43'35"E	189.05'
L7	S88°43'35"W	311.44'

LINE	BEARING (D)	DISTANCE (D)
L1	N88°49'43"E	1.23'
L2	N01°10'17"W	22.99'
L3	S88°50'12"W	74.46'
L4	N88°43'35"E	31.69'
L5	N00°57'13"W	33.00'
L6	N88°43'35"E	189.05'
L7	S88°43'35"W	311.44'

SURVEYOR'S NOTES

1. BEARINGS SHOWN HEREON ARE BASED UPON THE SOUTH RIGHT-OF-WAY OF FURLONG STREET HAVING A BEARING OF SOUTH 88°43'35" WEST, AS SHOWN ON THE DEED OF RECORD.

2. NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY.

3. THIS PARCEL LIES IN FLOOD ZONE "X" (SHADED), ZONES ARE BASED ON FEMA F.I.R.M. MAP PANEL 12071C0659G, DATED NOVEMBER 17, 2022.

4. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, OWNER'S POLICY NUMBER OF6-9081251, ISSUING AGENT: SALVATORI LAW OFFICE, PLLC. ISSUING OFFICE FILE REFERENCE: LMR TAYLOR–ALLI.

SCHEDULE B ITEM 1. GENERAL OR SPECIAL TAXES AND ASSESMENTS REQUIRED TO BE PAID IN THE YEAR 2022 AND SUBSEQUENT YEARS. (THIS IS NOT A SURVEYING RELATED MATTER)

SCHEDULE B ITEM 2. DELETED

SCHEDULE B ITEM 3. DELETED

SCHEDULE B ITEM 4. DELETED

SCHEDULE B ITEM 5. DELETED

SCHEDULE B ITEM 6. ANY ADVERSE OWNERSHIP CLAIM BY THE STATE OF FLORIDA BY RIGHT OF SOVEREIGNTY TO ANY PORTION OF THE LAND(S) INSURED HEREUNDER, INCLUDING SUBMERGED, FILLED AND ARTIFICIALLY EXPOSED LANDS, AND LANDS ACCRETED TO SUCH LANDS. (SURVEYOR HAS NO KNOWLEDGE THAT ANY ADVERSE OWNERSHIP CLAIMS FOR THIS PROPERTY)

SCHEDULE B ITEM 7. THE SUBJECT LAND LIES WITHIN THE BOUNDARIES OF THE LEE COUNTY MANDATORY SOLID WASTE COLLECTION AND DISPOSAL BENEFIT UNIT (MSBU), FOR MANDATORY GARBAGE COLLECTION; LEE COUNTY ORDINANCE 11–03, AS AMENDED BY LEE COUNTY ORDINANCE L 1–27, PROVIDING FOR MANDATORY SOLID WASTE COLLECTION AND THE IMPOSITION OF SPECIAL ASSESSMENTS FOR SAID COLLECTION SERVICES. (THIS IS NOT A SURVEYING RELATED MATTER)

SCHEDULE B ITEM 8. EASEMENT IN FAVOR OF FLORIDA POWER & LIGHT COMPANY RECORDED IN INSTRUMENT NUMBER 2009000313332, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. (EASEMENT PLOTTED HEREON)

SCHEDULE B ITEM 9. GRANT OF UTILITY EASEMENT IN FAVOR OF BONITA SPRINGS UTILITIES, INC. RECORDED IN INSTRUMENT NUMBER 2010000129131, AS AFFECTED BY PARTIAL VACATION OF UTILITY EASEMENT RECORDED IN INSTRUMENT NUMBER 2021000281542 AND PARTIAL TERMINATION OF UTILITY EASEMENT RECORDED IN INSTRUMENT NUMBER 2021000032993, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. (EASEMENT AND VACATION AND PARTIAL TERMINATION PLOTTED HEREON)

SCHEDULE B ITEM 10. DECLARATION OF CONDOMINIUM OF GREYHOUND SQUARE LAND CONDOMINIUM, A COMMERCIAL LAND CONDOMINIUM, AND ALL EXHIBITS ATTACHED THERETO AND RECORDED JULY 6, 2010, IN INSTRUMENT NUMBER 2010000166241, TOGETHER WITH AMENDMENTS THERETO RECORDED IN: INSTRUMENT NUMBER 2010000292232, INSTRUMENT NUMBER 2010000292233, INSTRUMENT NUMBER 2019000161646 AND INSTRUMENT NUMBER 2020000137426, PUBLIC RECORDS OF LEE COUNTY, FLORIDA (HEREINAFTER "DECLARATION"). SUCH DECLARATION MAY ESTABLISH AND PROVIDE WITHOUT LIMITATION FOR EASEMENTS, LIENS, CHARGES, ASSESSMENTS, AND THE PRIOR APPROVAL OF A FUTURE PURCHASER OR OCCUPANT. (PARCEL SURVEYED IS SUBJECT TO BLANKET COMMON ELEMENT EASEMENTS, UTILITY, DRAINAGE AND OTHER EASEMENTS, ENCROACHMENT EASEMENTS, INGRESS AND EGRESS EASEMENTS, LANDSCAPE BUFFER EASEMENT, CONSTRUCTION MAINTENCE EASEMENT, SIGNAGE EASEMENT, DEVELOPER'S RIGHT TO GRANT EASEMENTS, REPAIR AND INSTALLATION EASEMENTS. BLANKET EASEMENTS CANNOT BE PLOTTED HEREON).

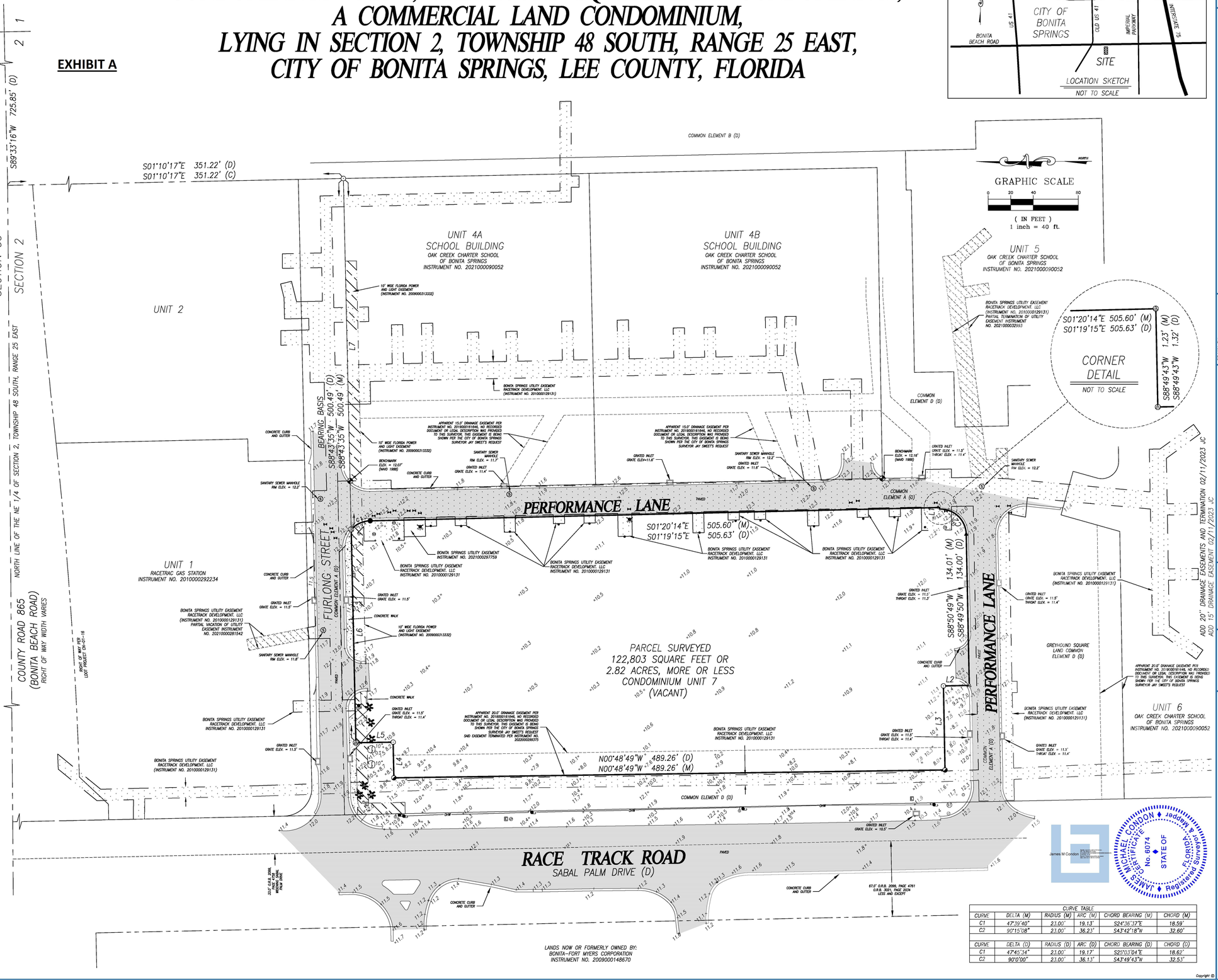
SCHEDULE B ITEM 11. 2021 TAXES WERE PAID ON NOVEMBER 12, 2021, PARCEL/ACCOUNT ID# 02–48–25–B2–02700.0007, THE GROSS AMOUNT BEING $10,051.25. TAXES FOR THE YEAR 2022 BECAME A LIEN ON THE PROPERTY AS OF JANUARY 1, 2022, BUT ARE NOT YET DUE AND PAYABLE. (NOT A SURVEYING RELATED MATTER)

5. THE STREET ADDRESS IS:
28010/28020 PERFORMANCE LANE
BONITA SPRINGS, FLORIDA 34135

6. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988). ELEVATIONS ARE BASED TIES TO THE FLORIDA DEPARTMENT OF TRANSPORTATION AND TRIMBLE REAL–TIME KINEMATIC (RTK) GLOBAL POSITIONING SYSTEM (GPS) CONTROL NETWORKS.

LEGAL DESCRIPTION

CONDOMINIUM UNIT 7 OF GREYHOUND SQUARE LAND CONDOMINIUM, A COMMERCIAL LAND CONDOMINIUM, TOGETHER WITH AN UNDIVIDED INTEREST IN THE COMMON ELEMENTS, ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED UNDER INSTRUMENT NUMBER 2010000166241, AS AMENDED FROM TIME TO TIME, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.


SECTION 35
SECTION 2
NORTH LINE OF THE NE 1/4 OF SECTION 2, TOWNSHIP 48 SOUTH, RANGE 25 EAST
COUNTY ROAD 865
(BONITA BEACH ROAD)
RIGHT OF WAY WIDTH VARIES
POINT OF BEGINNING PER LOOT REQUEST OR-01-16
35 36
2 1
S89°33'16"W 725.85' (D)
S01°10'17"E 351.22' (D)
S01°10'17"E 351.22' (C)
COMMON ELEMENT B (D)
UNIT 2
UNIT 4A
SCHOOL BUILDING
OAK CREEK CHARTER SCHOOL
OF BONITA SPRINGS
INSTRUMENT NO. 2021000090052
UNIT 4B
SCHOOL BUILDING
OAK CREEK CHARTER SCHOOL
OF BONITA SPRINGS
INSTRUMENT NO. 2021000090052
UNIT 5
OAK CREEK CHARTER SCHOOL
OF BONITA SPRINGS
INSTRUMENT NO. 2021000090052
GRAPHIC SCALE
0 20 40 80
(IN FEET)
1 inch = 40 ft.
10' WIDE FLORIDA POWER AND LIGHT EASEMENT (INSTRUMENT NO. 2009000313332)
BONITA SPRINGS UTILITY EASEMENT RACETRACK DEVELOPMENT, LLC (INSTRUMENT NO. 2010000129131)
BONITA SPRINGS UTILITY EASEMENT RACETRACK DEVELOPMENT, LLC (INSTRUMENT NO. 2021000032993)
S01°20'14"E 505.60' (M)
S01°19'15"E 505.63' (D)
CORNER DETAIL
NOT TO SCALE
S88°49'43"W 1.23' (M)
S88°49'43"W 1.32' (D)
BEARING BASIS
S88°43'35"W 500.49' (D)
S88°43'35"W 500.49' (M)
APPARENT 15.0' DRAINAGE EASEMENT PER INSTRUMENT NO. 2019000161646, NO RECORDED DOCUMENT OR LEGAL DESCRIPTION WAS PROVIDED TO THIS SURVEYOR. THIS EASEMENT IS BEING SHOWN PER THE CITY OF BONITA SPRINGS SURVEYOR JAY SWEET'S REQUEST
APPARENT 15.0' DRAINAGE EASEMENT PER INSTRUMENT NO. 2019000161646, NO RECORDED DOCUMENT OR LEGAL DESCRIPTION WAS PROVIDED TO THIS SURVEYOR. THIS EASEMENT IS BEING SHOWN PER THE CITY OF BONITA SPRINGS SURVEYOR JAY SWEET'S REQUEST
BONITA SPRINGS UTILITY EASEMENT RACETRACK DEVELOPMENT, LLC (INSTRUMENT NO. 2010000129131)
BONITA SPRINGS UTILITY EASEMENT RACETRACK DEVELOPMENT, LLC (INSTRUMENT NO. 2021000297759)
BONITA SPRINGS UTILITY EASEMENT RACETRACK DEVELOPMENT, LLC (INSTRUMENT NO. 2010000129131

ATTACHMENT A

EXISTING SCHOOL BUILDING

EX. CROSSWALK

EXISTING 6' SIDEWALK

EXISTING GAS STATION BUILDING

EX. CROSSWALK

FURLONG STREET

PROPOSED 20' DRAINAGE EASEMENT & SWALE

25' LANDSCAPE BUFFER

PERFORMANCE LANE

PROP. CROSSWALK

8' WALL

30' LANDSCAPE BUFFER

BUILDING 2
9 UNITS

5'x13' MECH. ROOM
ON-SITE PEDESTRIAN/
BICYCLE AMENITIES

5'SIDEWALK

BUILDING 4
7 UNITS

30' LANDSCAPE BUFFER

PROPOSED 6' SIDEWALK

EXIT GATE

8' WALL

50'

18'

24'

UNIT 7

50'

8' WALL
ENTRY GATE

8' WALL

10'x25' TURNOUT
(GRASS PAVER GRID)

PERFORMANCE LANE

BUILDING 1
8 UNITS

5'SIDEWALK

5'x13' MECH. ROOM

BUILDING 3
7 UNITS

30' LANDSCAPE BUFFER

25'

LANDSCAPE BUFFER

8' WALL

10' BSU EASEMENT

EX. COMMONS ELEMENT

15' CABLE T.V. EASEMENT

EX. R.O.W.

**POSSIBLE SUPPLEMENTAL LANDSCAPE AREA

RACETRACK ROAD

PROP. CROSSWALK

PROPOSED 6' SIDEWALK

A

A

Parcel Data

Project size: 2.82 Ac.
Future Land Use: General Commercial
Existing Zoning: C1-A
Existing Land Use: Undeveloped

Request

Special Exception to allow for mini-warehouse use.

Adjacent Property Zoning/Land Use

North: CPD/ Furlong Street, Then Racetrac Gas Station
South: C1-A/ Performance Lane, Then Underdeveloped
East: C1-A/ Performance Lane, Then Oak Creek Charter School
West: CPD/ Race Track Road, Then Bonita Springs Card Room

Land Use Areas

Maximum building lot coverage allowed:
= 2.82 ACx43,560 SF/Ac.x40%=49,135 SF
Proposed building lot coverage:
= 49,130 SF
Parking, Sidewalk, & Driveways= 0.72 Ac
OpenSpace/ Green Areas/ Water Management
= 0.97 Ac.

Conceptual Open Space

Open Space Required/Provided:
Commercial Development:2.82 Ac.x20%=0.56Ac.

Indigenous Open Space

There is no existing native vegetation on the property. No preserve is required.

Property Development Regulations

Minimum Setbacks (North & South): 30'
Minimum Setback (East): 30'
Minimum Setback (West): 25'
Maximum Building Height: 35'/One Story

Parking

Required: One spaces per 10 storage cubicles, with a minimum of five spaces = 5 spaces
Provided: 5 spaces

Perimeter Landscape Buffers

Adj. to Racetrack Rd. :25' Wide Landscape buffer area with plantings consistent with LDC Sec. 4-2074(1).
Adj. to Furlong St. & Performance Ln. :30' wide landscape buffer area with plantings consistent with LDC Sec. 4-2074(1)

Deviations

Deviation (1) requests relief from LDC Sec. 3-268(a), refuse and solid waste disposal facilities, to allow roll out commercial carts with 96-gallon capacity for both solid waste and recycle.

LETTER	REVISIONS	DATE
E		
D		
C		
B		
A		

BONITA MOTOR CONDOS

DESIGNED BY	WTC	DATE	12/2022
DRAWN BY	GJG	DATE	12/2022
CHECKED BY	WTC	DATE	12/2022
DATUM	NAVD88	HORIZONTAL SCALE	HORZ

HOLE MONTES
ENGINEERS | LANDSCAPE ARCHITECTS | PLANNERS | SURVEYORS
950 Encore Way Naples, FL 34110
Phone: (239) 254-2000
Florida Certificate of Authorization
Number: 1772
www.holemontes.com

CONCEPTUAL SITE PLAN

0 30 60
SCALE IN FEET

SEAL:

THESE DRAWINGS ARE NOT APPROVED FOR CONSTRUCTION UNLESS SIGNED BELOW:

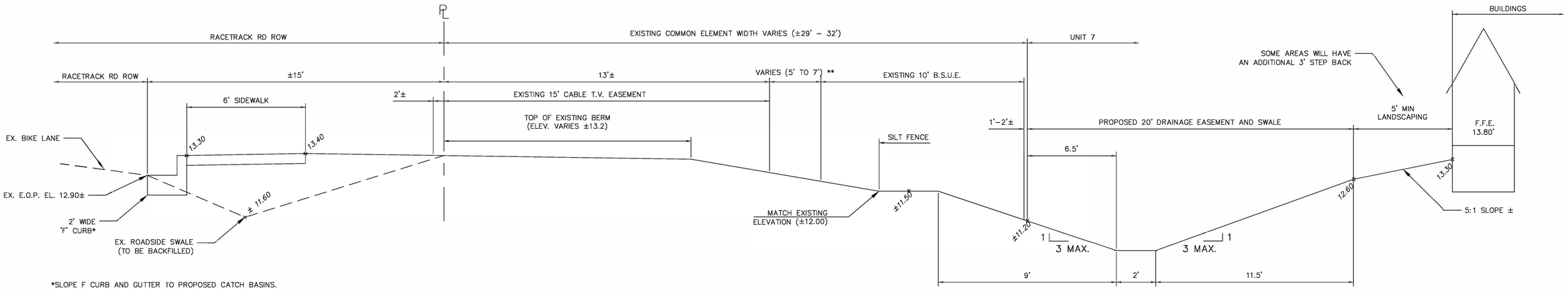
DATE _____
NAME HERE, P.E.
LICENSE No.: _

CAD FILE NAME:	2022.003-Conceptial Site Plans 00
PROJECT NO.:	2022.003
DRAWING NO.:	22.003
SHEET NO.:	1 OF 1

REVISED VERSION

H:\2022\2022003\DWG\CONCEPTUAL\2022.003-Conceptial Site Plans 00 permit version.dwg Tab: CONCEPT Dec 20, 2022 - 2:39pm Plotted by: GarrettGebowski

ATTACHMENT B



*SLOPE F CURB AND GUTTER TO PROPOSED CATCH BASINS.

**POSSIBLE SUPPLEMENTAL LANDSCAPE AREA

(ELEVATIONS ARE NGVD)

LETTER	REVISIONS	DATE
E		
D		
C		
B		
A		

BONITA MOTOR CONDOS

DESIGNED BY	WTC	DATE	12/2022
DRAWN BY	GJG	DATE	12/2022
CHECKED BY	WTC	DATE	12/2022
DATUM	NAVD88	HORIZONTAL SCALE	HORZ

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950 Encore Way Naples, FL 34110
Phone: (239) 254-2000
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Number: 1772
www.holemontes.com

CONCEPTUAL
CROSS SECTION A-A

NTS

SEAL:

THESE DRAWINGS ARE NOT APPROVED FOR CONSTRUCTION UNLESS SIGNED BELOW:

DATE _____
NAME HERE, P.E.
LICENSE No.: _

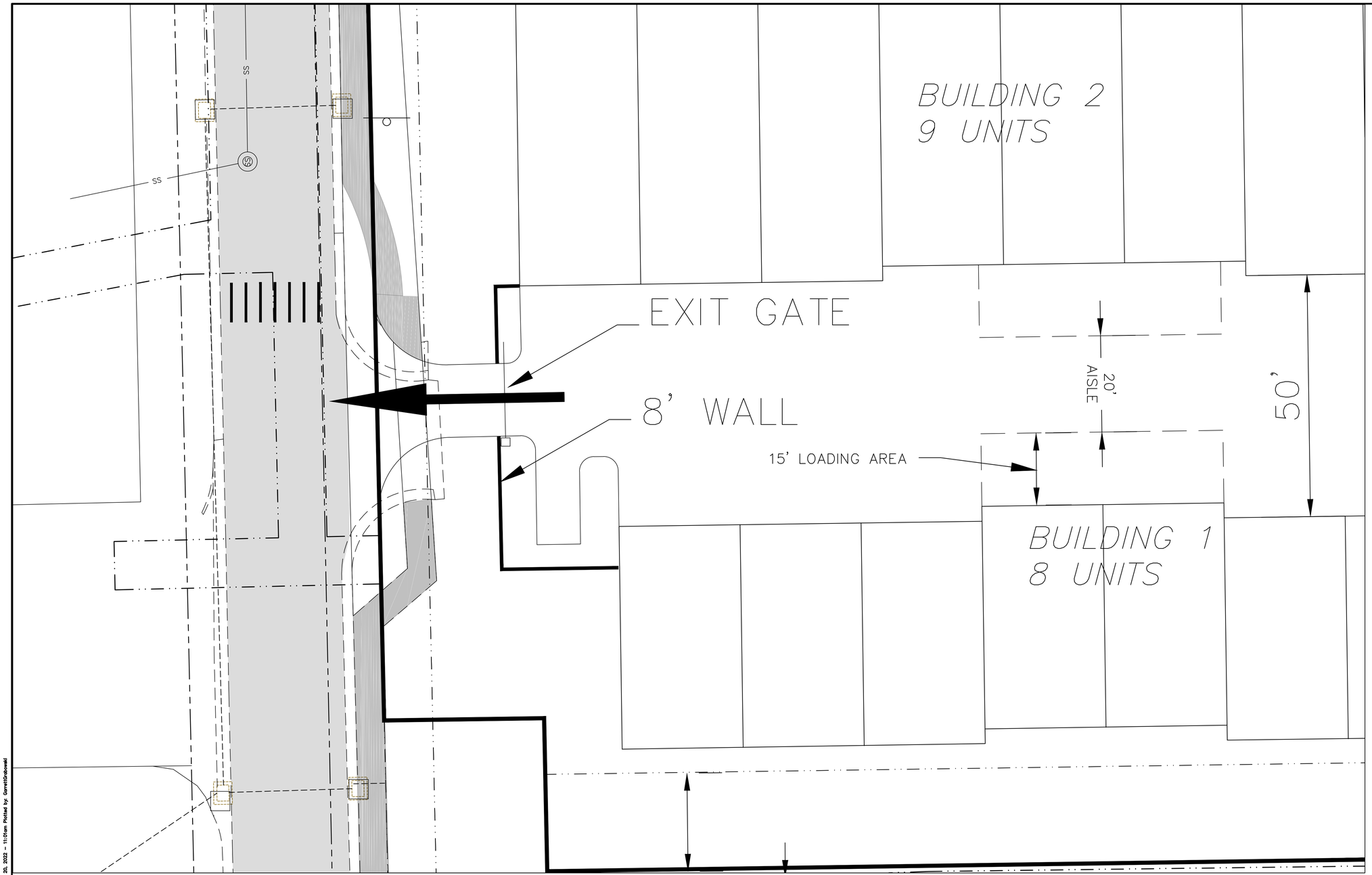
CAD FILE NAME: 2022.003-Conceptial Site Plans 00

PROJECT NO.: 2022.003

DRAWNG NO.: 22.003

SHEET NO.: 1 OF 1

H:\2022\2022003\DWG\CONCEPTUAL\2022.003-Conceptial Site Plans 00.dwg Title: CONCEPT (2) Dec 16, 2022 - 10:40am Plotted by: GarrettKirkwall



LETTER	REVISIONS	DATE
E		
D		
C		
B		
A		

BONITA MOTOR CONDOS

DESIGNED BY	WTC	DATE	12/2022
DRAWN BY	GJG	DATE	12/2022
CHECKED BY	WTC	DATE	12/2022
DATUM	NAVD88	HORIZONTAL SCALE	HORZ

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950 Encore Way Naples, FL 34110
Phone: (239) 254-2000
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CROSS SECTION

INTERNAL ACCESS DRIVE

0 30 60
SCALE IN FEET

SEAL:

THESE DRAWINGS ARE NOT APPROVED FOR CONSTRUCTION UNLESS SIGNED BELOW:

DATE
NAME HERE, P.E.
LICENSE No.: _

CAD FILE NAME:	2022.003-Conceptial Site Plans Display
PROJECT NO.:	2022.003
DRAWING NO.:	22.003
SHEET NO.:	1 OF 1

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

Support _____ Oppose X

Application: SPE22-92936-BOS: Bonita Springs Motor Condos Special Exception

DATE: 3/20/2023
NAME: Kyle Graft PHONE: 717 654 9215
ADDRESS: 28131 Pinehaven Way, 113 CITY/STATE/ZIP: Bonita Springs FL 34135

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take 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 a 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.

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City of Bonita Springs
Community Development Department
Attn: Mary Zizzo
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
mzizzo@cityofbonitaspringscd.org

Support _____ Oppose X

Application: SPE22-92936-BOS: Bonita Springs Motor Condos Special Exception

DATE: 3-22-23
NAME: MARY + BRUCE PARKINSON PHONE: 774-240-1326
ADDRESS: 25230 PINE HAVEN WAY CITY/STATE/ZIP: BONITA SPRINGS, FL 34135
#69

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take 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.

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

Support _____ Oppose ✓

Application: SPE22-92936-BOS: Bonita Springs Motor Condos Special Exception

DATE: 4-22-23
NAME: TSILITAS George + Anne PHONE: —
ADDRESS: 24513 Golden Lane CITY/STATE/ZIP: Bonita Springs FL 34135

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take 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.

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CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-097
May 3, 2023

REQUESTED MOTION: Presentation to the Bonita Springs Charter School Arbor Day Poster Contest Winners

REQUESTOR: Mayor Rick Steinmeyer

AGENDA: Presentation

STRATEGIC PRIORITY: #3 Community Aesthetics

BACKGROUND:

The City of Bonita Springs is recognized as a 14 year recipient of the National Arbor Day Tree City USA Program, which promotes education, activities, and preservation of trees within communities. The City Council celebrated Arbor Day by proclaiming April 28, 2023 National Abor Day in the City of Bonita Springs. Additionally, the Tree Advisory Board worked with the Bonita Springs Charter School to host an annual Arbor Day Poster Contest using the theme "Trees are Tough". Students participated and the Tree Advisory Board selected a winner in each grade level that participated. The winning students received a $25 gift card for their participation and were presented the gift cards by the Chair of the Tree Advisory Board and Bonita Springs Charter School staff. The winning posters are displayed in the entry way at City Hall.

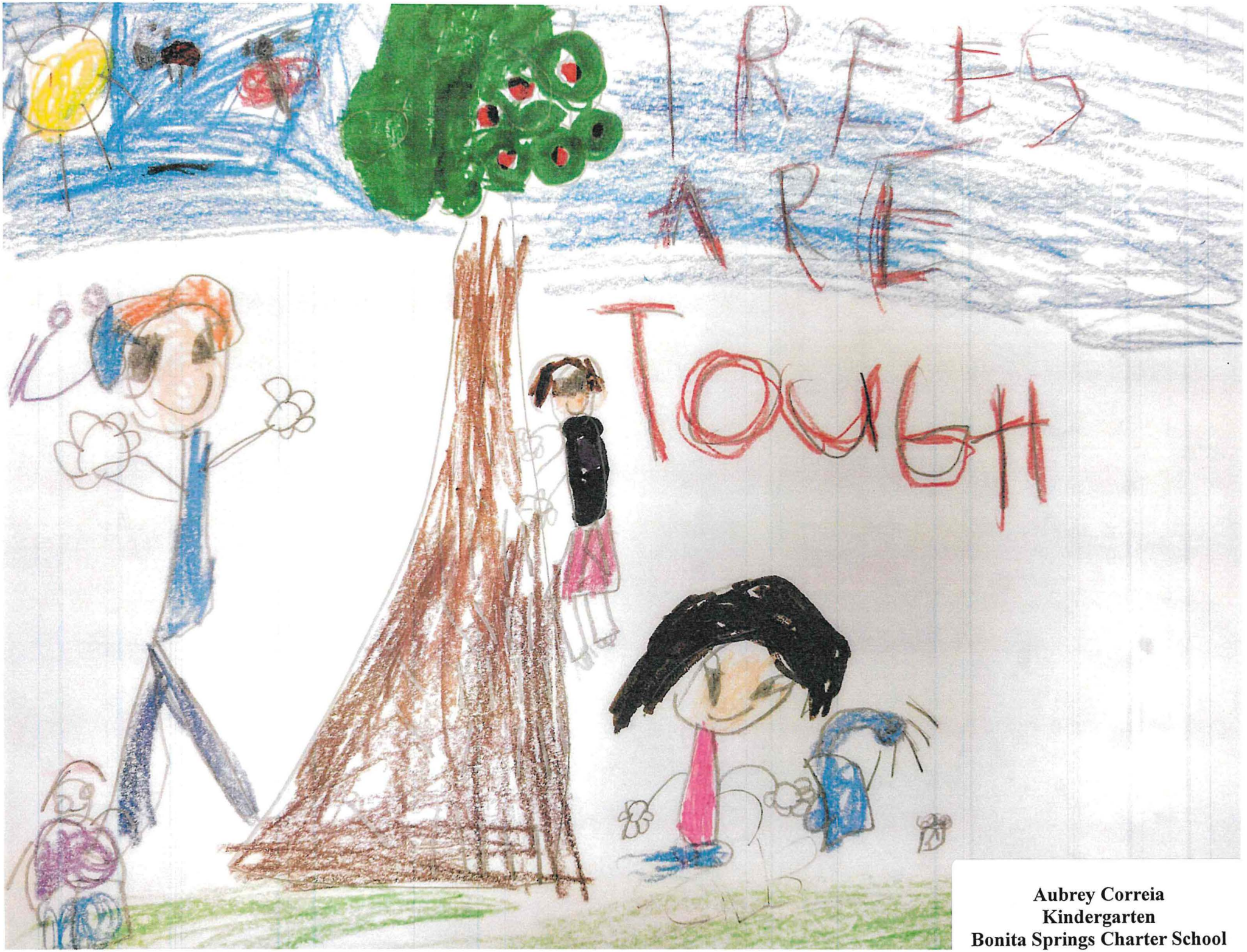
STAFF RECOMMENDATION: Acknowledge the winning students.

ATTACHMENTS: Arbor Day Poster Contest Winners

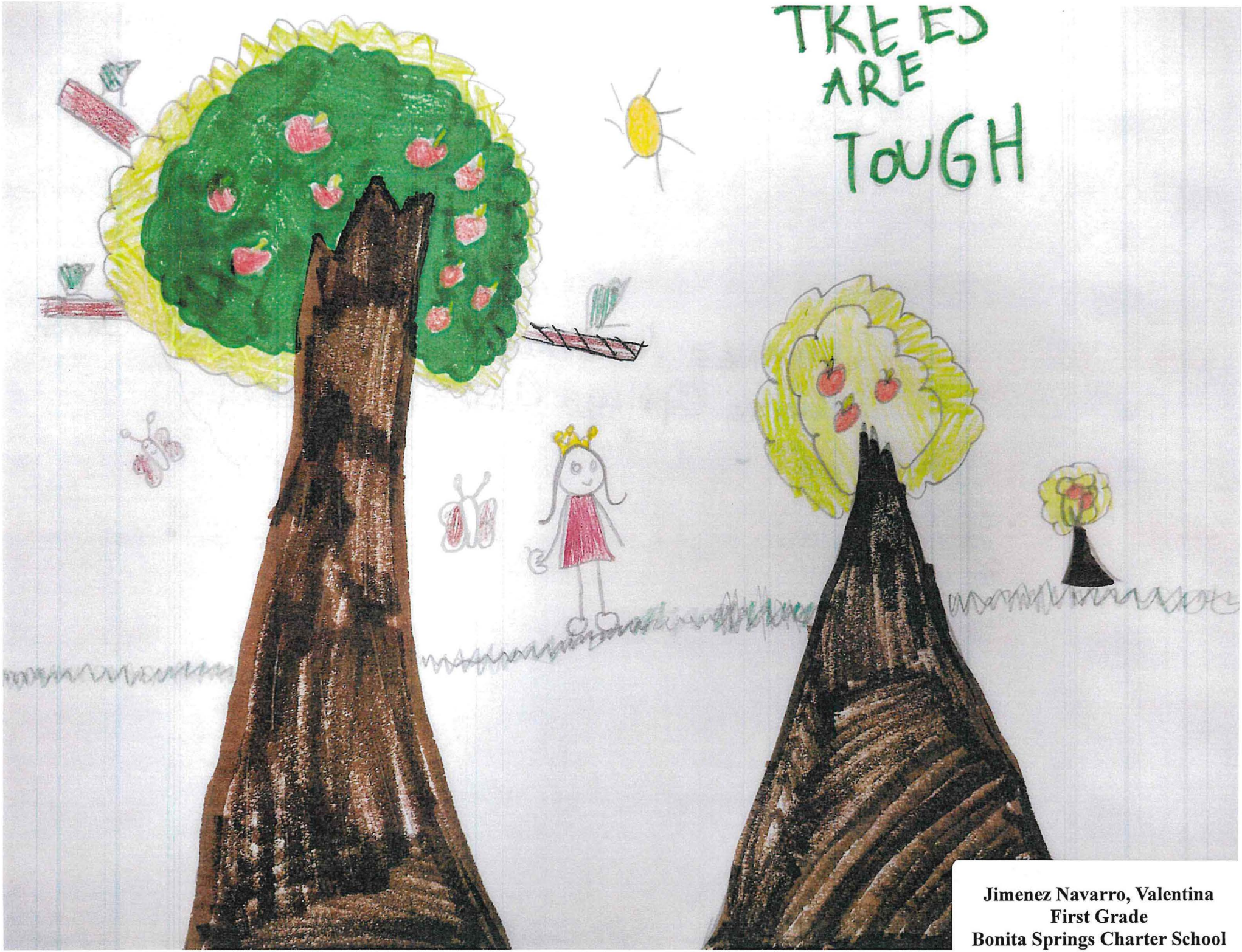
REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Mike Sheffield
Department Director:

Council Action: Approved __ Denied __ Deferred ___ Other_____



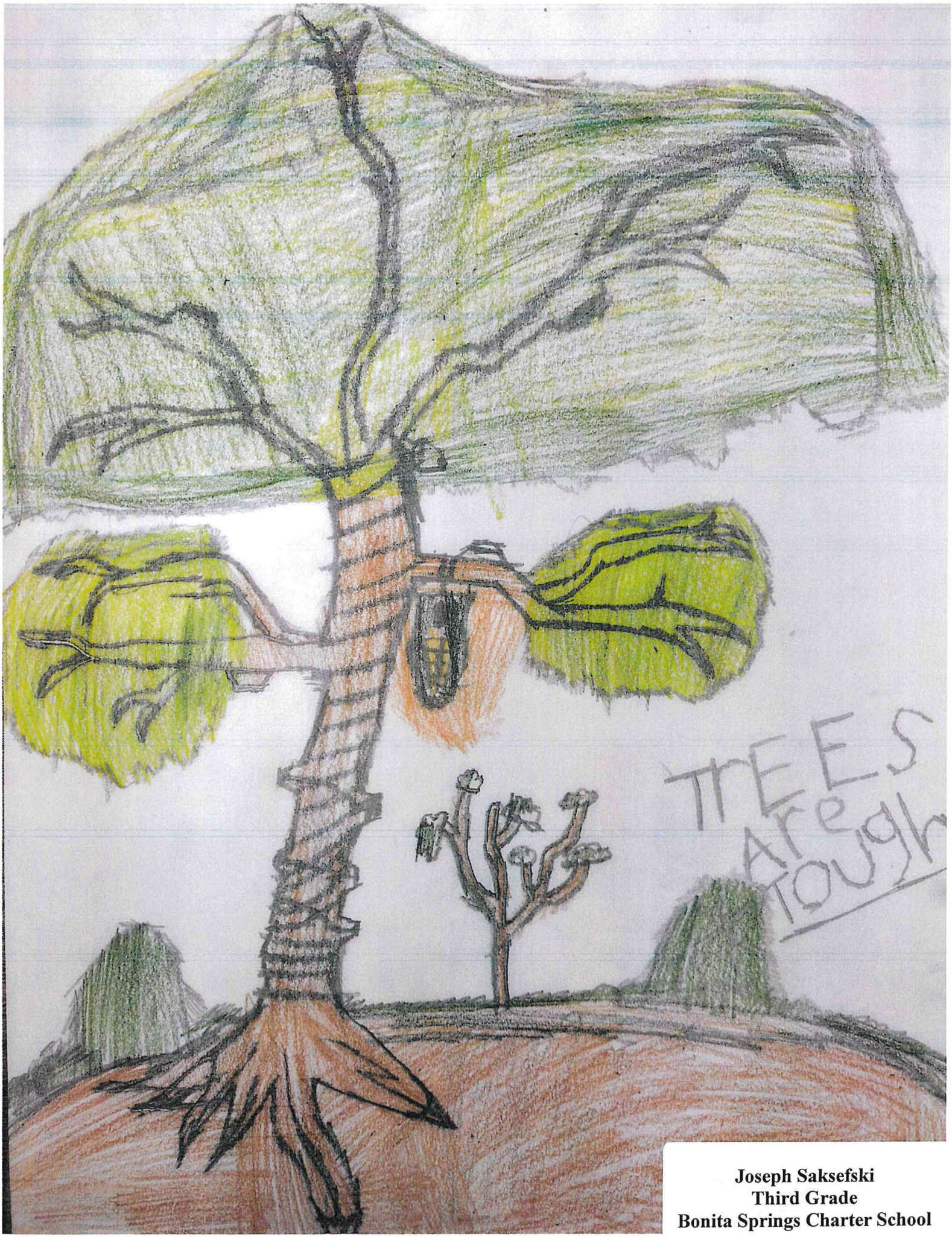
Aubrey Correia
Kindergarten
Bonita Springs Charter School



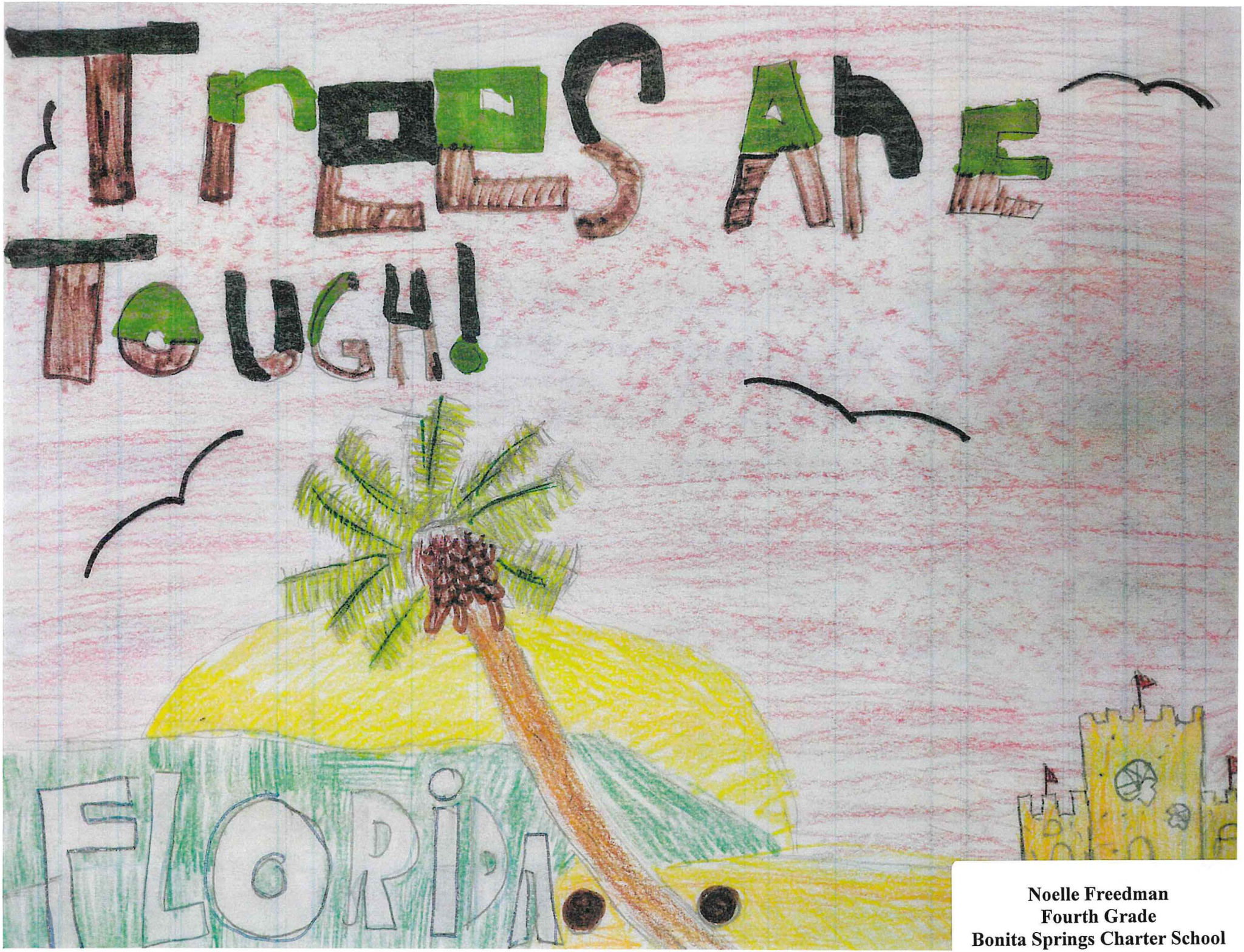
Jimenez Navarro, Valentina
First Grade
Bonita Springs Charter School



Matthew Ahmeti
Second Grade
Bonita Sprints Charter School



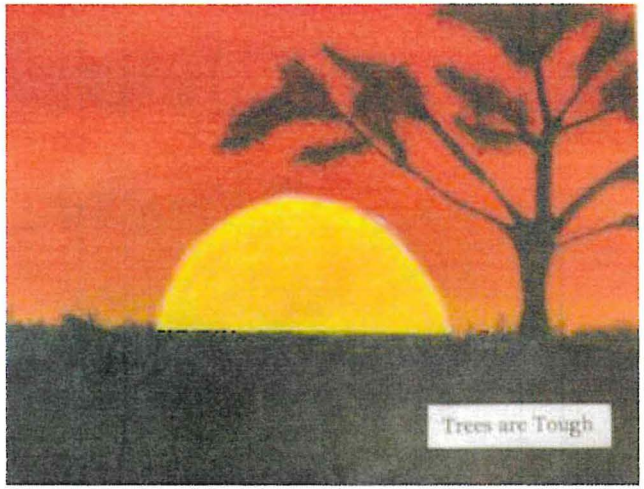
Joseph Saksefski
Third Grade
Bonita Springs Charter School



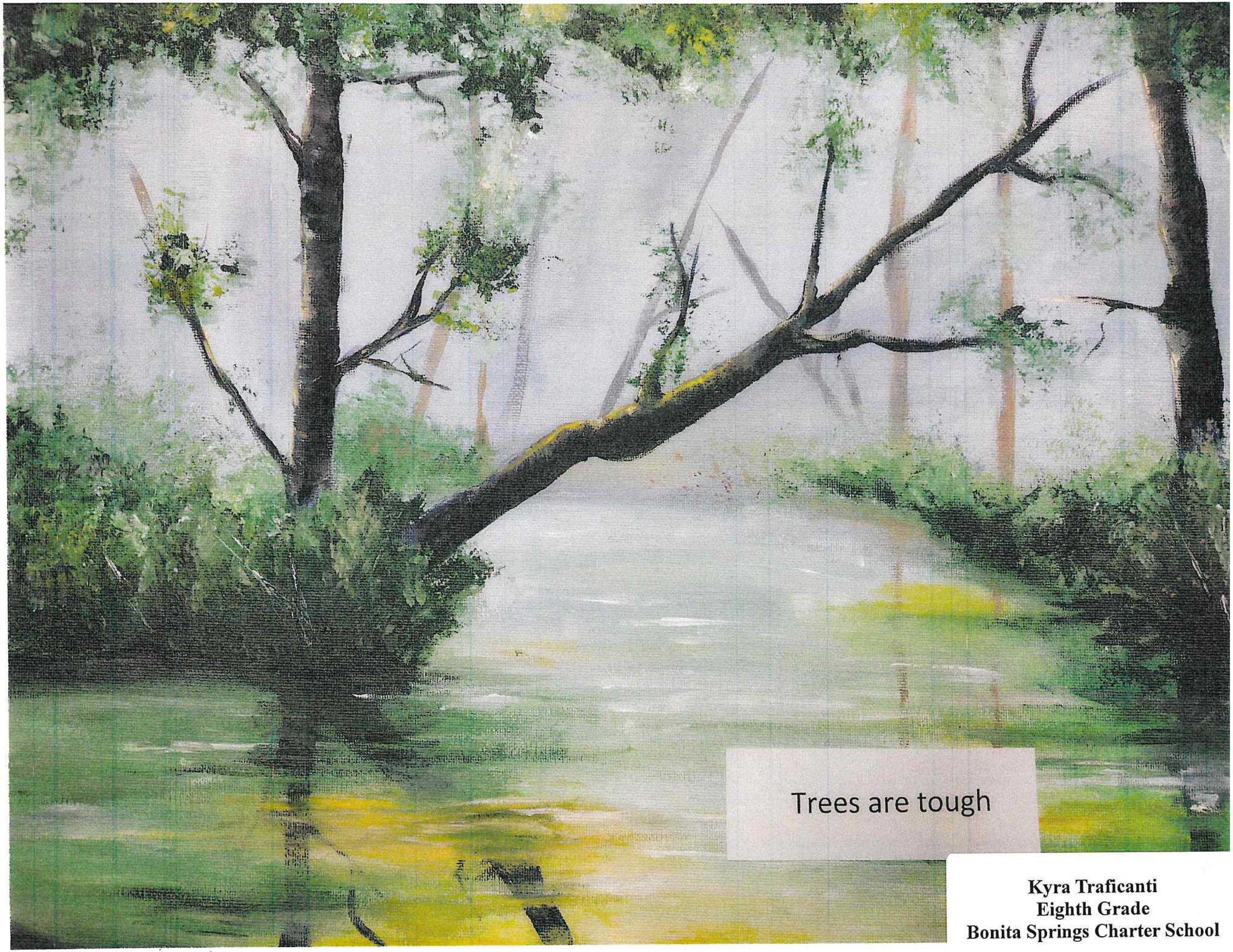
Noelle Freedman
Fourth Grade
Bonita Springs Charter School



Jasmine Martinez
Fifth Grade
Bonita Springs Charter School



Eulalia Pedro-Zacarias
Seventh Grade
Bonita Springs Charter School



Kyra Traficanti
Eighth Grade
Bonita Springs Charter School

City Council Chambers
9101 Bonita Beach Road
Bonita Springs, Florida 34135

CITY COUNCIL
MEETING MINUTES

March 15, 2023
9:00 a.m.

If you plan to address the City Council, please complete a "Public Comment Card" located on the table outside of Chambers. Completed comment cards should be submitted to the City Clerk who sits to the left of the podium prior to the start of the meeting.

To submit your public comment in writing, please email your name, address, and comments to CITYMEETINGS@CITYOFBONITASPRINGS.ORG. **Any written public comment must be received by 4:00 p.m. on March 14, 2023.**

The City of Bonita Springs will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income, or marital status. To request an ADA-qualified reasonable modification at no charge to the requestor, please contact Lisa Roberson by calling (239) 949-6262 at least 48 hours prior to the meeting.

If a person decides to appeal a decision made by the Council on any matter at this meeting, such person must have a verbatim record of the proceeding to include the testimony and evidence upon which such appeal is to be based.

---

1. Call to Order

   Mayor Steinmeyer called the meeting to order at 9:00 A.M.

2. Invocation

   Mayor Steinmeyer gave the Invocation.

3. Pledge of Allegiance

   Mayor Steinmeyer led in the Pledge of Allegiance

4. Roll Call

   Mayor Steinmeyer and all council members were in attendance.

5. Approval of Agenda

6. Mayor's Welcome

Draft

7. Public Comment on Agenda Items

Joe Gallagher commented on consent Item #10E, 17th Amendment to CH2M Hill Agreement.

Kyle Moran commented on Item #10G. In favor of the Agreement extension with the Center for the Arts.

Ben Hershenson is in favor of cell tower improvements.

Tim Deaton is in favor of cell tower improvements.

Jim Kauffman, Chair of the Technology Advisory Board is in favor of cell tower improvements.

Ron George in favor of cell tower improvements.

8. Zoning and Land Use Items:

A. (FIRST READING AND PUBLIC HEARING) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST TO AMEND ZONING ORDINANCE 16-07 FOR THE OAKLAND COMMERCIAL PLANNED DEVELOPMENT, WITH THE ADDITION OF A MASTER CONCEPT PLAN, AMENDED CONDITIONS AND AN AMENDED SCHEDULE OF USES; LOCATED AT 27971 OAKLAND DRIVE, BONITA SPRINGS, FLORIDA 34135; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet No. 23-03-048)

Council Member Corrie made a motion to move to second reading; seconded by Council Member Carr; Motion passed unanimously.

9. Proclamations and Presentations:

A. Presentation of proclamation proclaiming March 20-24, 2023 as Florida Government Financial Professional Week. (Green Sheet No. 23-03-042)

Mayor Steinmeyer read into the record and presented the proclamation to the Finance Department.

B. Presentation and update by Neighborhood Services (Green Sheet No. 23-03-049)

Tony Backhurst, Director of Neighborhood Services, gave presentation and answered questions.

Draft

C. Presentation and update by Community Development (Green Sheet No. 23-03-055)

John Dulmer, Director of Community Development, gave presentation and answered questions.

10. Consent Agenda:

Council Member Carr made a motion to approve consent agenda; Seconded by Council Member Forbes; Motion passed unanimously.

A. Approve Resolution for Budget Amendment to carryover prior year unspent capital budget amounts into fiscal year 2022-2023. (Green Sheet No. 23-03-043)

B. Approve the Caretaker's Agreement for the Bonita Nature Place (Green Sheet No. 23-03-044)

C. Approve bid tabulation for RFP #22-08 for CDBG-MIT Grant Management Services and authorize staff to begin negotiation with the top ranked firm (Green Sheet No. 23-03-045)

D. Approve Amendment #1 for the Community Development Block Grant COVID (CDBG-CV) Food Insecurity Program with Salvation Army and Feed Thy Neighbor Organizations. (Green Sheet No. 23-03-046)

E. Approve the 17th Amendment to the Agreement between the City of Bonita Springs and CH2MHILL Engineers for the provision of Community Development services. (Green Sheet No. 23-03-047)

F. Adopt a Resolution accepting the resignation of Michael Nigbor and Ronald Winsett from the City of Bonita Springs Veterans Advisory Board (Green Sheet No. 23-03-052)

G. Approve license agreement to allow Center for the Arts to host three art festivals per year at Riverside Park for a term of five years. (Green Sheet No. 23-03-051)

H. Accept the proposed buffer easement at 27251 Morgan Road to establish a buffer easement adjacent to the eastern property line (Green Sheet No. 23-03-058)

- Opportunity for City Council Comments on Consent Agenda

Council Member Carr had questions regarding Item D; Is there monitoring of funds. Council Member Forbes had questions regarding extra funds. Elly McKuen with Public Works responded.

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Council Member Carr was concerned with extra parking downtown for events related to Item G.

Council Member Purdon had concerns regarding Item G and future development.

10:24 A.M. Break

11. Mayor and Council Member Items:

A. Discussion regarding potentially amending the Land Development Code as it relates to cell towers for the purpose of improving services and connectivity in the City. (Green Sheet No. 23-03-056)

Council Member Corrie started discussion, raising cell tower height will increase service.

Mayor Steinmeyer made a motion to move forward with first reading and bring back by May 1; Seconded by Council Member Forbes; Motion passed unanimously.

12. Public Hearing:

A. Conduct the second public hearing of the City's draft Evaluation and Appraisal Report (E.A.R.) as required by F.S. §163.3191. (Green Sheet No. 23-03-050)

Dr. Banyan gave summary of report and answered questions.

Joe Gallagher suggested making the old library a senior center.

Dawn Koncikowski spoke regarding accessory dwelling units on barrier and coastal Islands; Conservation Coastal Management; Coastal Planning areas and recreation open space.

Mayor Steinmeyer made a motion to approve EAR (send letter and make corrections suggested by Dr. Banyan); Seconded by Council Member Corrie; Motion passed unanimously.

13. City Attorney's Items:

14. City Manager's Items:

A. Presentation and review of the January Financial Report. (Green Sheet No. 23-03-054)

Lisa Roberson, Director of Financial & Adminsitrative Services, made

Draft

presentation and answered questions.

B. City Council consent to hire a City Clerk and authorize City Manager to appoint an Interim City Clerk to serve until the official date of employment, if necessary. (Green Sheet No. 23-03-053)

Mayor Steinmeyer made a motion to approve; Seconded by Council Member Corrie; Motion passed unanimously (Council Member Purdon absent).

C. Consider a request from Lee County for a letter from the City supporting the County's House Appropriations Request of $2,000,000 for the Larry Kiker Preserve Water Management Project. (Green Sheet No. 23-03-057)

Arleen Hunter, City Manager presented.

Council Member Corrie made a motion to approve endorsement; Seconded by Mayor Steinmeyer; Motion passed unanimously. (Council Member Purdon absent)

D. Update regarding Hurricane Ian recovery

Arleen Hunter, City Manager discussed receiving advanced funding, continuing to look at additional grant opportunities and possibly moving the 1st meeting in April to a day meeting in recognition of Passover.

15. Mayor and Council Member Reports

Council Member Forbes stated on March 21 ~1:30-2pm, will be honoring Volunteers at Hunter's Ridge Club House. Representative Byron Donalds will be presenting.

Council Member Fullick stated there were two seats available on the Veteran's Advisory Board due to resignations; He also complimented John Dulmer and Community Development staff.

Council Member Bogacz was at the Fire Department Board meeting where they handed out Phoenix Awards and 5 and 20 year pins and provided an update on Fire Station #7 progress.

Council Member Corrie stated the Technology Advisory Board is looking into EV chargers and will bring forward with recommendations to the Council; Additionally he mentioned the HUD press conference on Ft. Myers Beach. $1.2

Draft

billion ear marked for Lee County for housing assistance through the Resiliency Task Force.

Council Member Carr questioned whether the Technology Advisory Board was also looking into what to do with battery life span and disposal.

16. Public Comment

Jennifer Kirchner with Forest Creek Villas, discussed clearing out Leitner Creek from Ian debris with the help of SFWMD.

Kyle Moran spoke on making downtown pedestrian friendly.

John Poldoian with the Technology Advisory Board, making downtown EV friendly.

Tim Deaton spoke on EV charging stations.

17. Adjournment

There being no further items to discuss, the meeting adjourned at 12:03 P.M.

Respectfully submitted,

_____
Brenda Reetz, Interim City Clerk

APPROVED BY CITY COUNCIL

Date: _____

AUTHENTICATED:

_____
Mayor Rick Steinmeyer

Draft

City Council Chambers
9101 Bonita Beach Road
Bonita Springs, Florida 34135

CITY COUNCIL
WORKSHOP
MINUTES

March 15, 2023

Workshop will begin immediately after City Council meeting adjourns.

---

1. Call to Order

   Mayor Steinmeyer called the meeting to order at 12:03 P.M.

2. Roll Call

   All Council Members were present except for Council Member Purdon.

3. Staff Presentation on Parks & Recreation Capital Improvement Projects

   Nicole Perino, Parks & Recreation Director, gave a presentation on the following projects:

   - Community Park Baseball Complex
   - Skatepark and Pump Track
   - Children's Activity Pool and Family Restroom Addition
   - Liles Hotel Roof Replacement
   - Marni Fields Water & Wastewater Connections
   - Island Park Entry
   - Mayhood Soccer Complex
   - Oak Creek Kayak Launch
   - Riverside Park Bandshell Renovations
   - Depot Park Playground Renovations and expansion

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4. City Council Discussion

5. Public Comment

   None.

6. Adjournment

There being no further items to discuss, the meeting adjourned at 12:56 p.m.

Respectfully submitted,

_____

Brenda Reetz, Interim City Clerk

APPROVED BY CITY COUNCIL

Date: _____

AUTHENTICATED:

_____

Mayor Rick Steinmeyer

Draft

City Council Chambers
9101 Bonita Beach Road
Bonita Springs, Florida 34135

BONITA SPRINGS
CITY COUNCIL
MEETING MINUTES

April 19, 2023
9:00 a.m.

Draft

1. **Call to Order**
   Mayor Rick Steinmeyer called the meeting to order at 9:00 a.m.

2. **Invocation**
   Invocation provided by Rev. Larry Fannon, Springs of Bonita Church.

3. **Pledge of Allegiance**
   Mayor Steinmeyer led the Pledge of Allegiance.

4. **Roll Call**
   The City Clerk called the roll:
   Present 6 - Mayor Steinmeyer, Council Member Purdon, Council Member Carr, Council Member Corrie, Council Member Fullick, Council Member Forbes
   Excused 1 - Council Member Bogacz

5. **Approval of Agenda**
   No objections or change requests were noted.

6. **Mayor's Welcome**
   Mayor Steinmeyer welcomed attendees and thanked them for their participation.

7. **Public Comment on Agenda Items**
   Kyle Moran - Expressed support for alignment design alternative #4 under agenda item 9A.

8. **Zoning and Land Use Items:**
   None

9. **Proclamations and Presentations:**

   A. Proclamation of April 28, 2023 as Arbor Day in the City of Bonita Springs

   Proclamation presented by Mayor Steinmeyer and read aloud by Jack Brown, Chairman, Tree Advisory Board.

B. Receive presentation for the US 41 & Bonita Beach Road Quadrant Plan Northwest Phase I Project from RK&K engineering firm and provide direction on which design alternative to pursue. (Green Sheet No. 23-04-079)

Joseph Baan of RK&K presented an overview of the project followed by a summary of each of the four alignment alternatives for Council's consideration (presentation on file in the Clerk's office). Council Member Purdon motioned for approval of alternative #4, and to move forward with plans for a Continuous Flow Intersection at Bonita Beach Road and Windsor Road; Mayor Steinmeyer seconded; the motion carried with six in favor, one absent.

10. **Consent Agenda:**

Council Member Corrie motioned to approve the Consent Agenda; Council Member Purdon seconded; the motion carried with six in favor, one absent.

A. Approve the April 5, 2023 Draft City Council Meeting Minutes

B. Approve the award of the Bridge Maintenance & Repair Project RFB 23-05 to the lowest responsive, responsible bidder, Zep Construction, Incorporated in the bid amount of $439,510.00, upon approval of all documentation. (Green Sheet No. 23-04-072)

C. Adopt Resolution accepting the resignation of Lester James from the City of Bonita Springs Outreach Advisory Committee. (Green Sheet No. 23-04-073)

D. Approve contract agreement with Pegasus Engineering, LLC for Grant Management Services (RFP #22-08) for the CDBG-MIT East Terry Street Stormwater and Multi-Use Pathway Project (Green Sheet No. 23-04-074)

E. Approve two sales contracts to acquire property located at 27721 and 27701 Donegal Drive and approve the issuance of earnest money to bind the contract with the seller (Green Sheet No. 23-04-075)

F. Approve a sub-recipient agreement between Lee County and the City of Bonita Springs for FY2020-2021 (unallocated balance), FY2021-2022 and FY2022-2023 Community Development Block Grant Entitlement Funds (Green Sheet No. 23-04-078)

G. Confirm and ratify Resolutions extending the Local State of Emergency due to Hurricane Ian. (Green Sheet No. 23-04-083)

H. Approve updated design of benches for the pocket park to be constructed in front of City Hall. (Green Sheet No. 23-04-084)

- Opportunity for City Council Comments on Consent Agenda
  No comments

11. **Mayor and Council Member Items:**

None

Draft

12. **Public Hearing:**

A. FIRST READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 – ZONING, TO AMEND SEC. 4-555 – USE REGUATIONS TABLE AND 4-556 – PROPERTY DEVELOPMENT REGULATIONS TABLE WITHIN THE MOBILE HOME RESIDENTIAL DISTRICT, SEC. 4-866 – GENERAL PROVISIONS AND SEC. 4-872 – STOREFRONTS AND SIGNAGE FOR THE DOWNTOWN FORM-BASED CODE, AND SEC. 4-898 – PERMITTED USES AND SEC. 4-899 – SITE DESIGN STANDARDS WITHIN THE THE BONITA BEACH ROAD CORRIDOR OVERLAY DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE. (Green Sheet No. 23-04-080)

City Clerk Sheffield read the Ordinance title into the record. No members of the public came forth to provide comment. Council Member Carr motioned to move to second reading; Mayor Steinmeyer seconded; the motion carried with six in favor, one absent.

13. **City Attorney's Items:**
None

14. **City Manager's Items:**

A. Approve a change order to the Weston and Sampson Facility Assessment Study to account for the Hurricane Ian Event for a total not to exceed amount of $71,400.00. (Green Sheet No. 23-04-077)

Council Member Carr motioned to approve; Mayor Steinmeyer seconded; the motion carried with six in favor, one absent.

B. Discussion regarding potential land development code (LDC) amendments to the LDC Chapter 7, Article XII-Dock and Shoreline Structures. (Green Sheet No. 23-04-082)

Council Member Carr motioned to approve; Council Member Purdon seconded; the motion carried with six in favor, one absent.

C. Discussion regarding potential land development code (LDC) amendments to the LDC Chapter 7, Article II-Sea Turtles and direction to staff. (Green Sheet No. 23-04-081)

Council Member Carr motioned to approve; Council Member Purdon seconded; the motion carried with six in favor, one absent.

Draft

D. Presentation of the Certificate of Achievement for Excellence in Financial Reporting to City of Bonita Springs and review of the February Financial Report (Green Sheet No. 23-04-076)

Director Lisa Griggs Roberson presented the February Financial Report (copy on file in the Clerk's office). Council Members congratulated the Finance team for being awarded the Certificate of Achievement for Excellence in Financial Reporting.

E. Update regarding Hurricane Ian recovery

i. Update regarding CDBG-DR funding for Lee County

City Manager Hunter provided a verbal update.

ii. Discussion regarding curfew on Little Hickory Island

City Manager Hunter informed Council that she has had discussions with the president of the Bonita Beach Association and the Lee County Sheriff's Office regarding a time-frame to bring the curfew on Little Hickory Island to an end. She asked Council to provide direction regarding recinding the curfew by May 1. Council Member Carr motioned to rescind the curfew on Little Hickory Island by May 1; Council Member Purdon seconded; the motion carried with six in favor, one absent.

15. **Mayor and Council Member Reports**

Council Member Corrie - Reported on the Recovery Task Force, informing Council of the opportunity to nominate people to serve on branch subcommittees. Council Member Corrie nominated Emily Porter for participation on the environmental or economic subcommittee, citing her skills and experience.

Council Member Forbes - Expressed his interest in serving on a subcommittee of the Recovery Task Force, and further nominated the following individuals: Jim Magnus, Kyle Moran, Ron George, Sharon Ralston, and Malaina Mote. Also, he discussed proposed legislation that may have an impact - House Bill 439 (pertaining to land use and development regulations) and Senate Bill 714 (pertaining to short term rentals).

Council Member Purdon - Reported on his recent meeting with Lee County Sheriff's Captain Blake Lee and suggested that other Council Members also speak to Captain Lee before the second reading of the Ordinance on May 3rd. Also, he commended the Bonita Springs Fire Control and Rescue District, and the neighboring districts that provided mutual aid, for their outstanding efforts battling the recent brushfire.

Council Member Carr - Expressed gratitude for our firefighters, deputies, and state troopers, as well as for the residents who voluntarily pick-up trash on the beach.

Council Member Fullick - Reported on the Tourist Development Council and expressed concern for the lack of solemnity that he has witnessed during past Memorial Day services held at Riverside Park (cars revving engines, honking horns). He advised Council that he would like to bring back a request for a temporary road closure for only the duration of the ceremony.

Draft

Other Council Action

- *Mayor Steinmeyer motioned to nominate Emily Porter for participation on a Recovery Task Force Subcommittee, seconded by Council Member Corrie - **NO VOTE WAS TAKEN** - the motion maker and the second withdrew their motions following the recommendation of City Attorney Rooney that all nominees be approved in one motion, rather than individually.*

- *Mayor Steinmeyer motioned to nominate the following seven individuals for participation on Recovery Task Force subcommittees: Council Member Forbes, Emily Porter, Jim Magnus, Kyle Moran, Ron George, Sharon Ralston, and Malaina Mote; Council Member Purdon seconded; the motion carried with six in favor, one absent.*

- *City Manager Hunter asked Council Members if they would like staff to remove from future agendas those agenda titles that do not have items under them. Council members agreed without discussion.*

16. Public Comment

Joe Gallagher - Spoke about the need for low-income rental housing and further stated that the library would be a good location for a senior center.

Fred Weinman - Spoke on behalf of the Center for the Arts of Bonita Springs, to thank the City for supporting the Center's art festivals over the last 20 years.

Kyle Moran - Expressed appreciation for law enforcement and concerns about traffic issues downtown.

Ben Hershenson - Spoke about traffic issues in the area of Shangri La Rd/Cockleshell Dr/Paradise Rd.

17. Adjournment

There being no further business, the meeting adjourned at 10:41 a.m.

Prepared by:

_____
Mike Sheffield, City Clerk

APPROVED BY CITY COUNCIL

Date: _____

AUTHENTICATED:

_____
Rick Steinmeyer, Mayor

Draft

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-085
May 3, 2023

REQUESTED MOTION: Approve the award of the Old 41 Road & Strike Lane Signalization & Sidewalk Improvements Project RFB 22-14 to the lowest responsive, responsible bidder, Coastal Concrete in the amount of $985,697.50 for signalization, and $252,725.00 for sidewalk improvements upon approval of all documentation and adopt Budget Transfer Resolution.

REQUESTOR: Matt Feeney, Assistant City Manager

AGENDA: Consent

STRATEGIC PRIORITY: #2 Transportation

BACKGROUND: On February 13, 2023, City staff advertised for sealed bids for the Old 41 Road & Strike Lane Signalization & Sidewalk Improvements Project RFB 22-14.

On April 6, 2023, staff received three (3) sealed bids. They are the following.

Contractor	Signalization	Sidewalk
Horsepower Electric	$ 985,697.50	$263,992.50
Coastal Concrete	$1,108,604.25	$252,725.00
Ajax Paving	$1,838,459.98	$291,012.00

Please note that while Horsepower Electric was originally the lowest bid received, pursuant to Sec. 36-32 of the City's Code of Ordinances, Coastal Concrete, as a certified local business who submitted the second lowest bid within 10% of the overall lowest bid, was afforded the opportunity to match the overall lowest bid.

STAFF RECOMMENDATION: Accept bid from Coastal Concrete in the amount of $985,697.50 for signalization, and $252,725.00 for sidewalk improvements, and adopt Budget Transfer Resolution.

ATTACHMENTS:

1. Bid Comparison
2. Resolution

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Mike Sheffield
Department Director: Matt Feeney

THE CITY OF BONITA SPRINGS OLD 41 ROAD & STRIKE LANE SIGNALIZATION & SIDEWALK IMPROVEMENTS PROJECT
RFB 22-14

DUE APRIL 6, 2023 @ 2:00 P.M.

The City of Bonita Springs received three (3) sealed bids for the Old 41 Road & Strike Lane Signalization & Sidewalk Improvements Project.

They are as follows:

Contractor	**Signalization**	**Sidewalk**
Horsepower Electric	$ 985,697.50	$263,992.50
Coastal Concrete	$1,108,604.25	$252,725.00
Ajax Paving	$1,838,459.98	$291,012.00

Please be advised that after reviewing all bids submitted on April 6, 2023, and all pertinent data, pending City Council approval, the City of Bonita Springs intends to award RFB 22-14 OLD 41 ROAD & STRIKE LANE SIGNALIZATION & SIDEWALK IMPROVEMENTS PROJECT, to the lowest responsible local bidder, Coastal Concrete, in the amount of $985,697.50 for signalization, and $252,725.00 for sidewalk improvements.

Please note that while Horsepower Electric was originally the lowest bid received, pursuant to Sec. 36-32 of the City's Code of Ordinances, Coastal Concrete, as a certified local business who submitted the second lowest bid within 10% of the overall lowest bid, was afforded the opportunity to match the overall lowest bid.

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 23 –

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING THE BUDGET AMENDMENT FOR FISCAL YEAR 2022/2023; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 21, 2022, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2023, Fiscal Year 2022-2023; and

WHEREAS, Section 46 (d) of the City Charter allows the transfer for all or part of any unrestricted appropriations from one department to another; and

WHEREAS, as outlined in City Council agenda item 23-05-085 Old 41 Road & Strike Lane Signalization & Sidewalk Improvements, Coastal Concrete requires additional funding; and

WHEREAS, funding for the additional budgeted expenditures of $415,000.00 is available in the General Fund, unassigned fund balance;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Bonita Springs, Florida:

1. The above “Whereas” clauses are true, correct, and incorporated herein by reference.
2. The City Council authorizes a budget amendment to line item 30.250.541.6346 Old 41 Road & Strike Lane Signalization & Sidewalk Improvements in $415,000.00 additional budgeted expenditures funding from the General Fund, unassigned fund balance.

Section 3. Effective date. This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 3rd day of May 2023

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM:_____

City Attorney

Vote:

Bogacz__ Fullick___
Purdon ___ Forbes ___
Carr ___ Steinmeyer ___
Corrie___

Date filed with City Clerk: _____

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-086
May 3, 2023

REQUESTED MOTION: Approve a resolution appointing two members to the Veterans Advisory Committee; and providing an effective date.

REQUESTOR: Councilmember Nigel P. Fullick, District 5

AGENDA: Mayor and Councilmember Items

STRATEGIC PRIORITY: none

BACKGROUND: Veterans Advisory Committee is comprised of nine appointed members of the City, each holding the following seats, unless a member from the named agency is not able to serve, allowing for a Veteran Member at Large to serve in their place:

1. Member of the American Legion
2. Member of the Veterans of Foreign Wars
3. Member of the Sons of the American Legon
4. Member of the American Legion Ladies Auxiliary
5. Member of the Veterans of Foreign Wars Ladies Auxiliary
6. Veteran Member at Large
7. Veteran Member at Large
8. Veteran Member at Large
9. Veteran Member at Large

The following applicants are qualified and interested in serving on the Veterans Advisory Committee:

Ronald Libby (Member at Large)

Royston Flanders (Member at Large)

The current Veterans Advisory Committee consists of the following persons: Paul Canning (Member at Large), Jan Farrington (American Legion Ladies Auxiliary), Bobby Hunter (Member at Large), and Scott Cline (Member of the American Legion).

STAFF RECOMMENDATION: Approve Resolution appointing applicants to the Veterans Advisory Committee.

ATTACHMENTS:

1. Resolution
2. Applications from Prospective Appointees

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	Lora Taylor

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 23-

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPOINTING TWO MEMBERS TO THE VETERANS ADVISORY COMMITTEE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 7th, 2007 Council approved Resolution 07-123 creating the City of Bonita Springs Veterans Advisory Committee consisting of seven members; and

WHEREAS, on March 5th, 2008, Council authorized two alternate member positions to the committee; and

WHEREAS, on August 19, 2009, per Resolution 09-74, Council revised the Veterans Advisory Committee to consist of nine members; and

WHEREAS, there are currently four vacancies on the Committee; and

WHEREAS, Council Member Nigel P. Fullick has recommended Mr. Ronald Libby and Mr. Royston Flanders, who wish to be appointed as members.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bonita Springs, Florida:

1. Mr. Ronald Libby and Mr. Royston Flanders are hereby appointed as Members of the Veterans Advisory Committee.

2. Effective date. This Resolution shall become effective immediately upon its adoption by City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this May 3rd, 2023.

AUTHENTICATION:

_____ _____
Mayor Steinmeyer City Clerk

APPROVED AS TO FORM:_____
City Attorney's Office

Vote:

Steinmeyer	Corrie
Bogacz	Fullick
Purdon	Forbes
Carr	

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

PLEASE BE ADVISED THAT ALL INFORMATION CONTAINED IN THIS APPLICATION BECOMES PUBLIC RECORD ONCE SUBMITTED TO CITY OF BONITA SPRINGS

Note: Applications will be kept on file and active for a period of two years from date received.

City Council District #_____

DATE: 3/27/2023

PLEASE COMPLETE ALL SECTIONS		
NAME: LIBBY	RONALD	E.
Last	First	Middle Initial
RESIDENCE ADDRESS:		
25632 LILAC CT	BONITA	SPRINGS 34135
Street	City	Zip Code
BUSINESS ADDRESS:		
Street	City	Zip Code
MAILING ADDRESS:		
25632 LILAC CT	BONITA SPRINGS FL	34135
Street	City	Zip Code
PHONE NO. 954-818-2724	CELL PHONE # 954-818-2724	
Home	Business	
E-MAIL ADDRESS: MAINEEARLE@AOL.COM		
FAX:		

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee:

VETERANS

NAME OF ADVISORY COMMITTEES

OCCUPATION: RETIRED

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD:

SEE PAGE 3

Do you reside in Bonita Springs? ☑ Yes ☐ No Address: 25632 LILAC CT. BONITA SPRINGS FL

APPLICATION TO SERVE ON A
CITY OF BONITA SPRINGS ADVISORY COMMITTEE – CONTINUED

My qualifications to be eligible are as follows:

BEING A VETERANS

BOARD MEMBER HALLANDALE BCH FL CEMENTARY PARKS + RECREATION

PALM GEORGE CONDO 9YRS

VOLONTEA HALLANDALE BCH SCHOOLS

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City.

N/A

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee:

N/A

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

1.) **Some of the Boards and Committees appointed by the City Council are required to comply with Chapter 112, Florida Statutes, the Financial Disclosure Law and you may be required to file a Form 1 Financial Disclosure.**
2.) **City of Bonita Springs, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.**



Signature

3/27/2023

Date

PLEASE SUBMIT THIS FORM VIA EMAIL TO: CLERK@CITYOFBONITASPRINGS.ORG
OR
RETURN THIS COMPLETED FORM TO:

CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

APPLICATION TO SERVE ON ADVISORY COMMITTEE

(PLEASE TYPE OR PRINT)

PLEASE BE ADVISED THAT ALL INFORMATION CONTAINED IN THIS APPLICATION BECOMES PUBLIC RECORD ONCE SUBMITTED TO CITY OF BONITA SPRINGS

Note: Applications will be kept on file and active for a period of two years from date received.

City Council District # 5

DATE: 3/31/23

PLEASE COMPLETE ALL SECTIONS		
NAME: FLANDERS	ROYSTON (ROY) E.	
Last	First	Middle Initial
RESIDENCE ADDRESS:		
27217 J.C. LANE		
Street	City BONITA SPRINGS	Zip Code 34135
BUSINESS ADDRESS:		
N/A		
Street	City	Zip Code
MAILING ADDRESS:		
Street 27217 J.C LANE	City BONITA SPRINGS	Zip Code 34135
PHONE NO. 239-948-8952	CELL PHONE # 239-209-2927	
Home		Business
E-MAIL ADDRESS: ROY.FLANDERS062@GMAIL.COM		
FAX:		

I hereby submit my name for consideration to serve in an advisory capacity to the City of Bonita Springs on the following Advisory Committee:

VETERANS ADVISORY

NAME OF ADVISORY COMMITTEES

OCCUPATION: U.S ARMY - RETIRED CW4

CIVIC/PROFESSIONAL ACCOMPLISHMENTS/OFFICES HELD:

INDUCTED INTO CID HALL OF FAME 2016

Do you reside in Bonita Springs? ☒ Yes ☐ No Address: 27217 JC LANE

APPLICATION TO SERVE ON A
CITY OF BONITA SPRINGS ADVISORY COMMITTEE – CONTINUED

My qualifications to be eligible are as follows:

HONARBLY DISCHARGED U.S. ARMY, ACTIVE MEMBER OF BONITA SPRINGS COMMUNITY AND CITY ORGANIZATIONS OVER THE PAST 18+ YEARS

If applicable, please indicate any employment, contractual relationship or status that you may have, or have had within the past 12 months, with any private business entity that rents, leases or sells any realty, or provides any goods or services to the City or that is conducting any business with the City.

NONE

If you have previously served on a City of Bonita Springs Advisory Committee or are currently serving and seeking reappointment, please indicate the number and general nature of any voting conflict disclosure memorandum filed (Form 8B) while serving on the committee: N/A

If applicable, attach a résumé of additional personal and professional qualifications and experience that pertains to the above.

I understand that:

1.) Some of the Boards and Committees appointed by the City Council are required to comply with Chapter 112, Florida Statutes, the Financial Disclosure Law and you may be required to file a Form 1 Financial Disclosure.

2.) City of Bonita Springs, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.

X _____ Signature

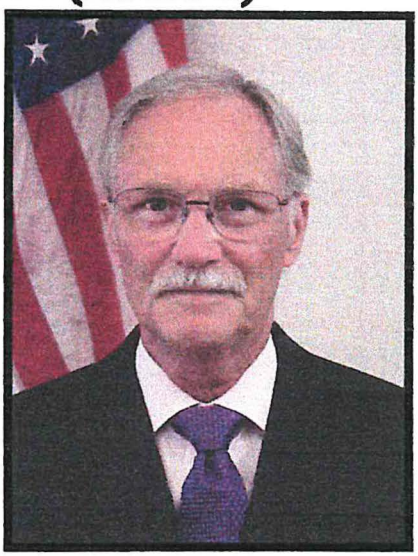
X 3 APR 23 Date

PLEASE SUBMIT THIS FORM VIA EMAIL TO: CLERK@CITYOFBONITASPRINGS.ORG
OR
RETURN THIS COMPLETED FORM TO:

CITY OF BONITA SPRINGS
ADVISORY COMMITTEES
9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135

CID HALL OF FAME INDUCTEE

Royston E. Flanders - CW4 (Retired)



Served: 1974-1996
- Operations Officer, 202nd MP Group, Seckenheim, Germany (1995-1996)
- Chief, Protective Services, Headquarters USAREUR, Heidelberg, Germany (1994-1995)
- Special Agent-in-Charge, Heidelberg Resident Agency, Heidelberg, Germany (1989-1993)
- Special Agent-in-Charge, West Point Branch Office, Highland Falls, New York (1986-1989)
- Drug Suppression Team and Protective Services Coordinator, Seoul, Korea (1984-1986)
- Special Agent-in-Charge, Fitzsimmons Branch Office, Denver, Colorado (1981-1984)
- Special Agent, Nuremberg, Germany (1980-1981)

Major Accomplishments

During covert operations he infiltrated and identified high-level international drug traffickers in Europe, seizing more than 75 pounds of heroin, valued in excess of $34 million. As a direct response to increased threats to high-ranking American personnel, selected to serve as Chief of Protective Services for the Commander-in-Chief, U.S. Army Europe. Recognized by President Ronald Reagan for his exceptional support to the President's Secret Service Detail. Recognized by the NATO Commander for his outstanding performance, professionalism and military bearing during the SHAPE FALLEX 66 NATO Exercise held in Paris, France.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-087
May 3, 2023

REQUESTED MOTION: Confirm and ratify Executive Order 23-01 and Resolutions extending the Local State of Emergency due to Hurricane Ian.

REQUESTOR: Arleen M. Hunter, City Manager; Derek Rooney, City Attorney

AGENDA: Consent

STRATEGIC PRIORITY:

BACKGROUND:

Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and declared a state of emergency, pursuant to Chapter 252, Florida Statutes. As Hurricane Ian posed a serious threat to our area, an ultimate landfall directly affected the City of Bonita Springs. Consistent with Florida statutes, the following Resolutions were prepared and signed by the Mayor and staff to extend the Local State of Emergency in seven day increments.

Additionally, on April 19, 2023, City Council consented to rescinding the curfew still in effect for the Bonita Beach areas. Accordingly, on April 27, 2023, Executive Order 23-01 was issued announcing that the curfew shall terminate on May 1, 2023.

At this time, it is appropriate for City Council to ratify the continued Local State of Emergency and Executive Order 23-01.

STAFF RECOMMENDATION: Approve

ATTACHMENTS:

1. Resolution No. 23-29 issued on April 17, 2023
2. Resolution No. 23-31 issued on April 24, 2023
3. Executive Order 23-01 issued on April 27, 2023

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Mike Sheffield

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-29

AN EMERGENCY RESOLUTION OF THE CITY OF BONITA SPRINGS DECLARING A STATE OF LOCAL EMERGENCY RESULTING FROM HURRICANE IAN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and has declared a state of emergency, pursuant to Chapter 252, Florida Statutes; and,

WHEREAS, on September 26, 2022 the City declared a local State of Emergency ahead of the landfall of Hurricane Ian; and

WHEREAS, Hurricane Ian had a significant impact on this area, the effects of which are still being fully ascertained and include extensive flooding, wind and water damage, not only to public infrastructure but to homes and businesses throughout the City; and

WHEREAS, the effects of Hurricane Ian continue to pose a serious threat to the lives and property of residents of the City of Bonita Springs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor on behalf of the City Council of the City of Bonita Springs, Lee County, Florida;

Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

Section 3. This resolution shall take effect immediately upon adoption. Consistent with Florida Statutes §252.38(3), the duration of this state of emergency declared locally is limited to 7 days and may be extended, as necessary by resolution, in 7-day increments.

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 17th day of April, 2023.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

Date filed with City Clerk: 4/18/23

CITY OF BONITA SPRINGS
RESOLUTION NO. 23-31

AN EMERGENCY RESOLUTION OF THE CITY OF BONITA SPRINGS DECLARING A STATE OF LOCAL EMERGENCY RESULTING FROM HURRICANE IAN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Governor Ron DeSantis signed Executive Orders 2022-218 and 2022-219, in response to the anticipated landfall of Hurricane Ian and has declared a state of emergency, pursuant to Chapter 252, Florida Statutes; and,

WHEREAS, on September 26, 2022 the City declared a local State of Emergency ahead of the landfall of Hurricane Ian; and

WHEREAS, Hurricane Ian had a significant impact on this area, the effects of which are still being fully ascertained and include extensive flooding, wind and water damage, not only to public infrastructure but to homes and businesses throughout the City; and

WHEREAS, the effects of Hurricane Ian continue to pose a serious threat to the lives and property of residents of the City of Bonita Springs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor on behalf of the City Council of the City of Bonita Springs, Lee County, Florida;

Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

Section 3. This resolution shall take effect immediately upon adoption. Consistent with Florida Statutes §252.38(3), the duration of this state of emergency declared locally is limited to 7 days and may be extended, as necessary by resolution, in 7-day increments.

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 24th day of April, 2023.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

Date filed with City Clerk: 4/24/23

EXECUTIVE ORDER 23-01
RESCINDING CURRENT CURFEW DURING
LOCAL STATE OF EMERGENCY
HURRICANE IAN

WHEREAS, the City of Bonita Springs is under a Local State of Emergency as a result of Hurricane Ian; and

WHEREAS, as a result of Hurricane Ian, emergency conditions exist within the City because of damage to buildings and structures and debris on public and private property due to the high winds, rain, storm surge and flooding; and

WHEREAS, on September 28, 2022, an Executive Order was issued establishing a City-wide curfew beginning at 6:00 pm and continuing until further notice; and

WHEREAS, on October 7, 2022, an Executive Order 22-03 was issued amending the curfew to begin at 7:00 pm to 7:00 am.

WHEREAS, on January 18, 2023, Executive Order 22-08, was issued amending the curfew to begin at 12:00 a.m. to 6:00 a.m.

NOW THEREFORE the City Manager is authorized by law and pursuant to Resolution 22-59, in order to protect the health and safety of the City, to enact the following emergency measure(s):

1. **Bonita Beach Area Curfew Rescinded.** The curfew established for the Bonita Beach Area shall terminate at 11:59 pm on April 30, 2023. Beginning May 1, 2023, no previously enacted curfew shall apply.

2. **Effective Date and Duration**. This Executive Order shall be effective immediately upon my execution, this 27 day of April, 2023, and shall remain in effect until otherwise terminated or extended in accordance with applicable law.

Arleen M. Hunter
City Manager

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-093
May 3, 2023

REQUESTED MOTION: Approve Fourteenth Addendum to the Second Agreement for Law Enforcement Services to implement funding for two additional deputies for the LCSO Community Policing Unit in Bonita Springs.

REQUESTOR: Arleen M. Hunter, City Manager; Derek Rooney, City Attorney

AGENDA: Consent

STRATEGIC PRIORITY:

BACKGROUND:

On September 7, 2022, the City Council approved the Thirteenth Addendum to Second Agreement for Law Enforcement Services, which provides for two sergeants and fifteen deputies (including a detective) dedicated to community policing in Bonita Springs.

On September 21, 2022, City Council approved the fiscal year 2022/2023 budget, which includes sufficient funding for two additional deputies for the Community Policing Unit to begin April 1, 2023.

The attached addendum provides funding for the remainder of the fiscal year at an amount not to exceed $1,214,174.73, which funds 2 sergeants and 17 deputies.

STAFF RECOMMENDATION:

ATTACHMENTS:

1. Fourteenth Addendum to Second Agreement

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield

FOURTEENTH ADDENDUM TO SECOND AGREEMENT

BY AND BETWEEN CARMINE MARCENO, SHERIFF OF LEE COUNTY, FLORIDA AND THE CITY OF BONITA SPRINGS FOR ENHANCED LAW ENFORCEMENT SERVICES

COMES NOW the Parties hereto and enter into this Fourteenth Addendum to the Second Agreement, (the Agreement), by and between Carmine Marceno, Sheriff, Lee County, Florida and the City of Bonita Springs, Florida for enhanced law enforcement services dated October 1, 2010, and agree as follows:

WHEREAS, the Parties hereto may amend this Agreement pursuant to Article XXI (20.1), of the Agreement;

WHEREAS, the Parties hereto desire to amend the Agreement in the following manner;

NOW THEREFORE, in consideration of the mutual promises and conditions set forth herein, which the Parties hereto deem and acknowledge sufficient consideration, **the Parties agree as follows:**

1. The Recitals above are adopted and incorporated herein as if fully restated.

2. Exhibit "A" of the Agreement is deleted in its entirety and replaced with the following:

REMAINING FISCAL YEAR 22/23

a. Under the Thirteenth Amendment to the Second Agreement which was executed by the Parties on August 30, 2022, the City of Bonita Springs has fulfilled its required payments to the Sheriff through April 1, 2023.

b. Funding for Community Policing is established for the remainder of the fiscal year at an amount not to exceed $1,214,174.73. The funding is to pay for a total of 2 Sergeants and 17 Deputies. 2 additional deputies have been approved by the City of Bonita Springs and began work on April 2, 2023.

c. Amount is effective April 2, 2023, through September 30, 2023.

d. Vehicles, rental vehicles, and all equipment are included into the cost for Deputies and Sergeants.

3. All other terms and conditions of the Agreement, as modified and not otherwise inconsistent with this addendum, shall remain in full force and effect.

THIRTEENTH ADDENDUM TO SECOND AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have caused their respective agents to execute this instrument on their behalf, on the dates set forth below.

SHERIFF OF LEE COUNTY

CARMINE MARCENO, SHERIFF — Date: 4/14/23

JOHN HOLLOWAY, ESQ.
UNDERSHERIFF — Date: 4/14/23
Approved as to form

CITY OF BONITA SPRINGS

RICK STEINMEYER, MAYOR

Attest:

DEBBIE FILIPEK, CITY CLERK

APPROVED AS TO LEGAL FORM:

DEREK P. ROONEY, CITY ATTORNEY

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-095
May 3, 2023

REQUESTED MOTION: Approve the special event permit for the Memorial Day Service and temporary road closure of Old US 41 Road from Wilson Street to Ragsdale Street for the duration of the service on Monday, May 29, 2023.

REQUESTOR: Lora Taylor, Communications Director

AGENDA: Consent

STRATEGIC PRIORITY: N/A

BACKGROUND:

The Bonita Springs Memorial Day Ceremony is an annual service held on Memorial Day to honor those who have died while serving our country. This event is coordinated by the Bonita Springs Veterans Advisory Committee.

During the April 19th City Council meeting, Councilman Fullick stated that he would be requesting a road closure for the duration of the Memorial Day Service to provide a more peaceful and dignified environment in which to conduct the ceremony. Old 41 would be closed from Ragsdale St to Wilson St for the duration of the service (approximately an hour to an hour and a half).

A road closure does require staff to obtain a maintenance of traffic plan, rent barricades, and provide additional staff to securely manage the closure. Staff will also coordinate with Lee County Sheriff's Office for the closure. Funding is provided for the event within the FY2022-2023 Communication Department budget. Should additional funding be needed for the road closure, funds are provided within the operational contingency line item.

STAFF RECOMMENDATION Approve the special event permit for the Memorial Day Ceremony and temporary road closure of Old US 41 Road from Wilson Street to Ragsdale Street on Monday, May 29, 2023.

ATTACHMENTS:

1. Special Event Permit Application
2. MOT Map
3. Event Flyer

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	Lora Taylor

You do not have to partner with the charities on this list. You may choose any charity. This list is intended as informational only.

SPECIAL EVENT PERMIT APPLICATION **PERMIT. SEP-** _____

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

Date Received: 03/08/2023 Effective Date/Time: _____

Application Fee: ☐ $50.00 Phone: 239/949-6262 Fax: 949-6239
☐ $25.00 (501C3 organizations)
Fee is non-refundable

Use this form for: Parades, Festival/Carnival, Any Activity Requiring Off-Site Parking, Street Closure, Sound Amplification or City Personnel, Run/Race/Walk, Art Shows, Concerts, Special Musical Presentation, Street Dances, Photography Shoots, and Fireworks. For information call 949-6262.

Completed Special Event Permits take 45 days to process with all necessary attachments and without errors. Your permit will go to the next City Council Meeting after the 45 days. Please take this into consideration when planning your event.

Organization: City of Bonita Springs
Nature of Event: Memorial Day Ceremony
Location (Attach Site Plan): Riverside Park - 10450 Reynolds St. Bonita Springs, FL 34135

Date	Set-Up Time		Actual Event Times		Take Down Time	
05/29/2023	7:30am	to 9am	9am	to 12pm	12pm	to 1:30pm

For multiple dates, please attach letter.

Has this event been held in the past? Yes If so, when was the last event? 2022
Individual Contact for Activity/Event: Karissa Minoi Phone: (239) 949-6262
Address: 9101 Bonita Beach Rd SE Website: cityofbonitasprings.org
E-Mail Address: karissa.minoi@cityofbonitasprings.org
Major Sponsor(s): City of Bonita Springs
Promoter(s): N/A Phone or Contact #: (239) 949-6262

	Yes	No
1. Crowd: Is anticipated crowd size 1,000 or more?	☐	☒
Actual Anticipated number: 250		
2. Parking: Will off-site parking be provided? _____	☐	☒
Will "shuttle" service to parking be provided? By whom? _____	☐	☒
4. Noise: Will there be amplified music or entertainment? If yes, please attach type(s) of Entertainment and time(s) of performances(s). Indicated stage location(s) on siteplan.	☒	☐

	Yes	No
5. City Co-Sponsorship: Is City co-sponsorship being requested? If yes, please explain with letter of attachment, listing benefitting organizations.	☐	☒
6. Fireworks: Is this a public_____or private_____display? Applicant must comply with State Law F.S. 791; and NFPA 1123 and obtain any applicable Lee County permit.	☐	☒
7. Banners, Signs, Etc.: Will exterior banners, balloons, signs or other types of advertising techniques be used? Temporary signs may only be placed in accordance with the Sign Ordinance.	☐	☒
8. Alcohol Beverages: Will alcoholic beverages be sold_____or consumed_____on the premises? Please check one or both. A copy of the Florida Beverages Commission permit is required to finalize before event. Permit Holder: _____ **Division of Alcoholic Beverages and Tobacco: (239) 278-7195.**	☐	☒
9. Security: Will private security be provided to protect exhibits, equipment or facilities brought on-site for the event? Name of Company: _____ Contact Number: _____	☐	☒
10. Private Property: Does the applicant own the property where the event is to be held? If not, please attach a letter of permission from the property owner.	☐	☒
11. Public Safety: Will Police and Fire District Personnel be requested? (Based on responses to questions 1-6 certain Public Safety personnel may be required, i.e., Lee County Sheriff's Office, emergency services, fire, etc. Once staffing needs are determined, applicant will be required to provide copies of its contracts detailing obligated public safety staff necessary for event.	☐	☒
12. Tents/Canopies: Will tents or canopies be used? If yes, indicate on site plan the tent size, location, and type of surface on which the tent(s) will be installed and intended use of each tent. 20x30	☒	☐
13. Air Conditioning Units/Power Generators: Will exterior air conditioning units or power generating equipment be operated from vehicles or trailers? If yes, indicate location of equipment on-site plan.	☐	☒
14. Food/Cooking: Will food be cooked_____ catered_____on-site during this event? Indicate on site plan the location of vendors and cooking equipment to be used. (Appropriately rated fire extinguishers required.) Lee County Health Department approval is required to finalize permit before event. Environmental Health Section: (239) 332-9559.	☐	☒

	Yes	No
15. Sanitary Facilities:		
Will temporary sanitary facilities be provided? If yes, indicate location on site plan.	☐	☒
Will disposable cardboard trash receptacles be provided? If yes, indicate on site plan.	☐	☒
Will additional refuse containers/dumpsters be provided?	☐	☒

If yes, by whom: _____

16. Insurance Requirement: Permittee is required to obtain and present evidence of surety indemnity bond or comprehensive liability insurance naming the city as an additional insured. The insurance requirement is a minimum of $1,000,000.00 general liability (personal injury) and $100,000.00 property damage against all claims arising from permits issued pursuant to this ordinance, naming the city of Bonita Springs **as additional insured**. If the event poses higher risks than covered by such insurance, permittee shall be responsible for assessing the risks of the event and obtaining additional insurance coverage.
17. Non-Profits are required to provide either a form 990 or a financial report to the city showing revenue from the event where at least 10% of the proceeds will remain within the Bonita Springs area, supporting the community or charities, within 60 days after the event. If the event is of a non-monetary nature, the non-profit must show they provide an impact to 5% of the area.

DURING REVIEW BY VARIOUS CITY DEPARTMENTS, ADDITIONAL CONDITIONS MAY BE IMPOSED. THIS PERMIT IS VALID ONLY FOR THE TIME INDICATED ON THIS PERMIT. IN THE EVENT THAT THE APPLICANT FAILS TO FULFILL THE REQUIREMENT(S) AS SET FORTH IN THIS PERMIT, OR FAILS TO OBTAIN PROPER AUTHORIZATION TO PROCEED IF CONDITIONS HAVE CHANGED ON THE EXPECTED OUTCOMES, IMPACTS, OR SPECIFICATIONS, INCLUDING BUT NOT LIMITED TO TIME AND ACTIVITIES, THE PERMIT MAY BE CANCELLED BY THE CITY MANAGER AND THE ACTIVITY SHALL CEASE IMMEDIATELY.

I, the undersigned, will indemnify, defend, and hold harmless, the City of Bonita Springs, its agents, employees, officers and any and all other associates, from and against any and all actions, in law or in equity, from liability or claims for damages, demands or judgments to any person or property which may result now or in the future from the conduct of this event.

The undersigned has read and voluntarily signed the release and waiver of liability and Indemnity Agreement, and further agrees that no oral representations, statements, or inducements apart from the foregoing written agreement have been made.

[signature] 03/08/2023

Signature of Applicant Date

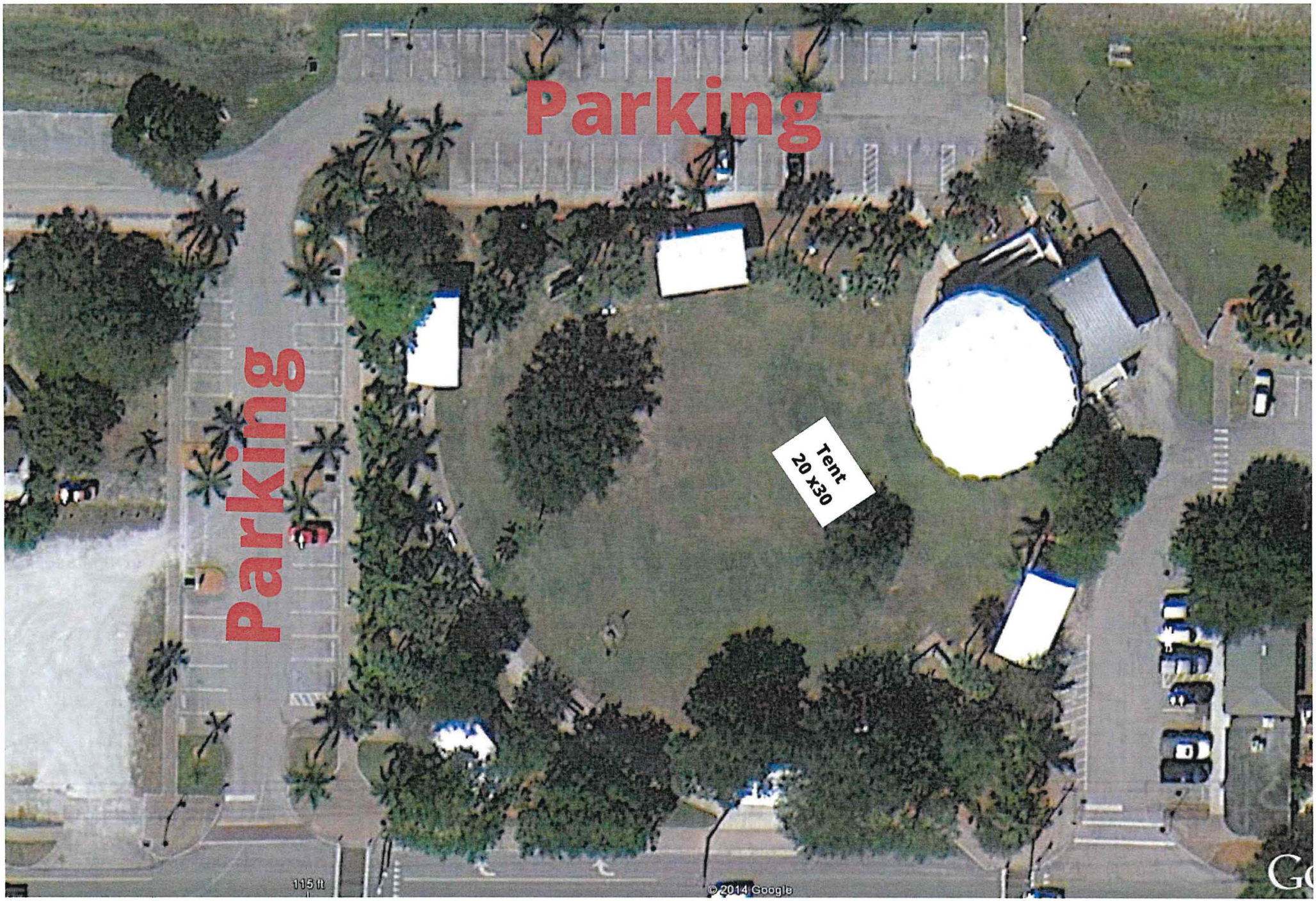
Comments: _____

_____

City Manager Date

Comments: _____

Application Fee is non-refundable.


Parking
Parking
Tent
20 x30
115 ft
© 2014 Google

To enhance measures in place to help prevent the spread of COVID-19, we are encouraging face coverings within the lobby area of the Community Development offices. Virtual meetings with Community Development Staff are encouraged; however, face-to-face meetings can be accommodated on an as needed basis.

City of Bonita Springs Florida — Small Town Charm, Big Bright Future.	**ZONING DEPARTMENT** **CITY OF BONITA SPRINGS** 9220 Bonita Beach Rd, Suite 109 Bonita Springs, FL 34135	**TEMPORARY USE PERMIT** **Permit:** TMP23-101346-BOS **Expires:** **Address:** 10450 Reynolds St (Riverside Park) **Flood Zone:**

Type:	PNZ - Temporary Use	**Set Backs (Required):**		**Property Owner Contact Information**
Workclass:	Temporary Use w/ Tent	**Front:**	**Left:**	City of Bonita Springs
Valuation:	$0.00	**Rear:**	**Right:**	239-949-6246

Subdivision:

Contractors	**Permit Fees**
Applicant : City of Bonita Springs @ 239-980-0484	**TOTAL**

Description of Work: MEMORIAL DAY CEREMONY 5/29/23 ((1)20 X 30 SQFT TENT)

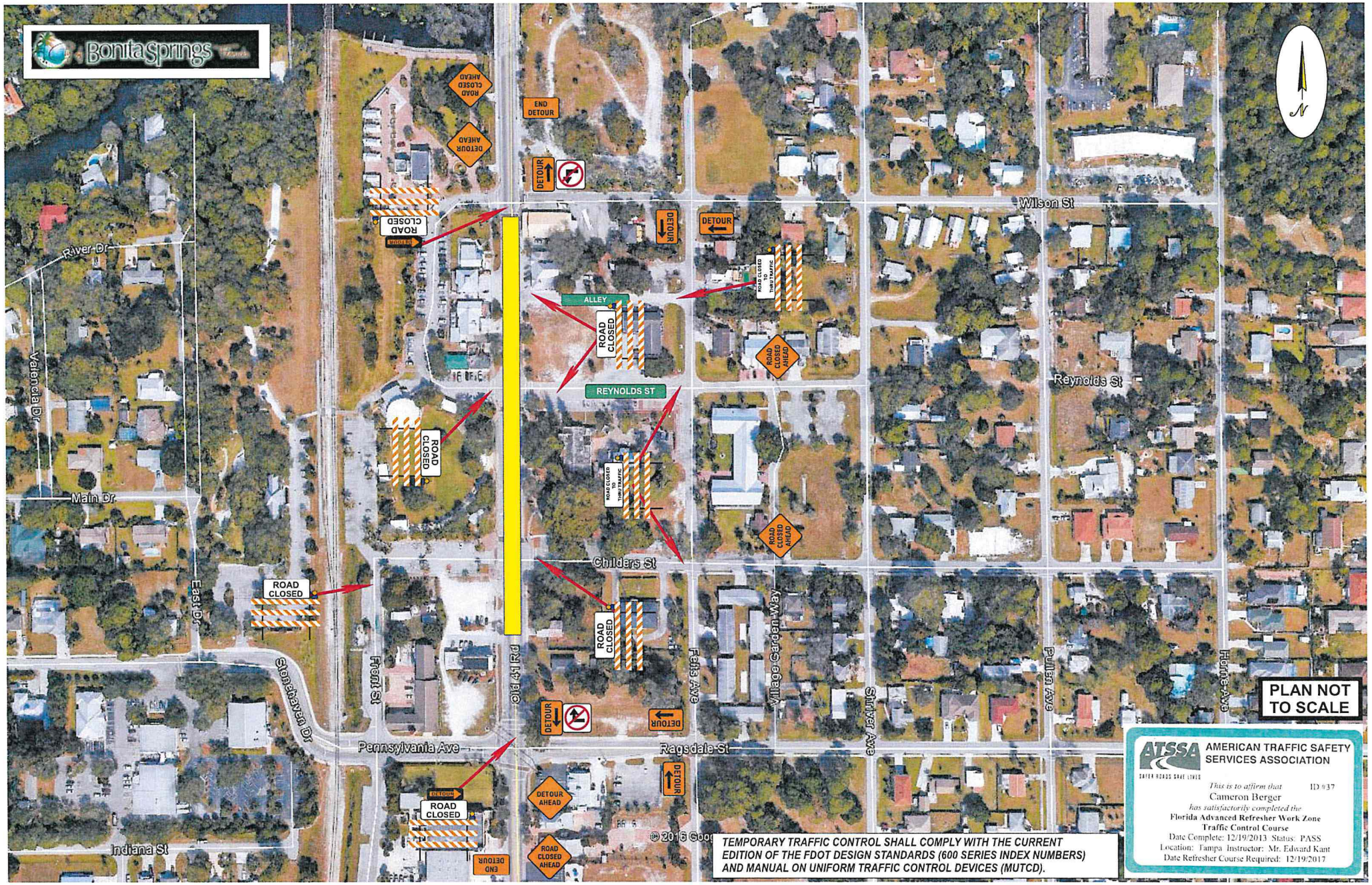
WARNING: Parking in the right-of-way is only permitted within a limited area on Little Hickory Island. It is the responsibility of each driver to ensure they are parking legally. Vehicles parked illegally will be cited by the Lee County Sheriff's Office. Damage to the area caused by parking will be repaired completely by the contractor prior to CO.

NOTICE

The applicant, his agents and employees of, shall comply with all the rules, regulations and requirements of the Zoning Regulations and Building Codes governing all aspects of the above proposed work for which the permit is granted. The City of Bonita Springs or its agents are authorized to order the immediate cessation of construction at any time a violation of the codes or regulations appears to have occurred. Violation of any of the codes or regulations applicable may result in the revocation of this permit. Buildings MUST conform with submitted and approved plans. Any changes of plans or layout must be approved prior to the changes being made. Any change in the use or occupancy must be approved prior to commencement of construction. Construction not commenced within 180 days of permit issuance voids this permit. Cessation of work for periods of 180 continuous days shall also void this permit. Permits are not transferable. Jacobs Engineering Group Inc., the City of Bonita Springs, and the Bonita Springs Fire Control and Rescue District are not liable for workmanship.

Building Department Signature

MUST BE POSTED ON JOB SITE


Bonita Springs
END DETOUR
DETOUR
ROAD CLOSED AHEAD
DETOUR AHEAD
ROAD CLOSED
ALLEY
REYNOLDS ST
ROAD CLOSED TO THRU TRAFFIC
Wilson St
River Dr
Valencia Dr
Main Dr
East Dr
Childers St
Reynolds St
Stonehaven Dr
Front St
Old 41 Rd
Pennsylvania Ave
Ragsdale St
Indiana St
Felts Ave
Village Garden Way
Sumner Ave
Puritan Ave
Home Ave
PLAN NOT TO SCALE
TEMPORARY TRAFFIC CONTROL SHALL COMPLY WITH THE CURRENT EDITION OF THE FDOT DESIGN STANDARDS (600 SERIES INDEX NUMBERS) AND MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
ATSSA
AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION
SAFER ROADS SAVE LIVES
This is to affirm that ID #37
Cameron Berger
has satisfactorily completed the
Florida Advanced Refresher Work Zone Traffic Control Course
Date Complete: 12/19/2013 Status: PASS
Location: Tampa Instructor: Mr. Edward Kant
Date Refresher Course Required: 12/19/2017


Memorial Day
Service
Downtown Bonita Springs
Riverside Park
10450 Reynolds St, Bonita Springs, FL 34135
Monday May 29th, 2023
at 9:00 am
Guest Speaker:
Larry Ellis
Retired US Marine Corps
Vietnam Veteran
Triple Purple Heart Recipient
Join us as we honor those who have given
their lives in service to their country.
For questions, please call 239-949-6262

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-096
May 3, 2023

REQUESTED MOTION: Discussion regarding direction to staff to draft a policy regarding fatality memorials in public rights of way.

REQUESTOR: Deputy Mayor Fred Forbes, District 6

AGENDA: Council Member Items

STRATEGIC PRIORITY: #3 Community Aesthetics

BACKGROUND:

I would like to discuss with Council whether direction should be provided to staff to draft a policy regarding memorials placed in memory of loved ones along City roads and right of way. Regulations could include size and length of time the memorial may be erected.

Should Council agree, I would like staff to look at other jurisdictions who have such a policy and to bring back information for Council's consideration.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS: None.

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-092
May 3, 2023

REQUESTED MOTION: SECOND READING OF AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS CITY CODE, CHAPTER 40 – TRAFFIC AND MOTOR VEHICLES, AND CREATING A NEW ARTICLE IV – LIMITATIONS ON THRU TRUCK TRAFFIC; PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE.

REQUESTOR: Derek Rooney, City Attorney

AGENDA: City Attorney's Items

STRATEGIC PRIORITY:

BACKGROUND:

Pursuant to Council's direction, the attached draft ordinance provides the Council with authority to designate no-thru-trucks zones by resolution.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS:

1. Draft Ordinance

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 23 – __

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS CITY CODE, CHAPTER 40 – TRAFFIC AND MOTOR VEHICLES, AND CREATING A NEW ARTICLE IV – LIMITATIONS ON THRU TRUCK TRAFFIC; PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, pursuant to Chapter 316, Florida Statutes, otherwise known as the "Florida Uniform Traffic Control Law," and specifically Section 316.006, municipalities have original jurisdiction to exercise traffic control over streets and highways within their boundaries; and

WHEREAS, additionally, the Florida Uniform Traffic Control Law authorizes municipalities to erect traffic control devices not inconsistent with it or as authorized the Federal Highway Safety Administration's Manual on Uniform Traffic Control Devices adopted by the Florida Department of Transportation; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted as legislative findings of the City Council and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending the pertinent provisions of Chapter 40, with deletions depicted with ~~strikethroughs~~ and underlined language as

additions, as provided and further depicted in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Severability

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any part of this Ordinance is found to be invalid, preempted, or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such invalid, preempted, or superseded part as if adopted with such part had not been included herein.

Section 4. Conflicts of Law

This Ordinance shall supersede any ordinances in conflict herewith to the extent that such conflict exists. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of the requirements of state of federal law, the more restrictive shall apply.

Section 5. Codification and Scrivener's Errors

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. Effective Date

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL of the City of Bonita Springs, Florida this _____ day of _____, 2023.

Attest: **CITY OF BONITA SPRINGS, FLORIDA**

By: _____ By: _____
City Clerk Mayor

Reviewed for legal sufficiency:

By: _____
City Attorney

Vote:

Carr	Bogacz
Purdon	Fullick
Forbes	Steinmeyer
Corrie	

Date filed with City Clerk: _____

EXHIBIT “A”

ARTICLE IV. LIMITATIONS ON THRU TRUCK TRAFFIC

Sec. 40-60. Restrictions on truck use of streets.

(a) *Authority and purpose*. This section is ordained pursuant to authority granted under the Florida Uniform Traffic Control Law. The purpose of this section is to promote the public health, safety and welfare by prohibiting thru-truck traffic on streets and roads which are unsuitable for such traffic by reason of their construction or by reason of the character and nature of abutting property, where reasonably adequate alternative truck routes exist.

(b) *Definitions*. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

No-Thru-Truck Zone. A street or road, or segment thereof, on which trucks are prohibited, except trucks traveling to or from a place abutting the zone, which place would otherwise be inaccessible by truck.

Truck. A truck as defined in the Florida Uniform Traffic Control Law.

(c) Establishment of zones. No-thru-truck zones shall be established by the City Council, through the adoption of a resolution designating the specific right-of-way on which thru-truck traffic shall be prohibited, and where signs shall be posted as provided for in subsection (e) of this section.

(d) *Considerations and guidelines*. The City Council may establish a no-thru-truck zone if one or more of the following conditions exists; however, a no-thru-truck zone shall not be established unless truck traffic that would otherwise travel through the zone has an alternate route available:

(1) Traffic lanes are less than 12 feet wide.
(2) The street or road cannot adequately carry truck traffic because of damage to the surface or to abutting structures.
(3) Land use on both sides of the street or road is predominantly residential.
(4) The character of greater right-of-way is pedestrian in nature.

(e) *Signing*. No-thru truck zones shall be signed at the beginning and end thereof, and at other places as the City may determine to be necessary, in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways published by the U.S. Department of Transportation, Federal Highway Administration.

(f) *Prohibition*. It is unlawful for any person to drive a truck in a no-thru-truck zone, unless the driving of such truck is within the exception specified in the definition of “no-thru-truck” zone in subsection (b) of this section or pursuant to Sec. 40-61.

Sec. 40-61. Exceptions.

The restrictions set forth in this Article shall not apply to the following:

(1) Any truck making a delivery or providing services to or from a location in or abutting the no-thru-truck zone, which location would otherwise be inaccessible by such vehicle.
(2) The operation of a truck where necessary to reach the truck driver's personal residence. This exception shall not authorize the parking of a truck in front of a personal residence or at any location otherwise prohibited under this Article.
(3) Public service or other government-owned vehicles.
(4) Emergency vehicles.

Sec. 40-62. Temporary truck routes.

The city manager may, in the event of an emergency, or as needed for maintenance, temporarily restrict truck traffic or establish specific temporary truck routes.

Sec. 44-63. Penalties.

A violation of this section shall be subject to the fines in Section 1-15 of the Bonita Springs Code. Further, violation of corresponding signage may be further enforced as a violation of § 316.074, Florida Statutes.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-089
May 3, 2023

REQUESTED MOTION: SECOND READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 – ZONING, TO AMEND SEC. 4-555 – USE REGUATIONS TABLE AND 4-556 – PROPERTY DEVELOPMENT REGULATIONS TABLE WITHIN THE MOBILE HOME RESIDENTIAL DISTRICT, SEC. 4-866 – GENERAL PROVISIONS AND SEC. 4-872 – STOREFRONTS AND SIGNAGE FOR THE DOWNTOWN FORM-BASED CODE, AND SEC. 4-898 – PERMITTED USES AND SEC. 4-899 – SITE DESIGN STANDARDS WITHIN THE THE BONITA BEACH ROAD CORRIDOR OVERLAY DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

REQUESTOR: Jacqueline Genson, Mike Fiigon II, Mary Zizzo, Community Development

AGENDA: Public Hearing

STRATEGIC PRIORITY: #3 Community Aesthetics; #8 Economic Development

BACKGROUND: This Land Development Code (LDC) amendment includes changes to three separate areas of LDC Chapter 4-Zoning. These include changes to the Mobile Home Residential District Section, the Downtown Form-Based Code (FBC) and Bonita Beach Road Corridor Overlay. A brief summary and overview of each area is included below.

Mobile Home Residential District, Sec. 4-556 Use Regulations Table and Sec. 4-556 Property Development Regulations Table. This change removes the requirement incorporated in 2020 that allowed single-family homes to be constructed in the mobile home residential zoning districts provided they satisfied the single-family home setbacks. This change proposes allowing single-family homes to be constructed on the mobile home sites under the same development regulations as the mobile homes within that development. Still, any redevelopment of an existing mobile home park under unified control/ownership, into a single-family development, requires approval of a planned development zoning.

Downtown Form Based Code, Sec. 4-866 General Provisions and Sec. 4-872 Storefronts and Signage. The Downtown Form Based Code was approved in November of 2020. In 2021, the City approved an LDC amendment that was intended to provide flexibility for properties and/or projects located within the Downtown District but had frontage along Bonita Beach Road the flexibility to choose to develop under one set of regulations, the Form Based Code or the Bonita Beach Road Corridor Overlay. However, the current language mandates ("shall") development in accordance with the regulations of the Bonita Beach Road Corridor Overlay, whereas the language should've been permissive ("may"). The proposed change amends the language from "shall" to "may."

The proposed change in the construction sign standards is to allow additional opportunities for properties undergoing redevelopment or new construction. This would now allow the fencing to serve as signage to advertise the upcoming development.

Bonita Beach Road Corridor Overlay, Sec. 4-898 Permitted Uses and Sec. 4-899 Site Design Standards. The Bonita Beach Road Corridor Overlay District was approved in December of 2019. Since that time, Staff has identified changes based on input from the existing business community and discussions with potential businesses that want to locate here. These changes include adding uses by right or via an

administrative action, rather than requiring public hearings for businesses that are located entirely within the structure, modifying/including footnotes that further regulate uses, and fixing scrivener's errors. No verbiage changes have been made to the footnotes relative to density or intensity of uses in the Coastal Management Area.

The Local Planning Agency (LPA) found the amendments consistent with the Comprehensive Plan at their April 20, 2023 meeting (DRAFT minutes attached).

STAFF RECOMMENDATION: Approve

ATTACHMENTS:

1. Ordinance and Amendment package in Strike-through/Underline format
2. April 19, 2023 LPA Draft Meeting Minutes

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	John Dulmer

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 23 – __

AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 - ZONING, TO AMEND SEC. 4-555 - USE REGULATIONS TABLE AND 4-556 - PROPERTY DEVELOPMENT REGULATIONS TABLE WITHIN THE MOBILE HOME RESIDENTIAL DISTRICT, SEC. 4-866 - GENERAL PROVISIONS AND SEC. 4-872 - STOREFRONTS AND SIGNAGE FOR THE DOWNTOWN FORM-BASED CODE, AND SEC. 4-898 - PERMITTED USES AND SEC. 4-899 - SITE DESIGN STANDARDS WITHIN THE BONITA BEACH ROAD CORRIDOR OVERLAY DISTRICT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, the City of Bonita Springs desires to provide residents options to rebuild resilient structures within conventional mobile home zoning districts; and

WHEREAS, the City of Bonita Springs desires to clarify the property development regulations available for properties with Bonita Beach Road frontage that are located both within the Downtown Form-based Code and Bonita Beach Road Corridor areas; and

WHEREAS, the City of Bonita Springs desires to create additional construction signage opportunities for redevelopment projects within Downtown; and

WHEREAS, the City of Bonita Springs desires to provide flexibility by amending the list of permissible uses and Interstate Zone parking standards within the Bonita Beach Road Corridor; and

WHEREAS, pursuant to Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted as legislative findings of the City Council and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending the pertinent provisions of Chapter 4 Zoning of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as provided and further depicted in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any part of this Ordinance is found to be invalid, preempted, or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such invalid, preempted, or superseded part as if adopted with such part had not been included herein.

Section 4. CONFLICTS OF LAW

This Ordinance shall supersede any ordinances in conflict herewith to the extent that such conflict exists. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of the requirements of state of federal law, the more restrictive shall apply.

Section 5. CODIFICATION AND SCRIVENER'S ERRORS

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL of the City of Bonita Springs, Florida this _____ day of _____, 2023.

Attest: **CITY OF BONITA SPRINGS, FLORIDA**

By: _____ By: _____
City Clerk Mayor

Reviewed for legal sufficiency:

By: _____
City Attorney

Vote:

Carr	Fullick
Purdon	Bogacz
Forbes	Steinmeyer
Corrie	

Date filed with City Clerk: _____

Subdivision IV. Mobile Home Residential Districts

Sec. 4-555. Use regulations table.

Use regulations for mobile home districts are as follows:

TABLE 4-555. USE REGULATIONS FOR MOBILE HOME DISTRICTS

	Special Notes or Regulations	MH-1	MH-2
Accessory uses, buildings, and structures:	4-923 et seq., 4-2012 et seq.	P	P
Amateur radio antennas and satellite earth stations	4-927	Refer to 4-927 for regulations.	
Animals (equines)	4-1045 et seq.	-	-
Docks, seawalls	4-1588	P	P
Fences, walls	4-1841 et seq.	P	P
Gatehouses, entrance gates	4-1841 et seq.	P	P
Nonroofed accessory structures	4-1894(c)(3)	P	P
Signs in compliance with chapter 6		P	P
Administrative offices		P	P
Aircraft landing facilities, private:			
Lawfully existing:			
Expansion of aircraft landing strip or helistop landing pad	4-982 et seq.	SE	SE
New accessory buildings	4-982 et seq.	P	P
New:			
Aircraft landing strip and ancillary hangars, sheds and equipment	4-982 et seq.	-	-
Heliport	4-982 et seq.	-	-
Helistop	4-982 et seq.	SE	SE
Animals and reptiles:			
Keeping, raising or breeding of Class I animals (df)	4-1045	-	-
Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	4-1045	SE	SE
Boat ramps	Note (6)	EO/SE	EO/SE
Clubs, private		SE	SE
Communications facility, wireless	4-1215 et seq.	Refer to 4-1215 et seq. for regulations.	
Community residential home		P	P

Community gardens	Sec. 4-1435	AA	AA
Consumption on premises	4-1020 et seq.	AA/SE	AA/SE
Day care center, adult or child:			
Adult		SE	SE
Child	Note (5)	SE	SE
Dwelling unit:			
Mobile home	4-1637 et seq. Note (7)	P/EO	P/EO
Single-family residence, conventional	Note (8)	P	P
Essential services	4-1362 et seq.	P	P
Essential service facilities (4-408(c)(13)):			
Group I	4-1362 et seq., 4-1841 et seq., 4-1841 et seq.	P	P
Group II	4-1362 et seq., 4-1841 et seq., 4-1841 et seq.	SE	SE
Excavation:			
Oil or gas	4-1380 (c)	SE	SE
Water retention	4-1380 (b)	P	P
Golf course	2-2037 et seq.	EO	EO
Heliport or helistop	4-982 et seq.	See Aircraft landing facilities, private.	
Home occupation:			
No outside help		P	P
With outside help	4-1496 (c)	AA	AA
Laundromat	4-2095	EO/SE	EO/SE
Models:			
Display center	4-1662 et seq.	SE	SE
Model home	4-1662 et seq.	AA/SE	AA/SE
Parks (4-408(c)(30)), Group I	Note (4)	P	P
Park trailer		-	P
Place of worship	4-1762 et seq.	EO/SE	EO/SE
Real estate sales office	Note (2), 4-1662 et seq., 4-2095	EO/SE	EO/SE
Recreational facilities:			
Personal		P	P
Private—on-site		EO/SE	EO/SE
Private—off-site		EO	EO
Religious facilities	Note (1), 4-1762 et seq.	SE	SE
Residential accessory uses (4-408(c)(39))	4-923 et seq.	P	P
Signs in compliance with chapter 6		P	P
Stable, private	4-1046	-	-
Subordinate commercial uses:	Note (3), 4-2095		
Food stores, Group I (4-408(c)(16))		EO/SE	EO/SE
Parts and supplies for mobile homes or RVs		EO/SE	EO/SE

Personal services (4-408(c)(31)):			
Group I		EO/SE	EO/SE
Group II		EO/SE	EO/SE
Specialty retail store (4-408(c)(44), Group I		EO/SE	EO/SE
Temporary uses	4-2124 et seq.	P	P

Notes:

(1) Expansion of facility to ten or more acres requires PD zoning. See section 4-272 and Table 4-740.

(2) Real estate sales are limited to sales of lots, homes or units within the development, except as may be permitted in section 4-1662 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The director may grant one two-year extension. Additional time will require a new special exception approval.

(3) Subordinate uses permitted only in conformity with section 4-2095.

(4) Recreational halls require a special exception approval.

(5) Family day care home exemption. F.S. 166.0445 exempts family day care homes from needing the special exception. See section 4-195(e)(9).

(6) Non-commercial only.

(7) In the interstate interchange area, mobile homes are existing only and may not be replaced or relocated into the interchange areas.

(8) Single-family development in the MH zoning districts is permitted by right for individual single-family development ~~(must conform to property development regulations in section 4-2399 relative to setbacks and minimum lot size requirements).~~ Any redevelopment of an existing mobile home park under unified control/ownership, into a single-family development, requires approval of planned development zoning.

(Ord. No. 03-15; Ord. No. 06-11; Ord. No. 11-02, § 3(4-735), 1-19-2011; Ord. No. 12-13, § 1(4-735), 8-15-2012; Ord. No. 14-14 , § 1, 6-18-2014; Ord. No. 17-03 , § 1, 2-1-2017; Ord. No. 20-12 , § 2, 11-4-2020)

Sec. 4-556. Property development regulations table.

Property development regulations for mobile home districts are as follows:

TABLE 4-556. PROPERTY DEVELOPMENT REGULATIONS FOR MOBILE HOME RESIDENTIAL DISTRICTS

	Special Notes or Regulations	MH-1 (2)	MH-2 (1), (2)
Nonresidential uses:			
Minimum lot area and dimensions:			
Lot area (square feet)		10,000	10,000
Lot width (feet)		100	100
Lot depth (feet)		100	100
Minimum setbacks:			
Side yard (feet)	Note (3), 4-1892 et seq.	15	15

Rear yard (feet)	Note (3), 4-1892 et seq.	20	20
Residential uses:			
Minimum lot area and dimensions:	4-1921. 4-1922, 4-1841		
Lot area (square feet)		7,500	5,000
Lot width (feet)		75	50
Lot depth (feet)		100	100
Minimum setbacks:			
Side yard (feet):	Note (3), 4-1892 et seq. ~~Note (7), 4-2399 et seq.~~		
Internal park lot		7.5	7
Park perimeter		7.5	7
Rear yard (feet):	Note (3), 4-1892 et seq. ~~Note (7), 4-2399 et seq.~~		
Internal park lot		20	15
Park perimeter		20	15
All uses:			
Street (feet):	Notes (3) 4-1892 et seq.	Variable according to the functional classification of the street or road. See section 4-1893.	
Internal park street (feet)			
Off-site street			
Water body (feet):	4-1892 et seq.		
Gulf of Mexico		50	50
Other		25	25
Maximum height (feet)	4-1871 et seq.	35	35
		Note: Special height limitations apply to all uses located within Bonita Beach and the Bonita Beach Corridor. See section 4-1874.	
Maximum lot coverage (percent of total lot area)		40%	40%
Special regulations:		Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.	
Animals, reptiles, marine life	4-1045 et seq.		
Consumption on premises	4-1020 et seq.		
Docks, seawalls, etc.	4-1588 et seq.		
Essential services	4-1362 et seq.		
Essential service facilities (4-408(c)(13))	4-1362 et seq., 4-1841		
Fences, walls, gatehouses, etc.	4-1841 et seq.		
Non-roofed accessory structures	4-1894(c)(3)		
Railroad right-of-way	4-1895		

Notes:

(1) Developments built between January 5, 1978, and July 31, 1986, see section 4-553 for minimum and maximum area requirements.

(2) For developments built after August 1, 1986, see section 4-554 for emergency shelter requirements.

(3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 4-1892 et seq.

(4) May be reduced to 3,750 square feet if on a central sewage system.

(5) If adjacent to another mobile home or recreational vehicle park or to a commercial or industrial use, setback may be reduced to 15 feet.

(6) Lot coverage includes parking spaces unless off-street parking is provided elsewhere.

~~(7) Conventional single-family homes permitted by right must conform to property development regulations in section 4-2399 for setbacks and minimum lot size requirements.~~

(Ord. No. 11-02, § 3(4-736), 1-19-2011; Ord. No. 20-12 , § 2, 11-4-2020)

Secs. 4-557—4-575. Reserved.

Sec. 4-898. Permitted uses.

Use regulations for the Bonita Beach Road Corridor Overlay district are as follows:

(a) All uses of land are subject to comprehensive plan (the Bonita Plan) and the future land use plan map.

(b) All developments categorized as developments of city impact shall be rezoned to a planned development pursuant to sections 4-272(a) and 4-272(b).

TABLE 4-898. USE REGULATIONS FOR THE BONITA BEACH ROAD CORRIDOR OVERLAY					
	Special Notes or Regulations	Interstate Zone	Commercial Zone	Historic Zone	Beach Zone
Accessory uses and structures	4-923 et seq., 4-2012 et seq., 4-1588, 4-1840 et seq.	P	P	P	P
Accessory apartment	Note (1), 4-929	-	P	P	P
Administrative offices		P	P	P	P
Amateur radio antennas and satellite earth stations	4-927	SE	SE	SE	SE
Amusement park		SE	SE	SE	-
Animals:					
Clinic	4-1071 et seq.	P	P	P	P
Kennel	4-1071 et seq. (Note 12)	P/SE	P/SE	P/SE	-
Pet day care	4-1071 et seq. (Note 12)	P/SE	P/SE	P/SE	SE
Control center (including Humane Society)		SE	SE	SE	-
Assisted living facility	4-1280 et seq., 4-1182	P	P	P	SE
ATM (automatic teller machine)		P	P	P	P
Auto parts store		P	P	P	-
Automobile service stations		SE	SE	SE	SE
Auto repair and service (4-408(c)(2)), all groups	4-1098	SE	SE	SE	SE
Bait and tackle shop		P	P	P	P
Banks and financial establishments	4-408(c)(3)				

Group I		P	P	P	P
Bar or cocktail lounge	4-1020 et seq.	SE	SE	SE	SE
Bed and Breakfast		P	P	P	P
Boats:					
Boat parts store		P	P	P	P
Boat ramps and dockage (not marinas)		P	P	P	P
Boat rental		-	-	-	P
Boat repair and service	4-1099, 4-2069 et seq.	SE	SE	SE	SE
Boat sales		SE	SE	SE	SE
Boat storage, dry		SE	SE	SE	SE
Broadcast studio, commercial radio and television	4-1215 et seq.	P	P	SE	-
Building material sales (4-408(c)(4))	4-2069 et seq.	SE	SE	SE	-
Business services	4-408(c)(5)				
Group I		P	P	P	P
Group II		P	P	P	SE
Bus station/depot	4-1153 et seq.	SE	SE	SE	SE
Caretaker's residence		P	P	P	P
Car wash	Note (10)	P/SE	P/SE	P/SE	-
Cemetery, columbarium, mausoleum		P	P	P	-
Cleaning and maintenance services (4-408(c)(7))		P	P	P	P

Clothing stores, general (4-408(c)(8))	Note (2)	P	P	P	P
Clubs:					
Country		P	P	P	P
Commercial		P	P	P	P
Fraternal, membership organization	4-1818	P	P	P	P
Private	4-1818	P	P	P	P
Communication facilities, wireless	4-1215 et seq.	AA/SE	AA/SE	AA/SE	AA/SE
Community Gardens	4-1435	AA	AA	AA	AA
Community residential home		P	P	P	SE
Consumption on premises	4-1020 et seq.	AA/SE	AA/SE	AA/SE	AA/SE
Continuing care facilities	4-1414	P	P	P	SE
Contractors and builders	4-408(c)(9), 4-1099, 4-2069 et seq.				
Group I		P	P	P	P
Group II		P	P	P	-
Convenience food and beverage store	Note (3)	SE	SE	SE	SE
Cultural facilities (4-408(c)(10))		P	P	P	P
Day care center, child, adult		P	P	P	P
Dormitory		SE	SE	SE	SE
Department store	Note (2)	P	P	P	SE

Drive-through facility for any permitted use		SE	SE	SE	SE
Drugstore, pharmacy		P	P	P	P
Dwelling unit:					
Single-family	Notes (4) and (5)	-	P	-	P
Duplex	Notes (4) and (5)	-	-	-	P
Two-family attached	Notes (4) and (5)	-	-	-	P
Townhouse, multiple-family building	Note (5)	P	P	P	P
Entrance gates and gatehouse	4-1841 et seq.	P	P	P	P
Emergency medical service (ambulance station)		P	P	P	P
Emergency operations center		P	P	P	SE
Essential services	4-1362 et seq., 4-1841 et seq.	P	P	P	P
Essential service facilities (4-408(c)(13)):					
Group I	4-1362 et seq., 4-1841 et seq., 4-1840 et seq.	P	P	P	P
Group II	4-1362 et seq., 4-1841 et seq., 4-1840 et seq. Note (11)	AA/SE	AA/SE	AA/SE	SE
Group III	4-1362 et seq., 4-1841 et seq., 4-1840 et seq.	SE	-	-	-

Excavation:					
Water retention	4-1380	P	P	P	P
Fences, walls	4-1841 et seq.	P	P	P	P
Fire station		P	P	P	P
Fishing piers		P	P	P	P
Flea market:					
Open		SE	SE	SE	-
Indoor		SE	SE	SE	SE
Food and beverage service, limited		P	P	P	P
Food stores (4-408(c)(16)):					
Group I		P	P	P	P
Group II		SE	SE	SE	SE
Funeral home and mortuary (with or without a crematory)		P	P	P	-
Gasoline dispensing system, special		SE	SE	SE	SE
Gift and souvenir shop		P	P	P	P
Golf course		P	P	P	P
Golf driving range		P	P	P	P
Government maintenance facility		SE	SE	SE	SE
Hardware store		P	P	P	P
Health care facilities	4-408(c)(19)				
Group I		P	P	P	P

Group II		P	P	P	P
Group III		P	P	P	P
Group IV		P	P	P	P
Group V		SE	SE	SE	SE
Group VI		P	P	P	SE
Heliport or helistop		SE	SE	SE	SE
Hobby, toy and game shops	4-408(c)(20)	P	P	P	P
Home care facility		P	P	P	-
Home occupation	4-1495 et seq.	P	P	P	P
Hospice		-	P	P	-
Hotel/motel	4-1528 et seq.	P	P	P	P
Household and office furnishings Group I	4-408(c)(21)	P	P	P	P
Laundry or dry cleaning	4-408(c)(22)				
Group I		P	P	P	P
Lawn and garden supply stores	Note (2); 4-1792	P	P	P	SE
Library		P	P	P	P
Manufacturing of:					
Food and kindred products, Group I, 4-408(c)(15)	Note (6); 4-2014	P	P	P	P
Micro-breweries	Note (6); 4-1023 et seq.	P	P	P	P
Marina	4-1587	-	-	-	EO
Mini-warehouse		SE	SE	SE	-
Model home	4-1662	-	AA/SE	-	AA/SE

Model unit	4-1662	P	P	P	P
Motion picture production studio		P	P	SE	SE
Multi-slip docking facility		-	-	-	SE/EO
Night clubs	4-1020 et seq.	P	P	P	SE
Office—Business		P	P	P	P
Package store	4-1020 et seq.,	P	P	P	P
Paint, glass and wallpaper		P	P	P	P
Parks	4-408(c)(30)				
Group I		P	P	P	P
Group II		P	P	P	P
Group III		SE	SE	SE	SE
Parking lot:					
Accessory		P	P	P	P
Commercial		SE	SE	SE	SE
Garage, Private		P	P	P	P
Garage, Public		SE	SE	SE	SE
Temporary	4-1734	P	P	P	P
Personal services	4-408(c)(31)				
Group I		P	P	P	P
Group II		P	P	P	P
Group III		P	P	P	P
Group IV		P	-	P	-
Pet services		P	P	P	P
Pet shop		P	P	P	P
Place of worship	4-1762 et seq.	P	P	P	P

Police or sheriff's station		P	P	P	P
Post office		P	P	P	P
Printing and publishing (4-408(c)(33))	Note (2)	P	SE	P	SE
Real estate sales office	Note (7), 4-1662 et seq., 4-2095	P	P	P	P
Recreational facilities: Commercial	4-408(c)(35)				
Group I		P	P	P	P
Groups III and IV		SE	SE	SE	SE
Religious facilities	4-1762 et seq.	P	P	SE	SE
Rental or leasing establishment (4-408(c)(36)):					
Group I	4-1099, 4-2069 et seq.	P	P	P	P
Group II	4-951 et seq., 4-1099, 4-2069 et seq.	P	-	P	-
Group III	4-1099, 4-2069 et seq.	-	-	P	-
Repair shops (4-408(c)(37)):					
Group I		P	P	P	P
Group II		P	P	P	P
Research and development laboratories (4-408(c)(38)):					
Group II	Note (8)	P	P	P	-
Group IV	Note (8)	P	P	P	-

Residential accessory uses (4-408(c)(39))	4-923 et seq.	P	P	P	P
Restaurant, fast food		P	P	P	SE
Restaurants	4-408(c)(40)				
Groups I and III		P	P	P	P
Group II		P	P	P	P
Group IV		P	P	P	P
Schools:					
Commercial	4-408(c)(42) 4-1970	P	P	P	P
Noncommercial	Note (9), 4-1970	P/SE	P/SE	P/SE	P/SE
Self-service fuel pumps	Note (~~10~~ 3)	SE	SE	SE	SE
Signs in accordance with chapter 6		P	P	P	P
Social services (4-408(c)(43)):	4-2190 et seq.				
Group I		P	P	-	-
Specialty retail	4-408(c)(44)				
Group I		P	P	P	P
Group II		P	P	P	P
Group III		P	P	P	P
Storage:					
Indoor only	4-2069 et seq.	P	P	P	-
Storage, open	4-2069 et seq.	SE	-	-	-
Studios (4-408(c)(46))		P	P	P	P
Temporary uses	4-2124 et seq.	P	P	P	P
Theater, indoor	4-2037 et seq.	P	P	SE	SE

Timeshare units		P	P	P	P
Transportation services	4-408(c)(50)				
Group I		SE	SE	P	P
Group II		SE	SE	SE	SE
Group III		SE	SE	SE	SE
Group IV		SE	SE	SE	SE
Used merchandise stores	4-408(c)(51)				
Group I		P	P	P	P
Variety store		P	P	P	P
Vehicle and equipment dealers	4-408(c)(52)				
Groups ~~I, II and III~~	Note (10)	P/SE	P/SE	P/SE	-
Group II		SE	SE	SE	-
Group III		SE	SE	SE	-
Group IV		SE	-	-	-
Warehouse:					
Mini-warehouse		SE	SE	SE	-
Private		SE	SE	SE	-
Public		SE	SE	SE	-
Wholesale establishments					
Group III	Note (8)	P	SE	P	-

Notes:

(1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.

(2) Establishments exceeding 40,000 square feet require PD zoning. See section 4-1560 et seq.

(3) Limited to eight self-service fuel pumps (df) unless a greater number is specifically approved as part of ~~the~~ a planned development and depicted on the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998, will not be considered nonconforming. Existing pumps may be modernized, replaced, or relocated on the same premises, but additional new pumps will not be permitted.

(4) Any single-family, duplex, or two-family residential buildings fronting and/or visible from Bonita Beach Road shall meet the design requirements set forth in Chapter 3, Article IV.—Design Standards and Guidelines for Commercial Buildings and Developments unless pre-empted by Florida Statute.

(5) Any increase is density and intensity is limited by Goal 5 of the Conservation/Coastal Management Element. Unless approved and located within a planned development, the property development regulations for residential development along the Bonita Beach Road Corridor District shall be as follows:

Single-family: RS-1 residential single-family district

Duplex/Two-Family Attached: TFC-2 residential two-family conservation district

Townhouse/Multiple-family: RM-2 multiple-family district

(6) Uses that include an ancillary manufacturing component of less than 1,500 square feet are permitted when clearly incidental and subordinate to a permitted principal use on the same premises. If producing a tangible product, the use or activity must stand at or near the end of the manufacturing process, accounting only for the last steps of preparation or assembly of components or preprocessed materials. All operations must be conducted within a fully enclosed building. The use may not emit dust, smoke, odor or other air or water pollutant, glare, sound or other vibration that can be perceived outside the boundaries of the building. The use may not receive, process or create hazardous materials in sufficient quantity to constitute a danger to persons, property or activities outside the boundaries of the building. Open storage of raw materials, waste products or finished goods awaiting shipment is prohibited.

(7) Real estate sales offices in residential areas are limited to sales of lots, homes or units within the development, except as may be permitted in section 4-1662 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the certificate of occupancy for the sales office is issued. The director may grant one two-year extension at the same location.

(8) Wholesale establishments, Group III and Research and Development. Uses less than 3,000 square feet in size per business are permitted as a part of a business/office park and/or shopping center. The use must be enclosed within a building and may not emit dust, smoke, odor or other air or water pollutant, glare, sound or other vibration that can be perceived outside the boundaries of the development area.

(9) Noncommercial schools with 100 students or more must request a special exception.

(10) Permitted by right for indoor use only, with no outdoor storage, display, or stacking of vehicles.

(11) Electric substations require administrative review and approval.

(12) Permitted by right for indoor use only, with no outdoor cages, pens, runs, or exercise facilities. The operation must be fully conducted indoors within an air conditioned, soundproof building.

(Ord. No. 19-10 , § 1(Exh. A), 11-20-2019; Ord. No. 21-10 , § 2(Exh. A), 6-16-2021)

Sec. 4-899. Site design standards.

(a) Property development regulations.

	Special Notes or Regulations	Commercial Zone	Historic Zone	Interstate Zone	Beach Zone
Maximum Block Size	Note (1)	375′ by 375′, Maximum Block perimeter 1500′	375′ by 375′, Maximum Block perimeter 1500′	375′ by 375′, Maximum Block perimeter 1500′	375′ by 375′, Maximum Block perimeter 1500′
Setbacks:					
Minimum Street (feet)	Note (2)	20'	15'	20'	15'
Maximum Street (feet)	Notes (2), (3), (4) and (5)	25'	25'	25'	25
Side (feet)		15'	0'/15'	0'/15'	0'/15'
Rear (feet)		20'	20'	20'	20
Water body (feet):	4-1892 et seq., Note (6)				
Gulf of Mexico	In accordance with chapter 6, article III, or 50 feet from mean high water, whichever is the most restrictive.				
Special regulations:					
Animals, reptiles, marine life	4-1045 et seq.				
Consumption on premises	4-1020 et seq.				
Docks, seawalls, etc.	4-1588				
Essential services	4-1362 et seq.				

Essential service facilities (4-408(c)(13))	4-1362 et seq., 4-1841				
Fences, walls, gatehouses, etc.	4-1841 et seq.				
Nonroofed accessory structures	4-1894(c)(3)				
Railroad right-of-way	4-1895				
Maximum height (feet)	4-1871 et seq. Note: Special height limitations apply to all uses located within Bonita Beach and Bonita Beach Road Corridor. See section 4-1874	35	35	35	35
Maximum lot coverage (percent of total lot area)		40%	40%	40%	40%

(1) Projects exceeding three (3) acres in size shall submit a block layout plan. Blocks located adjacent to arterials are not required to obtain a deviation from LDC Section 3-291, Connection separation subject to review of LDC 3, Article III, Division 2-Transportation, Roadways, Streets and Bridges at local development order review.

(2) Accessory structures such as arcades or plazas and courtyards may meet the intent of this requirement. Existing non-conforming developments shall redevelop by incorporating covered sidewalks with arcades and shade trees.

(3) Projects located along secondary streets or internal project streets are not subject to a maximum street setback.

(4) The maximum street setback for projects located along slip lanes may be measured from the back of sidewalk.

(5) The maximum street setback for properties within the Interstate Zone may be increased up to 65' for developments that include one single or double-stacked row ~~full bay~~ of parking along the street frontage.

(6) Projects with proper bulkhead techniques may request a zero (0') foot setback for pedestrian boardwalks and outdoor seating.

(b) Additional design standards:

(1) All auto oriented uses shall be designed so that buildings are oriented along the frontage with drive-thru and associated stacking located along the side and rear property lines. Fueling and charging station pumps shall be oriented behind a building and not visible from the Bonita Beach Road frontage.

(2) Lighting. Building mounted or free standing luminaires (bollards or light poles) shall be provided along frontage lines and/or street rights-of-way. All applicants must submit a photometric plan in accordance with section 3-269.

(3) Parking requirements.

a. All uses shall provide the minimum required parking as set forth in section 4-1732 except as modified herein. Maximum parking spaces are limited no more than 15 percent more than the minimum required. All uses requesting 16 percent or more spaces than required may only do so through approval of a special exception.

b. The required spaces may be reduced by the city manager or designee if supported by a parking study submitted by the applicant.

b. On-street parking along a corresponding frontage(s) of the site shall count 100 percent towards the parking requirements.

d. Adjacent property owners are encouraged to share parking facilities in accordance with LDC Section 4-1730.

e. An applicant may provide a valet parking program for commercial and mixed-use projects to offset a maximum of 50 percent of the required parking spaces. Valet parking programs may not be utilized to offset parking requirements for stand-alone residential development.

f. Bicycle racks shall be provided in accordance with LDC Section 3-438. (Rack provision may be shared by different businesses within each block.). Parking ratios within urban areas may be reduced by using a 3 to 1 ratio (three bicycle parking stalls to one vehicular parking space); however this does not exempt meeting the American Disability Act (ADA) parking standards.

(4) Parking placement.

a. On-street parking is encouraged along all intersecting streets with the exception on Bonita Beach Road.

b. Surface parking lots shall not be permitted on a frontage line or within 30 feet of the frontage line within the Commercial, Historic, and Beach Zone. One full bay of parking is permitted along frontage lines within the Interstate Zone. Setbacks for shared parking along side and rear property lines is zero feet.

c. On-site parking within the Beach, Commercial, and Historic Zone will be restricted to the side or rear yards of those properties fronting Bonita Beach Road. In the case of side yard parking, the parking area shall be a minimum of five feet behind the front build-to line and a street wall or opaque screen, shall be provided at the right-of-way line or build-to line, whichever is further removed from the roadway. Such street wall or opaque screen shall be no taller than four feet.

d. Buffering adjacent property.

i. Required right-of-way buffer plantings may be planted in the street right-of-way or roadway easement subject to review and approval of the applicable city, county, state, or special district entities. The applicant shall enter into a maintenance agreement to properly maintain the required buffer.

ii. If roads, drives, or parking areas are located less than 125 feet from an existing residential dwelling or residential lot, a solid fence, opaque landscape hedge, or combination berm

and solid fence or opaque landscape hedge not less than six feet in height must be constructed along the property line. Fence, berms, and hedges must not be placed so they violate the vehicle visibility requirements of LDC.

(5) Continuous shaded bike facilities and pedestrian facilities.

a. All development shall meet the standard set forth in chapter 3 of the Land Development Code

b. Buffering adjacent property. Required right-of-way buffer plantings may be planted in the street right-of-way or roadway easement subject to review and approval of the applicable city, county, state, or special district entities. The applicant shall enter into a maintenance agreement to properly maintain the required buffer.

c. When a covered walkway along a building frontage or right-of-way is not provided, tall or medium trees or palms are required to establish continuous shade.

(6) Streetscape amenities. Developments must incorporate sidewalks, benches, street furniture, planters, and other pedestrian amenities in their design. All accessories such as railings, trash receptacles, street furniture and bicycle racks must be complimentary to and consistent with the architectural design of principal building(s) within the development.

(7) Dumpsters. Dumpsters shall be screened from off-premises view and not located on frontage lines. Screening materials shall be compatible with the building design. Existing dumpsters that are visible from the right-of-way, adjoining property, or pedestrian walkway must be screened. Wherever possible, dumpsters may be shared between property owners. If a particular property by its use does not require a dumpster or when it can be demonstrated that a dumpster is not required, then the garbage receptacles or containers must be screened from view.

(c) Site specific regulations:

(1) Within the Bonita Beach Road Corridor there are three Gateways or Nodes that announce a place of arrival. They are located at:

a. The intersection of Bonita Beach Road and Tamiami Trail.

b. The intersection of Bonita Beach Road and Old U.S. Road 41.

c. Bonita Beach Road between Imperial Parkway and Interstate 75.

(2) All development and redevelopment of these areas shall incorporate the following design standards:

a. Use of internal and external block patterns.

b. Building that address the adjacent roadway and embrace pedestrian and other non-automobile access.

c. Provide for interconnectivity to adjacent parcels thru pedestrian ways and parking areas.

d. Buildings fronting Bonita Beach Road, Tamiami Trail, Old U.S. Road 41 and Imperial Parkway are shall provide 70 percent glazing, consisting of window and glazed door openings. Upon request by the applicant, the city manager or designee may administratively approve an alternate design in accordance with LDC Section 3-488 that may be substituted in part for a plan that otherwise meets the standards of this section. The alternate plan is subject to architectural review by the city, and must demonstrate compliance with the stated intent of supporting an urbanized development pattern that focuses on human-scale development.

The following figures are provided as an illustrative guide, to assist in the site and architectural design of new development and redevelopment within the Bonita Beach Road Corridor Overlay.

Bonita Beach Road and Tamiami Trail (NODE)

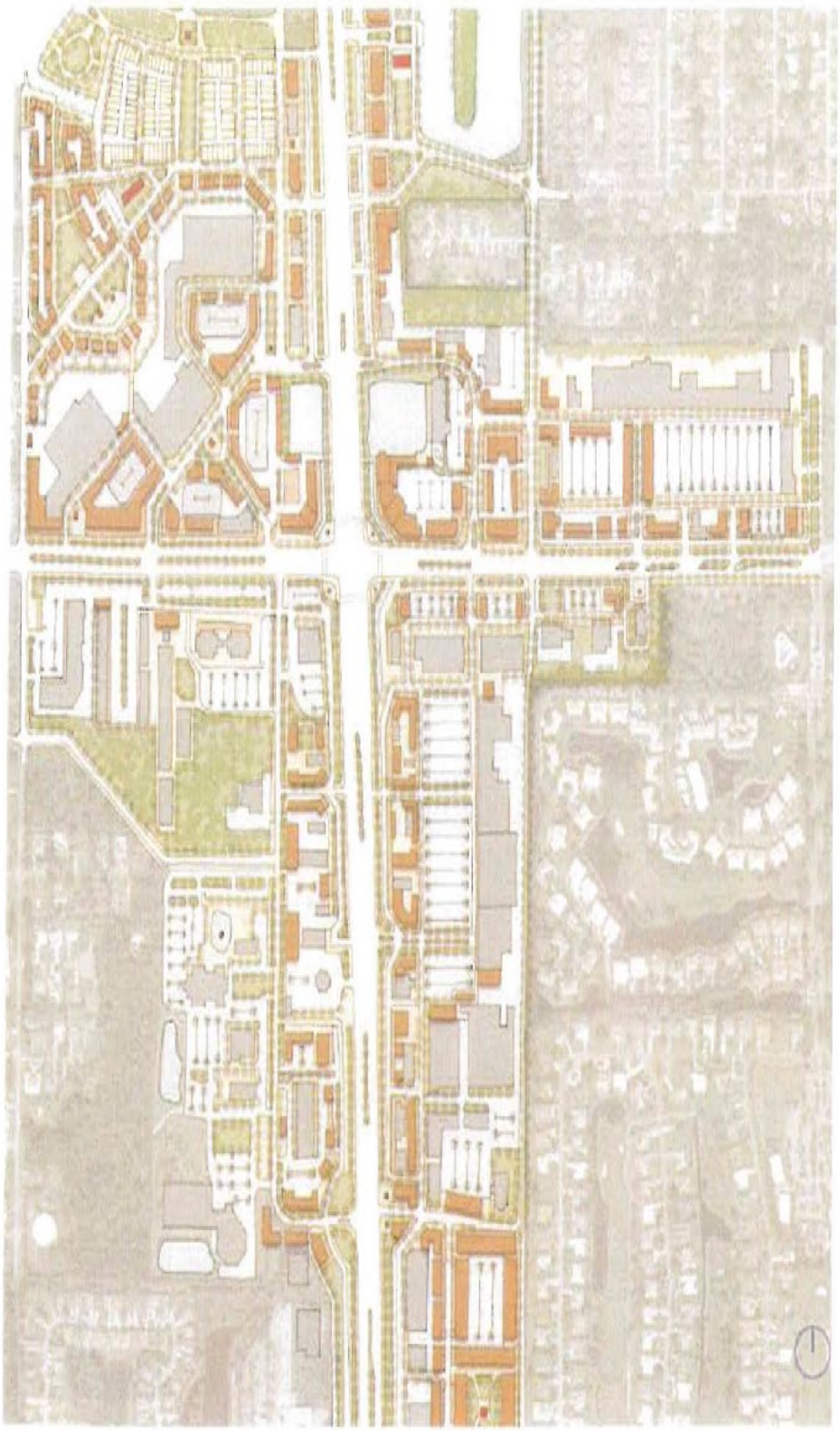


Figure 4-V-10 - Intersection of Tamiami Trail and Bonita Beach Road

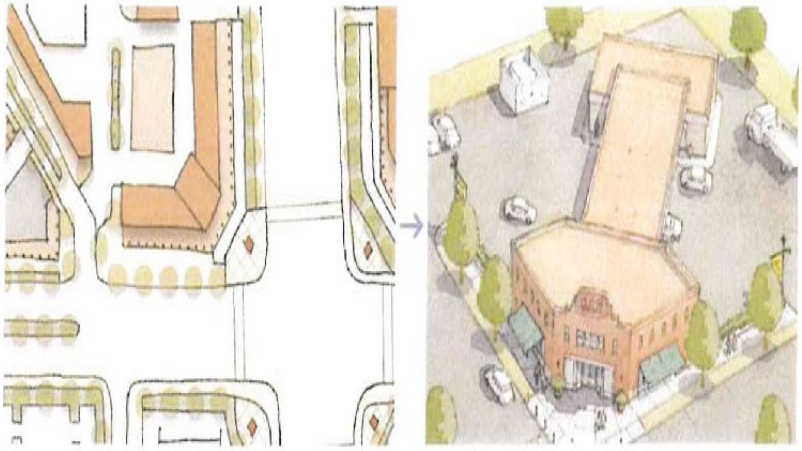
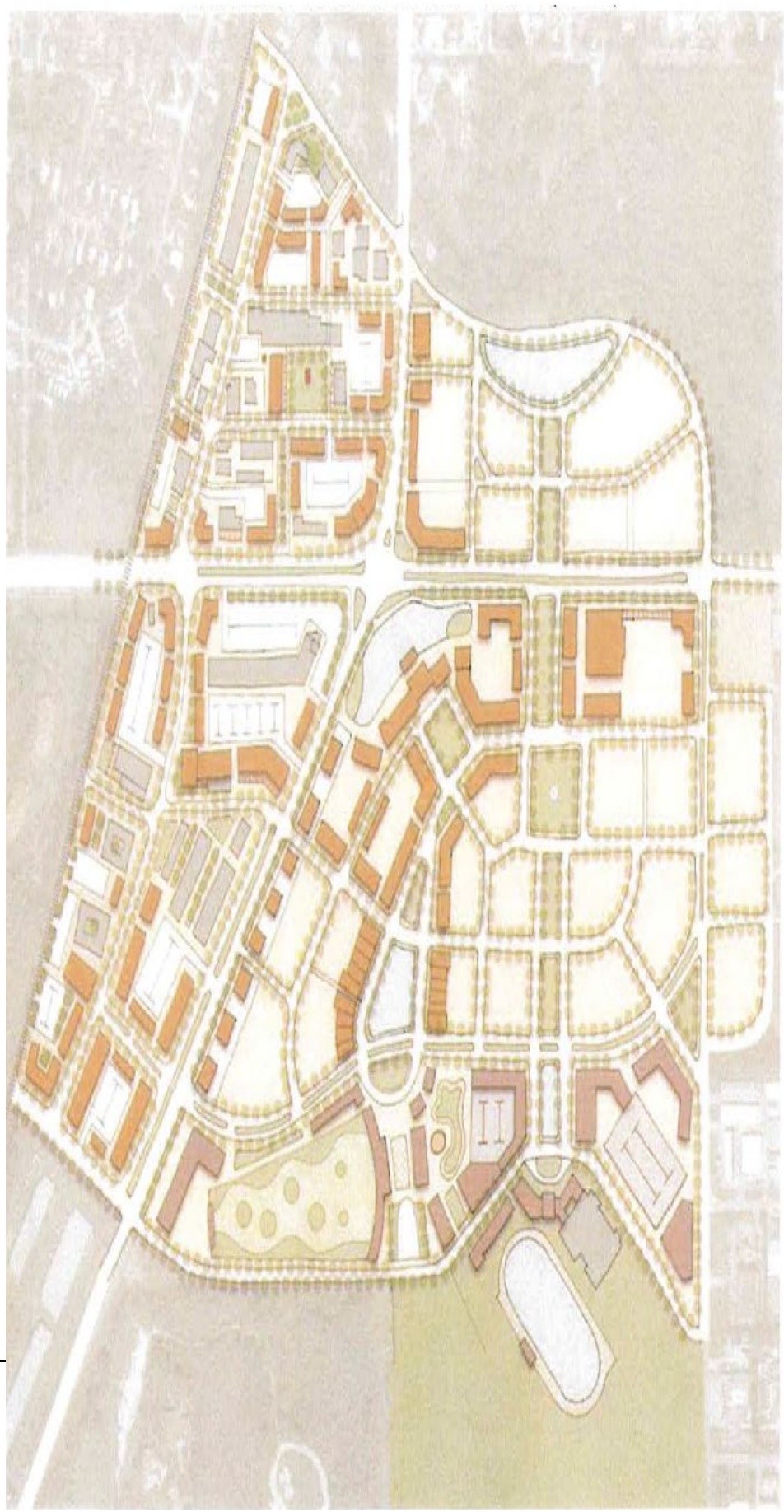


Figure 4-V-11 Redevelopment design suggestion at intersection corner

Bonita Beach Road and Old U.S. Road 41 (NODE)



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Figure 4-V-12 Illustrative redevelopment potential

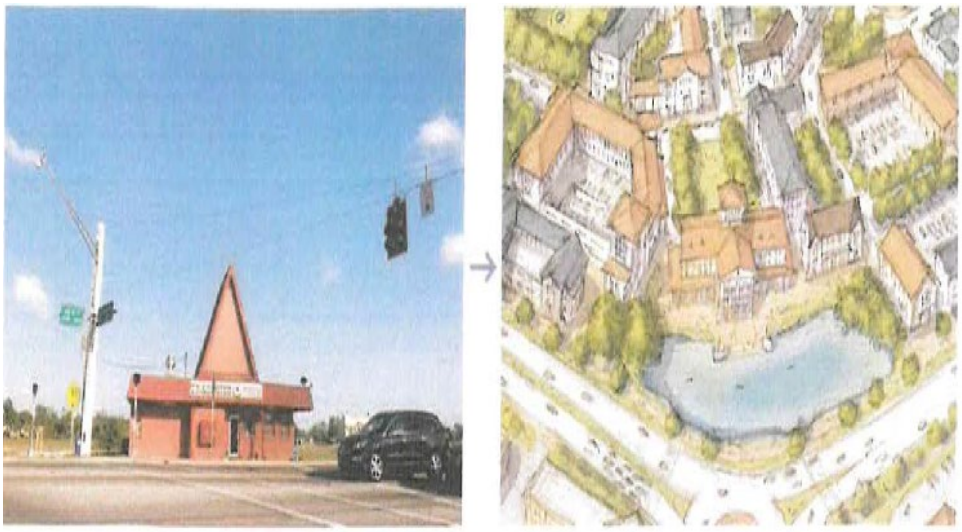


Figure 4-V-13, I-75 Gateway—Bonita Beach Road between Imperial Parkway and Interstate 75 (NODE)

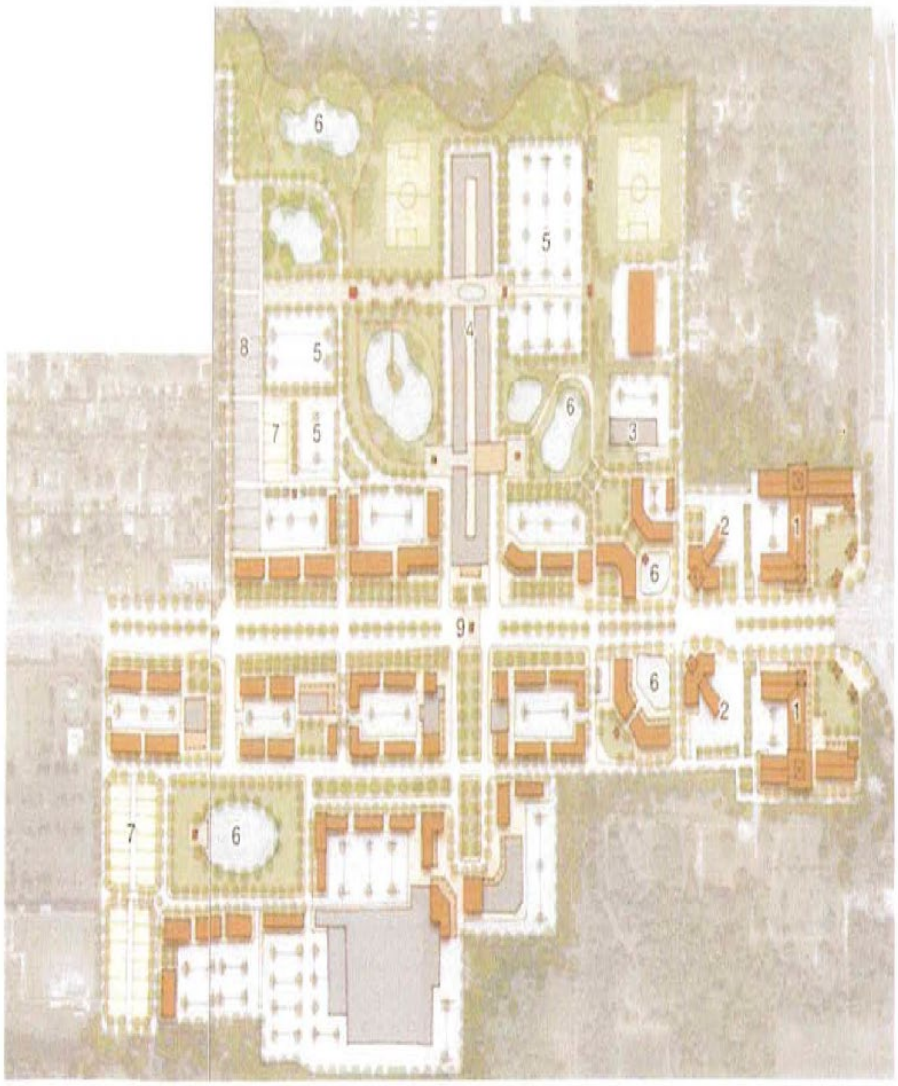

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Figure 4-V-14 illustrative design for redevelopment (Northeast area of Imperial Parkway and Bonita Beach Road)

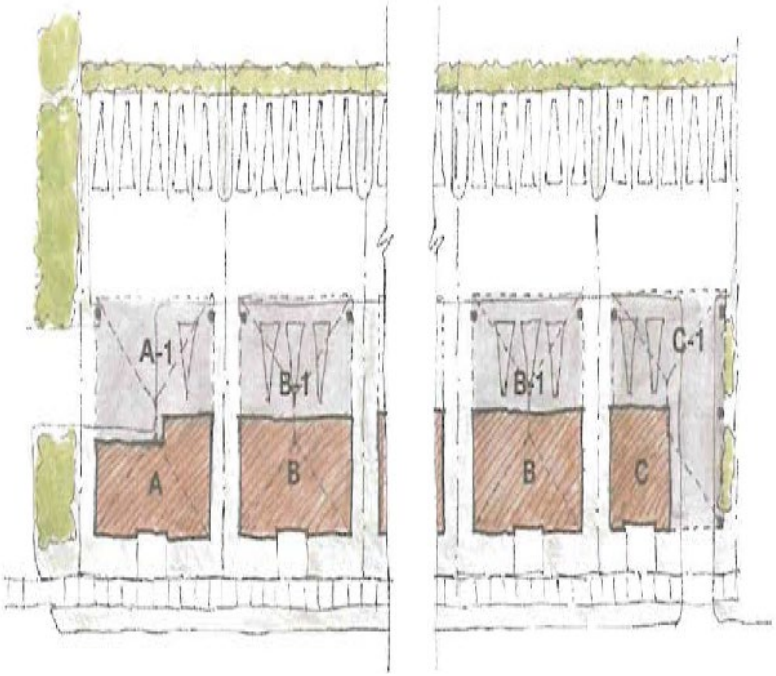
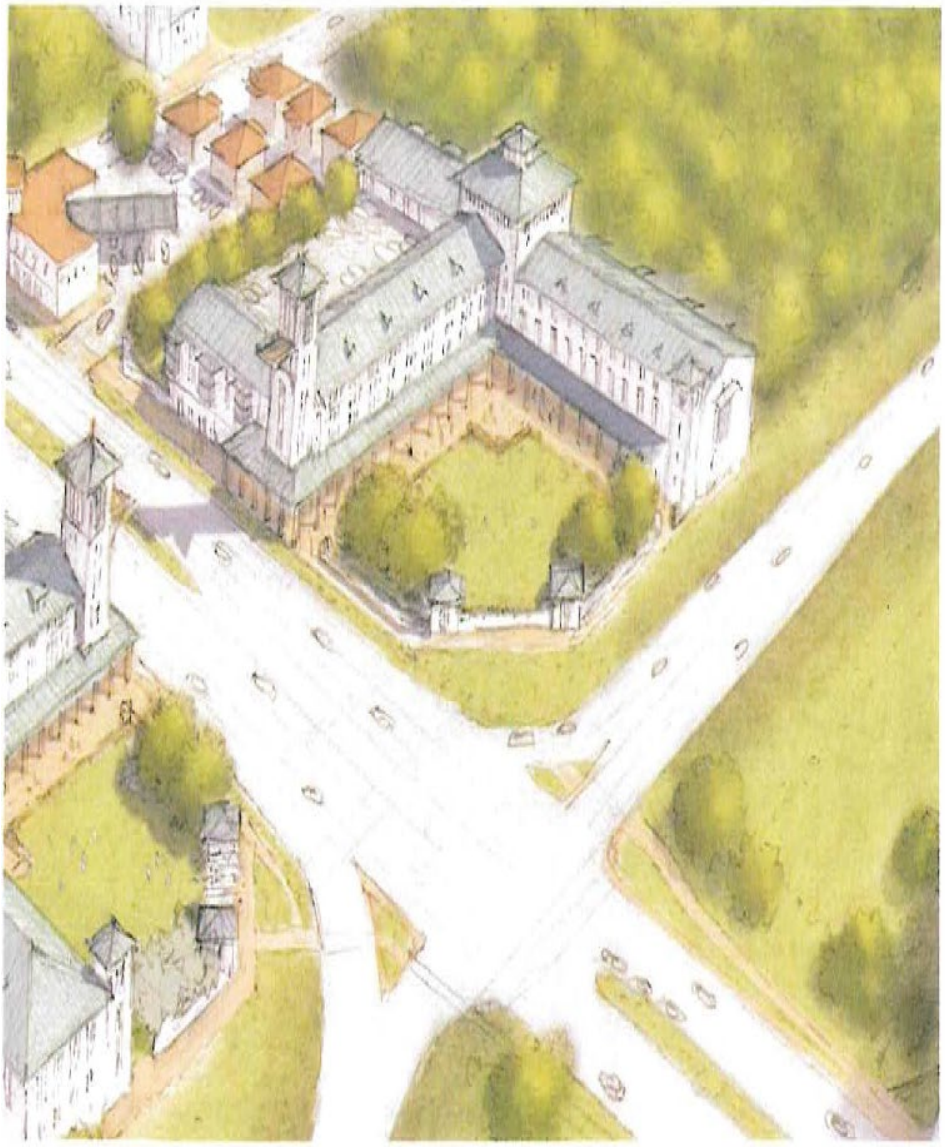


Figure 4-V-15 illustrative design for I-75 interchange



(Ord. No. 19-10 , § 1(Exh. A), 11-20-2019)

Sec. 4-900. Reserved.

Subdivision I. In General

Sec. 4-866. General provisions.

(a) *Intent.* The requirements set forth in this section are intended to:

(1) Support the goals, objectives and policies of the city's comprehensive plan and downtown district.

(2) Keep cognizant the elements are scale, aesthetics, predictability, and new investment.

(3) Capitalize on opportunities to attract the development of a variety of building types and uses in order to contribute to a robust economic base.

(4) Encourage mixed-use development within the downtown district in support of viable and diverse locally-oriented business and cultural institutions.

(5) Promote development attractive to past, present and future generations that allows them to participate in the economic growth.

(6) Enable a walkable streetscape and predictable, small-town urban character.

(7) Achieve context-based development and complete streets.

(b) *Application of the transect zones.* The transect, as a framework, identifies a range of habitats from the most natural to the most urban. Its continuum, when subdivided, lends itself to the creation of zoning categories. These categories include standards that encourage diversity similar to that of organically evolved settlements. The standards overlap (they are parametric), reflecting the successional ecotones of natural and human communities. The transect methodology allows for a wide range of building types in each transect zone, arranged to provide balanced walkable streetscapes. This Code contains the following transect zones:

(1) T-5 urban zone consists of higher density mixed-use buildings that accommodate retail, offices, rowhouses, and multi-family. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the sidewalks. The T-5 urban zone has two variations:

a. The core T-5 zone is used for portions of downtown fronting Old-41 and near civic open spaces such as Riverside Park and the Imperial River. These important lots shall have retail-ready ground floors to activate Old-41, as well as gallery frontages to create a walkable and shaded streetscape. Other lots in the T-5 zone, are not required to have retail-ready ground floors but may have them by option (See: section 4-487(a)(2))

(2) T-4 general urban zone consists of a primarily residential urban fabric. It may have a wide range of building types: single-family houses, side-yard houses, rowhouses, and small apartment buildings. Live/work buildings with home occupations are allowed in small quantities. Setbacks and landscaping are variable. Most streets in their existing form lack sidewalks and curbs.

(3) T-3 sub-urban zone consists of low density residential areas, adjacent to higher zones that may have some mixed use. Accessory dwellings are allowed. Planting is naturalistic and setbacks are relatively

deep. Blocks may be large and the roads irregular to accommodate natural conditions. The T-3 sub-urban zone has two variations:

a. The restricted T-3 zone is used for portions of the downtown which are sub-divisions with an HOA or areas which contain multiple historically significant buildings. The T-3 zone is for all T-3 areas not included in the restricted zone.

(4) Civic zone consists of civic buildings and/or civic spaces appropriate to their transect zones.

(5) Special districts consist of areas with buildings that by their function, disposition, or configuration cannot, or should not, conform to one or more of the six normative transect zones. The existing industrial area in the southwest corner of the downtown district shall be designated as a special district with an emphasis on incubation of local businesses. City-owned parcels along the Imperial River are also designated to be a special district.

(c) *Boundaries of the downtown district.* The boundaries of the Bonita Springs Downtown Form-Based Code are derived from the boundary found on the Old U.S. 41 Corridor Redevelopment Master Plan, with slight modifications. These expansions of the boundary are shown below as Figure 2.1-1.

(1) *Regulating plan.* The boundaries of the downtown district shall be as outlined on Figure 2.1-1.

(d) *Applicability.*

(1) Unless approved through the planned development process, these standards shall apply to all new construction and substantial modifications within the downtown district. "Substantial modifications" shall be defined as any modification, alteration or repair or combination thereof, to a structure or land, which exceeds 50 percent of the combined building cost and land value, over a five-year period, as assessed by the Lee County Property Appraiser. Existing planned developments may voluntarily comply with the standards herein.

(2) This document shall replace all prior regulatory documents for the Downtown District of the City of Bonita Springs. Where a conflict exists between this section and other land development regulations, this section shall prevail, except for those contained within the comprehensive plan.

(a) Properties and/or projects located within the Downtown District but have frontage along Bonita Beach Road ~~shall~~ may be developed in accordance with the regulations of the Bonita Beach Road Corridor Overlay.

(3) This section may be expanded to other portions of the City of Bonita Springs, so long as their boundaries are explicitly defined under section 4-867(c) and added to Figure 2.1-1.

(4) Standards, activated by "shall", are regulatory in nature. Deviations from these standards shall only be permitted by variance or special exception in accordance with applicable LDC sections.

(5) Guidelines, activated by "should", are encouraged and recommended but not mandatory. Developments subject to this overlay district are encouraged to incorporate them as appropriate in order to enhance and complement the built and natural environment. The intent is to create the highest level of design quality while providing the needed flexibility for creative site design.

(e) *Existing conditions.*

(1) Existing buildings, structures, and land features that do not conform to the requirements of this downtown district may be occupied, operated, repaired, renovated or otherwise continue in use in their existing non-conforming state until such time as a substantial modification is requested to 50 percent or more of the combined building cost and land value, over a five-year period, as assessed by the Lee County Property Appraiser, and as outlined in LDC 4-866(d)(1).

(2) The adaptive re-use of a building shall not be required to comply with minimum height standards established in section 4-870.

(3) The restoration or rehabilitation of an existing building does not require the provision of parking in addition to the existing, if less than six new spaces are required.

(Ord. No. 20-10 , § 2(Exh. A, § 1), 11-4-2020; Ord. No. 21-02 , § 2(Exh. A), 5-19-2021)

Sec. 4-872. Storefronts and signage.

(a) *Unified storefront design:* The storefront windows, doors, signage, awnings, details and lighting shall be designed as a unified composition.

(1) *Storefront walls:* Storefronts shall be built of wood, brick, concrete siding, stone, custom metal work or steel frame. Storefronts shall not be constructed of extruded aluminum frames or panels.

(2) *Storefront windows:* First floor facades shall be a minimum of 70 percent clear glass as measured between the floor and ceiling including the glass area of the front door. Storefront glass shall be clear with no more than ten percent tinted. Reflective glass shall not be permitted along any commercial street. In flood-prone areas, glazing should not extend below the prescribed height to allow for easier flood proofing of the commercial space without having to raise the entire finish floor above the flood line.

(3) *Entrance doors:* Storefront entrance doors shall be recessed to allow the door to swing out without obstructing pedestrian flow on the sidewalk. Each tenant space shall have at least one three-foot wide door at the main entry. Storefront entrances shall be encouraged at building corners. Where appropriate, sliding or folding doors that allow the activity of the business to open adjacent to and onto the public sidewalk may be installed for restaurants and food services. Rear and side doors facing service alleys and parking lots are encouraged, but not required.

(4) *Bulkheads:* Storefronts shall have a minimum 12-inch high masonry kick plate or bulkhead along all street frontages. Storefront bulkheads shall be a maximum of 36 inches above the adjacent sidewalk except for when required for flood-proofing within the Imperial River floodway. Bulkheads shall be designed as an integral component of the overall storefront.

(5) *Sign bands:* Storefronts shall have a horizontal sign band at the top of the first floor window. Sign bands shall be an integral design with the storefront's elevation and details, and may be a contrasting color to the building. Sign bands may be up to 12 inches in height and may extend the entire length of the storefront. Sign bands shall not be internally illuminated but may be externally lit subject to the approval of the city.

(6) *Security gates and shutters:* Solid metal security gates and solid roll-down shutters shall not be permitted. Interior link or grill security devices may be permitted if they can be completely enclosed or hidden from view when not in use, and subject to the approval by the city.

(7) *Design for tenant flexibility:* The design of first and second floor commercial spaces should anticipate restaurant requirements. Accommodation for restaurant venting and sewage utilities such as grease traps and interceptors should be designed into the building. Designs shall anticipate potential commercial power and gas load needs. In addition, buildings shall provide maximum clear space between interior columns for the ground floor retail and activity spaces.

(8) *Store heights:* All first floors of commercial buildings shall have a minimum of 14-foot tall ceilings as measured between the finished floor and finished ceiling.

(9) *Outside commercial uses:* Temporary exterior commercial uses, seating, dining and displays along the storefront's adjacent sidewalks are encouraged subject to approval by the city. All temporary displays shall maintain a minimum clear pedestrian walkway of five feet.

(10) Galleries at retail frontage in T-5 zone shall be continuous along frontage and made of metal. Decking at second- and third-story floors shall be made of wood, and railing shall be made of metal.

(11) *Awning materials:* Canvas, glass or metal awnings are encouraged and should be coordinated with the top edge of the ground floor windows and doorframes.

(12) *Awning configuration:* Awnings shall be a metal armature stretching a non-translucent membrane without side or bottom soffit panels. They shall consist of sloping squares or rectangles without side or bottom soffit panels and shall not be backlit from under or inside. Edgeless awnings are encouraged. External lighting of awnings may be permitted with the approval by the city.

(13) Awnings shall be a minimum of 60 inches wide by 60 deep, and shall not extend closer than two feet to the edge of the adjacent street curb. All awnings shall be integral to the overall design of the storefront and shall respect vertical column and window spacing. Awnings shall be at least seven feet high from the adjacent sidewalk.

(14) Round, half domed and plastic awnings are prohibited. Awnings shall not be used as signs, except as noted below, and shall have a maximum slope of 1:3 from the building to the edge. Awnings shall have a maximum of two colors subject to the approval by the city.

(15) Outdoor dining areas on sidewalk and public rights-of-way shall be allowed subject to the following standards:

a. Outdoor dining areas shall be separated from public walkways and streets using railings, wrought-iron fences, planters, and landscaping; and

b. A minimum unobstructed pedestrian path of at least six feet wide shall be provided along public rights-of-way.

(b) *Exempted signs.* The signs specified in this section shall not require a sign permit provided that the sign complies with the standards prescribed hereunder:

(1) Changeable copy, in accordance with LDC Section 6-4(c)(1), maintenance in accordance with Section 6-4(c)(2), or the repainting of a sign shall not require a sign permit provided no structural and electrical changes are made.

(2) Signs erected entirely within the confines of a nonresidential or mixed-use site shall not require a sign permit, provided the sign cannot be viewed from streets or common property.

(3) Address and residential identification signs as defined in LDC Section 6-2;

(4) Holiday decorations, provided the decorations comply with LDC Section 6-6(1)(g), (h);

a. Holiday decorations, flags, streamers, and similar.

(5) Flags, in accordance with LDC Section 6-6(1)(d);

(6) Governmental and public safety signs, in accordance with LDC 6-6(1)(f);

(7) A-frame signs provided the signs are utilized in accordance with the regulations of Table 7.6-1 and 7.6-2;

(8) Residential construction signs, subject to the following:

a. One construction sign shall be permitted per construction project on each street frontage. The sign shall be erected no more than five days prior to any construction of the project, shall be confined to the site of construction, and shall be removed prior to the issuance of a certificate of occupancy.

b. Construction signs may denote the architect, engineer, contractor, subcontractor, owner, future tenant, financing agency, or other persons performing services or labor or supplying materials to the premises.

(9) Residential rental signs, subject to the following:

1. One sign may be attached to the house or mounted in the yard, provided that all signs must be removed once the residence is rented for a 60-day period of longer.

2. Signs are limited to four square feet in area.

(10) *Warning and instructional signs.*

a. Any posted property sign, as defined in LDC Section 6-2, which pertains to the parcel of property upon which it is located, provided any such sign does not exceed four square feet in copy area and is not illuminated.

b. Any business information sign, as defined in LDC Section 6-2, provided any such sign does not four square feet in copy area.

(11) *Miscellaneous signs.*

a. Any memorial sign, or tablet, in accordance with 6-6(1)(l);

b. Any generic, architectural feature that is designed, integrated, and constructed as part of a building in accordance with a building permit or local development order approved by the city.

(c) *Prohibited signs and sign locations.* The following signs specified in this section are prohibited.

1. Billboards (replacements subject to LDC Ch. 6).

2. Any sign advertising products or articles that are not manufactured, assembled, processed, repaired, serviced or sold on the premises.

3. Two or more signs that convey a single, cumulative advertising message, part of which is contained on each sign in the series.

4. Illuminated, animated, or inflatable signs.

5. Any sign that simulates emergency lights on emergency vehicles, traffic-control signals or devices, directional, informational, or warning signs erected by the POA, a government, utility, or similar agency.

6. Any sign that uses an intermittent light or lights, including flashing lights, beach lights, strobe lights, rotating beacons, chasing lights, or zip lights.

7. Any sign that is wind or power operated including, streamers, pinwheels, and balloons.

8. No signs may be located in a way that causes a hazard to pedestrian or vehicular traffic.

a. Temporary signs at street intersections are limited to 30 inches in height within a triangle measured 30 feet from the intersection along each right-of-way.

b. No permanent sign may be located within a triangle measured 30 feet from the intersection along each right-of-way.

(d) *Permitted signs.*

(1) *General.*

a. Unless explicitly exempted in LDC Section 4-872(b) of this chapter, a permit is required for all other signs permitted under this chapter. After original permit approval, no sign shall be moved or altered without additional approval.

b. Signs must conform with the following standards, as specified in Table 7.6-1 and illustrated in Table 7.6-2:

1. Sign type limitations by zone;

2. The height and area of the sign;

3. The number of signs per site;

4. The height of sign copy.

c. Exterior signs must be made of durable, weather resistant materials.

(2) *Clearance.*

a. Signs must provide the following clearance:

1. A minimum of nine feet over pedestrian ways;

2. A minimum of 13.5 feet over vehicular travel ways and parking aisles.

b. Signs located along streets must be a minimum of two feet from a curb, ramp, driveway, light pole, street sign, or fire hydrant.

(3) *Removal.*

a. Signs must be removed as specified in Table 7.6-1, and as follows:

1. (P) Permanent; Signs do not require removal.

2. (O) Occupancy; Signs must be removed within seven days of the end of tenant occupancy.

3. (B) Business; Signs must be removed when the business is closed.

4. (T) Temporary; Signs must be removed within the time period specified by sign type.

5. Any moveable signs must be removed from outdoor spaces during high winds or other weather conditions that might pose a hazard to public safety.

(4) *Illumination.*

a. Internal sign illumination is limited to window and wall signs within storefronts.

b. Light sources must be mounted, shielded, and pointed towards the sign face to eliminate spill-over glare onto any adjacent streets, properties, or skyward.

(e) *Requirements by sign type.*

(1) *Band signs.*

a. Band signs may be located above tenant storefronts, below second story windows, and beneath the building cornice or coping.

b. Band sign copy must be at least six inches from building corners.

(2) *Banner signs.*

a. Banner signs must be made of flexible materials such as cloth, canvas, and vinyl.

b. Banner signs may be hung on the side of a building or suspended from a portion of a building structure.

(3) *Commercial construction signs.*

a. Signs are limited to identification of the name of the project, the architect, the developer, renderings, contractor, sub-contractor, landscaper, and financier.

b. Signs must be removed within five days of the final inspection.

c. Signs may only be erected after a development order has been issued. If a development order is not required, signs may only be erected after a building permit has been issued.

d. Signage must not be above ~~four~~ six feet from street grade and shall be in compliance with the standards of Table 7.6-1, except that signage may be of unlimited sign area if attached to an approved construction fence, provided that such signs do not exceed the height of the fence.

(4) *Corner signs.*

a. Corner signs are only permitted at building corners where each facade is along a street.

b. Corner signs may extend up to six feet above parapets.

(5) *For sale.*

a. Signs must be removed within seven days of closing

(6) *Ground signs.*

a. Ground signs are limited to the following locations:

1. Forecourts.

2. SD-DID.

3. C-OS.

b. The bottom of the sign must be within two feet of sidewalk grade.

c. Ground signs must be set back a minimum of ten feet from property lines.

(7) *Marquee signs.*

a. Marquee signs may be used for lodging and movie theaters. The City Architect may permit marquee signs for additional businesses upon request.

(8) *Projecting signs.*

a. Projecting signs must be erected on a wall of a building.

b. Projecting signs may project up to four feet from the wall of the building on which it is erected.

(9) *Open house, model home.*

a. Reserved.

b. Signs must be free standing on a stake or frame and cannot exceed four square feet.

c. The business name must be identified on signs, two in[ch] copy minimum.

d. Signs are allowed for three consecutive days in any one week.

e. Up to four signs may be located off site provided such signs are not located in any right of way.

(10) *Window signs.* Window signs may be:

a. Letters painted directly on the window;

b. Hanging signs hung interior of the glass;

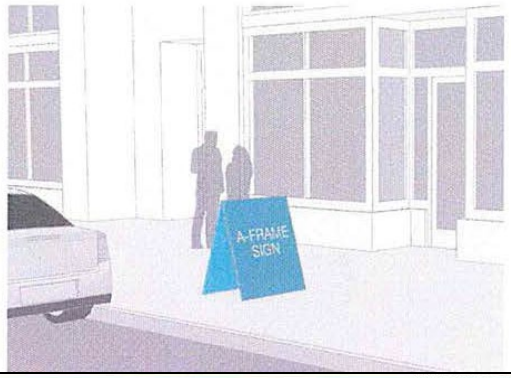
c. Vinyl applique letters applied to the window, consisting of individual letters or graphics with no visible background.

TABLE 7.6-1. GENERAL SIGN RESTRICTIONS								
Sign	SD	T3	T4	T5	Period	Number of signs (Max.)	Sign Area (Max.)	Copy Height (Max.)
A-Frame	✓		✓	✓	B	1 per tenant	9 sf. each side	n/a
Awning	✓		✓	✓	O	1 sloping plane, plus 1 valence per awning	75% of sloping plane; 75% area of awning valence	16 in. on sloping plane; 8 in. on valence
Banner/blade flags	✓		✓	✓	T	1 per event	per LDC Ch. 6	per LDC Ch. 6
Canopy	✓		✓	✓	P	1 per canopy	2 sf. per linear foot of shopfront	30 in.
Commercial Construction				✓	T	1 per construction	32 ft.	n/a
Corner	✓		✓	✓	P	1 per building	40 sf.	n/a
For Sale	✓	✓	✓	✓	T	1 per lot plus	4 sf. each side, 60 in. above grade	n/a
Ground	✓				P	1 per frontage	36 sf. each side	n/a
Hanging	✓		✓	✓	P	1 per tenant	6 sf. each side	n/a
Marquee	✓		✓	✓	P	1 per entry	n/a	n/a
Mural	✓		✓	✓	P	1 per frontage	n/a	n/a
Projecting	✓		✓	✓	P	1 per tenant	6 sf. each side	8 in.
Open House Estate Sale Model Home	✓	✓	✓	✓	T	1 per lot	3 sf. each side, 30 in. above grade	n/a

Wall Sign	✓		✓	✓	O	1 per frontage	3 sf. per linear ft.	18 in.
Window	✓		✓	✓	O	1 per window	25% of glazed area	12 in.

TABLE 7.6-2. SIGN TYPES ILLUSTRATED

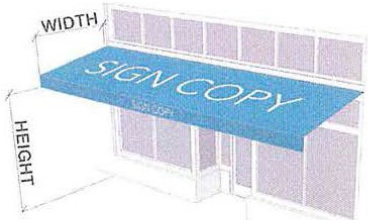
A-FRAME SIGN





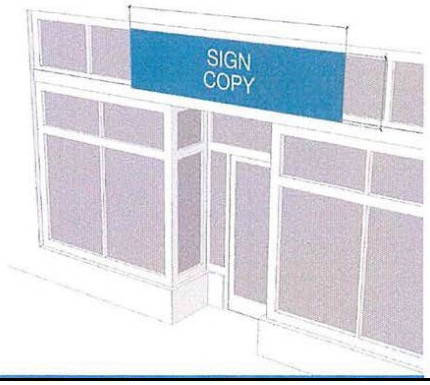
AWNING SIGN





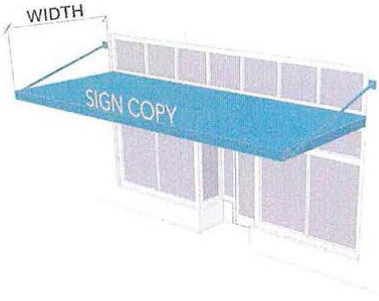
BANNER SIGN



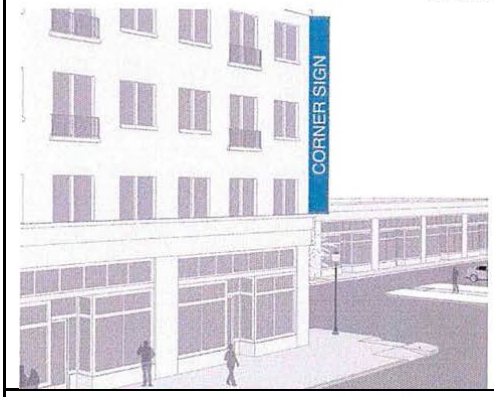


CANOPY SIGN





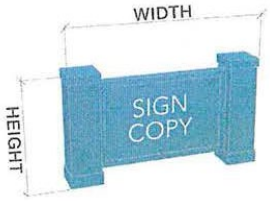
CORNER SIGN



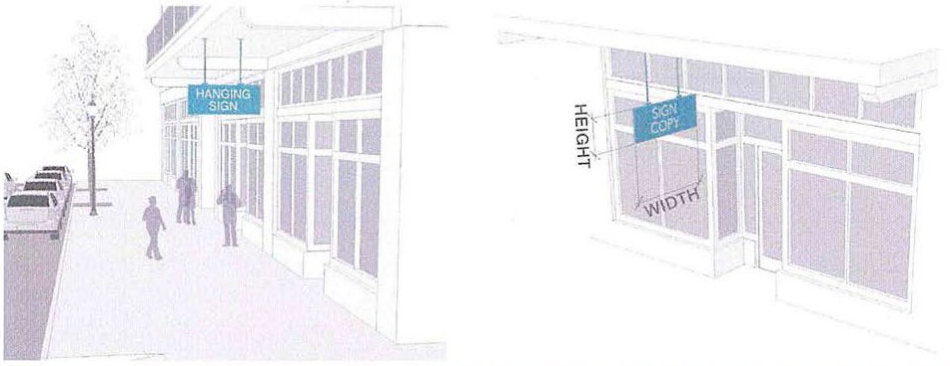


GROUND SIGN (*SPECIAL DISTRICTS ONLY)





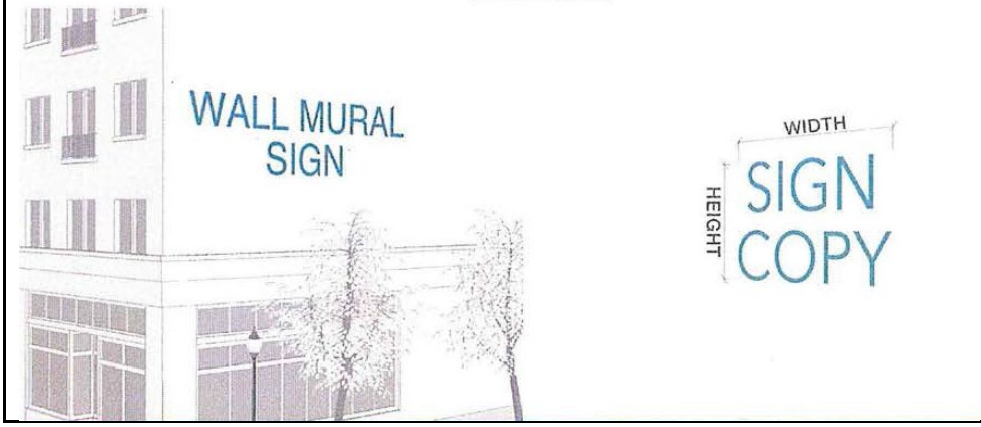
HANGING SIGN



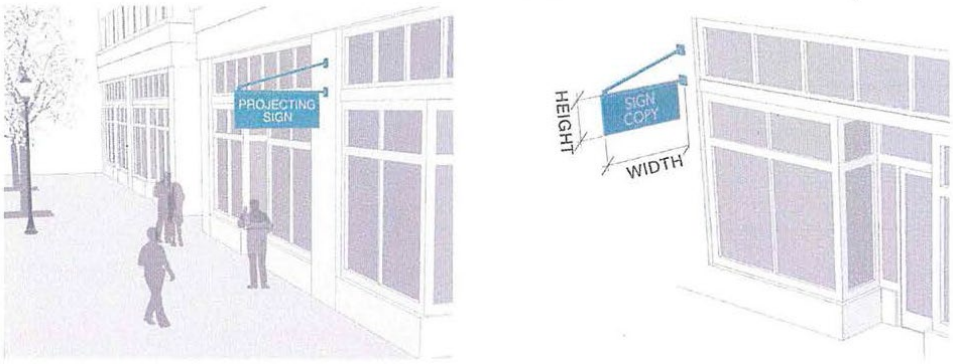
MARQUEE SIGN



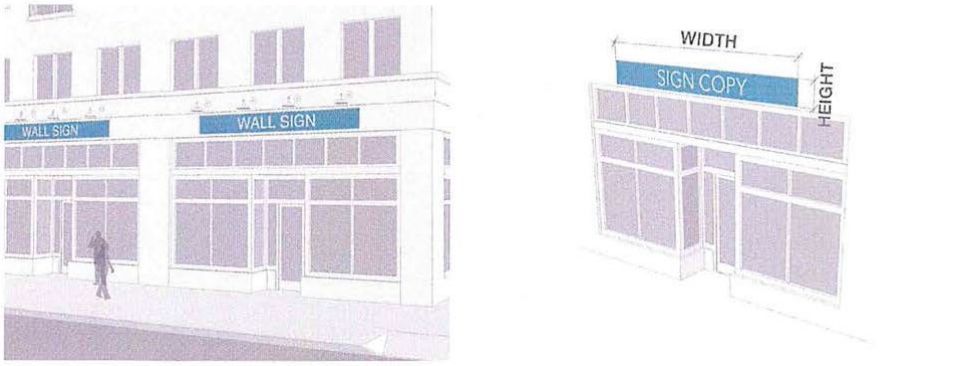
MURAL SIGN



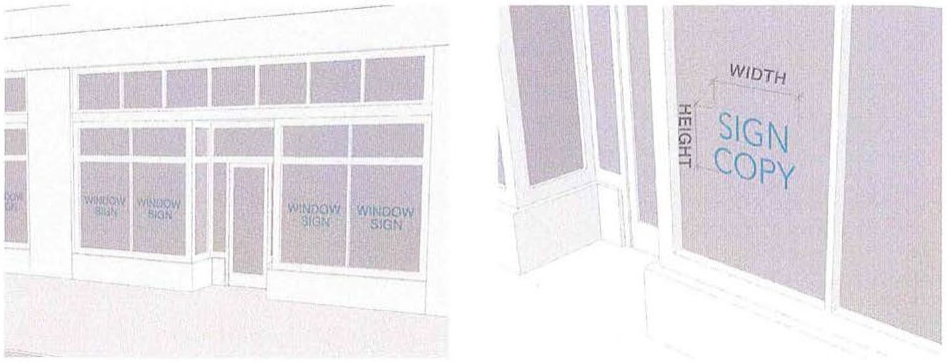
PROJECTING SIGN



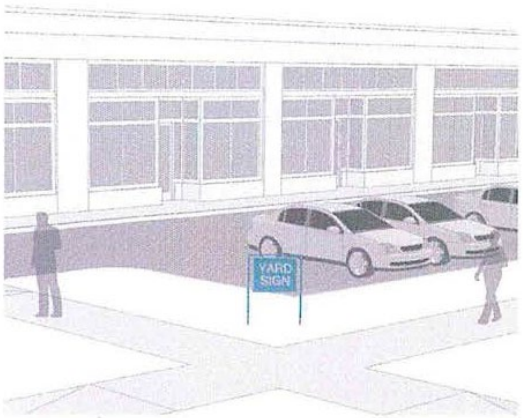
WALL SIGN



WINDOW SIGN



Wayfinding sign





(Ord. No. 20-10 , § 2(Exh. A, § 7), 11-4-2020; Ord. No. 21-02 , § 2(Exh. A), 5-19-2021)

Local Planning Agency
MINUTES
City of Bonita Springs City Hall
9101 Bonita Beach Rd. SE
Bonita Springs, Florida 34135
Thursday, April 20, 2023
9:00 A.M.

I. CALL TO ORDER.

Chairman Jeff Maturo called the meeting to order at 9:00 A.M.

II. ROLL CALL.

Members in attendance: Chairman Jeff Maturo, Board Member Robert Lombardo, Board Member Daniel Dhooghe, Board Member Steve Lohan and Board Robert Bornstein

Absent: Board Member Don Colapietro, and Board Member Lane Morlock

III. PUBLIC COMMENTS
None

IV. Introduction of New City Clerk.

V. Appointment of Vice Chair.

Chairman Maturo made a motion to nominate Board Member Steve Lohan as Vice-Chair; Seconded by Board Member Daniel Dhooghe; Passed unanimously.

VI. REVIEW OF THE FOLLOWING LAND DEVELOPMENT CODE AMENDMENTS FOR CONSISTENCY WITH THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN.

A. SEC. 4-555 - USE REGULATIONS TABLE AND 4-556 - PROPERTY DEVELOPMENT REGULATIONS TABLE WITHIN THE MOBILE HOME RESIDENTIAL DISTRICT

Jackie Genson, Community Development, discussed amendments.

Draft

B. SEC. 4-866 - GENERAL PROVISIONS AND SEC. 4-872 - STOREFRONTS AND SIGNAGE FOR THE DOWNTOWN FORM-BASED CODE

Mike Fiigon, Community Development, discussed amendments and answered questions from the Board.

Board Member Lombardo questioned restrictions and advertising.

Chairman Maturo asked about mitigating traffic.

Board Member Lohan had questions regarding emergency issues relating to traffic and signage on fencing.

C. SEC. 4-898 - PERMITTED USES AND SEC. 4-899 - SITE DESIGN STANDARDS WITHIN THE BONITA BEACH ROAD CORRIDOR OVERLAY DISTRICT

Mike Fiigon, Community Development, discussed amendments.

Board Member Lombardo made a motion to approve recommendations; Board Member Bornstein seconded; Passed Unanimously.

VII. UPDATE FROM FEBRUARY 22, 2023 LPA MEETING (EVALUATION APPRAISAL REVIEW)

Jackie Genson stated the City Council submitted their changes to the State.

VIII. TENTATIVE MEETING SCHEDULE FOR REMAINDER OF YEAR

Jackie Genson stated the meetings are held the third Thursday of the month or fourth Thursday after the second City Council Meeting of the month.

IX. NEXT MEETING.

Tentatively Scheduled for May 18, 2023.

X. APPROVAL OF MINUTES: February 22, 2022

Board Member Lohan made a motion to approve the minutes; Seconded by Board Member Bornstein. Passed unanimously.

XI. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 9:23am.

Draft

Respectfully submitted,

_____
Mike Sheffield, City Clerk

Approved by the Local Planning Agency on the _____ of _____, 2023.

_____
Jeff Maturo, Chairman

Draft

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-088
May 3, 2023

REQUESTED MOTION: An Ordinance of the City of Bonita Springs approving the Petition of Bonita Springs Utilities, Inc., to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci; and providing for an effective date.

REQUESTOR: Derek Rooney, City Attorney

AGENDA: First Reading

STRATEGIC PRIORITY: #4 Environmental Protection

BACKGROUND: Bonita Springs Utilities, Inc. (BSU) has provided the City a petition to approve special service charges for Sun Village Estates and the Lakes of San Souci.

Bonita Springs Utilities is requesting to adopt an adjustment to the current tariff (rate) structure specifically relating to BSU's need to establish special service charges for Sun Village Estates and the Lakes of San Souci to further the conversion from existing septic to a centralized wastewater system.

Pursuant to Section 27 of the Charter, a petition for rate changes must be approved by Ordinance.

The ordinance will be scheduled for adoption after the public hearing on May 17, 2023 at 9:00 am in the City Council Chambers.

STAFF RECOMMENDATION: Move to second Reading.

ATTACHMENTS:

1. Draft Ordinance
2. BSU Petition for Sun Village Estates and BSU Petition for Lakes of San Souci

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REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Mike Sheffield
Department Director:

Council Action: Approved __ Denied __ Deferred ___ Other_____

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 2023 -

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, APPROVING THE PETITION OF BONITA SPRINGS UTILITIES, INC., TO SPECIAL SERVICE CHARGES FOR SUN VILLAGE ESTATES AND THE LAKES OF SAN SOUCI SUBDIVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bonita Springs Utilities, Inc. ("BSU") provides water and wastewater service within and outside the City of Bonita Springs pursuant to that certain Franchise Agreement By, Between And Among Bonita Springs Utilities, Inc., The City of Bonita Springs, Florida, and Lee County, Florida ("Franchise");

WHEREAS, the City of Bonita Springs received the Petitions dated April 7, 2023 to amend its tariff structures to provide special service charges to facilitate the expansion of wastewater into the Sun Village Estates and Lakes of San Souci subdivisions in the City of Bonita Springs, which Petition were accepted by the City Council at its regular meeting of May 3, 2023 which are attached hereto as Exhibits A and B, respectively; and,

WHEREAS, the City Council has set the said Petition and Ordinance for a public hearing on May 17, 2023, at 9:00 a.m., and caused due notice thereof to be published in the Fort Myers News-Press, a copies of which said notice are on file with the City Clerk; and,

WHEREAS, a public hearing was held on May 17, 2027 in the City Council Chambers, Bonita Springs, Florida, at which time BSU presented evidence and testimony in support of its Petition, and all interested parties were permitted to address the Bonita Springs City Council and to make a statement of record, and the Council, after being fully advised in the premises, makes the following determinations:

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS, FLORIDA, THAT:

Section 1. Recitals.

Each and all of the foregoing recitals are hereby incorporated into this Ordinance as if specifically set forth herein.

Section 2. Amended Tariff Adopted.

Bonita Springs Utilities, Inc.

April 7, 2023

Derek Rooney, Esq.
City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs Florida 34135

Re: Bonita Springs Utilities, Inc.:
Petitions to Approve Special Service Charges for
Sun Village Estates and Lakes of San Souci Subdivisions

Dear Mr. Rooney:

Pursuant to section five of the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, as amended, enclosed please find the Petitions to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci on behalf of Bonita Springs Utilities, Inc. Under separate cover we are providing copies of these Petitions to Lee County through the County Attorney's Office.

We look forward to working with you and the City staff on this matter. Contact persons for these Petitions are Director of Finance Steven Richards, General Counsel Don Thomson, and me. Should you have questions regarding the Petitions or other matters, please feel free to call.

Sincerely,

John R. Jenkins
Executive Director

Enclosures

Cc: Ms. Arleen Hunter
Mr. Steven Richards
G. Donald Thomson, Jr., Esq.

PETITION TO APPROVE SPEICAL SERVICE CHARGE FOR SUN VILLAGE ESTATES

Bonita Springs Utilities Inc. ("BSU" or "Company"), a not-for-profit Florida Corporation, files this Petition to Approve a Special Service Charge for Sun Village Estates and in support thereof states:

1. The Florida 2021 Clean Waterways Act addressed a number of environmental issues related to water quality improvement including the creation of septic remediation plans. Governor DeSantis recently issued Executive Order 23-06 which directs funding and strategic action to expedite critical Everglades restoration projects, to protect and restore our waterways, and fund infrastructure projects to improve water quality and safeguard Florida's water supply.

2. Governor DeSantis created the Blue-Green Algae Task Force to play a role in protecting Florida's water resources. Among its 2019 recommendations the Task Force found "septic systems are also a well-known and substantial source of nutrients to groundwater and surface waters across the state." And "The task force further recommends legislation and funding to accelerate cost-effective septic to sewer programs with the aim of reducing nutrient pollution that leads to harmful algal blooms."

3. The City identifies expansion of centralized sanitary sewer systems in its Comprehensive Plan Infrastructure Element and Sanitary Sewer Sub-Element Objective. The Plan includes a Sub-Element Policy: "The City shall require on-site sewage disposal systems to connect to central sanitary sewer when sanitary collection lines have been installed immediately adjoining, and service is available to, the property served by the on-site system." The Plan assigns priority to cost feasible capital improvement projects intended to extend central sewer service to areas within the City currently served by septic tanks.

4. As part of the State's water quality improvement initiative, and in response to the City's efforts to obtain grant funding for septic tank replacement projects, BSU developed engineering design plans and cost estimates to have a "shovel ready" project to convert Sun Village Estates from septic tanks to central wastewater service ("Project").

5. The City has obtained $2,050,000 in grant funding from the State of Florida, Department of Environmental Protection (FDEP) to extend central wastewater treatment service to Sun Village Estates.

6. The FDEP grant funds require a one-to-one match. The City is contributing $1,025,000 to pay for the Project. BSU is paying another $1,025,000 toward the Project, half of which will be reimbursed by the customers receiving wastewater service. This total of $2,050,000 will satisfy the match.

7. In response to the availability of grant funds, the City and BSU entered into a Septic Replacement and Groundwater Protection Agreement ("Agreement") pursuant to which BSU will extend central wastewater treatment service to Sun Village Estates using the grant

funding to reduce the cost to the residents.

8. Attached as Exhibit "A" is a Septic to Sewer Funding Analysis which summarizes the cost of the Project, the Special Service Charge payment calculation, and the cost allocation to ensure that the residents benefiting from the Project will pay an equitable share of the cost.

9. The Special Service Charge has been determined to be Three Thousand Five Hundred Eighty-Four dollars ($3,584) per residential unit. These residents are also responsible for payment of the appropriate Aid-to-New Construction ("ANC") fee of Three Thousand Nine Hundred Twenty-Five dollars ($3,925) for an overall cost of Seven Thousand Five Hundred Nine Dollars ($7,509).

10. Residents may pay the Special Service Charge in a single up-front payment, or through a monthly payment option of Thirty-Five Dollars and Eighty-Five Cents ($35.85) per residential unit. Monthly payments are over a thirty-year term at four percent (4%) interest. The Special Service Charge and ANC fee may be paid off in full at any time without penalty.

11. Pursuant to the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs and Lee County dated October 2, 2002 and enacted as City of Bonita Springs Ordinance No. 02-14 (as amended), BSU's Water and Wastewater Tariffs changes are subject to City approval.

12. BSU requests approval of an addition to the Wastewater Tariff as set forth in Exhibit "B" attached hereto, authorizing collection of the Sun Village Estates Special Service Charge. A revised Wastewater Tariff (in its entirety) is attached hereto as Exhibit "C".

Bonita Springs Utilities, Inc. respectfully requests City Council set a public hearing and take such action as may be required by law to hear this Petition and approve the Special Service Charge as set forth herein.

Respectfully submitted this
7th day of April, 2023 by:

John R. Jenkins, Executive Director

EXHIBIT “A”

RAFTELIS

BONITA SPRINGS UTILITIES

Septic to Sewer Funding Analysis

Final June 10, 2020

RAFTELIS
FINANCIAL CONSULTANTS, INC.

SEPTIC TO SEWER PROGRAM

BSU has two separate design projects for gravity sewer expansion to the existing two residential neighborhoods currently on septic tanks:

- Sun Village
- Lakes of San Souci

BSU currently serves potable water to these neighborhoods so historical usage data is available

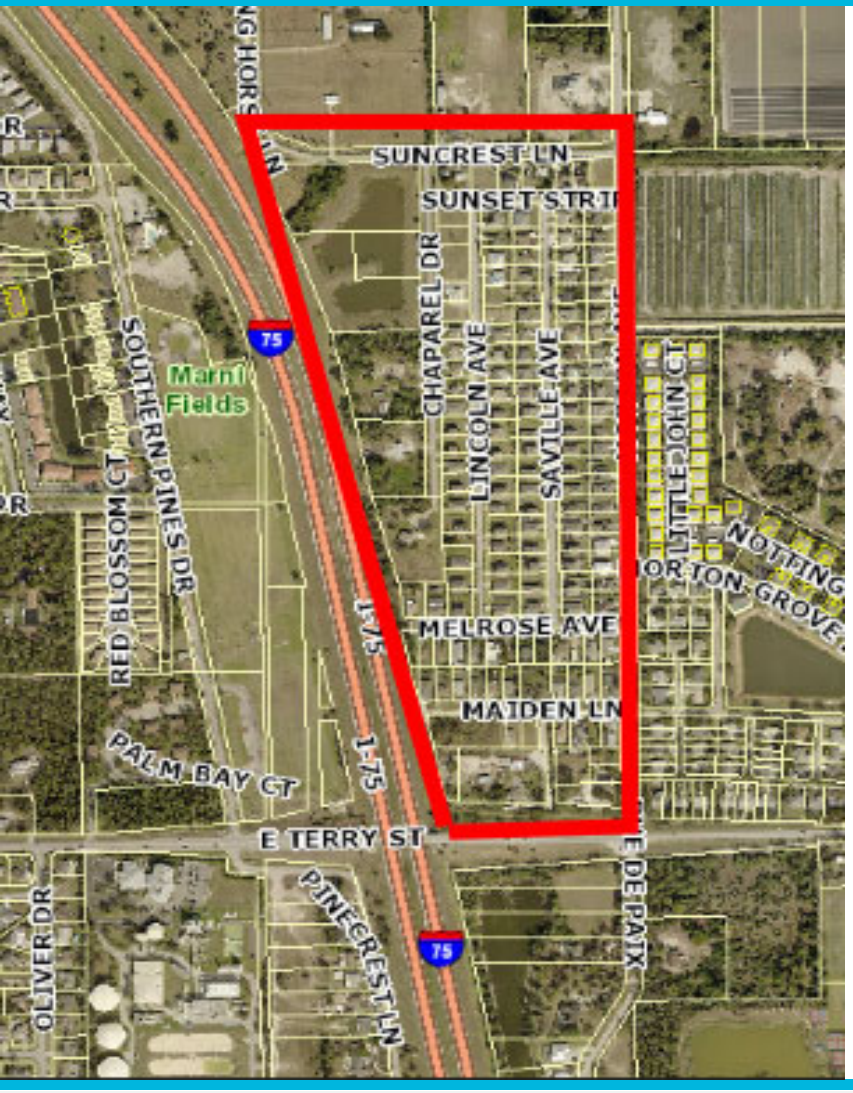
SERVICE AREA MAPS



Sun Village

Lakes of San Souci

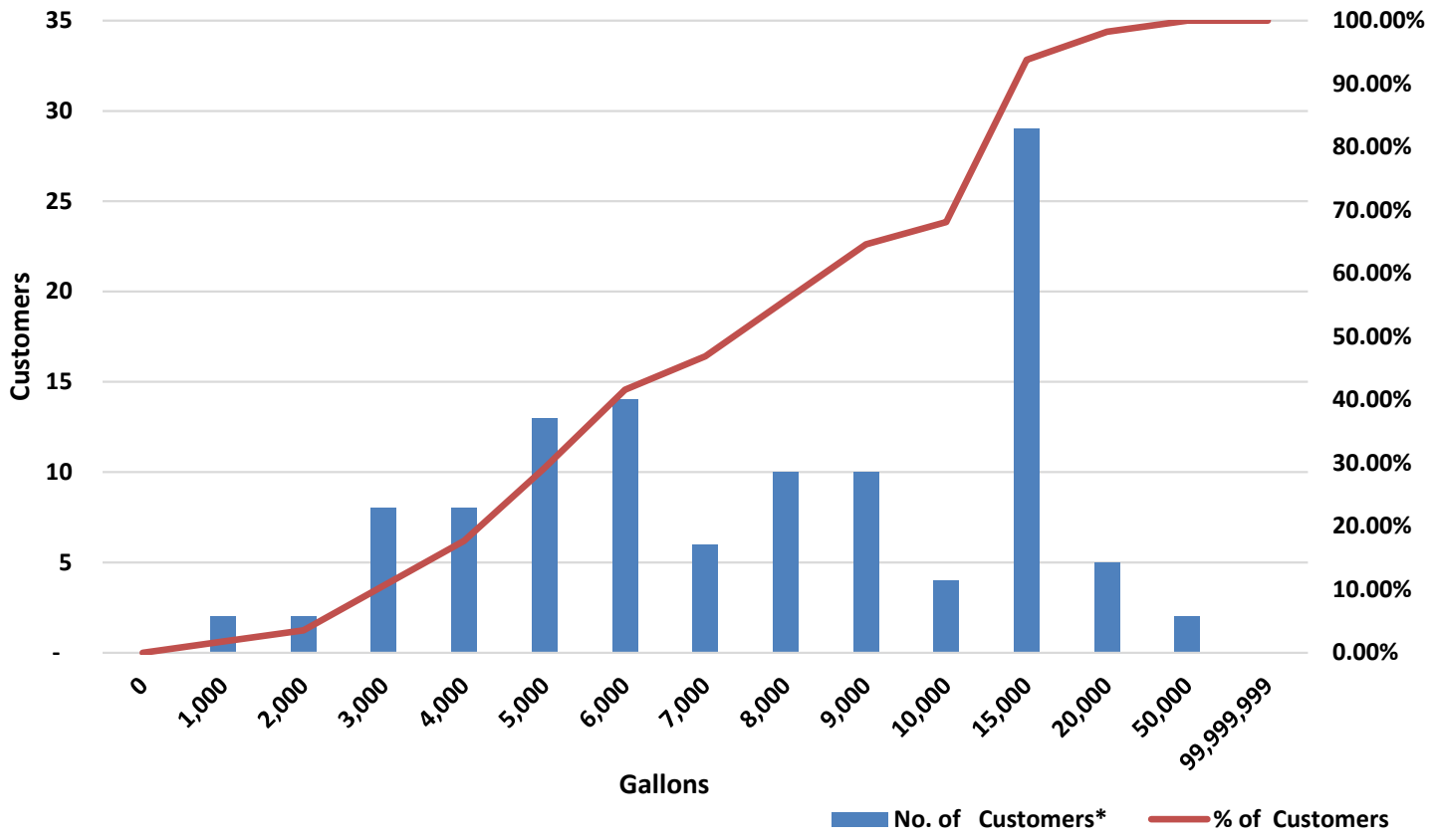
SUN VILLAGE



- 143 residential units (based on design cost estimate)
- Built between 1961 and 2018
- Median home built: 2006
- Median value: $218,127 (excluding vacant parcels)

SUN VILLAGE CUSTOMER BILLING ANALYSIS

- 113 water accounts reviewed* (2019 consumption)
- Median Usage 7,000 gallons/mo.
- Approximately 7% of bills above 10,000 gallons



* 113 accounts were identified from billing data out of the 143 sewer connections from design project information.

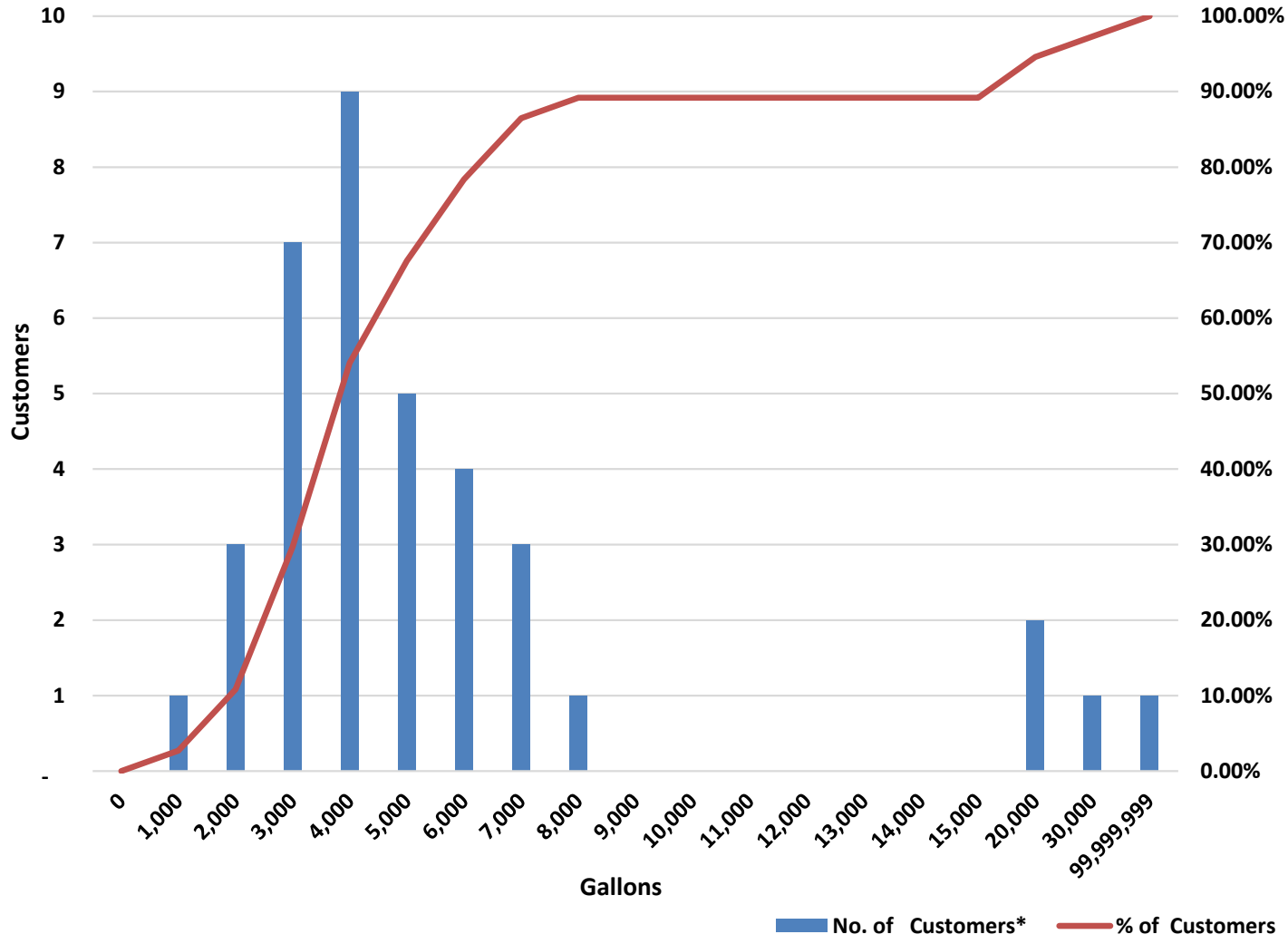
LAKES OF SAN SOUCI



- 48 units (based on design cost estimate)
- Most residential (1 church)
- Built between 1973 and 2017
- Median home built: 1999
- Median value: $243,048 (excluding vacant parcels)
- Higher S2S cost per unit
  - Larger homes / lot sizes
  - Less density

SAN SOUCI CUSTOMER BILLING ANALYSIS

- 37 water accounts reviewed* (2019 consumption)
- Median Usage 4,000 gallons
- 4 accounts (10%) above 10,000 gallons



* 37 accounts were identified from billing data out of the 48 sewer connections from design project information.

SEPTIC TO SEWER FUNDING ISSUES

- Assess vacant parcels?
- Differing parcel sizes / economies?
- Are connections and charges mandatory?
- Will there be incentives for (early) connection?
- Does age of septic tank matter / will there be accommodative policies for connection?
- Are property owners are also responsible for lateral and septic tank removal costs?
- BSU historical special sewer charges for wastewater connection:
  - $795 to $7,210; or
  - $5.68 to $43.23 / month

PROJECT COST SUMMARY

	Sun Village	San Souci	Total
Total Project [1]	$4,100,000	$1,900,000	$6,000,000
Units / ERCs [2]	143	48	191
Cost per Unit	$28,671	$39,583	$31,412
ANC Fee	$3,925	$3,925	$3,925
Total	$32,596	$43,508	$35,339

_____

[1] Project costs include construction cost estimate, design, construction services, permitting, and other allowances. Amounts exclude ANC fees.

[2] Assumes that each residential unit is one ERC.

POTENTIAL COST ALLOCATION

	Sun Village	San Souci	Total
Cost per Unit [1]	$32,596	$43,508	$35,339
Property Owner Target Cost:	$12,000	$12,000	$12,000
ANC Portion	$3,925	$3,925	$3,925
Construction Portion	$8,075	$8,075	$8,075
Remaining Costs	$20,596	$31,508	$23,339

[1] Includes ANC Fees.

PROPERTY OWNER COST SCENARIO

	Amount	Comment
Property Owner Target Cost:	$12,000	Amount is 5.5% of median home values in area
Construction Portion	$8,075	
Cost per Month [1]	$80	Based on 20-year assessment with 5% interest; amount excludes monthly wastewater bill

_____

[1] Amortized 20 years assuming 5% interest; amount excludes monthly wastewater bill.

CAPITAL IMPROVEMENT FUNDING

	Amount	Comment
Sun Village and San Souci Septic to Sewer (S2S)	$6,000,000	Construction, design, CEI
Funding Sources:		
BSU reserves	$290,000	Net present value: $10 per month of average $40 - $50 new wastewater bill is applied toward project cost.
BSU new debt	$1,540,000	New debt assumes all property owners connect and choose a 20 year assessment (assumes mandatory connection)
Outside Funding	$4,170,000	Other non-BSU sources; this is amount necessary to avoid BSU ratepayers subsidizing S2S program.

ADDITIONAL STEPS

- What are similar other utilities charging (and why)?
- How will any precedent affect future conversion areas?
- Formulate incentive structure and accommodations:
  - Is it mandatory?
  - What if septic tank is less than 3 years old? 5 years? 10 years?
  - Incentives for early connections?
  - Vacant parcels

EXHIBIT “B”

SPECIAL SERVICE CHARGE TO THE SUN VILLAGE subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Sun Village subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $3,584

Monthly Amortization: $17.11

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $4,948

Monthly Amortization: $23.62

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

EXHIBIT “*C*”

BONITA SPRINGS UTILITIES, INC.

WASTEWATER TARIFF

BONITA SPRINGS UTILITIES, INC.
11900 East Terry Street
Bonita Springs, Florida 34135

(239) 992-0711

(Effective August 3, 2022)

WASTEWATER TARIFF

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TERRITORY SERVED

That territory set forth in the Bonita Springs Utilities, Inc. Franchise Agreement By, Between and Among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, and on file at the Company's office.

TECHNICAL TERMS AND ABBREVIATIONS

1.0 "ANC" - Fee for Aid to New Construction.

2.0

2.0 "ASSISTED LIVING FACILITY" - An institutional class of customer licensed by the State of Florida, Agency for Health Care Administration pursuant to Chapter 400, Florida Statutes.

3.0 "COMPANY" - Bonita Springs Utilities, Inc., a Florida Not-For-Profit Corporation.

3.1 "CITY" - Refers to the City of Bonita Springs, a political subdivision of the State of Florida.

4.0 "CONNECTION FEE" - Charge for labor and facilities necessary for connection to lines of Company.

5.0 "CONSUMER or CUSTOMER" - Any person, firm, association, corporation, governmental agency or similar organization, supplied with wastewater service by the Company.

6.0 "CONSUMER'S INSTALLATION" - All pipes, shut-offs, valves, fixtures and appliances or apparatus of every kind and nature which are located on the customer's side of the "Point of Delivery" and used in connection with or forming a part of the installation necessary for disposing of sewage collected from the customer's premises regardless of whether such installation is owned by the customer or used by the Consumer under lease or other agreement.

7.0 "COUNTY" - refers to Lee County, a political subdivision of the State of Florida.

8.0 "EQUIVALENT RESIDENTIAL CONNECTION" ("ERC") - A measure of the average daily flow for a single residential unit which is a factor used to calculate a given average daily flow for non-single family residence uses.

9.0 "FRANCHISE" - The franchise granted by the City and County to the Company.

10.0 "MAIN" - Shall refer to a pipe, conduit, or other facility installed to convey wastewater service to individual service lines or to other mains.

11.0 "MEMBER" - The holder of a member account with the Company, which may be a Member-Owner or a Member-Tenant.

11.1 "MEMBER-OWNER" – A Member who holds a direct ownership interest in the property where the Company is providing Service.

11.2 "MEMBER-TENANT" – A Member who does not hold a direct ownership interest in the property where the Company is providing service, but who occupies an individually metered premises and who accepts responsibility for service and payment obligations on a temporary basis in lieu of the Member-Owner.

12.0 “MIXED MASTER” - Refers to a class of service where one meter serves customers utilizing different classes of service.

13.0 “MULTI-FAMILY UNIT” - Refers to a class of service where one meter serves more than three residential units such as apartments, condominiums, mobile homes, or combinations thereof.

14.0 "POINT OF DELIVERY" - The point where the Company's pipes are connected with pipes of the Consumer, which is typically the property, right-of-way or easement line.

15.0 "POLLUTANT" – Any substance identified as a prohibited discharge pursuant to Section 62-625.400, Florida Administrative Code, or its successor law.

15.0 "RATE SCHEDULE" - Refers to rates or charges for a particular classification of service, which rates or charges are subject to change from time to time by approval of the City Council.

16.0 "SERVICE" or "WASTEWATER SERVICE" - All wastewater service required by the Consumer, as well as the readiness and ability on the part of the Company to furnish wastewater service to the Consumer. Thus, the maintenance by the Company of the availability of service at the point of delivery upon request shall constitute the rendering of wastewater service, irrespective of whether Consumer makes any use thereof.

17.0 "SERVICE LINES" - The pipes of the Company which are connected from the Mains to Point of Delivery.

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RULES AND REGULATIONS

1.0 GENERAL INFORMATION - These Rules and Regulations are a part of the rate schedules and applications and contracts of the Company and, in the absence of specific written agreement to the contrary, apply without modifications or change to each and every customer to whom the Company renders wastewater service.

In the event that a portion of these Rules and Regulations are declared unconstitutional or void for any reason by any court of competent jurisdiction, such decision shall in no way affect the validity of the remaining portions of the Rules and Regulations for wastewater service unless such court order or decision shall so direct.

2.0 SERVICE APPLICATION - As a condition of Wastewater Service, Service Company may require an application for Service, government-issued photo identification (i.e. identification card, driver's license or passport), proof of ownership or occupancy and payment of a connection or transfer fee and deposit. The conditions of such application are binding upon the customer and the Company. A copy of the application for wastewater service accepted by the Company will be furnished to the Customer upon request. The Customer shall furnish to the Company the correct name, street address and lot and block number of the property at which service is to be rendered.

3.0 WITHHOLDING SERVICE - The Company may withhold or discontinue service rendered upon application made by any member or agent of a household, organization or business unless all prior indebtedness to the Company of such member, household, organization or business for service has been paid in full. Service may also be discontinued for any violation made by the Consumer of any rule or regulation set forth in this Tariff. The Member-Owner shall be responsible for any Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, due on rental property in the event of nonpayment by the Member-Tenant. In the event the Member-Owner fails to pay the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time when due on rental property, such nonpayment may be enforced at the rental property, including through disconnection of service.

4.0 EXTENSIONS - The Company will extend service in accordance with the Service Availability Policy set forth herein.

5.0 LIMITATIONS OF USE - Wastewater service purchased from the Company shall be used by the customer only for the purposes specified in the application for wastewater service. Wastewater service shall be rendered to the customer for the customer's own use, shall be collected directly into the Company's main wastewater lines, and may not be submetered, resold or otherwise disposed of to lessees, tenants, or others unless: (i) Company elects not to individually meter; (ii) customer provides 60 days prior written notice to Company; (iii) customer collects a rate or charge which does not exceed the actual purchase price for wastewater service paid to the Company; (iv) except in the case of a condominium association, customer retains ownership of the property served; and, (v) customer complies with all other technical and policy requirements of the Company. In no case shall a customer extend his lines across a street, alley, lane, court, property line, avenue, or other way in order to furnish wastewater service to the adjacent property even though such

adjacent property may be owned by him. In case of such unauthorized extension, sale or disposition of service, the customer's wastewater service will be subject to discontinuance until such unauthorized extension, sale or disposition of service is discontinued and full payment is made to the Company for wastewater service rendered by the Company (calculated on proper classification and rate schedules) and until reimbursement is made in full to the Company for all extra expenses incurred for clerical work, testing and inspections.

6.0 CONTINUITY OF SERVICE - The Company will at all times use reasonable diligence to provide continuous wastewater service and, having used reasonable diligence, shall not be liable to the customer for failure or interruption of continuous wastewater service. The Company shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accidents, litigation, breakdowns, shutdowns for emergencies, repairs or adjustments, acts of sabotage, enemies of the United States, Wars, United States, State, Municipal or other governmental interference, acts of God, discontinuation of service for non-payment or as otherwise provided herein, or other causes beyond its control.

7.0 TERMINATION OF SERVICE - At Member-Owner's written request, Company will terminate service to a property on a specified date. Termination is the permanent end of service to a particular location and shall be distinguished from a discontinuation of service which is temporary in nature as in the case of a rental occupancy or a seasonal customer. In the event of a termination of service, Member-Owner will no longer be responsible for payment for service to the property. However, such termination of service shall result in the forfeiture of all fees paid (including, but not limited to ANC Fees). Any subsequent request for service to the same location must be accompanied by payment of all rates and charges then in effect.

8.0 TYPE AND MAINTENANCE - The customer's pipes, apparatus and equipment shall be selected, installed, used and maintained in accordance with standard practice and shall conform with the Rules and Regulations of the Company, and shall comply with all governmental regulations applicable to same. The Company shall not be responsible for the maintenance and operation of the customer's pipes and facilities. Customer agrees to keep such facilities in good repair, to promptly stop all infiltration and inflow on the premises. The customer expressly agrees not to introduce anything into the collection system which may adversely affect the wastewater service; the Company reserves the right to discontinue or withhold wastewater service to such apparatus, equipment, or Point of Delivery.

9.0 CHANGE OF CUSTOMER'S INSTALLATION - No changes or increases in the customer's installation, which will materially affect the proper operation of the pipes, mains, or stations of the Company, shall be made without written consent of the Company. The customer shall be liable for any charge resulting from a violation of this Rule. Upon increasing the size of a water meter, the customer shall be charged for the increase in wastewater ANC Fees and Deposits, as stated in Rate Schedule.

10.0 INSPECTION OF CUSTOMER'S INSTALLATION - All customer's wastewater service installations or changes shall be inspected upon completion by a competent authority to ensure that the customer's piping, equipment, and devices have been installed in accordance with accepted standard practice and such local governmental or other rules as may be in

effect. Where municipal or other governmental inspection is required, the Company cannot render wastewater service until such inspection has been made and a formal notice of approval from the inspecting authority has been received by the Company. Notwithstanding the above, the Company reserves the right to inspect the customer's installation prior to rendering wastewater service, and from time to time thereafter, but assumes no responsibility whatsoever for any portion thereof.

11.0 PROTECTION OF COMPANY'S PROPERTY - The customer shall exercise reasonable diligence to protect the Company's property on the customer's premises and shall knowingly permit no one but the Company's agents or persons authorized by law, to have access to the Company's pipes and apparatus. In the event of any loss or damage to property of the Company caused by or arising out of carelessness, neglect or misuse by the customer or customer's agents including, but not limited to, contractors, repairmen, landscape maintenance crews or other entities, the customer shall be responsible for paying the Company the cost of such loss or repairing such damage. It shall then be the Customer's responsibility to recover any costs from customer's agent if appropriate.

12.0 ACCESS TO PREMISES - The duly authorized agents of the Company shall have access at all reasonable hours to the premises of the customer for the purpose of installing, maintaining, inspecting or removing Company's property or for performance under or termination of the Company's agreement with the customer and in such performance shall not be liable for trespass. Without notice, the Company may remove any landscaping or ancillary feature in a manner and to the extent reasonably required to provide access to the Company's property.

13.0 RIGHT OF WAY OR EASEMENTS - The customer shall grant or cause to be granted to the Company, and without cost to the Company, all rights, easements, permits, and privileges which are necessary for the rendering of wastewater service as determined by the Company.

14.0 BILLING PERIODS - Bills for wastewater service will be billed monthly, and are due when rendered and will be considered as received by customer when delivered or mailed to the service address or some other place mutually agreed upon. Non-receipt of bills by customer shall not release or diminish the obligation of the customer with respect to payment thereof.

15.0 DISCONNECTION FOR NON-PAYMENT - Field personnel shall not accept payment from customers when disconnecting meters for non-payment or reconnecting service. Customer may avoid meter removal, after personnel have been dispatched, by making payment in full at the Company's office or entering into a written agreement to pay the full amount due by a mutually agreed upon date including non-payment trip charge and/or reconnect fees. If the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for non-payment, the Member-Owner shall thereafter be responsible for payment of all charges incurred during this period of temporary disconnection as a condition of the initiation of service to a subsequent Member-Tenant.

16.0 PAYMENT OF WATER AND WASTEWATER SERVICE BILLS CONCURRENTLY
When both water and wastewater service are provided by the Company, payment of any wastewater service bill rendered by the Company to a customer shall not be accepted by

the Company without the simultaneous or concurrent payment of any water service bill rendered by the Company. The Company may discontinue both water service and wastewater service to the customer's premises for non-payment of the wastewater service bill or water service bill or if payment is not made concurrently. The Company shall not reestablish or reconnect wastewater service and/or water service until such time as all wastewater and water service bills and all charges are paid. A Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time is considered a part of the Customer's bill. No partial payment of any bill rendered will be accepted by the Company, except by agreement with Company.

17.0 RETURNED CHECKS - Upon return of a check for any reason, the Company may redeposit the check, but the customer will be responsible for any service charge. Upon return of a check for the second time, customer is to be notified that restitution must be made immediately by cash, money order, or credit card only, including the service charges. Customers failing to respond or to make restitution shall have water and/or wastewater service disconnected and will be charged a violation reconnect fee. Service will not be restored until payment in full is received for all charges due. A Member-Owner shall not be held responsible for the service charge incurred because of a bad check from their Member-Tenant.

Check Return -	Check Amount	Charge
	$ 0.00 - $ 50.00	$25.00
	$50.01 - $300.00	$30.00
	Over $300.00	$40.00 or 5% whichever is greater

18.0 CHANGE OF OCCUPANCY - When a change of occupancy takes place on any premises supplied by the Company with wastewater service, notice shall be given to the Company not less than three (3) days prior to the date of change by the outgoing Customer. The outgoing customer shall be held responsible for all wastewater service rendered on such premises until such notice is received by the Company and the Company has had reasonable time to discontinue the wastewater service. However, if such notice has not been received, the application of a succeeding occupant for wastewater service will automatically terminate the prior account. For the convenience of its customers, the Company will accept telephone orders, to discontinue or transfer wastewater service from one service address to another, and will use all reasonable diligence in the execution thereof. All transactions must be reported and cleared through the Company, including transfers, sales and charges.

Notwithstanding the foregoing, a Member-Tenant account will be discontinued and the Member-Owner will automatically become responsible on a going-forward basis for all charges and costs incurred by the Company in providing Wastewater Service if: 1) the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for nonpayment; 2) Company personnel verify that the property where the Company is providing Service is vacant; or 3) a Member-Tenant voluntarily discontinues service. All charges and costs for Wastewater Service, or the availability thereof, accruing while a property is vacant shall be the responsibility of the Member-Owner and must be paid prior to the provision of Wastewater Service to a subsequent Member-Tenant.

In the event a change of occupancy involving a sale or conveyance of property subject to the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, such rate, fee, or charge must be either paid off in full, or the new Customer must supply a copy of the deed or other document evidencing ownership and complete a lien form in favor of the Company securing the balance of the charge and provide notice of such payment requirement to a subsequent purchaser of the property, and resume periodic payments.

In the event of a change in ownership, a foreclosure, or other circumstance in which service to the property is temporarily disconnected but Service Company must maintain plant capacity and service availability to the property, the property owner including, but not limited to, Member-Owner, bank, mortgage company, trustee in bankruptcy or foreclosure, or other such entity receiving the benefit of such service availability shall be responsible for payment of Service Company's base facility charge and other rates, fees, and charges accrued during this period of temporary disconnection and as a condition of reconnection or initiation of service. Service Company shall not reconnect service or initiate service for a purchaser of property until any such outstanding balance at that or any other property owned by purchaser is paid in full.

19.0 UNAUTHORIZED CONNECTIONS - Connections to the Company's wastewater system for any purpose whatsoever are to be made only by employees or agents of the Company. Any unauthorized connections to the customer's wastewater service shall be subject to immediate discontinuance without notice. Wastewater service shall not be restored until such unauthorized connections have been removed and until payment is made in full for all wastewater service estimated by the Company to have been used by reason of such unauthorized connection. A party illegally connecting to facilities of the Company, or doing so in violation of the Company's Rules and Regulations, shall be charged costs plus expenses and back-billed for wastewater service based upon a reasonable estimate of service taken.

20.0 ADJUSTMENT OF BILLS - When a customer has been overcharged or undercharged as a result of incorrect application of the rate schedules, incorrect reading of the meter, incorrect connection of the meter, or other similar reasons, the amount may be credited or billed to the customer as the case may be. No adjustment shall be made to the base charge. The Company may refund or bill the Customer the amount billed/unbilled in error for one-half of the period since the last test, said one-half period not to exceed six (6) months; provided that, if it can be shown that the error was due to some cause the date of which can be identified, the adjustment will be based on that date. If meter does not register, or if no reading can be obtained, only current billing may be adjusted using an estimate of previous billings. In the event a customer provides acceptable documentation evidencing an extraordinary circumstance such as a pipe break or the filling of a swimming pool, the Company may take such information into account in calculating the monthly charge for wastewater service, and in determining the appropriate block water usage rate.

21.0 EVIDENCE OF CONSUMPTION - The initiation or continuation or resumption of water service to the customer's premises shall constitute the initiation or continuation or resumption of wastewater service to the customer's premises regardless of occupancy.

22.0 SERVICE DEPOSIT - Before rendering service, the Company shall require a non-interest bearing deposit or guarantee satisfactory to the Company to secure the payment of bills by the member. The amount of initial deposit shall be according to meter size and ERC's as follows:

SINGLE FAMILY RESIDENTIAL,
DUPLEX, TRIPLEX and
GENERAL:

Meter Size	Deposit Amount
5/8 x 3/4"	$ 100.00
1"	250.00
1.5"	500.00
2"	800.00
3"	1,600.00
4"	2,500.00
6"	5,000.00
8"	8,000.00

Institutional, Multi-Family & Mixed Master: $100.00 per unit or ERC

The Company may waive the deposit requirement based on one of the following: 1) receipt of a letter from the customer's most recent utility company stating that the customer's account was at no time more than thirty (30) days in arrears for the 12-month period immediately preceding the application to Company for service; 2) the customer authorizes the Company to establish automatic bill payment through electronic funds transfer or other means; or 3) such other evidence of customers good credit as determined by the Company. Member-Tenants are not eligible for a waiver of deposit.

After a residential customer has established a satisfactory payment record and has continuous service for 12 months, the Company may refund the customer's deposit provided the customer has not, in the preceding 12 months: (a) made more than one late payment of a bill, (b) paid with a check or automatic funds transfer refused by a bank, (c) been disconnected for nonpayment, or (d) used service in a fraudulent or unauthorized manner. Subsequent to such refund, or if a deposit was waived, Company may require a new deposit as a result of any of the above-referenced deficiencies.

General, multi-family, mixed master, institutional, and Member-Tenant deposits, however, are not refundable until change of ownership occurs and final settlement has been made. Upon final settlement of customer's account, any unused or remaining balance of the deposit shall be refunded, without interest.

Service Company may require a service deposit for irrigation service separate and apart from a water or wastewater deposit. Company may require an additional deposit if usage or payment history warrants. Upon final settlement of customer's account, any unused balance of the deposit will be refunded.

23.0 TAMPERING – No person shall tamper with, work on, connect to, or in any way alter or damage the Service Lines or any other component of the Company's sewer system without

prior written consent from the Company. If tampering is found and it causes the Company to repair or remove its property, an amount equal to the Violation Reconnection Charge or the actual cost to make repairs and reconnect (whichever is greater) will be charged to the customer. In addition, the Company may impose a tampering fee. It is unlawful to willfully alter, tamper with, damage, or knowingly suffer to be damaged any meter, meter seal, pipe or other apparatus or property belonging to the Company with intent to avoid payment for utility service. According to State statute this tampering is a misdemeanor of the first degree punishable by fine or imprisonment. Company shall be entitled to recover the value of the Service provided. Authorities shall be notified and Company will prosecute. In addition, whoever is found in civil action to have violated the provisions hereof shall be liable to Company in an amount equal to 3 times the amount of services unlawfully obtained or $3,000.00, whichever is greater. The Company may discontinue service upon reasonable notice to the customer for any infraction of this section in accordance with section 812.14, Florida Statutes.

24.0 RATE SCHEDULES - The following are the Company's rate schedules for service, and are subject to change from time to time.

GENERAL SERVICE RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company to all customers for which no other schedule applies.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
3/4"	$ 29.48
1"	73.70
1 1/2"	147.40
2"	235.84
3"	471.68
4"	737.00
6"	1,474.00
8"	2,358.40

Gallonage Rate – $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

SINGLE FAMILY RESIDENTIAL, DUPLEX AND TRIPLEX RATE SCHEDULE

AVAILABILITY - Available to single family customers or their equivalent throughout the area served by the Company, including duplexes and triplexes, except for those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$29.48

Gallonage Rate - $3.83 (Per 1000 gallons capped at 16,000 gallons per month per unit served)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may then be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

MULTI-FAMILY AND MIXED MASTER RATE SCHEDULE

AVAILABILITY - Available to multi-family and mixed master customers as herein defined or their equivalent throughout the area served by the Company, including those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$23.58

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

INSTITUTIONAL RATE SCHEDULE

AVAILABILITY - For service to all assisted living facilities and other applicable institutional customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per ERC

Meter Size	Charge
N/A	$29.48

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

FIXED WASTEWATER RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company for wastewater only customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Charge Per Unit

Meter Size	Charge
N/A	$48.37

Gallonage Rate None

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

25.0 NORMAL RECONNECTION CHARGE - Removal or reconnection of service subsequent to a customer-request.

$40.00 Disconnect charge
$40.00 Reconnect charge

26.0 VIOLATION RECONNECTION CHARGE - Subsequent to disconnection of service for cause, including a delinquency in bill payments and/or tampering with Company property, service shall not be reinstated until reconnection charge plus all past-due balances are paid in full.

$50.00 during normal work hours
$135.00 after hours and weekends.

27.0 REIMBURSEMENTS FOR EXTRA EXPENSES - The consumer shall reimburse the Company for extra expenses (such as for special trips, inspections, additional clerical expenses, etc.) incurred by the Company on account of consumer's violation of the Rules and Regulations. The customer will be advised of these expenses prior to Company rendering service.

28.0 TRANSFER FEES - Charge for transfer of existing service to a new owner or to a new Member-Tenant at an existing service. Existing Member-Owners are not charged when Member-Tenants vacate.

$35.00 (one charge only for transfer of water, sewer, or both)

29.0 MISCELLANEOUS SERVICE CHARGES - The Company charges the following miscellaneous service charges in accordance with the terms stated herein. If both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the Company requires multiple actions.

Usage Reports - $50.00 minimum or $0.25 per meter, whichever is greater.

Non-Payment Trip Charge - $45.00- only applicable during normal work hours

Capacity Reservation Fee - a monthly charge equal to the base charge plus billing charge for the applicable class of service.

Plan Review and Inspection Fees –
The greater of $835.00 or 1.0% of the cost of utility infrastructure subject to review and inspection.

Plan Review Resubmittal Fee - $250.00 – At the second request for additional information.

Re-Inspection Fee - $75.00 – At the request for additional inspection.

Warranty Expiration Televising (cleaning) - $1.25 per linear foot (minimum of $500)

Developer Agreement Administration Fees -
not to exceed $1,000.00 per Main Extension Manual

Labor & Equipment -
$65.00 per 1 man crew per hour
85.00 per 2 man crew per hour

Sewer Tap Locate
Other related and similar activities
$35.00 during normal work hours
$85.00 After hours and weekends

Estoppels Letter Fee
Normal Delivery - $15.00
Rush Delivery - $30.00
No extra charge if customer is also a water customer.

Late Payment Fee
$5 or 1% of past due amount, whichever is greater.

Meter Tampering Charge
Greater of 3 times the amount of services unlawfully obtained, or $3,000.

Grease Trap Fee - $150.00 – Initial plan review and inspection.

29.1 RECLAIMED WATER RATE - $.49 per 1000 gallons except as otherwise set by contract.

SERVICE AVAILABILITY POLICY

30.0 PURPOSE - The Company has determined that it is necessary to set forth a policy for the availability of sewer capacity which will provide a non-discriminatory and equitable basis upon which to provide service to future customers and plan capital expenditures for facilities expansion.

31.0 APPLICABILITY - This policy is applicable throughout the service territory of the Company.

32.0 AGREEMENT FOR SERVICE - Service is provided through a Service or Developer Agreement (if the capacity request warrants) and upon payment of the appropriate ANC Fees, Capacity Reservation Fees, Connection Fee, Special Service Charge and other charges as set forth herein. Company will reserve the number of connections paid for and will provide service to those units pursuant to its rules and regulations upon notification by Developer that service is required. A person who owns property with houses, duplexes, or other units and who has one or more sewer connections on this property cannot serve sewer to a buyer of any previously unserved portion of the property. The sale of a portion of the property must be reported to the Company in order for the Company to provide service in accordance herewith. If there are multiple owners of a duplex, triplex, or other multiunit building, each must pay an ANC Fee, Deposit Connection Fee and any other applicable fees appropriate to such unit.

33.0 APPLICATIONS BY AGENTS – Applications for sewer service requested by a person who owns property with houses, duplexes, or other units, property owner, person, firms, partnerships, associations, corporations, and others shall be rendered only by duly authorized parties. When sewer service is rendered under application between the Company and an agent of the principal, the use of such sewer service by the principal shall constitute full and complete ratification by the principal of the application between agent and the Company and under which such sewer service is rendered.

34.0 APPLICATIONS FOR BUILDING PERMIT – Upon request for a permit letter for the purpose of obtaining a building permit, the applicant shall pay in full the ANC Fee and all other applicable charges in effect at that time for the number of ERC's/Units as defined by the Company's Rules and Regulations.

35.0 NON-TRANSFERABILITY - A person who has paid an ANC Fee on one location, must pay another ANC Fee for sewer service at a new location. Plant capacity reserved through Developer's payment of ANC Fees cannot be assigned, transferred, leased, encumbered or disposed of in any manner unless, prior to connection, Developer has obtained the written consent of the Company and all applicable rates and charges are transferred or paid for the new lot. Following written notice, Company's consent to an assignment of capacity in connection with a bona fide sale of the property to which the plant capacity reservation relates will not be unreasonably withheld. In no instance shall Developer sell or assign plant capacity for a consideration which is more than the ANC Fee amount actually paid by Developer to reserve the capacity.

36.0 LETTERS OF AVAILABILITY - Company may issue Letters of Availability of sewer service to Developers for use in obtaining zoning changes and development orders

necessary for construction on their property. Such letters are not permit letters as referenced in this Tariff and are not specific reservations of capacity for Developer and do not guarantee that capacity will be available for Developer's project at any later date. Such a reservation can only be made through execution of an agreement with the Company and payment of rates and charges as set forth herein. Such an agreement is required prior to issuing Permit Letters for the purpose of obtaining a concurrency letter or building permit.

37.0 SERVICE AVAILABILITY PAYMENTS - In consideration for the provision of sewer service by the Company, Developer shall be required to pay certain costs of making service available, including on-site sewage collection system contributed in cash or in kind; payments to defray in part, or in total, the cost of off-site lines and related facilities, ANC Fees, Connection Fees, and Capacity Reservation Fees. Default in the payment of the charges set forth herein shall result in a cancellation of reserved capacity and forfeiture of monies previously paid to Company. Company shall provide fifteen (15) days written notice prior to taking such action.

38.0 ANC FEES - An Aid-To-New-Construction Fee (ANC Fee) shall be paid for each connection to the Company's system to defray all or a portion of the cost of providing service to the property. The ANC Fee shall be based on an ERC basis. For this purpose, the average daily flow of one ERC is 250 gallons per day ("gpd"). The number of ERC's contained in a given average daily flow is determined by dividing that average daily flow by 250 gpd.

ANC FEE SCHEDULE

(a) Single Family Residential, Duplex and Triplex:

Meter Size	
All	$3,925.00 per unit served

(b) Multi-family and Mixed-Master: $3,140.00 per unit served

(c) Assisted Living Facility: $3,925.00 per ERC.
The ANC Fee is calculated based on the estimated water capacity at a rate of 100 gpd/bed plus 5 gpd/meal served (resident or staff) divided by 250 gpd to determine the number of ERC's. The number of ERC's is then multiplied by the ANC Fee then in effect.

(d) General Service:

Meter Size	ERC Equivalent	ANC Fee per ERC
3/4"	1	$ 3,925.00
1"	2.5	9,812.50
1-1/2”	5	19,625.00
2"	8	31,400.00
3"	16	62,800.00
4"	25	98,125.00
6"	50	196,250.00
8"	80	314,000.00

Company reserves the right to increase ANC Fees as it deems necessary in the best interests of the Company, subject to approval of the City Council. All connections made to the Company's system subsequent to the effective date of the ANC Fee increase shall be subject to the higher charge, notwithstanding a prior Letter of Availability, Developer Agreement, or the prepayment of ANC Fees at the previous level.

ANC Fees are refundable only in the following cases:

(1) Governmental agency reduces the number of units, or denies a building permit
(2) Water meter has not been installed at time of customer's request for refund

In the event a customer wishes to utilize an ANC Fee credit which has been banked by the City consistent with the Franchise, the customer shall provide a copy of the City resolution authorizing a transfer of the banked fee and any other documentation required by the Franchise or reasonably required by the Company.

39.0 CONNECTION/METER INSTALLATION FEE - Upon execution of a Wastewater Service Application and a request for meter installation, Customer shall pay for costs associated with the tap-in or connection of the Consumer Installation to the collection or transmission system of the Company according to the following schedule:

Customer Connection (tap-in) Charge - Actual Cost

40.0 CAPACITY RESERVATION FEES - Upon execution of a Wastewater Service Application in order to reserve capacity in the system and/or payment of ANC Fees for any reason, Customer shall pay a monthly Capacity Reservation Fee equal to the base facility charge per unit then in effect for each unit of capacity not yet receiving service. As active connections are made, the Capacity Reservation Fee obligation shall be proportionately reduced. Failure to make payments as due shall result in cancellation of the capacity reservation and a forfeiture of all charges previously paid including ANC Fees. Company shall provide 15 days written notice prior to cancellation in order to remedy delinquent payments. Depending on the amount of capacity reserved, Company may require annual prepayments of Capacity Reservation Fees to secure payment. In that event, a credit shall be given for the prepayment of capacity reservation fees for that portion of the year during which a customer has connected to the system and begun paying a base facility charge for service. Such credit shall be made at the time of the next year's capacity reservation fee prepayment.

41.0 CONTRIBUTION OF LINES - Developer may be required to construct and contribute to the Company on-site facilities, particularly sewer collection lines, and off-site facilities including transmission mains to connect Company's transmission system in order to provide service to Developer's property. Contribution of such lines is independent of the payment of any charges hereunder. Construction of such lines shall meet the minimum specifications of the Company's Technical Specifications Manual.

42.0 OBLIGATIONS OF DEVELOPER - All contributors and developers shall furnish to the Company accurate information regarding matters of engineering, construction of buildings, dwellings and proposed densities. Developer shall advise Company of changes in density

factors or consumption requirements during construction of the project, and Developer shall be liable for adjustment in ANC Fees and charges paid or payable.

43.0 MISCELLANEOUS CONSTRUCTION PROVISIONS - Any contractor or similar person doing work for the Company must first show a certificate of insurance acceptable to the Company. In case of a service size change being requested by a Consumer regardless of pre-installation, or after installation, the Company will charge based on actual cost involved. The cost of a change or relocation of a service will be based on actual cost. To the extent any construction or other activities are addressed in the Company's Technical Specifications Manual, the party performing the work shall comply with the Manual requirements.

44.0 SERVICE TO EXISTING SUBDIVISIONS - In the event Company determines to provide service to an existing subdivision served by individual septic systems or package plants in an area other than one which the Company has designated as a Gravity Expansion Area, Company shall determine availability of capacity for that subdivision. The representatives of the subdivision shall provide all information reasonably necessary for Company to make such determination. In the event service is available, the subdivision residents (or someone other than Company) shall be responsible for construction, or the cost of construction, of all on-site and off-site facilities including, but not limited to, lift stations necessary to serve the subdivision. Provision of service by the Company shall further be conditioned upon payment of all applicable rates and charges as set forth herein. Company, in its sole discretion, shall determine whether to accept a subdivision's existing collection system, which may be subject to upgrade at the sole discretion of the Company, or render service pursuant to a master meter or both in the case of a subdivision system owned and maintained by a homeowners association, developer, or other such similar unit.

Should the cost of such future wastewater service expansion programs vary significantly from the general charges contained herein, the Company may institute an additional or lesser charge to affected customers, based upon the Company’s actual costs, and may allow the amortization of charges and costs over a reasonable time period, if warranted. In the event a customer elects to amortize these costs, the customer shall allow the Company to place a lien on the property to secure repayment and to provide notice of such payment requirement to a subsequent purchaser of the property.

45.0 SPECIAL SERVICE CHARGE TO IMPERIAL HARBOR SUBDIVISION - As a result of the abandonment of Harbor Utilities Company, Inc., the Company provides wastewater service to the Imperial Harbor Subdivision. In order to provide such service, the lines, lift stations and appurtenant facilities within Imperial Harbor required substantial upgrading. In addition to the other rates and charges contained in this Tariff, the customers within Imperial Harbor are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Services Charge in a lump sum, or amortize the cost over 25 years which charges are set forth below.

Special Service Charge:	$ 1,095.67 per unit
or	
Monthly Amortization:	$ 7.74 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.1 SPECIAL SERVICE CHARGE TO FORMER HACIENDA CUSTOMERS - As a result of the abandonment of Hacienda Treatment Plant, Inc. ("Hacienda"), the Company provides wastewater service to former Hacienda customers. In order to provide such service, the former Hacienda customers needed to be interconnected with the Company's wastewater facilities. In addition to the other rates and charges contained in this Tariff, the customers formerly served by Hacienda, as well as future customers who would have been served by Hacienda, are required to pay a Special Service Charge that is intended to defray the cost of necessary interconnection in order to render service to such customers, and which provides a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years as set forth below:

Special Service Charge:	$ 795.00 per ERC
or	
Monthly Amortization:	$ 5.68 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.2 SPECIAL SERVICE TO SPRING CREEK VILLAGE SUBDIVISION – In addition to the other rates and charges contained in this Tariff, the customers within Spring Creek Village are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years which charges are set forth below:

Special Service Charge:	$7,210.00 per unit
or	
Monthly Amortization:	$ 43.23 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection or service for nonpayment.

45.3 SPECIAL SERVICE CHARGE TO BONITA SPRINGS GOLF AND COUNTRY CLUB – In addition to the other rates and charges contained in this Tariff, customers formerly served by, or in the former service area of, Bonita Springs Golf and Country Club are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum,

or amortize the cost over 25 years at an interest rate of 6.0% per annum. Interest shall begin to accrue one year after implementation of the charge. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,365	$2,692
or		
Monthly Amortization:	$21.68	$17.34

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.4 SPECIAL SERVICE CHARGE TO THE FOUNTAIN LAKES AND MARSH LANDING COMMUNITIES – In addition to the other rates and charges contained in this Tariff, wastewater customers in the Fountain Lakes and Marsh Landing communities are required to pay a Special Service Charge which is intended to defray the cost of system acquisition and necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or may pay over time based on a 25 year amortization, with an interest rate of 6.0% per annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,442	$2,754
or		
Monthly Amortization:	$22.18	$17.74

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the Special Service Charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.5 SPECIAL SERVICE CHARGE TO THE VILLAGES IN IMPERIAL BONITA ESTATES In addition to the other rates and charges contained in this Tariff, customers in The Villages section of Imperial Bonita Estates are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 25 years. The charges are set forth below:

	Single Family Unit
One Time Payment:	$1,552.00
or	
Monthly Amortization:	$ 10.00

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.6 SPECIAL SERVICE CHARGE TO THE FOREST MERE AND SPRING LAKES SUBDIVISIONS – In addition to the other rates and charges contained in this Tariff, customers in the Forest Mere and Spring Lakes Subdivisions are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$2,182	$1,854
or		
Monthly Amortization:	$14.40	$12.24

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.7 SPECIAL SERVICE CHARGE TO LEISURE TIME PARK - In addition to the other rates and charges contained in this Tariff, customers in the Leisure Time Park are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% interest per annum. The charges are set forth below:

	Single Family/Clubhouse
One Time Payment:	$ 943.73 per ERC

or	
Monthly Amortization	$ 6.23 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.8 SPECIAL SERVICE CHARGE TO SUN VILLAGE ESTATES SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Sun Village Estates subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 3,584.00 per ERC
or	
Monthly Amortization	$ 17.11 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village Estates customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

45.9 SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 4,948.00 per ERC
or	
Monthly Amortization	$ 23.62 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

46.0 SERVICE TO GRAVITY EXPANSION AREAS - The Company has undertaken a program of constructing local collection and transmission systems to replace septic tanks serving existing residential areas in a program designated as the Gravity Expansion Program. The territory included in the Gravity Expansion Program is on file with the Company. Customers within the Gravity Expansion area may be required to connect to the system when service becomes available following required notice by the Company. In addition to the other rates and charges contained in this Tariff, customers within the Gravity Expansion area are required to pay a charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Gravity Expansion charge in a lump sum, or amortize the cost up to 30 years which charges are set forth below. In the event a customer elects to amortize the Gravity Expansion charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Gravity Expansion Residential Charge: $1,717.00 per unit

plus

Gravity Expansion customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

47.0 QUALITY OF WASTEWATER - No substance other than domestic wastewater will be placed into the sewage system and delivered to the lines of the Company. Should any non-domestic wastes or pollutants be delivered to the lines, the customer will be responsible for payment of the cost and expense required in correcting or repairing any resulting damage to the system or property of third parties.

Developer, or subsequent owners or occupants of the Property, may introduce non-domestic wastes from commercial establishments on the Property only upon prior written approval from Service Company based on Service Company's determination that such non-domestic waste will not harm utility facilities. Developer further agrees that no waste waters, fluids, or any substances and materials which contain any pollutants in whole or in part, regardless of the concentrations of said constituents, shall be discharged into Service Company's sanitary sewer collection/transmission system. Service Company shall have the right to sample the Developer's sewage to verify Developer's compliance with this paragraph.

In addition to the preceding paragraphs, and not by way of limitation, in the event Company determines that the property to be served poses a threat of introducing pollutants into the collection or transmission system at levels determined by the Company to be harmful to the sewer system, including, but not limited to, the system's ability to provide effluent meeting reuse standards, and its acceptability as an irrigation supply source for vegetation, the Company has the right to decline or discontinue service, or charge a higher rate due to increased treatment costs if applicable, to such property or customer.

No person shall discharge or cause to be discharged materials, water or waste, if it appears likely, in the opinion of the Company, that such discharge may cause harm to the utility system or have an adverse effect or cause interference with the operation of the wastewater treatment facility. In that event, the customer shall be subject to such pretreatment or other measures as are necessary to protect the integrity of Company's system and the ability to serve its members including the requirements set forth in Chapter 62-625 Florida Administrative Code, Pretreatment Requirements for Existing and Other Sources of Pollution, those standards set forth in the Company's Sewer Use Manual or such other pretreatment standards as shall have been approved by the Company's Board of Directors, and those industrial pretreatment standards and grease management standards as may be adopted and enforced by the City of Bonita Springs or Lee County as they apply in their respective portions of Company's service territory.

48.0 REFUNDABLE ADVANCES - Company may require, in addition to those set forth herein, a refundable advance by a Developer to temporarily defray the cost of off-site extension of sewer mains, pumping stations and other facilities necessary to connect the Developer's property with the then proper point of interconnection with the Company's existing sewer facilities, in excess of the size needed to provide service to the subject property. Costs paid by the Developer over and above the Developer's hydraulic share of the off-site facilities, may be refunded to the Developer in accordance with the terms and conditions of a Refundable Advance Agreement with Company. Company shall not be required to refund to Developer any fees or charges collected from consumers as a result of his contribution toward the cost of constructing the off-site facilities.

At the time the engineer of record certifies the off-site facilities as complete, he will also be requested to provide a determination of the hydraulic capacity of the facilities and the number of connections it is capable of serving based upon the Company's current determination of an ERC. On that basis, Company will establish a refundable advance charge per ERC and Company will agree to collect and refund same to Developer upon payment of such charges by subsequent customers obtaining service through the off-site facilities. Unless otherwise agreed to by Company, no refundable advance treatment will be available to Developer constructing lines and appurtenant facilities less than eight (8) inches in diameter. Company may limit the life of the Refundable Advance Agreement to a term of not more than seven (7) years, after which time a portion of the refund not made to the Developer will be retained by the Company. In no event shall a Developer recover an amount greater than the difference between the capitalized cost of such improvements and the Developer's own hydraulic share of such improvement. The Service Company will not include any interest upon the refund of the Developer's advance.

49.0 WASTEWATER REUSE - The Company owns, operates and maintains wastewater treatment facilities, pursuant to operating permits from the Florida Department of Environmental Regulation, which produce treated effluent of a quality suitable for the

irrigation of grasses, woodlands and certain vegetation. The Company may make treated effluent available to consumers within the service area of the Company that own large tracts of green areas requiring landscape irrigation ("Users"), based on the Board of Directors determination of the best interests of the Company and its members. Determination of the quantity, price, terms and conditions of the provision of effluent to Users shall be at the sole discretion of the Company, and may be set forth in an Effluent Reuse Agreement entered into by the Company and the User.

User shall be responsible for the design, construction and installation, at User's sole cost and expense subject to the approval and inspection by the Company, of on-site and off-site utility lines and facilities needed to initially create or thereafter connect into the Company's effluent disposal system. User shall convey ownership to Company of all lines and facilities from authorized treatment facilities to the point of delivery of effluent to User by bill of sale in a form satisfactory to the Company; it being understood that lines and facilities must be sized and constructed to the satisfaction of Company in accordance with the guidelines and specifications of the Company, subject to refundable advance treatment for oversized facilities. Acceptance of said lines and facilities shall be within the sole discretion of the Company.

User shall be responsible for obtaining information and preparing all necessary environmental planning, hydrogeologic monitoring studies and reports reasonably necessary for the permitting, preparation and continued utilization of User's property as a site for effluent reuse. User shall further be required to provide wet weather storage (non-application day) for not less than five (5) days effluent allocation. Wet weather storage capacity is subject to evaluation on a case-by-case basis and may be increased due to, among other things, changes in regulatory requirements.

User shall be responsible for any and all costs relative to the maintenance of any water management tract constructed upon User's land and User shall be responsible, at its sole cost and expense, for the construction and maintenance of any effluent spray irrigation device or other system which draws from the water management tract. User shall incur the cost of securing licenses and permits from applicable governmental agencies relative to the reuse of the Company's treated effluent upon User's property, including any costs incurred by Company to secure same.

As a prerequisite to the Company's acceptance of effluent discharge and delivery lines, facilities and appurtenances thereof, User shall grant Company, its successors and assigns, all easements and rights of ingress and egress, necessary for the discharge and delivery of effluent upon User's property, including, but not limited to, easements covering lines and facilities. The easements shall allow the Company to own effluent discharge lines and other facilities required for the effluent delivery.

50.0 ALLOCATION OF CAPACITY - It is the policy of the Florida Department of Environmental Protection ("DEP") to reduce the capacity available in Company's water and sewer systems upon issuance of a DEP Collection and/or Distribution System Permit (or its equivalent) to construct an on-site system which will receive treatment capacity from Company. DEP reduces Company's uncommitted capacity by the total number of ERC's which can be served by the on-site system approved in the Permit ("Permit Capacity"). This DEP policy prevents Company from committing the Permit Capacity to other

developers and customers, regardless of an immediate need and willingness to pay for such capacity.

In an effort to fairly allocate plant capacity, it is Service Company's policy to require that, concurrent with Company signing off on Developer's Permit Application, Developer pay all charges related to the Permit Capacity committed to Developer at that time. This requirement is intended to avoid a situation in which developers who have not paid service availability charges tie up capacity to the exclusion of customers with an immediate need and ability to pay.

The revised Tariffs, as proposed by BSU in its Petition, is hereby approved and granted.

Section 3. Effective Date.

This ordinance shall take effect immediately upon adoption.

PASSED on first reading this _____ day of _____, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL of the City of Bonita Springs, Florida this _____ day of _____, 2023.

Attest: **CITY OF BONITA SPRINGS, FLORIDA**

By: _____ By: _____
City Clerk Mayor

Reviewed for legal sufficiency:

By: _____
City Attorney

Vote:

Carr	Bogacz
Purdon	Fullick
Forbes	Steinmeyer
Corrie	

Date filed with City Clerk: _____

Bonita Springs Utilities, Inc.

April 7, 2023

Derek Rooney, Esq.
City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs Florida 34135

Re: Bonita Springs Utilities, Inc.:
Petitions to Approve Special Service Charges for
Sun Village Estates and Lakes of San Souci Subdivisions

Dear Mr. Rooney:

Pursuant to section five of the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, as amended, enclosed please find the Petitions to Approve Special Service Charges for Sun Village Estates and the Lakes of San Souci on behalf of Bonita Springs Utilities, Inc. Under separate cover we are providing copies of these Petitions to Lee County through the County Attorney's Office.

We look forward to working with you and the City staff on this matter. Contact persons for these Petitions are Director of Finance Steven Richards, General Counsel Don Thomson, and me. Should you have questions regarding the Petitions or other matters, please feel free to call.

Sincerely,

John R. Jenkins
Executive Director

Enclosures

Cc: Ms. Arleen Hunter
Mr. Steven Richards
G. Donald Thomson, Jr., Esq.

PETITION TO APPROVE SPEICAL SERVICE CHARGE FOR LAKES OF SAN SOUCI

Bonita Springs Utilities Inc. ("BSU" or "Company"), a not-for-profit Florida Corporation, files this Petition to Approve a Special Service Charge for Lakes of San Souci and in support thereof states:

1. The Florida 2021 Clean Waterways Act addressed a number of environmental issues related to water quality improvement including the creation of septic remediation plans. Governor DeSantis recently issued Executive Order 23-06 which directs funding and strategic action to expedite critical Everglades restoration projects, to protect and restore our waterways, and fund infrastructure projects to improve water quality and safeguard Florida's water supply.

2. Governor DeSantis created the Blue-Green Algae Task Force to play a role in protecting Florida's water resources. Among its 2019 recommendations the Task Force found "septic systems are also a well-known and substantial source of nutrients to groundwater and surface waters across the state." And "The task force further recommends legislation and funding to accelerate cost-effective septic to sewer programs with the aim of reducing nutrient pollution that leads to harmful algal blooms."

3. The City identifies expansion of centralized sanitary sewer systems in its Comprehensive Plan Infrastructure Element and Sanitary Sewer Sub-Element Objective. The Plan includes a Sub-Element Policy: "The City shall require on-site sewage disposal systems to connect to central sanitary sewer when sanitary collection lines have been installed immediately adjoining, and service is available to, the property served by the on-site system." The Plan assigns priority to cost feasible capital improvement projects intended to extend central sewer service to areas within the City currently served by septic tanks.

4. As part of the State's water quality improvement initiative, and in response to the City's efforts to obtain grant funding for septic tank replacement projects, BSU developed engineering design plans and cost estimates to have a "shovel ready" project to convert Lakes of San Souci from septic tanks to central wastewater service ("Project").

5. The City has obtained $950,000 in grant funding from the State of Florida, Department of Environmental Protection (FDEP) to extend central wastewater treatment service to the Lakes of San Souci.

6. The FDEP grant funds require a one-to-one match. The City is contributing $475,000 to pay for the Project. BSU is paying another $475,000 toward the Project, half of which will be reimbursed by the customers receiving wastewater service. This total of $950,000 will satisfy the match.

7. In response to the availability of grant funds, the City and BSU entered into a Septic Replacement and Groundwater Protection Agreement ("Agreement") pursuant to which BSU will extend central wastewater treatment service to Lakes of San Souci using the grant

funding to reduce the cost to the residents.

8. Attached as Exhibit "A" is a Septic to Sewer Funding Analysis which summarizes the cost of the Project, the Special Service Charge payment calculation, and the cost allocation to ensure that the residents benefiting from the Project will pay an equitable share of the cost.

9. The Special Service Charge has been determined to be Four Thousand Nine Hundred Forty-Eight dollars ($4,948) per residential unit. These residents are also responsible for payment of the appropriate Aid-to-New Construction ("ANC") fee of Three Thousand Nine Hundred Twenty-Five dollars ($3,925) for an overall cost of Eight Thousand Eight Hundred Seventy-Three Dollars ($8,873).

10. Residents may pay the Special Service Charge in a single up-front payment, or through a monthly payment option of Forty-Two Dollars Thirty-Six Cents ($42.36) per residential unit. Monthly payment terms are on a thirty-year term at four percent (4%) interest. The Special Service Charge and ANC fee may be paid off in full at any time without penalty.

11. Pursuant to the Franchise Agreement by, between and among Bonita Springs Utilities, Inc., the City of Bonita Springs and Lee County dated October 2, 2002 and enacted as City of Bonita Springs Ordinance No. 02-14 (as amended), BSU's Water and Wastewater Tariffs changes are subject to City approval.

12. BSU requests approval of an addition to the Wastewater Tariff as set forth in Exhibit "B" attached hereto, authorizing collection of the Lakes of San Souci Special Service Charge. A revised Wastewater Tariff (in its entirety) is attached hereto as Exhibit "C".

Bonita Springs Utilities, Inc. respectfully requests City Council set a public hearing and take such action as may be required by law to hear this Petition and approve the Special Service Charge as set forth herein.

Respectfully submitted this
7th day of April, 2023 by:

John R. Jenkins, Executive Director

EXHIBIT “A”

RAFTELIS

BONITA SPRINGS UTILITIES

Septic to Sewer Funding Analysis

Final June 10, 2020

RAFTELIS
FINANCIAL CONSULTANTS, INC.

SEPTIC TO SEWER PROGRAM

BSU has two separate design projects for gravity sewer expansion to the existing two residential neighborhoods currently on septic tanks:

- Sun Village
- Lakes of San Souci

BSU currently serves potable water to these neighborhoods so historical usage data is available

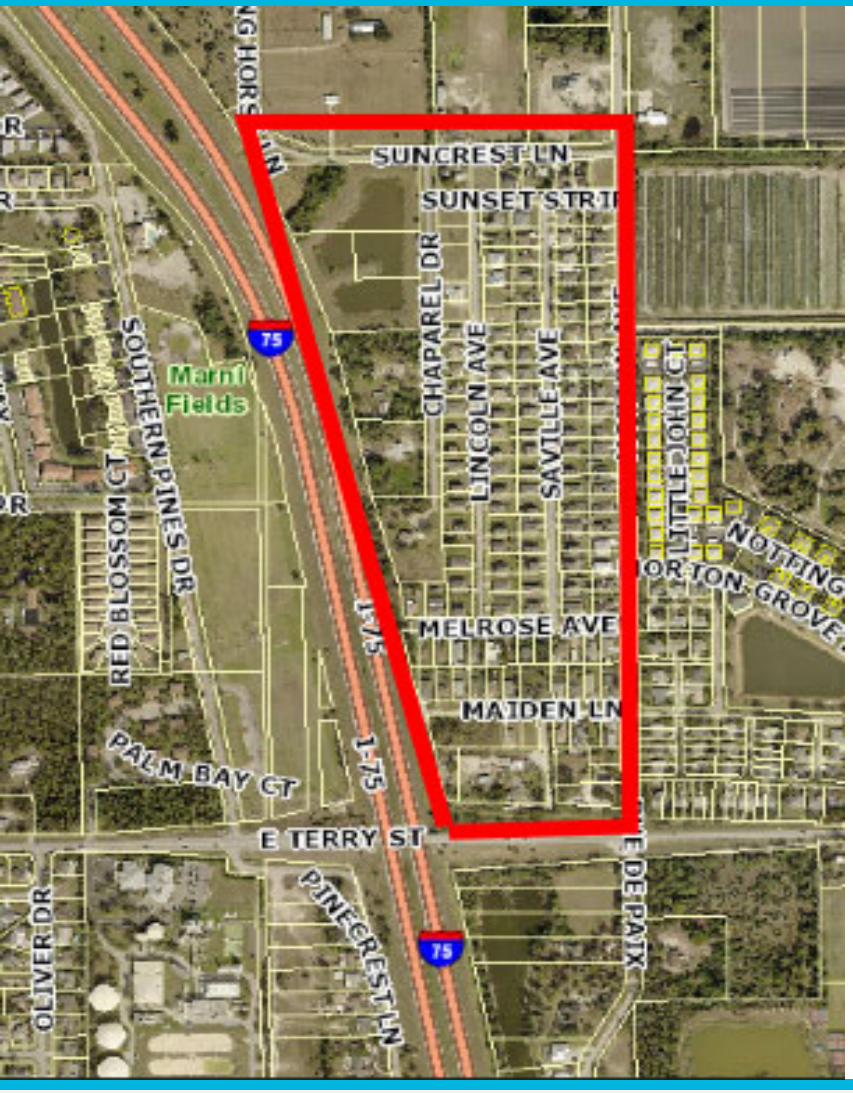
SERVICE AREA MAPS



Sun Village

Lakes of San Souci

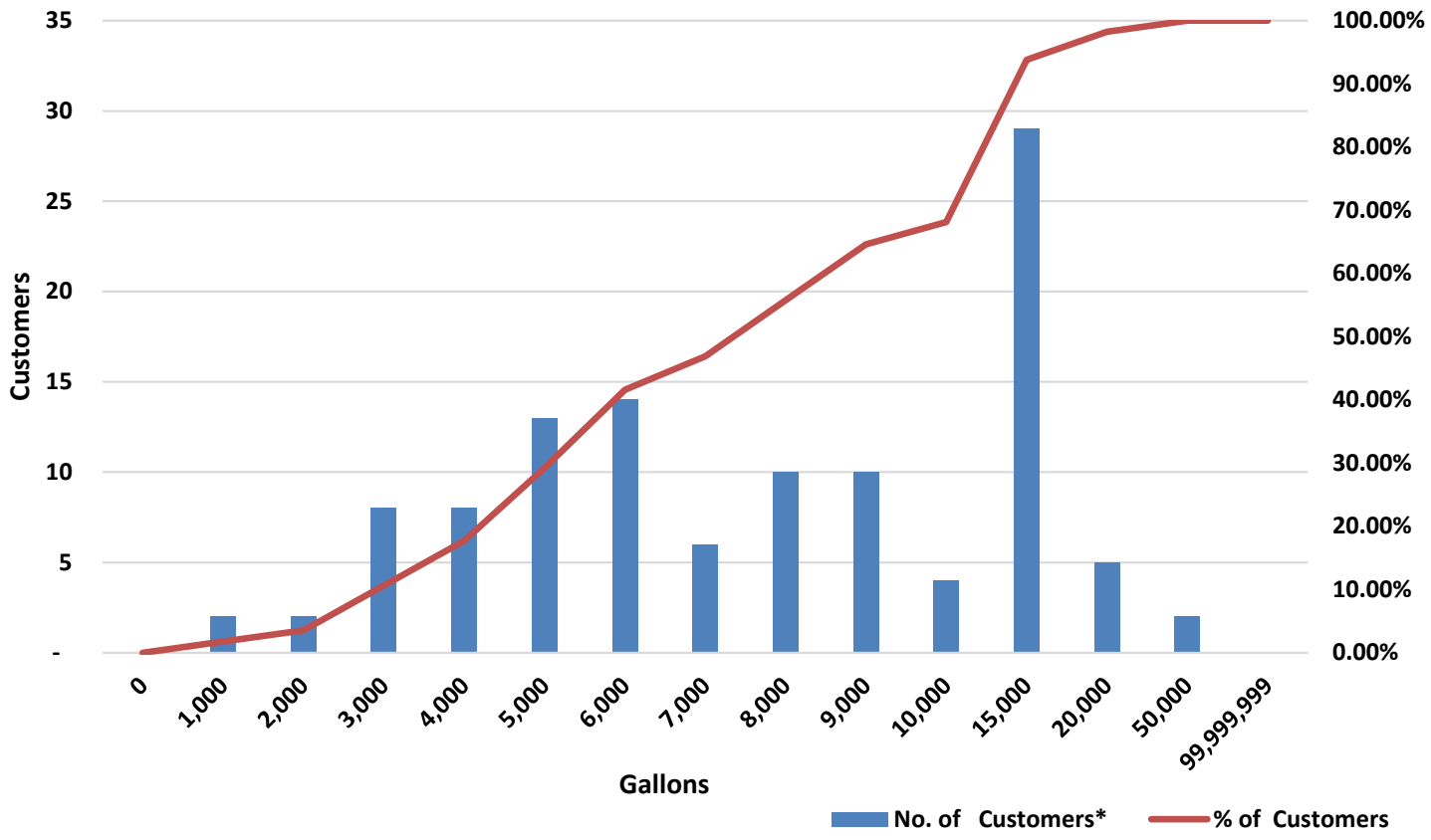
SUN VILLAGE



- 143 residential units (based on design cost estimate)
- Built between 1961 and 2018
- Median home built: 2006
- Median value: $218,127 (excluding vacant parcels)

SUN VILLAGE CUSTOMER BILLING ANALYSIS

- 113 water accounts reviewed* (2019 consumption)
- Median Usage 7,000 gallons/mo.
- Approximately 7% of bills above 10,000 gallons



* 113 accounts were identified from billing data out of the 143 sewer connections from design project information.

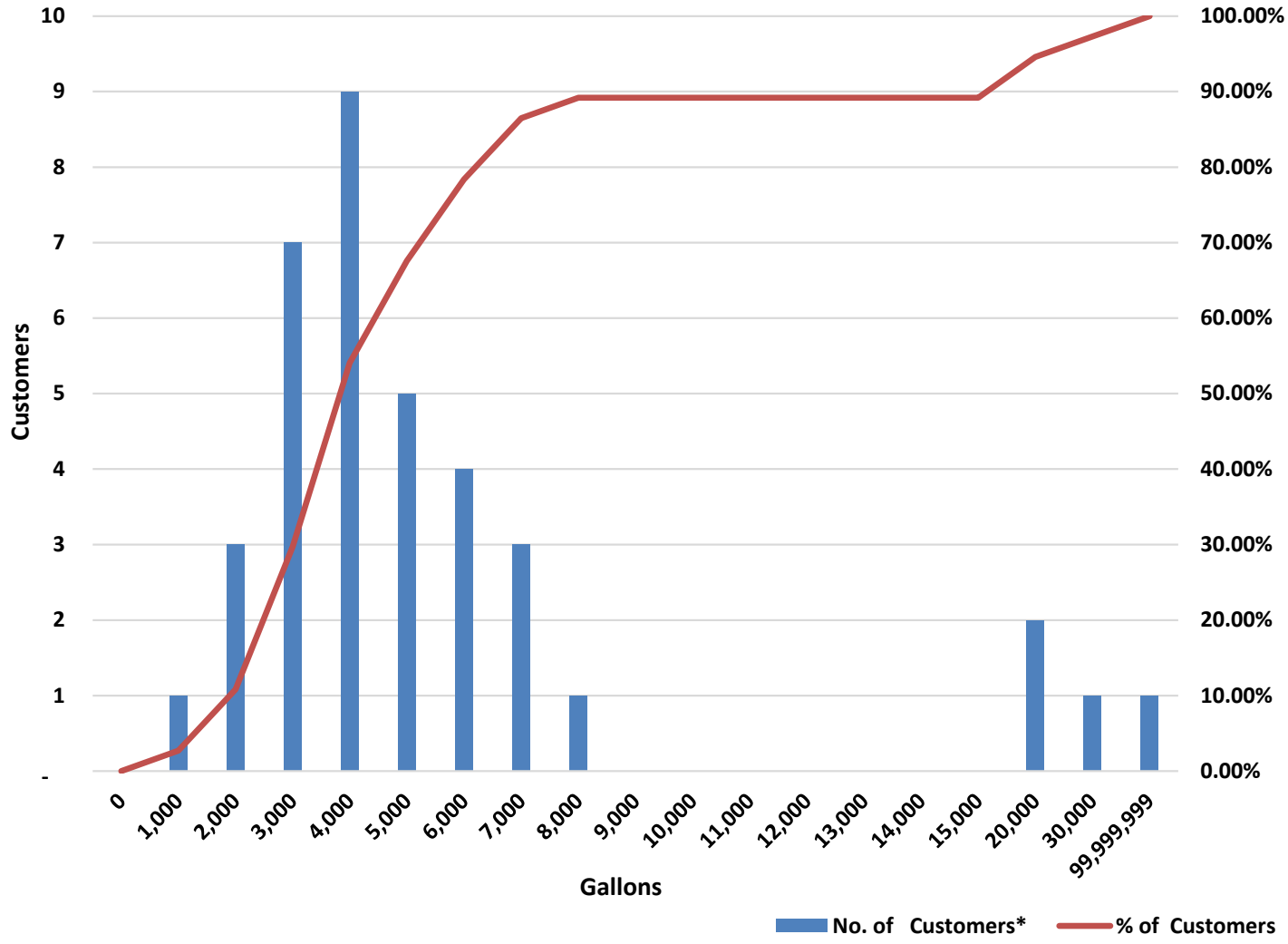
LAKES OF SAN SOUCI



- 48 units (based on design cost estimate)
- Most residential (1 church)
- Built between 1973 and 2017
- Median home built: 1999
- Median value: $243,048 (excluding vacant parcels)
- Higher S2S cost per unit
  - Larger homes / lot sizes
  - Less density

SAN SOUCI CUSTOMER BILLING ANALYSIS

- 37 water accounts reviewed* (2019 consumption)
- Median Usage 4,000 gallons
- 4 accounts (10%) above 10,000 gallons



* 37 accounts were identified from billing data out of the 48 sewer connections from design project information.

SEPTIC TO SEWER FUNDING ISSUES

- Assess vacant parcels?
- Differing parcel sizes / economies?
- Are connections and charges mandatory?
- Will there be incentives for (early) connection?
- Does age of septic tank matter / will there be accommodative policies for connection?
- Are property owners are also responsible for lateral and septic tank removal costs?
- BSU historical special sewer charges for wastewater connection:
  - $795 to $7,210; or
  - $5.68 to $43.23 / month

PROJECT COST SUMMARY

	Sun Village	San Souci	Total
Total Project [1]	$4,100,000	$1,900,000	$6,000,000
Units / ERCs [2]	143	48	191
Cost per Unit	$28,671	$39,583	$31,412
ANC Fee	$3,925	$3,925	$3,925
Total	$32,596	$43,508	$35,339

_____

[1] Project costs include construction cost estimate, design, construction services, permitting, and other allowances. Amounts exclude ANC fees.

[2] Assumes that each residential unit is one ERC.

POTENTIAL COST ALLOCATION

	Sun Village	San Souci	Total
Cost per Unit [1]	$32,596	$43,508	$35,339
Property Owner Target Cost:	$12,000	$12,000	$12,000
ANC Portion	$3,925	$3,925	$3,925
Construction Portion	$8,075	$8,075	$8,075
Remaining Costs	$20,596	$31,508	$23,339

[1] Includes ANC Fees.

PROPERTY OWNER COST SCENARIO

	Amount	Comment
Property Owner Target Cost:	$12,000	Amount is 5.5% of median home values in area
Construction Portion	$8,075	
Cost per Month [1]	$80	Based on 20-year assessment with 5% interest; amount excludes monthly wastewater bill

_____

[1] Amortized 20 years assuming 5% interest; amount excludes monthly wastewater bill.

CAPITAL IMPROVEMENT FUNDING

	Amount	Comment
Sun Village and San Souci Septic to Sewer (S2S)	$6,000,000	Construction, design, CEI
Funding Sources:		
BSU reserves	$290,000	Net present value: $10 per month of average $40 - $50 new wastewater bill is applied toward project cost.
BSU new debt	$1,540,000	New debt assumes all property owners connect and choose a 20 year assessment (assumes mandatory connection)
Outside Funding	$4,170,000	Other non-BSU sources; this is amount necessary to avoid BSU ratepayers subsidizing S2S program.

ADDITIONAL STEPS

- What are similar other utilities charging (and why)?
- How will any precedent affect future conversion areas?
- Formulate incentive structure and accommodations:
  - Is it mandatory?
  - What if septic tank is less than 3 years old? 5 years? 10 years?
  - Incentives for early connections?
  - Vacant parcels

EXHIBIT “B”

SPECIAL SERVICE CHARGE TO THE SUN VILLAGE subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Sun Village subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $3,584

Monthly Amortization: $17.11

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI subdivision –

In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers.

Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% annum.

The charges are set forth below:

Single Family Unit One Time Payment: $4,948

Monthly Amortization: $23.62

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

EXHIBIT “*C*”

BONITA SPRINGS UTILITIES, INC.

WASTEWATER TARIFF

BONITA SPRINGS UTILITIES, INC.
11900 East Terry Street
Bonita Springs, Florida 34135

(239) 992-0711

(Effective August 3, 2022)

WASTEWATER TARIFF

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TERRITORY SERVED

That territory set forth in the Bonita Springs Utilities, Inc. Franchise Agreement By, Between and Among Bonita Springs Utilities, Inc., the City of Bonita Springs, and Lee County, Florida, and on file at the Company's office.

TECHNICAL TERMS AND ABBREVIATIONS

1.0 "ANC" - Fee for Aid to New Construction.

2.0

2.0 "ASSISTED LIVING FACILITY" - An institutional class of customer licensed by the State of Florida, Agency for Health Care Administration pursuant to Chapter 400, Florida Statutes.

3.0 "COMPANY" - Bonita Springs Utilities, Inc., a Florida Not-For-Profit Corporation.

3.1 "CITY" - Refers to the City of Bonita Springs, a political subdivision of the State of Florida.

4.0 "CONNECTION FEE" - Charge for labor and facilities necessary for connection to lines of Company.

5.0 "CONSUMER or CUSTOMER" - Any person, firm, association, corporation, governmental agency or similar organization, supplied with wastewater service by the Company.

6.0 "CONSUMER'S INSTALLATION" - All pipes, shut-offs, valves, fixtures and appliances or apparatus of every kind and nature which are located on the customer's side of the "Point of Delivery" and used in connection with or forming a part of the installation necessary for disposing of sewage collected from the customer's premises regardless of whether such installation is owned by the customer or used by the Consumer under lease or other agreement.

7.0 "COUNTY" - refers to Lee County, a political subdivision of the State of Florida.

8.0 "EQUIVALENT RESIDENTIAL CONNECTION" ("ERC") - A measure of the average daily flow for a single residential unit which is a factor used to calculate a given average daily flow for non-single family residence uses.

9.0 "FRANCHISE" - The franchise granted by the City and County to the Company.

10.0 "MAIN" - Shall refer to a pipe, conduit, or other facility installed to convey wastewater service to individual service lines or to other mains.

11.0 "MEMBER" - The holder of a member account with the Company, which may be a Member-Owner or a Member-Tenant.

11.1 "MEMBER-OWNER" – A Member who holds a direct ownership interest in the property where the Company is providing Service.

11.2 "MEMBER-TENANT" – A Member who does not hold a direct ownership interest in the property where the Company is providing service, but who occupies an individually metered premises and who accepts responsibility for service and payment obligations on a temporary basis in lieu of the Member-Owner.

12.0 “MIXED MASTER” - Refers to a class of service where one meter serves customers utilizing different classes of service.

13.0 “MULTI-FAMILY UNIT” - Refers to a class of service where one meter serves more than three residential units such as apartments, condominiums, mobile homes, or combinations thereof.

14.0 "POINT OF DELIVERY" - The point where the Company's pipes are connected with pipes of the Consumer, which is typically the property, right-of-way or easement line.

15.0 "POLLUTANT" – Any substance identified as a prohibited discharge pursuant to Section 62-625.400, Florida Administrative Code, or its successor law.

15.0 "RATE SCHEDULE" - Refers to rates or charges for a particular classification of service, which rates or charges are subject to change from time to time by approval of the City Council.

16.0 "SERVICE" or "WASTEWATER SERVICE" - All wastewater service required by the Consumer, as well as the readiness and ability on the part of the Company to furnish wastewater service to the Consumer. Thus, the maintenance by the Company of the availability of service at the point of delivery upon request shall constitute the rendering of wastewater service, irrespective of whether Consumer makes any use thereof.

17.0 "SERVICE LINES" - The pipes of the Company which are connected from the Mains to Point of Delivery.

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RULES AND REGULATIONS

1.0 GENERAL INFORMATION - These Rules and Regulations are a part of the rate schedules and applications and contracts of the Company and, in the absence of specific written agreement to the contrary, apply without modifications or change to each and every customer to whom the Company renders wastewater service.

In the event that a portion of these Rules and Regulations are declared unconstitutional or void for any reason by any court of competent jurisdiction, such decision shall in no way affect the validity of the remaining portions of the Rules and Regulations for wastewater service unless such court order or decision shall so direct.

2.0 SERVICE APPLICATION - As a condition of Wastewater Service, Service Company may require an application for Service, government-issued photo identification (i.e. identification card, driver's license or passport), proof of ownership or occupancy and payment of a connection or transfer fee and deposit. The conditions of such application are binding upon the customer and the Company. A copy of the application for wastewater service accepted by the Company will be furnished to the Customer upon request. The Customer shall furnish to the Company the correct name, street address and lot and block number of the property at which service is to be rendered.

3.0 WITHHOLDING SERVICE - The Company may withhold or discontinue service rendered upon application made by any member or agent of a household, organization or business unless all prior indebtedness to the Company of such member, household, organization or business for service has been paid in full. Service may also be discontinued for any violation made by the Consumer of any rule or regulation set forth in this Tariff. The Member-Owner shall be responsible for any Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, due on rental property in the event of nonpayment by the Member-Tenant. In the event the Member-Owner fails to pay the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time when due on rental property, such nonpayment may be enforced at the rental property, including through disconnection of service.

4.0 EXTENSIONS - The Company will extend service in accordance with the Service Availability Policy set forth herein.

5.0 LIMITATIONS OF USE - Wastewater service purchased from the Company shall be used by the customer only for the purposes specified in the application for wastewater service. Wastewater service shall be rendered to the customer for the customer's own use, shall be collected directly into the Company's main wastewater lines, and may not be submetered, resold or otherwise disposed of to lessees, tenants, or others unless: (i) Company elects not to individually meter; (ii) customer provides 60 days prior written notice to Company; (iii) customer collects a rate or charge which does not exceed the actual purchase price for wastewater service paid to the Company; (iv) except in the case of a condominium association, customer retains ownership of the property served; and, (v) customer complies with all other technical and policy requirements of the Company. In no case shall a customer extend his lines across a street, alley, lane, court, property line, avenue, or other way in order to furnish wastewater service to the adjacent property even though such

adjacent property may be owned by him. In case of such unauthorized extension, sale or disposition of service, the customer's wastewater service will be subject to discontinuance until such unauthorized extension, sale or disposition of service is discontinued and full payment is made to the Company for wastewater service rendered by the Company (calculated on proper classification and rate schedules) and until reimbursement is made in full to the Company for all extra expenses incurred for clerical work, testing and inspections.

6.0 CONTINUITY OF SERVICE - The Company will at all times use reasonable diligence to provide continuous wastewater service and, having used reasonable diligence, shall not be liable to the customer for failure or interruption of continuous wastewater service. The Company shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accidents, litigation, breakdowns, shutdowns for emergencies, repairs or adjustments, acts of sabotage, enemies of the United States, Wars, United States, State, Municipal or other governmental interference, acts of God, discontinuation of service for non-payment or as otherwise provided herein, or other causes beyond its control.

7.0 TERMINATION OF SERVICE - At Member-Owner's written request, Company will terminate service to a property on a specified date. Termination is the permanent end of service to a particular location and shall be distinguished from a discontinuation of service which is temporary in nature as in the case of a rental occupancy or a seasonal customer. In the event of a termination of service, Member-Owner will no longer be responsible for payment for service to the property. However, such termination of service shall result in the forfeiture of all fees paid (including, but not limited to ANC Fees). Any subsequent request for service to the same location must be accompanied by payment of all rates and charges then in effect.

8.0 TYPE AND MAINTENANCE - The customer's pipes, apparatus and equipment shall be selected, installed, used and maintained in accordance with standard practice and shall conform with the Rules and Regulations of the Company, and shall comply with all governmental regulations applicable to same. The Company shall not be responsible for the maintenance and operation of the customer's pipes and facilities. Customer agrees to keep such facilities in good repair, to promptly stop all infiltration and inflow on the premises. The customer expressly agrees not to introduce anything into the collection system which may adversely affect the wastewater service; the Company reserves the right to discontinue or withhold wastewater service to such apparatus, equipment, or Point of Delivery.

9.0 CHANGE OF CUSTOMER'S INSTALLATION - No changes or increases in the customer's installation, which will materially affect the proper operation of the pipes, mains, or stations of the Company, shall be made without written consent of the Company. The customer shall be liable for any charge resulting from a violation of this Rule. Upon increasing the size of a water meter, the customer shall be charged for the increase in wastewater ANC Fees and Deposits, as stated in Rate Schedule.

10.0 INSPECTION OF CUSTOMER'S INSTALLATION - All customer's wastewater service installations or changes shall be inspected upon completion by a competent authority to ensure that the customer's piping, equipment, and devices have been installed in accordance with accepted standard practice and such local governmental or other rules as may be in

effect. Where municipal or other governmental inspection is required, the Company cannot render wastewater service until such inspection has been made and a formal notice of approval from the inspecting authority has been received by the Company. Notwithstanding the above, the Company reserves the right to inspect the customer's installation prior to rendering wastewater service, and from time to time thereafter, but assumes no responsibility whatsoever for any portion thereof.

11.0 PROTECTION OF COMPANY'S PROPERTY - The customer shall exercise reasonable diligence to protect the Company's property on the customer's premises and shall knowingly permit no one but the Company's agents or persons authorized by law, to have access to the Company's pipes and apparatus. In the event of any loss or damage to property of the Company caused by or arising out of carelessness, neglect or misuse by the customer or customer's agents including, but not limited to, contractors, repairmen, landscape maintenance crews or other entities, the customer shall be responsible for paying the Company the cost of such loss or repairing such damage. It shall then be the Customer's responsibility to recover any costs from customer's agent if appropriate.

12.0 ACCESS TO PREMISES - The duly authorized agents of the Company shall have access at all reasonable hours to the premises of the customer for the purpose of installing, maintaining, inspecting or removing Company's property or for performance under or termination of the Company's agreement with the customer and in such performance shall not be liable for trespass. Without notice, the Company may remove any landscaping or ancillary feature in a manner and to the extent reasonably required to provide access to the Company's property.

13.0 RIGHT OF WAY OR EASEMENTS - The customer shall grant or cause to be granted to the Company, and without cost to the Company, all rights, easements, permits, and privileges which are necessary for the rendering of wastewater service as determined by the Company.

14.0 BILLING PERIODS - Bills for wastewater service will be billed monthly, and are due when rendered and will be considered as received by customer when delivered or mailed to the service address or some other place mutually agreed upon. Non-receipt of bills by customer shall not release or diminish the obligation of the customer with respect to payment thereof.

15.0 DISCONNECTION FOR NON-PAYMENT - Field personnel shall not accept payment from customers when disconnecting meters for non-payment or reconnecting service. Customer may avoid meter removal, after personnel have been dispatched, by making payment in full at the Company's office or entering into a written agreement to pay the full amount due by a mutually agreed upon date including non-payment trip charge and/or reconnect fees. If the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for non-payment, the Member-Owner shall thereafter be responsible for payment of all charges incurred during this period of temporary disconnection as a condition of the initiation of service to a subsequent Member-Tenant.

16.0 PAYMENT OF WATER AND WASTEWATER SERVICE BILLS CONCURRENTLY
When both water and wastewater service are provided by the Company, payment of any wastewater service bill rendered by the Company to a customer shall not be accepted by

the Company without the simultaneous or concurrent payment of any water service bill rendered by the Company. The Company may discontinue both water service and wastewater service to the customer's premises for non-payment of the wastewater service bill or water service bill or if payment is not made concurrently. The Company shall not reestablish or reconnect wastewater service and/or water service until such time as all wastewater and water service bills and all charges are paid. A Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time is considered a part of the Customer's bill. No partial payment of any bill rendered will be accepted by the Company, except by agreement with Company.

17.0 RETURNED CHECKS - Upon return of a check for any reason, the Company may redeposit the check, but the customer will be responsible for any service charge. Upon return of a check for the second time, customer is to be notified that restitution must be made immediately by cash, money order, or credit card only, including the service charges. Customers failing to respond or to make restitution shall have water and/or wastewater service disconnected and will be charged a violation reconnect fee. Service will not be restored until payment in full is received for all charges due. A Member-Owner shall not be held responsible for the service charge incurred because of a bad check from their Member-Tenant.

Check Return -	Check Amount	Charge
	$ 0.00 - $ 50.00	$25.00
	$50.01 - $300.00	$30.00
	Over $300.00	$40.00 or 5% whichever is greater

18.0 CHANGE OF OCCUPANCY - When a change of occupancy takes place on any premises supplied by the Company with wastewater service, notice shall be given to the Company not less than three (3) days prior to the date of change by the outgoing Customer. The outgoing customer shall be held responsible for all wastewater service rendered on such premises until such notice is received by the Company and the Company has had reasonable time to discontinue the wastewater service. However, if such notice has not been received, the application of a succeeding occupant for wastewater service will automatically terminate the prior account. For the convenience of its customers, the Company will accept telephone orders, to discontinue or transfer wastewater service from one service address to another, and will use all reasonable diligence in the execution thereof. All transactions must be reported and cleared through the Company, including transfers, sales and charges.

Notwithstanding the foregoing, a Member-Tenant account will be discontinued and the Member-Owner will automatically become responsible on a going-forward basis for all charges and costs incurred by the Company in providing Wastewater Service if: 1) the Member-Tenant account has not been paid or reinstated following final meter reading or disconnection for nonpayment; 2) Company personnel verify that the property where the Company is providing Service is vacant; or 3) a Member-Tenant voluntarily discontinues service. All charges and costs for Wastewater Service, or the availability thereof, accruing while a property is vacant shall be the responsibility of the Member-Owner and must be paid prior to the provision of Wastewater Service to a subsequent Member-Tenant.

In the event a change of occupancy involving a sale or conveyance of property subject to the Gravity Expansion Charge, ANC Fee, Special Service Charge, or any such rate, fee, or charge that is paid over time, such rate, fee, or charge must be either paid off in full, or the new Customer must supply a copy of the deed or other document evidencing ownership and complete a lien form in favor of the Company securing the balance of the charge and provide notice of such payment requirement to a subsequent purchaser of the property, and resume periodic payments.

In the event of a change in ownership, a foreclosure, or other circumstance in which service to the property is temporarily disconnected but Service Company must maintain plant capacity and service availability to the property, the property owner including, but not limited to, Member-Owner, bank, mortgage company, trustee in bankruptcy or foreclosure, or other such entity receiving the benefit of such service availability shall be responsible for payment of Service Company's base facility charge and other rates, fees, and charges accrued during this period of temporary disconnection and as a condition of reconnection or initiation of service. Service Company shall not reconnect service or initiate service for a purchaser of property until any such outstanding balance at that or any other property owned by purchaser is paid in full.

19.0 UNAUTHORIZED CONNECTIONS - Connections to the Company's wastewater system for any purpose whatsoever are to be made only by employees or agents of the Company. Any unauthorized connections to the customer's wastewater service shall be subject to immediate discontinuance without notice. Wastewater service shall not be restored until such unauthorized connections have been removed and until payment is made in full for all wastewater service estimated by the Company to have been used by reason of such unauthorized connection. A party illegally connecting to facilities of the Company, or doing so in violation of the Company's Rules and Regulations, shall be charged costs plus expenses and back-billed for wastewater service based upon a reasonable estimate of service taken.

20.0 ADJUSTMENT OF BILLS - When a customer has been overcharged or undercharged as a result of incorrect application of the rate schedules, incorrect reading of the meter, incorrect connection of the meter, or other similar reasons, the amount may be credited or billed to the customer as the case may be. No adjustment shall be made to the base charge. The Company may refund or bill the Customer the amount billed/unbilled in error for one-half of the period since the last test, said one-half period not to exceed six (6) months; provided that, if it can be shown that the error was due to some cause the date of which can be identified, the adjustment will be based on that date. If meter does not register, or if no reading can be obtained, only current billing may be adjusted using an estimate of previous billings. In the event a customer provides acceptable documentation evidencing an extraordinary circumstance such as a pipe break or the filling of a swimming pool, the Company may take such information into account in calculating the monthly charge for wastewater service, and in determining the appropriate block water usage rate.

21.0 EVIDENCE OF CONSUMPTION - The initiation or continuation or resumption of water service to the customer's premises shall constitute the initiation or continuation or resumption of wastewater service to the customer's premises regardless of occupancy.

22.0 SERVICE DEPOSIT - Before rendering service, the Company shall require a non-interest bearing deposit or guarantee satisfactory to the Company to secure the payment of bills by the member. The amount of initial deposit shall be according to meter size and ERC's as follows:

SINGLE FAMILY RESIDENTIAL,
DUPLEX, TRIPLEX and
GENERAL:

Meter Size	Deposit Amount
5/8 x 3/4"	$ 100.00
1"	250.00
1.5"	500.00
2"	800.00
3"	1,600.00
4"	2,500.00
6"	5,000.00
8"	8,000.00

Institutional, Multi-Family & Mixed Master: $100.00 per unit or ERC

The Company may waive the deposit requirement based on one of the following: 1) receipt of a letter from the customer's most recent utility company stating that the customer's account was at no time more than thirty (30) days in arrears for the 12-month period immediately preceding the application to Company for service; 2) the customer authorizes the Company to establish automatic bill payment through electronic funds transfer or other means; or 3) such other evidence of customers good credit as determined by the Company. Member-Tenants are not eligible for a waiver of deposit.

After a residential customer has established a satisfactory payment record and has continuous service for 12 months, the Company may refund the customer's deposit provided the customer has not, in the preceding 12 months: (a) made more than one late payment of a bill, (b) paid with a check or automatic funds transfer refused by a bank, (c) been disconnected for nonpayment, or (d) used service in a fraudulent or unauthorized manner. Subsequent to such refund, or if a deposit was waived, Company may require a new deposit as a result of any of the above-referenced deficiencies.

General, multi-family, mixed master, institutional, and Member-Tenant deposits, however, are not refundable until change of ownership occurs and final settlement has been made. Upon final settlement of customer's account, any unused or remaining balance of the deposit shall be refunded, without interest.

Service Company may require a service deposit for irrigation service separate and apart from a water or wastewater deposit. Company may require an additional deposit if usage or payment history warrants. Upon final settlement of customer's account, any unused balance of the deposit will be refunded.

23.0 TAMPERING – No person shall tamper with, work on, connect to, or in any way alter or damage the Service Lines or any other component of the Company's sewer system without

prior written consent from the Company. If tampering is found and it causes the Company to repair or remove its property, an amount equal to the Violation Reconnection Charge or the actual cost to make repairs and reconnect (whichever is greater) will be charged to the customer. In addition, the Company may impose a tampering fee. It is unlawful to willfully alter, tamper with, damage, or knowingly suffer to be damaged any meter, meter seal, pipe or other apparatus or property belonging to the Company with intent to avoid payment for utility service. According to State statute this tampering is a misdemeanor of the first degree punishable by fine or imprisonment. Company shall be entitled to recover the value of the Service provided. Authorities shall be notified and Company will prosecute. In addition, whoever is found in civil action to have violated the provisions hereof shall be liable to Company in an amount equal to 3 times the amount of services unlawfully obtained or $3,000.00, whichever is greater. The Company may discontinue service upon reasonable notice to the customer for any infraction of this section in accordance with section 812.14, Florida Statutes.

24.0 RATE SCHEDULES - The following are the Company's rate schedules for service, and are subject to change from time to time.

GENERAL SERVICE RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company to all customers for which no other schedule applies.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
3/4"	$ 29.48
1"	73.70
1 1/2"	147.40
2"	235.84
3"	471.68
4"	737.00
6"	1,474.00
8"	2,358.40

Gallonage Rate – $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

SINGLE FAMILY RESIDENTIAL, DUPLEX AND TRIPLEX RATE SCHEDULE

AVAILABILITY - Available to single family customers or their equivalent throughout the area served by the Company, including duplexes and triplexes, except for those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$29.48

Gallonage Rate - $3.83 (Per 1000 gallons capped at 16,000 gallons per month per unit served)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may then be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

MULTI-FAMILY AND MIXED MASTER RATE SCHEDULE

AVAILABILITY - Available to multi-family and mixed master customers as herein defined or their equivalent throughout the area served by the Company, including those instances where four or more residential units are contained in duplexes or triplexes behind a master meter.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per Unit Served

Meter Size	Charge
All	$23.58

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

INSTITUTIONAL RATE SCHEDULE

AVAILABILITY - For service to all assisted living facilities and other applicable institutional customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Base Charge Per ERC

Meter Size	Charge
N/A	$29.48

Gallonage Rate - $3.83 (Per 1,000 gallons)

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of the past due amount, whichever is greater. After five (5) business days following written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

FIXED WASTEWATER RATE SCHEDULE

AVAILABILITY - Available throughout the area served by the Company for wastewater only customers.

LIMITATION - Subject to all of the Rules and Regulations of this Tariff.

WASTEWATER RATES -

Monthly Charge Per Unit

Meter Size	Charge
N/A	$48.37

Gallonage Rate None

BILLING CHARGE - $4.20 per account per month. No extra Billing Charge if customer is also a water customer.

TERMS OF PAYMENT - Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. A past due balance shall be subject to a late payment fee of $5 or 1% of past due amount, whichever is greater. After five (5) business days written notice from the Company, which notice may be provided in a subsequent bill, service may be discontinued. Company may, but shall not be required to, make a courtesy call to inform the customer that the bill is past due.

EFFECTIVE DATE - June 1, 2022

25.0 NORMAL RECONNECTION CHARGE - Removal or reconnection of service subsequent to a customer-request.

$40.00 Disconnect charge
$40.00 Reconnect charge

26.0 VIOLATION RECONNECTION CHARGE - Subsequent to disconnection of service for cause, including a delinquency in bill payments and/or tampering with Company property, service shall not be reinstated until reconnection charge plus all past-due balances are paid in full.

$50.00 during normal work hours
$135.00 after hours and weekends.

27.0 REIMBURSEMENTS FOR EXTRA EXPENSES - The consumer shall reimburse the Company for extra expenses (such as for special trips, inspections, additional clerical expenses, etc.) incurred by the Company on account of consumer's violation of the Rules and Regulations. The customer will be advised of these expenses prior to Company rendering service.

28.0 TRANSFER FEES - Charge for transfer of existing service to a new owner or to a new Member-Tenant at an existing service. Existing Member-Owners are not charged when Member-Tenants vacate.

$35.00 (one charge only for transfer of water, sewer, or both)

29.0 MISCELLANEOUS SERVICE CHARGES - The Company charges the following miscellaneous service charges in accordance with the terms stated herein. If both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the Company requires multiple actions.

Usage Reports - $50.00 minimum or $0.25 per meter, whichever is greater.

Non-Payment Trip Charge - $45.00- only applicable during normal work hours

Capacity Reservation Fee - a monthly charge equal to the base charge plus billing charge for the applicable class of service.

Plan Review and Inspection Fees –
The greater of $835.00 or 1.0% of the cost of utility infrastructure subject to review and inspection.

Plan Review Resubmittal Fee - $250.00 – At the second request for additional information.

Re-Inspection Fee - $75.00 – At the request for additional inspection.

Warranty Expiration Televising (cleaning) - $1.25 per linear foot (minimum of $500)

Developer Agreement Administration Fees -
not to exceed $1,000.00 per Main Extension Manual

Labor & Equipment -
$65.00 per 1 man crew per hour
85.00 per 2 man crew per hour

Sewer Tap Locate
Other related and similar activities
$35.00 during normal work hours
$85.00 After hours and weekends

Estoppels Letter Fee
Normal Delivery - $15.00
Rush Delivery - $30.00
No extra charge if customer is also a water customer.

Late Payment Fee
$5 or 1% of past due amount, whichever is greater.

Meter Tampering Charge
Greater of 3 times the amount of services unlawfully obtained, or $3,000.

Grease Trap Fee - $150.00 – Initial plan review and inspection.

29.1 RECLAIMED WATER RATE - $.49 per 1000 gallons except as otherwise set by contract.

SERVICE AVAILABILITY POLICY

30.0 PURPOSE - The Company has determined that it is necessary to set forth a policy for the availability of sewer capacity which will provide a non-discriminatory and equitable basis upon which to provide service to future customers and plan capital expenditures for facilities expansion.

31.0 APPLICABILITY - This policy is applicable throughout the service territory of the Company.

32.0 AGREEMENT FOR SERVICE - Service is provided through a Service or Developer Agreement (if the capacity request warrants) and upon payment of the appropriate ANC Fees, Capacity Reservation Fees, Connection Fee, Special Service Charge and other charges as set forth herein. Company will reserve the number of connections paid for and will provide service to those units pursuant to its rules and regulations upon notification by Developer that service is required. A person who owns property with houses, duplexes, or other units and who has one or more sewer connections on this property cannot serve sewer to a buyer of any previously unserved portion of the property. The sale of a portion of the property must be reported to the Company in order for the Company to provide service in accordance herewith. If there are multiple owners of a duplex, triplex, or other multiunit building, each must pay an ANC Fee, Deposit Connection Fee and any other applicable fees appropriate to such unit.

33.0 APPLICATIONS BY AGENTS – Applications for sewer service requested by a person who owns property with houses, duplexes, or other units, property owner, person, firms, partnerships, associations, corporations, and others shall be rendered only by duly authorized parties. When sewer service is rendered under application between the Company and an agent of the principal, the use of such sewer service by the principal shall constitute full and complete ratification by the principal of the application between agent and the Company and under which such sewer service is rendered.

34.0 APPLICATIONS FOR BUILDING PERMIT – Upon request for a permit letter for the purpose of obtaining a building permit, the applicant shall pay in full the ANC Fee and all other applicable charges in effect at that time for the number of ERC's/Units as defined by the Company's Rules and Regulations.

35.0 NON-TRANSFERABILITY - A person who has paid an ANC Fee on one location, must pay another ANC Fee for sewer service at a new location. Plant capacity reserved through Developer's payment of ANC Fees cannot be assigned, transferred, leased, encumbered or disposed of in any manner unless, prior to connection, Developer has obtained the written consent of the Company and all applicable rates and charges are transferred or paid for the new lot. Following written notice, Company's consent to an assignment of capacity in connection with a bona fide sale of the property to which the plant capacity reservation relates will not be unreasonably withheld. In no instance shall Developer sell or assign plant capacity for a consideration which is more than the ANC Fee amount actually paid by Developer to reserve the capacity.

36.0 LETTERS OF AVAILABILITY - Company may issue Letters of Availability of sewer service to Developers for use in obtaining zoning changes and development orders

necessary for construction on their property. Such letters are not permit letters as referenced in this Tariff and are not specific reservations of capacity for Developer and do not guarantee that capacity will be available for Developer's project at any later date. Such a reservation can only be made through execution of an agreement with the Company and payment of rates and charges as set forth herein. Such an agreement is required prior to issuing Permit Letters for the purpose of obtaining a concurrency letter or building permit.

37.0 SERVICE AVAILABILITY PAYMENTS - In consideration for the provision of sewer service by the Company, Developer shall be required to pay certain costs of making service available, including on-site sewage collection system contributed in cash or in kind; payments to defray in part, or in total, the cost of off-site lines and related facilities, ANC Fees, Connection Fees, and Capacity Reservation Fees. Default in the payment of the charges set forth herein shall result in a cancellation of reserved capacity and forfeiture of monies previously paid to Company. Company shall provide fifteen (15) days written notice prior to taking such action.

38.0 ANC FEES - An Aid-To-New-Construction Fee (ANC Fee) shall be paid for each connection to the Company's system to defray all or a portion of the cost of providing service to the property. The ANC Fee shall be based on an ERC basis. For this purpose, the average daily flow of one ERC is 250 gallons per day ("gpd"). The number of ERC's contained in a given average daily flow is determined by dividing that average daily flow by 250 gpd.

ANC FEE SCHEDULE

(a) Single Family Residential, Duplex and Triplex:

Meter Size	
All	$3,925.00 per unit served

(b) Multi-family and Mixed-Master: $3,140.00 per unit served

(c) Assisted Living Facility: $3,925.00 per ERC.
The ANC Fee is calculated based on the estimated water capacity at a rate of 100 gpd/bed plus 5 gpd/meal served (resident or staff) divided by 250 gpd to determine the number of ERC's. The number of ERC's is then multiplied by the ANC Fee then in effect.

(d) General Service:

Meter Size	ERC Equivalent	ANC Fee per ERC
3/4"	1	$ 3,925.00
1"	2.5	9,812.50
1-1/2”	5	19,625.00
2"	8	31,400.00
3"	16	62,800.00
4"	25	98,125.00
6"	50	196,250.00
8"	80	314,000.00

Company reserves the right to increase ANC Fees as it deems necessary in the best interests of the Company, subject to approval of the City Council. All connections made to the Company's system subsequent to the effective date of the ANC Fee increase shall be subject to the higher charge, notwithstanding a prior Letter of Availability, Developer Agreement, or the prepayment of ANC Fees at the previous level.

ANC Fees are refundable only in the following cases:

(1) Governmental agency reduces the number of units, or denies a building permit
(2) Water meter has not been installed at time of customer's request for refund

In the event a customer wishes to utilize an ANC Fee credit which has been banked by the City consistent with the Franchise, the customer shall provide a copy of the City resolution authorizing a transfer of the banked fee and any other documentation required by the Franchise or reasonably required by the Company.

39.0 CONNECTION/METER INSTALLATION FEE - Upon execution of a Wastewater Service Application and a request for meter installation, Customer shall pay for costs associated with the tap-in or connection of the Consumer Installation to the collection or transmission system of the Company according to the following schedule:

Customer Connection (tap-in) Charge - Actual Cost

40.0 CAPACITY RESERVATION FEES - Upon execution of a Wastewater Service Application in order to reserve capacity in the system and/or payment of ANC Fees for any reason, Customer shall pay a monthly Capacity Reservation Fee equal to the base facility charge per unit then in effect for each unit of capacity not yet receiving service. As active connections are made, the Capacity Reservation Fee obligation shall be proportionately reduced. Failure to make payments as due shall result in cancellation of the capacity reservation and a forfeiture of all charges previously paid including ANC Fees. Company shall provide 15 days written notice prior to cancellation in order to remedy delinquent payments. Depending on the amount of capacity reserved, Company may require annual prepayments of Capacity Reservation Fees to secure payment. In that event, a credit shall be given for the prepayment of capacity reservation fees for that portion of the year during which a customer has connected to the system and begun paying a base facility charge for service. Such credit shall be made at the time of the next year's capacity reservation fee prepayment.

41.0 CONTRIBUTION OF LINES - Developer may be required to construct and contribute to the Company on-site facilities, particularly sewer collection lines, and off-site facilities including transmission mains to connect Company's transmission system in order to provide service to Developer's property. Contribution of such lines is independent of the payment of any charges hereunder. Construction of such lines shall meet the minimum specifications of the Company's Technical Specifications Manual.

42.0 OBLIGATIONS OF DEVELOPER - All contributors and developers shall furnish to the Company accurate information regarding matters of engineering, construction of buildings, dwellings and proposed densities. Developer shall advise Company of changes in density

factors or consumption requirements during construction of the project, and Developer shall be liable for adjustment in ANC Fees and charges paid or payable.

43.0 MISCELLANEOUS CONSTRUCTION PROVISIONS - Any contractor or similar person doing work for the Company must first show a certificate of insurance acceptable to the Company. In case of a service size change being requested by a Consumer regardless of pre-installation, or after installation, the Company will charge based on actual cost involved. The cost of a change or relocation of a service will be based on actual cost. To the extent any construction or other activities are addressed in the Company's Technical Specifications Manual, the party performing the work shall comply with the Manual requirements.

44.0 SERVICE TO EXISTING SUBDIVISIONS - In the event Company determines to provide service to an existing subdivision served by individual septic systems or package plants in an area other than one which the Company has designated as a Gravity Expansion Area, Company shall determine availability of capacity for that subdivision. The representatives of the subdivision shall provide all information reasonably necessary for Company to make such determination. In the event service is available, the subdivision residents (or someone other than Company) shall be responsible for construction, or the cost of construction, of all on-site and off-site facilities including, but not limited to, lift stations necessary to serve the subdivision. Provision of service by the Company shall further be conditioned upon payment of all applicable rates and charges as set forth herein. Company, in its sole discretion, shall determine whether to accept a subdivision's existing collection system, which may be subject to upgrade at the sole discretion of the Company, or render service pursuant to a master meter or both in the case of a subdivision system owned and maintained by a homeowners association, developer, or other such similar unit.

Should the cost of such future wastewater service expansion programs vary significantly from the general charges contained herein, the Company may institute an additional or lesser charge to affected customers, based upon the Company’s actual costs, and may allow the amortization of charges and costs over a reasonable time period, if warranted. In the event a customer elects to amortize these costs, the customer shall allow the Company to place a lien on the property to secure repayment and to provide notice of such payment requirement to a subsequent purchaser of the property.

45.0 SPECIAL SERVICE CHARGE TO IMPERIAL HARBOR SUBDIVISION - As a result of the abandonment of Harbor Utilities Company, Inc., the Company provides wastewater service to the Imperial Harbor Subdivision. In order to provide such service, the lines, lift stations and appurtenant facilities within Imperial Harbor required substantial upgrading. In addition to the other rates and charges contained in this Tariff, the customers within Imperial Harbor are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Services Charge in a lump sum, or amortize the cost over 25 years which charges are set forth below.

Special Service Charge:	$ 1,095.67 per unit
or	
Monthly Amortization:	$ 7.74 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.1 SPECIAL SERVICE CHARGE TO FORMER HACIENDA CUSTOMERS - As a result of the abandonment of Hacienda Treatment Plant, Inc. ("Hacienda"), the Company provides wastewater service to former Hacienda customers. In order to provide such service, the former Hacienda customers needed to be interconnected with the Company's wastewater facilities. In addition to the other rates and charges contained in this Tariff, the customers formerly served by Hacienda, as well as future customers who would have been served by Hacienda, are required to pay a Special Service Charge that is intended to defray the cost of necessary interconnection in order to render service to such customers, and which provides a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years as set forth below:

Special Service Charge:	$ 795.00 per ERC
or	
Monthly Amortization:	$ 5.68 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment.

45.2 SPECIAL SERVICE TO SPRING CREEK VILLAGE SUBDIVISION – In addition to the other rates and charges contained in this Tariff, the customers within Spring Creek Village are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years which charges are set forth below:

Special Service Charge:	$7,210.00 per unit
or	
Monthly Amortization:	$ 43.23 per unit

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection or service for nonpayment.

45.3 SPECIAL SERVICE CHARGE TO BONITA SPRINGS GOLF AND COUNTRY CLUB – In addition to the other rates and charges contained in this Tariff, customers formerly served by, or in the former service area of, Bonita Springs Golf and Country Club are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum,

or amortize the cost over 25 years at an interest rate of 6.0% per annum. Interest shall begin to accrue one year after implementation of the charge. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,365	$2,692
or		
Monthly Amortization:	$21.68	$17.34

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.4 SPECIAL SERVICE CHARGE TO THE FOUNTAIN LAKES AND MARSH LANDING COMMUNITIES – In addition to the other rates and charges contained in this Tariff, wastewater customers in the Fountain Lakes and Marsh Landing communities are required to pay a Special Service Charge which is intended to defray the cost of system acquisition and necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or may pay over time based on a 25 year amortization, with an interest rate of 6.0% per annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$3,442	$2,754
or		
Monthly Amortization:	$22.18	$17.74

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the Special Service Charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.5 SPECIAL SERVICE CHARGE TO THE VILLAGES IN IMPERIAL BONITA ESTATES In addition to the other rates and charges contained in this Tariff, customers in The Villages section of Imperial Bonita Estates are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 25 years. The charges are set forth below:

	Single Family Unit
One Time Payment:	$1,552.00
or	
Monthly Amortization:	$ 10.00

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.6 SPECIAL SERVICE CHARGE TO THE FOREST MERE AND SPRING LAKES SUBDIVISIONS – In addition to the other rates and charges contained in this Tariff, customers in the Forest Mere and Spring Lakes Subdivisions are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% annum. The charges are set forth below:

	Single Family Unit	Multi-Family Unit
One Time Payment:	$2,182	$1,854
or		
Monthly Amortization:	$14.40	$12.24

A multi-family unit refers to a class of service where one meter serves more than three residential units. Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.7 SPECIAL SERVICE CHARGE TO LEISURE TIME PARK - In addition to the other rates and charges contained in this Tariff, customers in the Leisure Time Park are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 20 years with an interest rate of 5.0% interest per annum. The charges are set forth below:

	Single Family/Clubhouse
One Time Payment:	$ 943.73 per ERC

or	
Monthly Amortization	$ 6.23 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

45.8 SPECIAL SERVICE CHARGE TO SUN VILLAGE ESTATES SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Sun Village Estates subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 3,584.00 per ERC
or	
Monthly Amortization	$ 17.11 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Sun Village Estates customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

45.9 SPECIAL SERVICE CHARGE TO THE LAKES OF SAN SOUCI SUBDIVISION- In addition to the other rates and charges contained in this Tariff, customers in the Lakes of San Souci subdivision are required to pay a Special Service Charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Customers may pay the Special Service Charge in a lump sum, or amortize the cost over 30 years with an interest rate of 4.0% interest per annum. The charges are set forth below:

	Single Family
One Time Payment:	$ 4,948.00 per ERC
or	
Monthly Amortization	$ 23.62 per ERC

Any customer electing to pay the amortized monthly charge may request from the Company the outstanding balance due on such Special Service Charge and pay off the charge in full at any time. Customers electing to pay the monthly amortized charge shall be subject to the terms of payment for monthly rates as set forth herein, including being subject to disconnection of service for nonpayment. In the event a customer elects to amortize the special service charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Lakes of San Souci customers are also responsible for payment of the appropriate ANC fee for their unit which may also be amortized up to 30 years.

46.0 SERVICE TO GRAVITY EXPANSION AREAS - The Company has undertaken a program of constructing local collection and transmission systems to replace septic tanks serving existing residential areas in a program designated as the Gravity Expansion Program. The territory included in the Gravity Expansion Program is on file with the Company. Customers within the Gravity Expansion area may be required to connect to the system when service becomes available following required notice by the Company. In addition to the other rates and charges contained in this Tariff, customers within the Gravity Expansion area are required to pay a charge which is intended to defray the cost of necessary improvements in order to render service to such customers, and which provide a special benefit to those customers. Such customers may pay the Gravity Expansion charge in a lump sum, or amortize the cost up to 30 years which charges are set forth below. In the event a customer elects to amortize the Gravity Expansion charge, the customer shall allow the Company to place a lien on the property to secure repayment.

Gravity Expansion Residential Charge: $1,717.00 per unit

plus

Gravity Expansion customers are also responsible for payment of the appropriate ANC Fee for their unit which may also be amortized up to 30 years.

47.0 QUALITY OF WASTEWATER - No substance other than domestic wastewater will be placed into the sewage system and delivered to the lines of the Company. Should any non-domestic wastes or pollutants be delivered to the lines, the customer will be responsible for payment of the cost and expense required in correcting or repairing any resulting damage to the system or property of third parties.

Developer, or subsequent owners or occupants of the Property, may introduce non-domestic wastes from commercial establishments on the Property only upon prior written approval from Service Company based on Service Company's determination that such non-domestic waste will not harm utility facilities. Developer further agrees that no waste waters, fluids, or any substances and materials which contain any pollutants in whole or in part, regardless of the concentrations of said constituents, shall be discharged into Service Company's sanitary sewer collection/transmission system. Service Company shall have the right to sample the Developer's sewage to verify Developer's compliance with this paragraph.

In addition to the preceding paragraphs, and not by way of limitation, in the event Company determines that the property to be served poses a threat of introducing pollutants into the collection or transmission system at levels determined by the Company to be harmful to the sewer system, including, but not limited to, the system's ability to provide effluent meeting reuse standards, and its acceptability as an irrigation supply source for vegetation, the Company has the right to decline or discontinue service, or charge a higher rate due to increased treatment costs if applicable, to such property or customer.

No person shall discharge or cause to be discharged materials, water or waste, if it appears likely, in the opinion of the Company, that such discharge may cause harm to the utility system or have an adverse effect or cause interference with the operation of the wastewater treatment facility. In that event, the customer shall be subject to such pretreatment or other measures as are necessary to protect the integrity of Company's system and the ability to serve its members including the requirements set forth in Chapter 62-625 Florida Administrative Code, Pretreatment Requirements for Existing and Other Sources of Pollution, those standards set forth in the Company's Sewer Use Manual or such other pretreatment standards as shall have been approved by the Company's Board of Directors, and those industrial pretreatment standards and grease management standards as may be adopted and enforced by the City of Bonita Springs or Lee County as they apply in their respective portions of Company's service territory.

48.0 REFUNDABLE ADVANCES - Company may require, in addition to those set forth herein, a refundable advance by a Developer to temporarily defray the cost of off-site extension of sewer mains, pumping stations and other facilities necessary to connect the Developer's property with the then proper point of interconnection with the Company's existing sewer facilities, in excess of the size needed to provide service to the subject property. Costs paid by the Developer over and above the Developer's hydraulic share of the off-site facilities, may be refunded to the Developer in accordance with the terms and conditions of a Refundable Advance Agreement with Company. Company shall not be required to refund to Developer any fees or charges collected from consumers as a result of his contribution toward the cost of constructing the off-site facilities.

At the time the engineer of record certifies the off-site facilities as complete, he will also be requested to provide a determination of the hydraulic capacity of the facilities and the number of connections it is capable of serving based upon the Company's current determination of an ERC. On that basis, Company will establish a refundable advance charge per ERC and Company will agree to collect and refund same to Developer upon payment of such charges by subsequent customers obtaining service through the off-site facilities. Unless otherwise agreed to by Company, no refundable advance treatment will be available to Developer constructing lines and appurtenant facilities less than eight (8) inches in diameter. Company may limit the life of the Refundable Advance Agreement to a term of not more than seven (7) years, after which time a portion of the refund not made to the Developer will be retained by the Company. In no event shall a Developer recover an amount greater than the difference between the capitalized cost of such improvements and the Developer's own hydraulic share of such improvement. The Service Company will not include any interest upon the refund of the Developer's advance.

49.0 WASTEWATER REUSE - The Company owns, operates and maintains wastewater treatment facilities, pursuant to operating permits from the Florida Department of Environmental Regulation, which produce treated effluent of a quality suitable for the

irrigation of grasses, woodlands and certain vegetation. The Company may make treated effluent available to consumers within the service area of the Company that own large tracts of green areas requiring landscape irrigation ("Users"), based on the Board of Directors determination of the best interests of the Company and its members. Determination of the quantity, price, terms and conditions of the provision of effluent to Users shall be at the sole discretion of the Company, and may be set forth in an Effluent Reuse Agreement entered into by the Company and the User.

User shall be responsible for the design, construction and installation, at User's sole cost and expense subject to the approval and inspection by the Company, of on-site and off-site utility lines and facilities needed to initially create or thereafter connect into the Company's effluent disposal system. User shall convey ownership to Company of all lines and facilities from authorized treatment facilities to the point of delivery of effluent to User by bill of sale in a form satisfactory to the Company; it being understood that lines and facilities must be sized and constructed to the satisfaction of Company in accordance with the guidelines and specifications of the Company, subject to refundable advance treatment for oversized facilities. Acceptance of said lines and facilities shall be within the sole discretion of the Company.

User shall be responsible for obtaining information and preparing all necessary environmental planning, hydrogeologic monitoring studies and reports reasonably necessary for the permitting, preparation and continued utilization of User's property as a site for effluent reuse. User shall further be required to provide wet weather storage (non-application day) for not less than five (5) days effluent allocation. Wet weather storage capacity is subject to evaluation on a case-by-case basis and may be increased due to, among other things, changes in regulatory requirements.

User shall be responsible for any and all costs relative to the maintenance of any water management tract constructed upon User's land and User shall be responsible, at its sole cost and expense, for the construction and maintenance of any effluent spray irrigation device or other system which draws from the water management tract. User shall incur the cost of securing licenses and permits from applicable governmental agencies relative to the reuse of the Company's treated effluent upon User's property, including any costs incurred by Company to secure same.

As a prerequisite to the Company's acceptance of effluent discharge and delivery lines, facilities and appurtenances thereof, User shall grant Company, its successors and assigns, all easements and rights of ingress and egress, necessary for the discharge and delivery of effluent upon User's property, including, but not limited to, easements covering lines and facilities. The easements shall allow the Company to own effluent discharge lines and other facilities required for the effluent delivery.

50.0 ALLOCATION OF CAPACITY - It is the policy of the Florida Department of Environmental Protection ("DEP") to reduce the capacity available in Company's water and sewer systems upon issuance of a DEP Collection and/or Distribution System Permit (or its equivalent) to construct an on-site system which will receive treatment capacity from Company. DEP reduces Company's uncommitted capacity by the total number of ERC's which can be served by the on-site system approved in the Permit ("Permit Capacity"). This DEP policy prevents Company from committing the Permit Capacity to other

developers and customers, regardless of an immediate need and willingness to pay for such capacity.

In an effort to fairly allocate plant capacity, it is Service Company's policy to require that, concurrent with Company signing off on Developer's Permit Application, Developer pay all charges related to the Permit Capacity committed to Developer at that time. This requirement is intended to avoid a situation in which developers who have not paid service availability charges tie up capacity to the exclusion of customers with an immediate need and ability to pay.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-099
May 3, 2023

REQUESTED MOTION: Approve an easement exchange agreement with Bonita Cypress, LLC relocated Orr Road on a property on the northeast corner of Bonita Beach Road and Interstate 75.

REQUESTOR: Derek Rooney, City Attorney

AGENDA: City Attorney Items

STRATEGIC PRIORITY: N/A

BACKGROUND:

On August 3, 2023 the City approved the rezoning and development plan for a project known as Bonita 75 at the northwest corner of Bonita Beach Road and Interstate 75. Previously, the property owner sought a development layout which conflicted with the existing Orr Road. In response, in 2009 the City agreed to vacate the existing Orr Road in exchange for new easement/replacement road as substitute access.

Bonita Cypress, LLC the current owner of the Bonita 75 finds that the existing replacement road interferes with the property's current site plan.

Therefore, as part of the approval process with the City is entering into an easement exchange agreement to relocating the current access easement to a newly described Orr Road easement as approved on the Bonita 75 site plan. Easement exchanges will also occur with the Florida Department of Transportation and Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

STAFF RECOMMENDATION:

Approve Easement Exchange Agreement and execute Deed releasing prior easement.

ATTACHMENTS:

1. Exchange Agreement
2. Exhibits A-C to Agreement
3. Prior vacation Resolution of Orr Road.
4. Previous grant of replacement easement.

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	John Dulmer

Council Action: Approved __ Denied __ Deferred ___ Other_____

This Instrument Prepared By:
Shutts & Bowen LLP
Attn: Kyle A. Stevens
300 S. Orange Ave., Suite 1600
Orlando, FL 32801

Project:
STRAP Number(s): 31-47-26-B4-00007.0100; 31-47-26-B4-00007.0110; 31-47-26-B4-00007.0130; 31-47-26-B4-00007.0140; 31-47-26-B4-00007.0190; 31-47-26-B4-00007.0220; 31-47-26-B4-00007.0290; 31-47-26-B4-00007.0300; 31-47-26-B4-00007.0310; 31-47-26-B4-00007.0510

THIS SPACE FOR RECORDING

AGREEMENT FOR EXCHANGE OF REAL PROPERTY

FOR TEN DOLLARS ($10.00) and other good and valuable consideration, the adequacy and recipient of which are hereby acknowledged,

THIS AGREEMENT ("*Agreement*") is made this ____ day of _____, 2023, for the exchange of real property by and between Bonita Cypress, LLC, an Ohio limited liability company, whose mailing address is 1110 Euclid Ave., Suite 300, Cleveland, Ohio 44115 ("*Owner*"), and the City of Bonita Springs, a Florida municipal corporation, whose mailing address is 9220 Bonita Beach Rd., Suite 108, Bonita Springs, Florida 34135 ("*City*"), collectively known as the "*Parties*", as follows:

1. PURPOSE: The purpose of this Agreement is to facilitate the exchange of real property in accordance with §166.021, Florida Statutes.

2. AGREEMENT TO EXCHANGE: In consideration of this Agreement and subject to the terms and conditions set forth below, the Parties agree to exchange the following real property interests in the City of Bonita Springs, Lee County, Florida:

    a. Owner to City: Owner will execute, deliver and convey to the City a Permanent Access and Public Utility Easement Grant in the format set out and attached hereto as Exhibit "A" ("*New Easement*"), for the property legally described in attached Exhibit "B".

    b. City to Owner: The City will convey to Owner, by the City Deed attached hereto as Exhibit "C", its interest in the Permanent Access and Public Utility Easement Grant ("*Existing Easement*"), granted to the City recorded as Instrument No. 2009000167159 in the Public Records of Lee County, Florida.

    c. Owner, at its sole expense, will design and obtain all necessary permits and approvals to construct the access improvements on or within the New Easement described in attached Exhibit "A", and Owner will also be solely

responsible for the costs associated with construction of those access improvements.

3. EVIDENCE OF TITLE: Owner will provide, at its sole expense, evidence of title for the subject property described in attached Exhibit "B", in a form satisfactory to the City. The evidence of title must show title to the New Easement to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, easements not incompatible with the City's intended use, and restrictions and easements common to the area. Prior to closing, the City will have a reasonable time to examine the title and documents establishing Owner's legal ownership of the New Easement. If the City discovers a defect(s) in the title or legal access, the City will notify Owner in writing of the defects. Owner will make a prompt and diligent effort to correct the defects. If Owner fails to correct the defects within sixty (60) days after notice, then the City may terminate this Agreement without any further obligation.

4. CONDITION OF PROPERTY - RISK OF LOSS: The parties have inspected the property to be conveyed and agree to accept it as is, or as otherwise provided in this Agreement. Any loss or damage to the property to be conveyed occurring between the dates that this Agreement is executed and the closing date will be at the current property owner's sole risk and expense. In the event the property to be conveyed is damaged either or both parties may agree to accept the damaged property or cancel this Agreement without obligation.

5. DOCUMENTS AND EXPENSES:

    a. It is Owner's responsibility to pay for and provide the following:

        i. All taxes or special assessments attributable to the properties described in Exhibit "B" due and payable on or before the closing date;
        ii. Recording fees for the New Easement and the City Deed to release Existing Easement;
        iii. State documentary stamps on all documents;
        iv. All costs associated with any legal notice requirements; and
        v. All costs associated with the design, permitting and construction of the access improvements located on or within the area of the New Easement.

6. BINDING EFFECT: Execution of this Agreement constitutes an agreement for the exchange of property binding upon the parties, their successors and assigns.

7. EXECUTION AND CLOSING: Owner agrees to execute and provide the City with the executed original of this Agreement before the matter may be scheduled to be presented for review and approval by the City of Bonita Springs City Council. The

closing for this transaction will take place on or before 30 days from the date this Agreement is executed, or as otherwise mutually agreed by the parties.

8. AUTHORITY OF MAYOR: The City hereby authorizes its Mayor, or his designee, to accept and execute all documents on behalf of the City and to do all other things prudent and necessary to effectuate the terms of this Agreement and the exchange of real property interests contemplated herein.

9. ATTORNEY'S FEES: The prevailing party in any litigation concerning this Agreement is entitled to recover reasonable attorney's fees and costs.

10. AMENDMENT AND/OR OTHER AGREEMENTS: Any amendments to the provisions of the Agreement must be in writing, attached and incorporated into this document and signed or initialed by all Parties. This Agreement represents the entire agreement between the parties.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

The Parties herein execute the foregoing Agreement intending to be bound as of the date first written above.

Signed, sealed and delivered
in the presence of:

_____

Print Name:_____

_____

Print Name:_____

BONITA CYPRESS, LLC,
an Ohio limited liability company

By:_____

Print Name:_____

Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ▢ physical presence or ▢ online notarization, this ___ day of _____, 2023, by _____, as _____ of BONITA CYPRESS, LLC, an Ohio limited liability company. He [___] is personally known to me or [___] produced _____ as identification.

_____
Print Name: _____

Approved and accepted by the Council of the City of Bonita Springs, Florida, this ___ day of _____, 2023.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Exhibit "A"
Form of New Easement

(attached)

Exhibit "B"
Legal Description of New Easement Property

[Note: Legal description of route of Orr Road based on current site plan to be provided by surveyor]

Exhibit "C"
Form of City Deed

(attached)

This Instrument Prepared By:
Shutts & Bowen LLP
Attn: Kyle A. Stevens
300 S. Orange Ave., Suite 1600
Orlando, FL 32801

Project:
STRAP Number(s): 31-47-26-B4-00007.0100; 31-47-26-B4-00007.0110; 31-47-26-B4-00007.0130; 31-47-26-B4-00007.0140; 31-47-26-B4-00007.0190; 31-47-26-B4-00007.0220; 31-47-26-B4-00007.0290; 31-47-26-B4-00007.0300; 31-47-26-B4-00007.0310; 31-47-26-B4-00007.0510

THIS SPACE FOR RECORDING

PERMANENT ACCESS AND PUBLIC UTILITY EASEMENT GRANT

THIS INDENTURE (the "Easement"), made and entered into this ___ day of _____ 2023, between **BONITA CYPRESS, LLC**, an Ohio limited liability company, whose address is 1110 Euclid Ave., Suite 300, Cleveland, Ohio 44115, hereinafter referred to as GRANTOR, and the **CITY OF BONITA SPRINGS**, a Florida municipal corporation, whose address is 9101 Bonita Beach Rd., Bonita Springs, Florida 34135, hereinafter referred to as GRANTEE:

WHEREAS, GRANTOR is the owner of that certain real property located in Lee County, Florida, described in Exhibit "A" attached hereto (the "Easement Property"); and

WHEREAS, GRANTEE is desirous of obtaining an easement over the Easement Property to provide pedestrian and vehicular access to the public and for public utility installation, construction, operation and maintenance.

NOW THEREFORE, in consideration of one dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, GRANTOR provides as follows:

1. Recitals. The above recitals are true and correct and are hereby incorporated into this Easement as though fully set forth below.

2. Grant of Easement. GRANTOR hereby grants and conveys to GRANTEE a permanent non-exclusive access easement over and across the Easement Property for the purpose of providing vehicular and pedestrian access to the general public. GRANTOR FURTHER grants and conveys to GRANTEE a non-exclusive public utility easement over and across the Easement Property for utility installation, construction, operation and maintenance, including the right of access to perform any such purpose, provided such right of access is exercised in a reasonable manner. GRANTEE may not use the subject property in any way that would unreasonably interfere with any roadway ingress and egress and drainage facilities and utility connections, in use or as may be in use in the future, of GRANTOR, its successors and assigns.

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER NORTH 00°43'29" WEST, A DISTANCE OF 255.51 FEET; THENCE DEPARTING SAID EAST LINE SOUTH 89°16'31" WEST, A DISTANCE OF 25.00 FEET TO A POINT ON THE WEST LINE OF MILLER ROAD AS SHOWN ON THE UNRECORDED PLAT OF SUNCOAST LAKES, UNRECORDED PLAT BOOK 1, PAGES 363–367A, THE SAME BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE SOUTH 89°16'31" WEST, A DISTANCE OF 282.09 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE SOUTHWESTERLY 24.69 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 17.00 FEET, A CENTRAL ANGLE OF 83°13'20", (CHORD BEARING SOUTH 47°39'51" WEST, A DISTANCE OF 22.58 FEET); THENCE SOUTH 06°03'10" WEST, A DISTANCE OF 144.77 FEET; THENCE NORTH 83°56'50" WEST, A DISTANCE OF 230.91 FEET; THENCE NORTH 58°29'45" WEST, A DISTANCE OF 227.82 FEET; THENCE NORTH 25°56'27" WEST, A DISTANCE OF 345.50 FEET; THENCE NORTH 23°58'38" WEST, A DISTANCE OF 275.35 FEET; THENCE NORTH 00°44'20" WEST, A DISTANCE OF 500.39 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2014000136513, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG SAID SOUTH LINE NORTH 88°56'57" EAST, A DISTANCE OF 30.00 FEET TO A POINT ON THE BOUNDARY OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2015000262975 OF SAID PUBLIC RECORDS; THENCE ALONG THE BOUNDARY OF SAID LANDS FOR THE FOLLOWING TWO (2) COURSES AND DISTANCES; (1) SOUTH 00°44'20" EAST, A DISTANCE OF 382.25 FEET; (2) THENCE NORTH 88°56'59" EAST, A DISTANCE OF 30.01 FEET; THENCE SOUTH 00°44'20" EAST, A DISTANCE OF 156.84 FEET; THENCE SOUTH 23°58'38" EAST, A DISTANCE OF 215.71 FEET; THENCE SOUTH 25°56'27" EAST, A DISTANCE OF 333.13 FEET; THENCE SOUTH 58°29'45" EAST, A DISTANCE OF 207.11 FEET; THENCE SOUTH 83°56'50" EAST, A DISTANCE OF 181.88 FEET; THENCE NORTH 06°03'10" EAST, A DISTANCE OF 104.77 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE NORTHEASTERLY 82.79 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 57.00 FEET, A CENTRAL ANGLE OF 83°13'20", (CHORD BEARING NORTH 47°39'51" EAST, A DISTANCE OF 75.70 FEET); THENCE NORTH 89°16'31" EAST, A DISTANCE OF 282.09 FEET TO A POINT ON THE AFOREMENTIONED WEST LINE OF MILLER ROAD; THENCE ALONG SAID WEST LINE SOUTH 00°43'29" EAST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.80 ACRES, MORE OR LESS

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED BY THE NATIONAL GEODETIC SURVEY FOR FLORIDA WEST ZONE, 1983 DATUM WITH 2011 ADJUSTMENT OBTAINED UTILIZING RTK GPS OBSERVATIONS ON THE FDOT NETWORK AND REFER TO THE THE EAST LINE OF THE SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING NORTH 0°43'29" WEST.

2. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.

3. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR THE DIGITAL SIGNATURE AND DIGITAL SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THIS SKETCH AND DESCRIPTION ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.

NOT COMPLETE WITHOUT SHEETS 1 AND 3 OF 3

DRAWN BY:	AH
CHECKED BY:	DLS
JOB CODE:	B75MC
SCALE:	N/A
DATE:	5 MAY 2022
FILE:	21-101-ROW SL 2
SHEET:	1 of 3

NOT A SURVEY

GradyMinor

Civil Engineers • Land Surveyors • Planners • Landscape Architects

Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266

Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

SKETCH AND DESCRIPTION

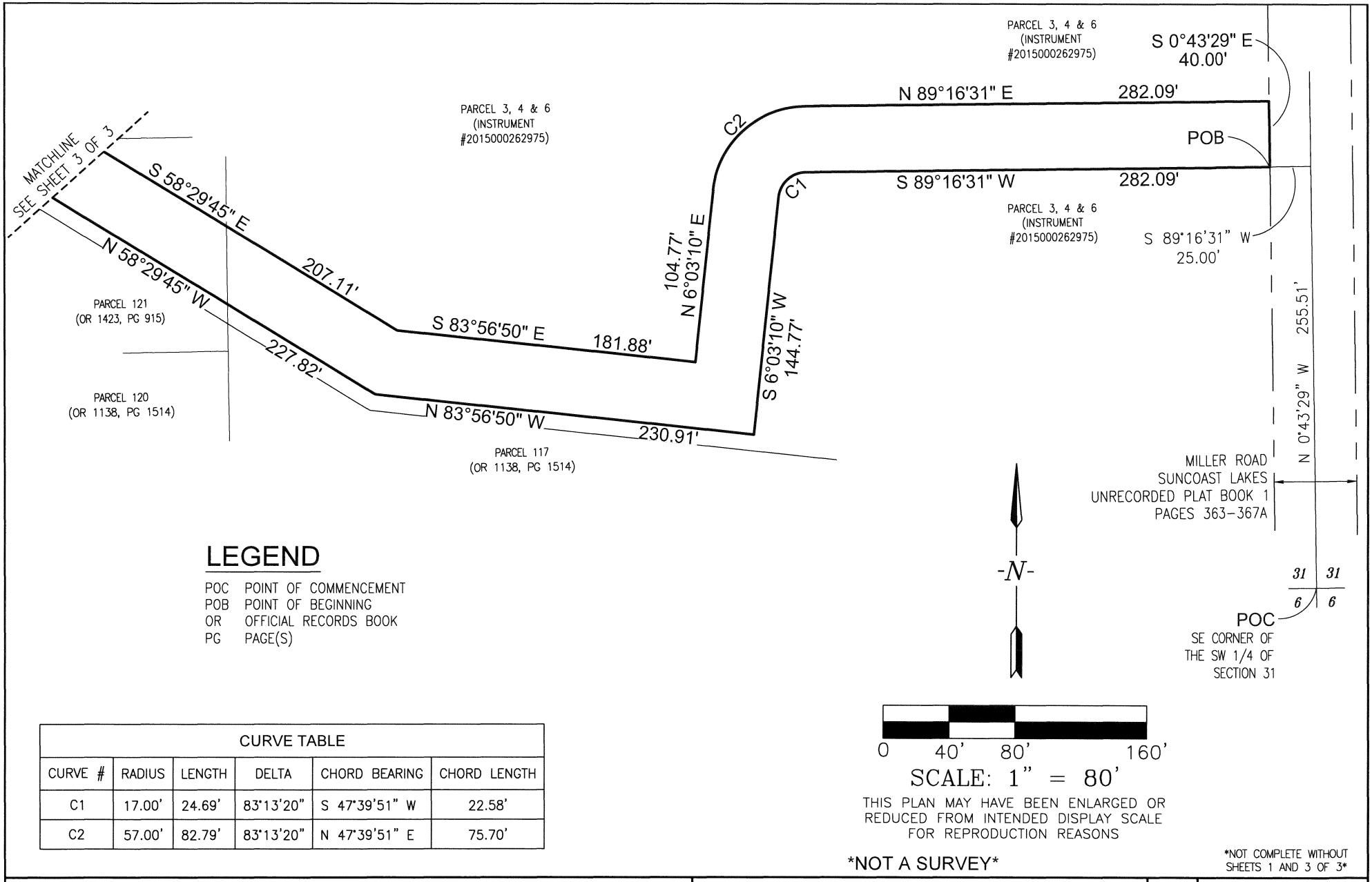
BONITA I-75

LYING IN
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

5/10/22
DATE SIGNED

DONALD L. SAINTENOY III, P.S.M
FL LICENSE #6761
FOR THE FIRM

G:\SURVEY\PROJECT SURVEY 2021\101 - BONITA 75 (B75MC)\SURVEY\SKETCH & LEGALS\21-101-ROW SL 2.DWG



LEGEND

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING
OR OFFICIAL RECORDS BOOK
PG PAGE(S)

CURVE TABLE					
CURVE #	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD LENGTH
C1	17.00'	24.69'	83°13'20"	S 47°39'51" W	22.58'
C2	57.00'	82.79'	83°13'20"	N 47°39'51" E	75.70'

THIS PLAN MAY HAVE BEEN ENLARGED OR REDUCED FROM INTENDED DISPLAY SCALE FOR REPRODUCTION REASONS

NOT A SURVEY

NOT COMPLETE WITHOUT SHEETS 1 AND 3 OF 3

GradyMinor
Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266
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Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

SKETCH AND DESCRIPTION

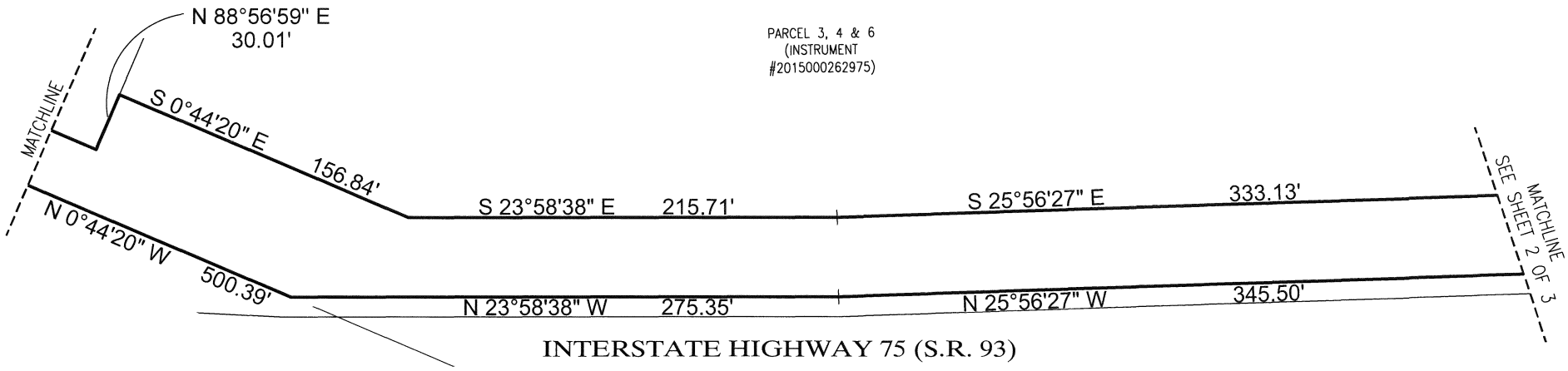
BONITA I-75

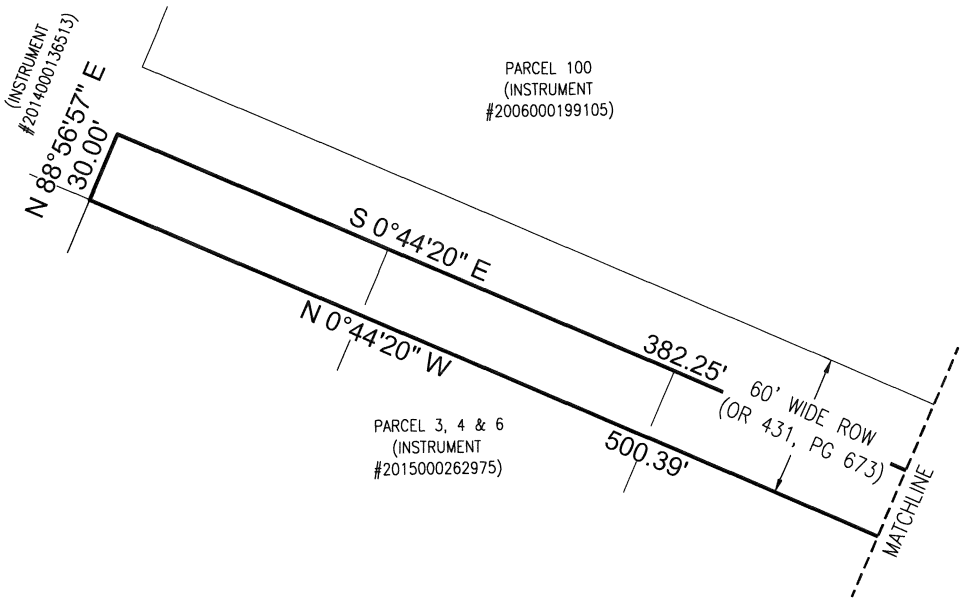
LYING IN
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

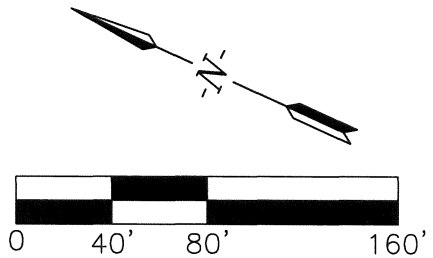
NOT A SURVEY

DRAWN BY:	AH
CHECKED BY:	DLS
JOB CODE:	B75MC
SCALE:	1" = 80'
DATE:	5 MAY 2022
FILE:	21-101-ROW SL 2
SHEET:	2 of 3

G:\SURVEY\PROJECT SURVEY 2021\101 - BONITA 75 (B75MC)\SURVEY\SKETCH & LEGALS\21-101-ROW SL 2.DWG







SCALE: 1" = 80'

THIS PLAN MAY HAVE BEEN ENLARGED OR REDUCED FROM INTENDED DISPLAY SCALE FOR REPRODUCTION REASONS

LEGEND

POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
OR	OFFICIAL RECORDS BOOK
PG	PAGE(S)

NOT A SURVEY

NOT COMPLETE WITHOUT SHEETS 1 AND 3 OF 3

GradyMinor

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Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266

Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

SKETCH AND DESCRIPTION

BONITA I-75

LYING IN
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

NOT A SURVEY

DRAWN BY:	AH
CHECKED BY:	DLS
JOB CODE:	B75MC
SCALE:	1" = 80'
DATE:	5 MAY 2022
FILE:	21-101-ROW SL 2
SHEET:	3 of 3

G:\SURVEY\PROJECT SURVEY 2021\101 - BONITA 75 (B75MC)\SURVEY\SKETCH & LEGALS\21-101-ROW SL 2.DWG

3. Title. GRANTOR covenants that subject to existing easements, if any, for public highways or roads, access easements, railroads, ditches, pipelines, electrical transmission or distribution lines, telephone and telegraph lines covering the land herein described, GRANTOR is lawfully seized and possessed of the lands, having good and lawful right and power to convey them, and that the lands are free and clear of mortgages, liens, easements and encumbrances except those of record; and GRANTOR will forever warrant and defend the title and terms to this easement and the quiet possession thereof against the lawful claims and demands of all persons.

4. Future Plat. The easements granted herein will be dedicated to GRANTEE for public use on any future plat which includes the Easement Property, with GRANTOR retaining maintenance responsibility for the Easement Property unless GRANTEE agrees to assume such maintenance by formal action.

5. Reservations. GRANTOR, its successors and assigns, shall be entitled to make all uses of the Easement Property which are not inconsistent with the use of the Easement Property as a roadway and public utility easement. GRANTOR also has the right and authority to remove or trim any roots, trees or other vegetation within the Easement Property in order to properly install, maintain, repair or replace the roadway and any stormwater drainage facilities. The easement, rights and privileges granted herein are non-exclusive, and GRANTOR reserves the right to convey similar rights and easements to other persons except those rights and easements that may interfere with and prevent the use by GRANTEE and the general public of the easement.

6. Ownership & Maintenance of Roadway and Drainage Facilities. GRANTOR may construct and install commercially reasonable roadway improvements within the Easement Property after the recording of this Easement. Title to any roadway and any stormwater drainage facilities constructed within the Easement Property by GRANTOR or at GRANTOR'S direction will remain in GRANTOR. GRANTOR will maintain the existing roadway and necessary roadway drainage facilities within Easement Property. Notwithstanding the foregoing, GRANTEE shall be responsible for any maintenance, repair and replacement costs incurred by GRANTOR as a result of any damage to the Easement Property, the roadway and any drainage facilities located therein caused by the negligence or willful misconduct of GRANTEE or its agents, contractors, employees, designees, licensees or invitees, in the use of the Easement Property, excluding ordinary wear and tear.

7. Liens. All parties providing construction, repair and maintenance services or materials for the said Easement Property at the request of GRANTEE or any third party are hereby placed on notice that the interest of GRANTOR shall not be subject to any mechanic's liens and that such parties may only look to GRANTEE or such third party for payment of any amounts due for labor, materials or services within said Easement Property unless GRANTOR contracts in writing for the performance of such construction, repair or maintenance.

8. Interpretation. Should any provision of this Easement require interpretation in any judicial, administrative or other proceeding or circumstance, it is agreed that the court, administrative body or other entity interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against any party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared the same, it being further agreed that both parties hereto have fully participated in the preparation of this Easement.

9. Binding Effect. This Easement is binding on, and inures to the benefit of, the successors and assigns of the parties.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, each party has hereunto set its hand and seal the day and year first written below.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

_____
Witness Signature

_____
Print/Type Name of Witness

_____
Witness Signature

_____
Print/Type Name of Witness

BONITA CYPRESS, LLC, an Ohio limited liability company

By: _____
Print Name: _____
Print Title: _____

STATE OF _____)

COUNTY OF _____)

THE FOREGOING INSTRUMENT was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____ 2023, by _____, as the _____ of BONITA CYPRESS, LLC, an Ohio limited liability company, on behalf of the company, who [__] is personally known to me, or [__] has produced _____ as identification.

[Affix Notary Seal]

_____
Notary Signature
Print Name: _____
Commission No.: _____
My Commission Expires on _____

MORTGAGEE JOINDER

In Witness whereof, United Community Bank dba Seaside Bank and Trust, as Mortgagee, hereby consents to this Grant of Permanent Access and Public Utility Easement to the City of Bonita Springs, a Florida municipal corporation, and confirms it shall not constitute a default under the terms of any existing mortgage or loan documents given to Mortgagee or any amendments thereto.

UNITED COMMUNITY BANK dba SEASIDE BANK AND TRUST

_____
Witness

By: _____
Print Name: _____
Its: _____

_____
Print/Type Name of Witness

_____
Witness

_____
Print/Type Name of Witness

STATE OF _____)

COUNTY OF _____)

THE FOREGOING INSTRUMENT was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____ 2023, by _____, as the _____ of UNITED COMMUNITY BANK dba SEASIDE BANK AND TRUST, on behalf of the bank, who [__] is personally known to me, or [__] has produced _____ as identification.

[Affix Notary Seal]

_____
Notary Signature
Print Name: _____
Commission No.: _____
My Commission Expires on _____

EXHIBIT A

Legal Description of Easement Property

[Note: Legal description of route of Orr Road based on current site plan to be provided by surveyor]

This Instrument Prepared By:
Shutts & Bowen LLP
Attn: Kyle A. Stevens
300 S. Orange Ave., Suite 1600
Orlando, FL 32801

Project:
STRAP Number(s): 31-47-26-B4-00007.0100; 31-47-26-B4-00007.0110; 31-47-26-B4-00007.0130; 31-47-26-B4-00007.0140; 31-47-26-B4-00007.0190; 31-47-26-B4-00007.0220; 31-47-26-B4-00007.0290; 31-47-26-B4-00007.0300; 31-47-26-B4-00007.0310; 31-47-26-B4-00007.0510

THIS SPACE FOR RECORDING

CITY DEED

THIS DEED is given this ___ day of _____ 2022, by the **CITY OF BONITA SPRINGS**, a Florida municipal corporation, whose address is 9101 Bonita Beach Rd. Bonita Springs, Florida 34135 ("*City*"), to **BONITA CYPRESS, LLC**, an Ohio limited liability company, whose address is 1110 Euclid Ave., Suite 300, Cleveland, Ohio 44115 ("*Grantee*").

For and in consideration of the sum of Ten and xx/100 Dollars ($10.00) to it in hand paid by the Grantee, the receipt and sufficiency of which is hereby acknowledged, the City (a) grants and conveys to the Grantee, its heirs and assigns forever, all right, title and interest in the easements given to City by the predecessor-in-interest of the Grantee, as set forth in the Permanent Access and Public Utility Easement Grant dated June 11, 2009 recorded as Instrument No. 2009000167159 in the Public Records of Lee County, Florida (the "*Existing Easement*"), and (b) releases and terminates the Existing Easement.

This deed does not warrant the title or represent any state of facts concerning the title.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the City has caused this City Deed to be executed in its name by its City Council, acting by the Mayor, the day and year first written above.

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

INSTR # 2009000155018, Doc Type GOV, Pages 6, Recorded 06/08/2009 at 10:49 AM, Charlie Green, Lee County Clerk of Circuit Court, Rec. Fee $52.50 Deputy Clerk ELAYDEN

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 09 - 49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONITA SPRINGS; VACATING A PORTION OF THE PUBLIC'S INTEREST IN A SIXTY (60') FOOT WIDE RIGHT OF WAY, INCLUDING THE FIRST 1,162 LINEAR FEET OF BOONDOCK ROAD, AND VACATING A PORTION OF THE PUBLIC'S INTEREST IN A SIXTY (60') FOOT WIDE RIGHT OF WAY, INCLUDING THE FIRST 1,408 LINEAR FEET OF ORR ROAD FROM ITS INTERSECTION WITH MILLER ROAD, LOCATED IN SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST BONITA SPRINGS, FLORIDA, RESPECTIVELY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Petitioner, Bonita 75 Partners, LLC, P.O. BOX 110789, Naples, Florida 34108, in accordance with Florida Statutes Chapter 177, filed a Petition to vacate the public's interest in the easement, plat or portion of a plat legally described in the attached Exhibit A and graphically depicted in the sketch attached as Exhibit B; and

WHEREAS, the Petitioner will record the right-of-way and access road as described in the attached Exhibit C and graphically depicted in the sketch attached as Exhibit D; and

WHEREAS, the City Council of Bonita Springs, Florida held a Public Hearing on this Petition to Vacate on the 20th day of May, 2009; and

WHEREAS, a legally sufficient Affidavit of Publication regarding the Notice of Public Hearing on this Petition to Vacate was entered into the minutes of the City Council Meeting; and

WHEREAS, the Petitioner has fee simple title ownership to the underlying land sought to be vacated; and

WHEREAS, the Petitioner has provided proof that all applicable state and county taxes have been paid; and

WHEREAS, Petitioner did provide notice to all affected property owners concerning the intent of the Petition to Vacate in accordance with Florida Statutes; and

WHEREAS, the letters of review and recommendation provided by the various governmental and utility entities indicate that granting the Petition to Vacate will not affect the ownership or right of convenient access of persons owning other parts of the subdivision;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Bonita Springs as follows:

1. Petition to Vacate No. VAC08-BOS00003 is hereby granted.

2. The public's interest in the easement, plat, or portion of plat legally described in Exhibit A and graphically depicted in the sketch attached as Exhibit B is hereby vacated.

3. The applicant will record the right-of-way and access road described in the attached Exhibit C and graphically depicted in the sketch attached as Exhibit D within thirty (30) days of the hearing date.

4. The applicant will continue to provide access to northern adjacent properties until the new roadway is completed.

5. This Resolution will become effective upon recording of a fully executed copy in the public records of Lee County, Florida.

DULY PASSED AND ENACTED by the Council of the City of Bonita Springs, Florida, this 20th day of May, 2009.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Ferreira	Aye	Nelson	Aye
Lonkart	Aye	Simons	Aye
Martin	Aye	Spear	Aye
McCourt	Aye		

Date filed with City Clerk: 5-22-09

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN NORTH 00°44'34" WEST, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31, FOR A DISTANCE OF 26.91 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF BONITA BEACH ROAD (F/K/A CARRELL ROAD), ALSO BEING THE **POINT OF BEGINNING** OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN SOUTH 88°57'15" WEST, ALONG SAID NORTH RIGHT-OF-WAY, FOR A DISTANCE OF 68.66 FEET TO THE INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE AND THE WEST RIGHT-OF-WAY LINE OF ACCESS ROAD No. 3 – ORR ROAD (60 FOOT RIGHT-OF-WAY); THENCE RUN ALONG SAID RIGHT-OF-WAY FOR THE FOLLOWING FIVE (5) COURSES: THENCE RUN NORTH 01°03'33" WEST, FOR A DISTANCE OF 27.82 FEET; THENCE RUN NORTH 83°56'32" WEST, FOR A DISTANCE OF 508.51 FEET; THENCE RUN NORTH 58°29'27" WEST, FOR A DISTANCE OF 233.00 FEET; THENCE RUN NORTH 25°56'09" WEST, FOR A DISTANCE OF 348.59 FEET; THENCE RUN NORTH 23°58'20" WEST, FOR A DISTANCE OF 266.87 FEET TO A POINT ON THE SOUTH LINE OF THE LANDS DESCRIBED IN O.R. 4549, PG. 4351; THENCE RUN ALONG SAID SOUTH LINE NORTH 88°57'16" EAST, FOR A DISTANCE OF 65.95 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF ACCESS ROAD No. 3 – ORR ROAD; THENCE RUN ALONG SAID RIGHT-OF-WAY FOR THE FOLLOWING FIVE (5) COURSES: THENCE RUN SOUTH 00°47'44" EAST, FOR A DISTANCE OF 1.85 FEET; THENCE RUN SOUTH 23°58'20" EAST, FOR A DISTANCE OF 238.45 FEET; THENCE RUN SOUTH 25°56'09" EAST, FOR A DISTANCE OF 330.05 FEET; THENCE RUN SOUTH 58°29'27" EAST, FOR A DISTANCE OF 201.94 FEET; THENCE RUN SOUTH 83°56'32" EAST, FOR A DISTANCE OF 195.30 FEET TO A POINT ON THE WEST LINE OF A 60 FOOT WIDE ROAD EASEMENT (BOONDOCK ROAD); THENCE RUN NORTH 00°44'45" WEST, ALONG SAID WEST LINE, FOR A DISTANCE OF 1,162.05 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 31; THENCE RUN NORTH 88°57'01" EAST, ALONG SAID NORTH LINE, FOR A DISTANCE OF 30.00 FEET; THENCE RUN SOUTH 00°44'45" EAST, FOR A DISTANCE OF 248.38 FEET; THENCE RUN NORTH 88°57'15" EAST, FOR A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SAID 60 FOOT WIDE ROAD EASEMENT (BOONDOCK ROAD); THENCE RUN SOUTH 00°44'44" EAST ALONG SAID EAST LINE, FOR A DISTANCE OF 921.14 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF SAID ORR ROAD; THENCE RUN SOUTH 83°56'32" EAST ALONG SAID NORTH RIGHT-OF-WAY, FOR A DISTANCE OF 301.38 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31; THENCE RUN SOUTH 00°44'34" EAST, ALONG SAID EAST LINE, FOR A DISTANCE OF 79.68 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL OF LAND HEREIN DESCRIBED,

CONTAINING 3.3699 ACRES, MORE OR LESS.

NOTES

1. BEARINGS SHOWN HEREON ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983, NATIONAL GEODETIC SURVEY ADJUSTMENT OF 1999 AND ARE BASED ON THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, AS BEING N 00°44'34" W.
2. THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.
3. DIMENSIONS SHOWN HEREON ARE IN UNITED STATES SURVEY FEET AND DECIMALS THEREOF.
4. THIS SURVEY MAP AND THE COPIES THEREOF, ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. ANY ADDITIONS AND/OR DELETIONS TO THIS SURVEY MAP OR REPORT BY OTHER THAN THE SIGNING PARTY OR PARTIES, IS STRICTLY PROHIBITED WITHOUT WRITTEN CONSENT.

KENNETH W. PAHUTSKI, P.S.M. #6642
STATE OF FLORIDA
FOR THE FIRM Q. GRADY MINOR AND ASSOCIATES, P.A.

NOT A SURVEY

REVISION:

EXHIBIT A

Q. GRADY MINOR & ASSOCIATES, P.A.
CIVIL ENGINEERS ■ LAND SURVEYORS ■ PLANNERS ■ LANDSCAPE ARCHITECTS
BONITA SPRINGS ■ FORT MYERS ■ NORTH PORT
3800 VIA DEL REY, BONITA SPRINGS, FL 34134, (239) 947-1144
11940 FAIRWAY LAKES DR., FT. MYERS, FL 33913, (239) 690-4380
2562 COMMERCE PKWY., NORTH PORT, FL 34289, (941) 426-5858
ENGINEERING CERT. OF AUTH. EB 0005151 SURVEYING CERT. OF AUTH. LB 0005151 LANDSCAPE ARCH. BUSINESS LV 26000266
www.gradyminor.com

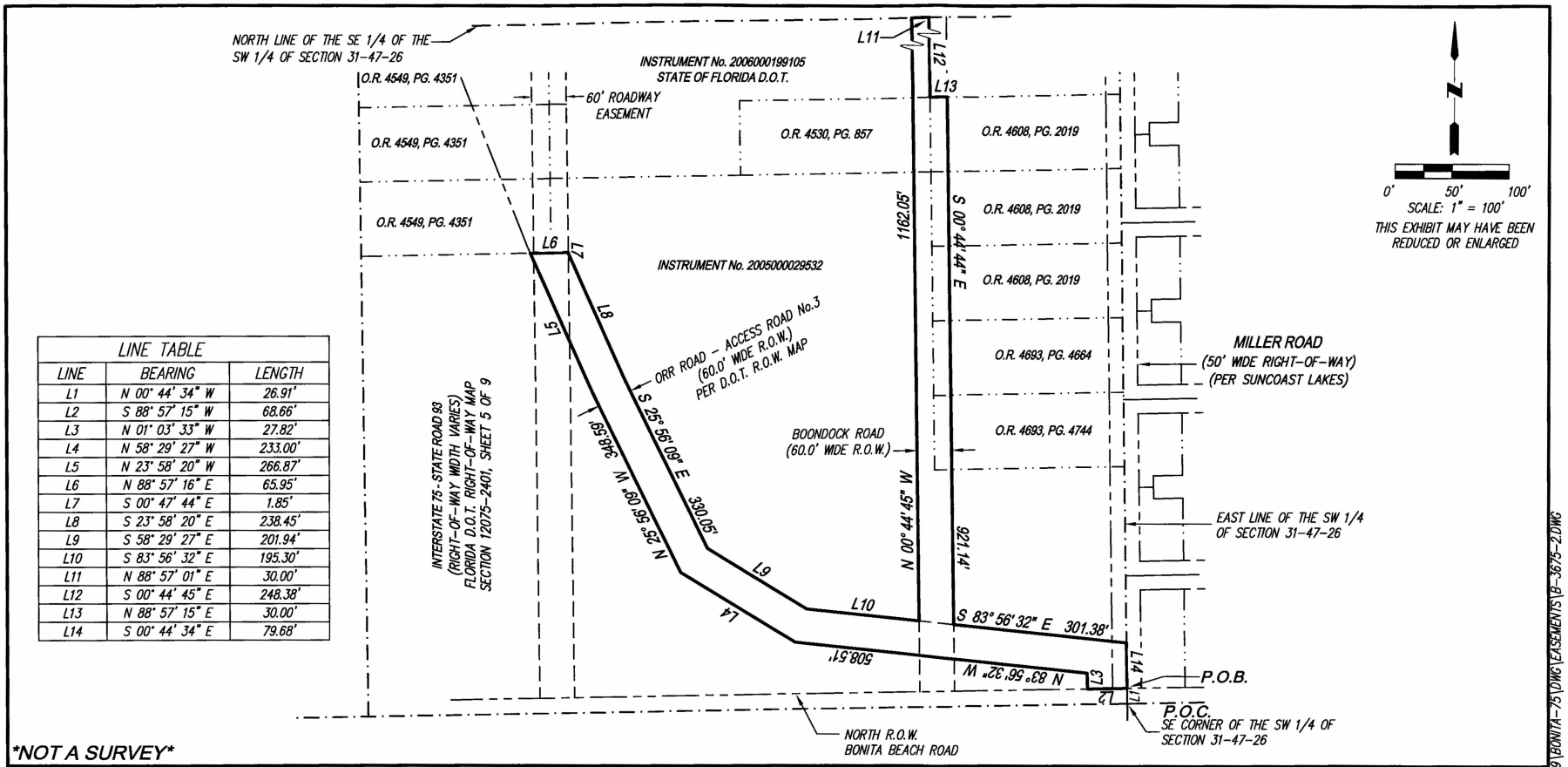
LEGAL DESCRIPTION

VACATION OF A PORTION OF BOONDOCK ROAD AND ORR ROAD

LYING IN
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA

DRAWN BY:	JD
CHECK BY:	JA
JOB CODE:	BI75ERP
SCALE:	N/A
DATE:	MAY 2009
FILE:	B-3675-2
SHEET:	1 OF 2

S:\PROJECTS SURVEY 2009\BONITA-75\DWG\EASEMENTS\B-3675-2.DWG



LINE TABLE		
LINE	BEARING	LENGTH
L1	N 00° 44' 34" W	26.91'
L2	S 88° 57' 15" W	68.66'
L3	N 01° 03' 33" W	27.82'
L4	N 58° 29' 27" W	233.00'
L5	N 23° 58' 20" W	266.87'
L6	N 88° 57' 16" E	65.95'
L7	S 00° 47' 44" E	1.85'
L8	S 23° 58' 20" E	238.45'
L9	S 58° 29' 27" E	201.94'
L10	S 83° 56' 32" E	195.30'
L11	N 88° 57' 01" E	30.00'
L12	S 00° 44' 45" E	248.38'
L13	N 88° 57' 15" E	30.00'
L14	S 00° 44' 34" E	79.68'

NOT A SURVEY

REVISION:

EXHIBIT B

Q. GRADY MINOR & ASSOCIATES, P.A.
CIVIL ENGINEERS ■ LAND SURVEYORS ■ PLANNERS ■ LANDSCAPE ARCHITECTS
BONITA SPRINGS ■ FORT MYERS ■ NORTH PORT
3800 VIA DEL REY | 11940 FAIRWAY LAKES DR. | 2562 COMMERCE PKWY.
BONITA SPRINGS, FL 34134 | FT. MYERS, FL 33913 | NORTH PORT, FL 34289
(239) 947-1144 | (239) 690-4380 | (941) 426-5858
ENGINEERING CERT. OF AUTH. EB 0005151 SURVEYING CERT. OF AUTH. LB 0005151 LANDSCAPE ARCH. BUSINESS LV 26000266
www.gradyminor.com

SKETCH TO ACCOMPANY LEGAL

VACATION OF A PORTION OF BOONDOCK ROAD AND ORR ROAD

LYING IN
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA

DRAWN BY:	JD
CHECK BY:	JA
JOB CODE:	BI75ERP
SCALE:	1" = 100'
DATE:	MAY 2009
FILE:	B-3675-2
SHEET:	2 OF 2

S:\PROJECTS SURVEY 2009\BONITA-75\DWG\EASEMENTS\B-3675-2.DWG

INSTR # 2009000155018 Page Number: 4 of 6

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN NORTH 00°44'34" WEST, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31, FOR A DISTANCE OF 26.91 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BONITA BEACH ROAD; THENCE RUN SOUTH 88°57'15" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, FOR A DISTANCE OF 25.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MILLER ROAD (50 FOOT WIDE RIGHT-OF-WAY), SUNCOAST LAKES, AN UNRECORDED SUBDIVISION; THENCE RUN NORTH 00°44'34" WEST, ALONG SAID WEST RIGHT-OF-WAY, FOR A DISTANCE OF 297.90 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN SOUTH 89°14'47" WEST, FOR A DISTANCE OF 62.48 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,027.50 FEET; THROUGH A CENTRAL ANGLE OF 05°49'04"; SUBTENDED BY A CHORD OF 104.28 FEET AT A BEARING OF NORTH 87°50'41" WEST, FOR AN ARC LENGTH OF 104.33 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 84°56'09" WEST, FOR A DISTANCE OF 212.49 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 297.50 FEET; THROUGH A CENTRAL ANGLE OF 60°47'05"; SUBTENDED BY A CHORD OF 301.02 FEET AT A BEARING OF NORTH 54°32'37" WEST, FOR AN ARC LENGTH OF 315.62 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 24°09'04" WEST, FOR A DISTANCE OF 99.86 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE SOUTH; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 22.50 FEET; THROUGH A CENTRAL ANGLE OF 89°49'09"; SUBTENDED BY A CHORD OF 31.77 FEET AT A BEARING OF NORTH 69°03'39" WEST, FOR AN ARC LENGTH OF 35.27 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 66°01'46" WEST, FOR A DISTANCE OF 135.87 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 77.50 FEET; THROUGH A CENTRAL ANGLE OF 89°59'54"; SUBTENDED BY A CHORD OF 109.60 FEET AT A BEARING OF NORTH 68°58'17" WEST, FOR AN ARC LENGTH OF 121.73 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 23°58'20" WEST, FOR A DISTANCE OF 195.83 FEET; THENCE RUN NORTH 88°57'10" EAST, FOR A DISTANCE OF 60.51 FEET; THENCE RUN SOUTH 00°47'44" EAST, FOR A DISTANCE OF 1.83 FEET; THENCE RUN SOUTH 23°58'13" EAST, FOR A DISTANCE OF 170.57 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 22.50 FEET; THROUGH A CENTRAL ANGLE OF 90°00'00"; SUBTENDED BY A CHORD OF 31.82 FEET AT A BEARING OF SOUTH 68°58'13" EAST, FOR AN ARC LENGTH OF 35.34 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 66°01'46" EAST, FOR A DISTANCE OF 135.87 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE SOUTH; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 77.50 FEET; THROUGH A CENTRAL ANGLE OF 89°49'09"; SUBTENDED BY A CHORD OF 109.43 FEET AT A BEARING OF SOUTH 69°03'39" EAST, FOR AN ARC LENGTH OF 121.49 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 24°09'04" EAST, FOR A DISTANCE OF 99.86 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTHEAST; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 242.50 FEET; THROUGH A CENTRAL ANGLE OF 60°47'05"; SUBTENDED BY A CHORD OF 245.37 FEET AT A BEARING OF SOUTH 54°32'36" EAST, FOR AN ARC LENGTH OF 257.27 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 84°56'09" EAST, FOR A DISTANCE OF 212.49 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 972.50 FEET; THROUGH A CENTRAL ANGLE OF 05°49'04"; SUBTENDED BY A CHORD OF 98.70 FEET AT A BEARING OF SOUTH 87°50'41" EAST, FOR AN ARC LENGTH OF 98.75 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 89°14'47" EAST, FOR A DISTANCE OF 62.49 FEET; THENCE RUN SOUTH 00°44'34" EAST, FOR A DISTANCE OF 55.00 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL OF LAND HEREIN DESCRIBED,

CONTAINING 1.57 ACRES, MORE OR LESS.

NOTES

1. BEARINGS SHOWN HEREON ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983, NATIONAL GEODETIC SURVEY ADJUSTMENT OF 1999 AND ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, AS BEING N 00°44'34" W.
2. THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.
3. THIS SURVEY MAP AND THE COPIES THEREOF, ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. ANY ADDITIONS AND/OR DELETIONS TO THIS SURVEY MAP OR REPORT BY OTHER THAN THE SIGNING PARTY OR PARTIES, IS STRICTLY PROHIBITED WITHOUT WRITTEN CONSENT.
4. DIMENSIONS SHOWN HEREON ARE IN UNITED STATES SURVEY FEET AND DECIMALS THEREOF.

KENNETH W. PAHUTSKI, P.S.M. #6642
STATE OF FLORIDA
FOR THE FIRM Q. GRADY MINOR AND ASSOCIATES, P.A.

NOT A SURVEY

REVISION:

EXHIBIT C

Q. GRADY MINOR & ASSOCIATES, P.A.
CIVIL ENGINEERS ■ LAND SURVEYORS ■ PLANNERS ■ LANDSCAPE ARCHITECTS
BONITA SPRINGS ■ FORT MYERS ■ NORTH PORT
3800 VIA DEL REY, BONITA SPRINGS, FL 34134, (239) 947-1144
11940 FAIRWAY LAKES DR., FT. MYERS, FL 33913, (239) 690-4380
2562 COMMERCE PKWY., NORTH PORT, FL 34289, (941) 426-5858
ENGINEERING CERT. OF AUTH. EB 0005151 SURVEYING CERT. OF AUTH. LB 0005151 LANDSCAPE ARCH. BUSINESS LV 26000266
www.gradyminor.com

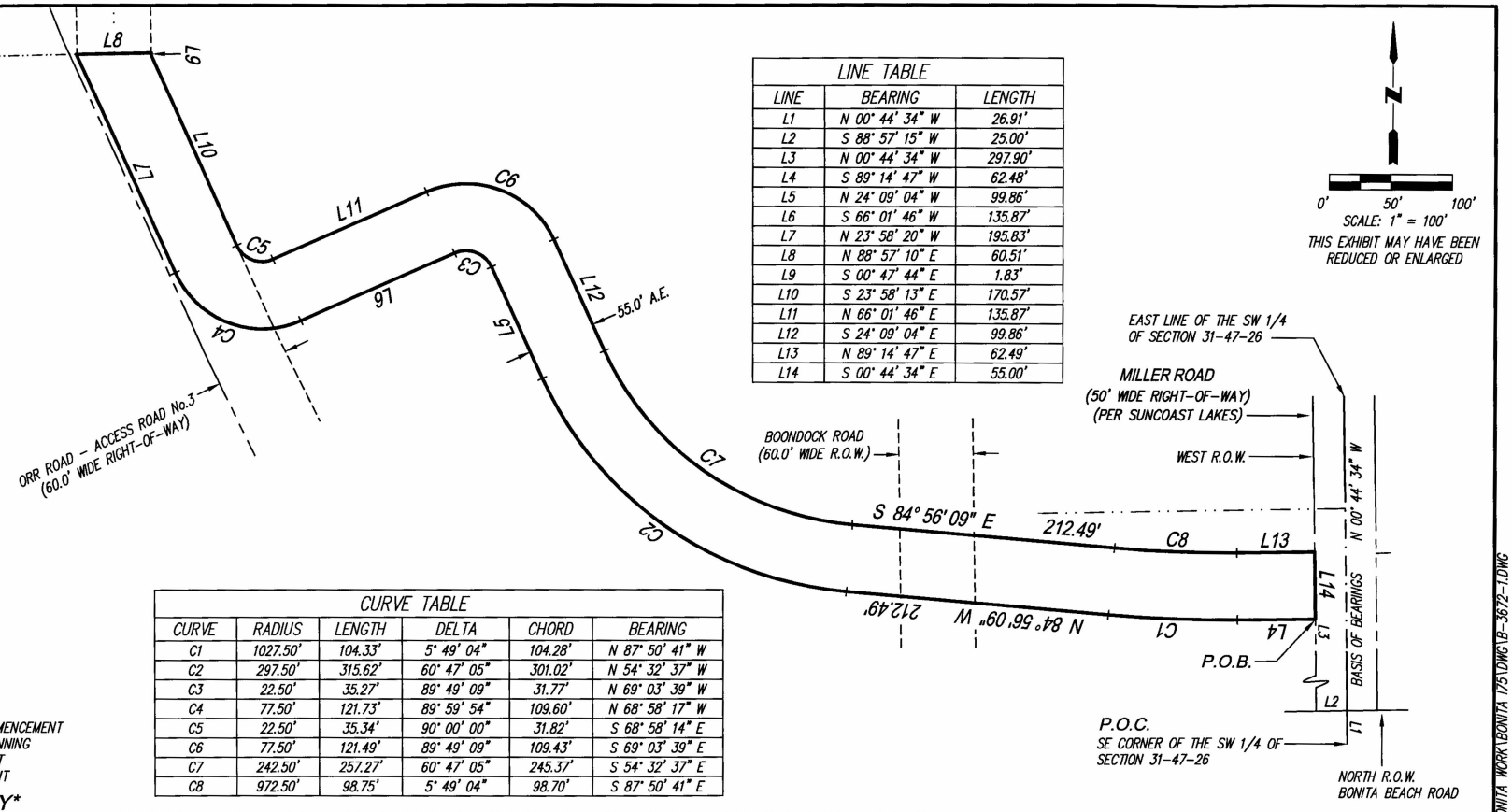
LEGAL DESCRIPTION

ACCESS EASEMENT
PREPARED FOR
BONITA 75 PARTNERS, LLC
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA

DRAWN BY:	JD
CHECK BY:	KP
JOB CODE:	BI75ERP
SCALE:	1" = 100'
DATE:	MAY 2009
FILE:	B-3672-1
SHEET:	1 OF 2

I:\PROJ-SURVEY\ TEMP BONITA WORK\BONITA 175\DWG\B-3672-1.DWG

INSTR # 2009000155018 Page Number: 6 of 6



LINE TABLE		
LINE	BEARING	LENGTH
L1	N 00° 44' 34" W	26.91'
L2	S 88° 57' 15" W	25.00'
L3	N 00° 44' 34" W	297.90'
L4	S 89° 14' 47" W	62.48'
L5	N 24° 09' 04" W	99.86'
L6	S 66° 01' 46" W	135.87'
L7	N 23° 58' 20" W	195.83'
L8	N 88° 57' 10" E	60.51'
L9	S 00° 47' 44" E	1.83'
L10	S 23° 58' 13" E	170.57'
L11	N 66° 01' 46" E	135.87'
L12	S 24° 09' 04" E	99.86'
L13	N 89° 14' 47" E	62.49'
L14	S 00° 44' 34" E	55.00'

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD	BEARING
C1	1027.50'	104.33'	5° 49' 04"	104.28'	N 87° 50' 41" W
C2	297.50'	315.62'	60° 47' 05"	301.02'	N 54° 32' 37" W
C3	22.50'	35.27'	89° 49' 09"	31.77'	N 69° 03' 39" W
C4	77.50'	121.73'	89° 59' 54"	109.60'	N 68° 58' 17" W
C5	22.50'	35.34'	90° 00' 00"	31.82'	S 68° 58' 14" E
C6	77.50'	121.49'	89° 49' 09"	109.43'	S 69° 03' 39" E
C7	242.50'	257.27'	60° 47' 05"	245.37'	S 54° 32' 37" E
C8	972.50'	98.75'	5° 49' 04"	98.70'	S 87° 50' 41" E

LEGEND

P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
U.E. = UTILITY EASEMENT
A.E. = ACCESS EASEMENT

NOT A SURVEY

REVISION:

EXHIBIT D

Q. GRADY MINOR & ASSOCIATES, P.A.
CIVIL ENGINEERS ■ LAND SURVEYORS ■ PLANNERS ■ LANDSCAPE ARCHITECTS
BONITA SPRINGS ■ FORT MYERS ■ NORTH PORT
3800 VIA DEL REY 11940 FAIRWAY LAKES DR. 2562 COMMERCE PKWY.
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(239) 947-1144 (239) 690-4380 (941) 426-5858
ENGINEERING CERT. OF AUTH. EB 0005151 SURVEYING CERT. OF AUTH. LB 0005151 LANDSCAPE ARCH. BUSINESS LV 26000266
www.gradyminor.com

SKETCH TO ACCOMPANY LEGAL

ACCESS EASEMENT
PREPARED FOR
BONITA 75 PARTNERS, LLC

SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA

DRAWN BY:	JD
CHECK BY:	KP
JOB CODE:	BI75ERP
SCALE:	1" = 100'
DATE:	MAY 2009
FILE:	B-3672-1
SHEET:	2 OF 2

I:\PROJ-SURVEY\ TEMP BONITA WORK\BONITA 175\DWG\B-3672-1.DWG

INSTR # 2009000167159, Doc Type EAS, Pages 7, Recorded 06/18/2009 at 01:51 PM, Charlie Green, Lee County Clerk of Circuit Court, Deed Doc. D $0.70 Rec. Fee $61.00 Deputy Clerk PSMITH

This instrument prepared by:

Edward P. Canterbury, Esq.
PO Box 280
Fort Myers, FL 33901

STRAP No.: _____

This Space for Recording

PERMANENT ACCESS AND PUBLIC UTILITY EASEMENT GRANT

THIS INDENTURE (the "Easement"), made and entered into this 11th day of June, 2009, between **Bonita-75 Partners, LLC, a Florida limited liability company**, whose address is 1415 Panther Lane, Naples, FL 34109, hereinafter referred to as GRANTOR, and the **City of Bonita Springs, a Florida municipal corporation**, whose address is 9220 Bonita Beach Rd., Suite 108, Bonita Springs, FL 34135, hereinafter referred to as GRANTEE:

WHEREAS, GRANTOR is the owner of that certain real property located in Lee County, Florida, described in Exhibit "A" attached hereto (the "Easement Property"); and

WHEREAS, GRANTEE is desirous of obtaining an easement over the Easement Property to provide pedestrian and vehicular access to the public and for public utility installation, construction, operation and maintenance.

NOW THEREFORE, in consideration of one dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, GRANTOR provides as follows:

1. Recitals. The above recitals are true and correct and are hereby incorporated into this Easement as though fully set forth below.

2. Grant of Easement. GRANTOR hereby grants and conveys to GRANTEE a permanent non-exclusive access easement over and across the Easement Property for the purpose of providing vehicular and pedestrian access to the general public. GRANTOR FURTHER grants and conveys to GRANTEE a non-exclusive public utility easement over and across the Easement Property for utility installation, construction, operation and maintenance, including the right of access to perform any such purpose, provided such right of access is exercised in a reasonable manner. GRANTEE may not use the subject property in any way that would unreasonably interfere with any roadway ingress and egress and drainage facilities and utility connections, in use or as may be in use in the future, of GRANTOR, its successors and assigns.

3. Title. GRANTOR covenants that subject to existing easements, if any, for public highways or roads, railroads, ditches, pipelines, electrical transmission or distribution lines, telephone and telegraph lines covering the land herein described, GRANTOR is lawfully seized and possessed of the lands, having good and lawful right and power to convey them, and that the lands are free and clear of mortgages, liens, easements and encumbrances except those of record; and GRANTOR will forever warrant and defend the title and terms to this easement and the quiet possession thereof against the lawful claims and demands of all persons.

4. Future Plat. The easements granted herein will be dedicated to GRANTEE for public use on any future plat which includes the Easement Property, with GRANTOR retaining maintenance responsibility for the Easement Property unless GRANTEE agrees to assume such maintenance by formal action.

5. Reservations. GRANTOR, its successors and assigns, shall be entitled to make all uses of the Easement Property which are not inconsistent with the use of the Easement Property as a roadway and public utility easement. GRANTOR also has the right and authority to remove or trim any roots, trees or other vegetation within the Easement Property in order to properly install, maintain, repair or replace the roadway and any stormwater drainage facilities. The easement, rights and privileges granted herein are non-exclusive, and GRANTOR reserves the right to convey similar rights and easements to other persons except those rights and easements that may interfere with and prevent the use by GRANTEE and the general public of the easement.

6. Ownership & Maintenance of Roadway and Drainage Facilities. GRANTOR may construct and install commercially reasonable roadway improvements within the Easement Property after the recording of this Easement. Title to any roadway and any stormwater drainage facilities constructed within the Easement Property by GRANTOR or at GRANTOR'S direction will remain in GRANTOR. GRANTOR will maintain the existing roadway and necessary roadway drainage facilities within Easement Property. Notwithstanding the foregoing, GRANTEE shall be responsible for any maintenance, repair and replacement costs incurred by GRANTOR as a result of any damage to the Easement Property, the roadway and any drainage facilities located therein caused by the negligence or willful misconduct of GRANTEE or its agents, contractors, employees, designees, licensees or invitees, in the use of the Easement Property, excluding ordinary wear and tear.

7. Liens. All parties providing construction, repair and maintenance services or materials for the said Easement Property at the request of GRANTEE or any third party are hereby placed on notice that the interest of GRANTOR shall not be subject to any mechanic's liens and that such parties may only look to GRANTEE or such third party for payment of any amounts due for labor, materials or services within said Easement Property unless GRANTOR contracts in writing for the performance of such construction, repair or maintenance

8. Interpretation. Should any provision of this Easement require interpretation in any judicial, administrative or other proceeding or circumstance, it is

agreed that the court, administrative body or other entity interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against any party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared the same, it being further agreed that both parties hereto have fully participated in the preparation of this Easement.

9. Binding Effect. This Easement is binding on, and inures to the benefit of, the successors and assigns of the parties.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, each party has hereunto set its hand and seal the day and year first below written.

SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF:

Witness Signature

Barry Bender
Print/Type Name of Witness

Witness Signature

GEORGE ANN VICTOR
Print/Type Name of Witness

Bonita-75 Partners, LLC, a Florida limited liability company

By: _____
Print Name ARTHUR VICTOR
Print Title: MEMBER

STATE OF COLORADO

COUNTY OF ARAPAHOE

THE FOREGOING INSTRUMENT was acknowledged before me this 11 day of JUNE, 2009, by ARTHUR VICTOR, as MEMBER of Bonita-75 Partners, LLC, a Florida limited liability company, on behalf of said company, [X] who is personally known to me or [ ] who has produced _____ as identification.

My Commission Expires: 7/10/2010

Notary Public

DONNA AYDELOTT
Print/Type Notary Name
Commission No. 19984019088
NOTARY ID

NOTARY PUBLIC
DONNA AYDELOTT
STATE OF COLORADO

#1703753 v3 -

MORTGAGEE JOINDER

In Witness whereof, Fifth Third Bank, as Mortgagee, hereby consents to this Grant of Permanent Access and Public Utility Easement to the City of Bonita Springs, a Florida municipal corporation, and confirms it shall not constitute a default under the terms of any existing mortgage or loan documents given to Mortgagee or any amendments thereto.

Fifth Third Bank

Frank Woodward
Witness
Frank Woodward
Print/Type Name of Witness

Witness
Blake A. Will
Print/Type Name of Witness

By: _____
Print Name: Joseph Hemrick
Its: Vice President

STATE OF Florida
COUNTY OF Collier

The foregoing instrument was acknowledged before me this 15th day of June, 2009 by Joseph Hemrick, as Vice President of Fifth Third Bank, on behalf of said bank, and [X] who is personally known to me or [ ] who has produced _____ as identification, and acknowledged the above and foregoing was executed freely and voluntarily for the purposes expressed therein.

My Commission Expires:

Michele L. Weir
Notary Public

(Seal)

MICHELE L. WEIR
Notary Public - State of Florida
My Commission Expires Apr 12, 2010
Commission # DD 539761

Michele L. Weir
Print/Type Name of Notary

Commission No. DD 539761

EXHIBIT "A"

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN NORTH 00°44'34" WEST, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 31, FOR A DISTANCE OF 26.91 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BONITA BEACH ROAD; THENCE RUN SOUTH 88°57'15" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, FOR A DISTANCE OF 25.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF MILLER ROAD (50 FOOT WIDE RIGHT-OF-WAY), SUNCOAST LAKES, AN UNRECORDED SUBDIVISION; THENCE RUN NORTH 00°44'34" WEST, ALONG SAID WEST RIGHT-OF-WAY, FOR A DISTANCE OF 297.90 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN SOUTH 89°14'47" WEST, FOR A DISTANCE OF 62.48 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,027.50 FEET; THROUGH A CENTRAL ANGLE OF 05°49'04"; SUBTENDED BY A CHORD OF 104.28 FEET AT A BEARING OF NORTH 87°50'41" WEST, FOR AN ARC LENGTH OF 104.33 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 84°56'09" WEST, FOR A DISTANCE OF 212.49 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTHEAST; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 297.50 FEET; THROUGH A CENTRAL ANGLE OF 60°47'05"; SUBTENDED BY A CHORD OF 301.02 FEET AT A BEARING OF NORTH 54°32'37" WEST, FOR AN ARC LENGTH OF 315.62 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 24°09'04" WEST, FOR A DISTANCE OF 99.86 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE SOUTH; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 22.50 FEET; THROUGH A CENTRAL ANGLE OF 89°49'09"; SUBTENDED BY A CHORD OF 31.77 FEET AT A BEARING OF NORTH 69°03'39" WEST, FOR AN ARC LENGTH OF 35.27 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 66°01'46" WEST, FOR A DISTANCE OF 135.87 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 77.50 FEET; THROUGH A CENTRAL ANGLE OF 89°59'54"; SUBTENDED BY A CHORD OF 109.60 FEET AT A BEARING OF NORTH 68°58'17" WEST, FOR AN ARC LENGTH OF 121.73 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 23°58'20" WEST, FOR A DISTANCE OF 195.83 FEET; THENCE RUN NORTH 88°57'10" EAST, FOR A DISTANCE OF 60.51 FEET; THENCE RUN SOUTH 00°47'44" EAST, FOR A DISTANCE OF 1.83 FEET; THENCE RUN SOUTH 23°58'13" EAST, FOR A DISTANCE OF 170.57 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 22.50 FEET; THROUGH A CENTRAL ANGLE OF 90°00'00"; SUBTENDED BY A CHORD OF 31.82 FEET AT A BEARING OF SOUTH 68°58'13" EAST, FOR AN ARC LENGTH OF 35.34 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 66°01'46" EAST, FOR A DISTANCE OF 135.87 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE SOUTH; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 77.50 FEET; THROUGH A CENTRAL ANGLE OF 89°49'09"; SUBTENDED BY A CHORD OF 109.43 FEET AT A BEARING OF SOUTH 69°03'39" EAST, FOR AN ARC LENGTH OF 121.49 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 24°09'04" EAST, FOR A DISTANCE OF 99.86 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTHEAST; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 242.50 FEET; THROUGH A CENTRAL ANGLE OF 60°47'05"; SUBTENDED BY A CHORD OF 245.37 FEET AT A BEARING OF SOUTH 54°32'36" EAST, FOR AN ARC LENGTH OF 257.27 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 84°56'09" EAST, FOR A DISTANCE OF 212.49 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE NORTH; THENCE RUN EASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 972.50 FEET; THROUGH A CENTRAL ANGLE OF 05°49'04"; SUBTENDED BY A CHORD OF 98.70 FEET AT A BEARING OF SOUTH 87°50'41" EAST, FOR AN ARC LENGTH OF 98.75 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 89°14'47" EAST, FOR A DISTANCE OF 62.49 FEET; THENCE RUN SOUTH 00°44'34" EAST, FOR A DISTANCE OF 55.00 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL OF LAND HEREIN DESCRIBED.

CONTAINING 1.57 ACRES, MORE OR LESS.

NOT A SURVEY

NOTES

1. BEARINGS SHOWN HEREON ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983, NATIONAL GEODETIC SURVEY ADJUSTMENT OF 1999 AND ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, AS BEING N 00°44'34" W.
2. THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.
3. THIS SURVEY MAP AND THE COPIES THEREOF, ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. ANY ADDITIONS AND/OR DELETIONS TO THIS SURVEY MAP OR REPORT BY OTHER THAN THE SIGNING PARTY OR PARTIES, IS STRICTLY PROHIBITED WITHOUT WRITTEN CONSENT.
4. DIMENSIONS SHOWN HEREON ARE IN UNITED STATES SURVEY FEET AND DECIMALS THEREOF.

Ken Pahutski

KENNETH W. PAHUTSKI P.S.M. #6642
FOR THE FIRM Q. GRADY MINOR AND ASSOCIATES, P.A. STATE OF FLORIDA

REVISION:

EXHIBIT

Q. GRADY MINOR & ASSOCIATES, P.A.
CIVIL ENGINEERS ■ LAND SURVEYORS ■ PLANNERS ■ LANDSCAPE ARCHITECTS
BONITA SPRINGS: 3800 VIA DEL REY, BONITA SPRINGS, FL 34134, (239) 947-1144
FORT MYERS: 11940 FAIRWAY LAKES DR., FT. MYERS, FL 33913, (239) 690-4360
NORTH PORT: 2562 COMMERCE PKWY., NORTH PORT, FL 34289, (941) 426-5858
ENGINEERING CERT. OF AUTH. EB 0005151 SURVEYING CERT. OF AUTH. LB 0005151 LANDSCAPE ARCH. BUSINESS LV #0000266
www.gradyminor.com

LEGAL DESCRIPTION

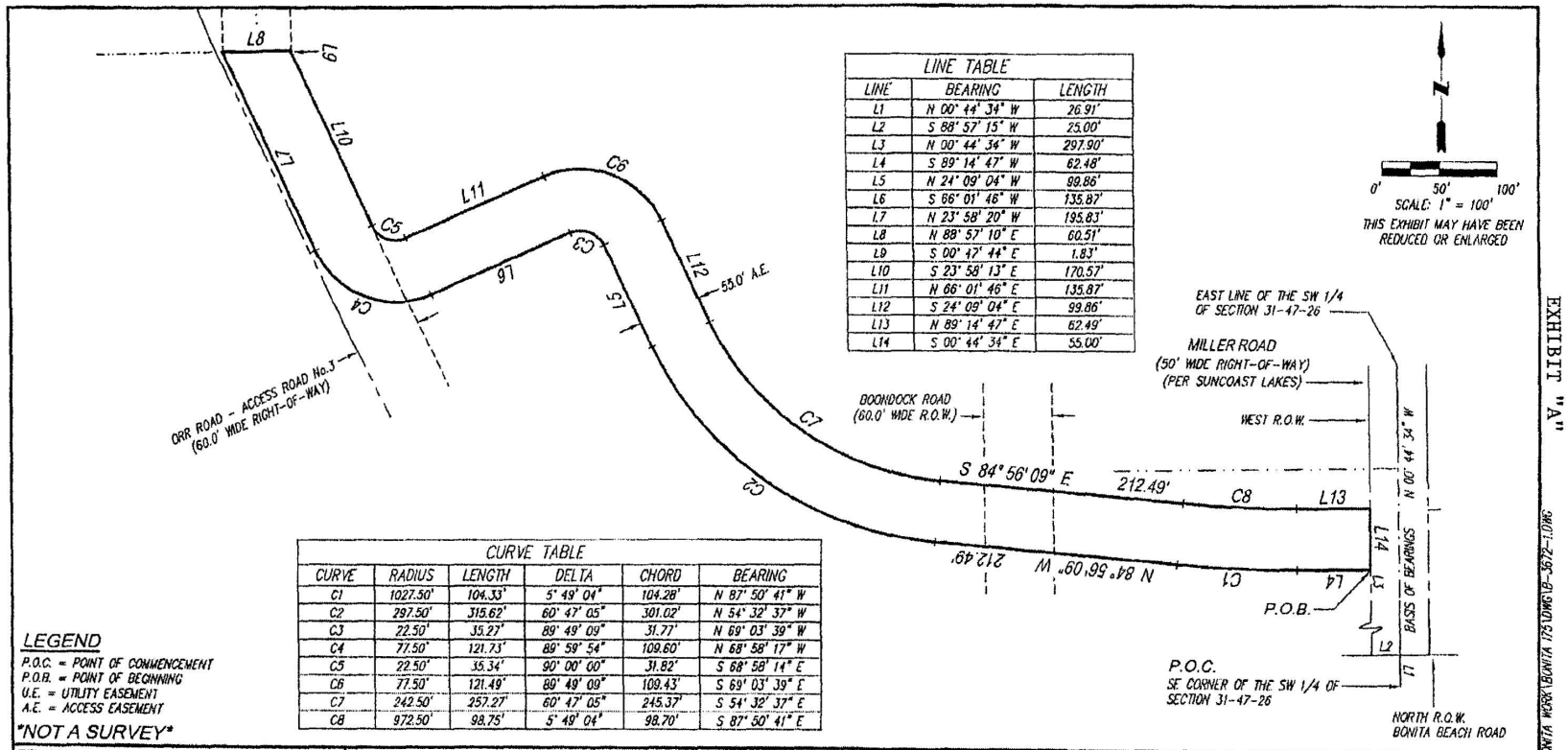
ACCESS EASEMENT
PREPARED FOR
BONITA 75 PARTNERS, LLC
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA

DRAWN BY:	JD
CHECK BY:	KP
JOB CODE:	BI75ERP
SCALE:	1" = 100'
DATE:	MAY 2009
FILE:	D-3672-1
SHEET:	1 OF 2

I:\PROJ-SURVEY\TEMP BONITA WORK\BONITA 75\DWG\D-3672-1.DWG

INSTR # 200900016715 9 Page Number: 7 of 7

EXHIBIT "A"



LINE TABLE		
LINE	BEARING	LENGTH
L1	N 00° 44' 34" W	26.91'
L2	S 88° 57' 15" W	25.00'
L3	N 00° 44' 34" W	297.90'
L4	S 89° 14' 47" W	62.48'
L5	N 24° 09' 04" W	99.86'
L6	S 66° 01' 46" W	135.87'
L7	N 23° 58' 20" W	195.83'
L8	N 88° 57' 10" E	60.51'
L9	S 00° 47' 44" E	1.83'
L10	S 23° 58' 13" E	170.57'
L11	N 66° 01' 46" E	135.87'
L12	S 24° 09' 04" E	99.86'
L13	N 89° 14' 47" E	62.49'
L14	S 00° 44' 34" E	55.00'

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD	BEARING
C1	1027.50'	104.33'	5° 49' 04"	104.28'	N 87° 50' 41" W
C2	297.50'	315.62'	60° 47' 05"	301.02'	N 54° 32' 37" W
C3	22.50'	35.27'	89° 49' 09"	31.77'	N 69° 03' 39" W
C4	77.50'	121.73'	89° 59' 54"	109.60'	N 68° 58' 17" W
C5	22.50'	35.34'	90° 00' 00"	31.82'	S 68° 58' 14" E
C6	77.50'	121.49'	89° 49' 09"	109.43'	S 69° 03' 39" E
C7	242.50'	257.27'	60° 47' 05"	245.37'	S 54° 32' 37" E
C8	972.50'	98.75'	5° 49' 04"	98.70'	S 87° 50' 41" E

LEGEND

P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
U.E. = UTILITY EASEMENT
A.E. = ACCESS EASEMENT

"NOT A SURVEY"

REVISION:

EXHIBIT

Q. GRADY MINOR & ASSOCIATES, P.A.
CIVIL ENGINEERS ■ LAND SURVEYORS ■ PLANNERS ■ LANDSCAPE ARCHITECTS
BONITA SPRINGS ■ FORT MYERS ■ NORTH PORT
3800 VIA DEL REY — BONITA SPRINGS, FL 34134 — (239) 947-1144
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ENGINEERING CERT. OF AUTH. EB 0005151 SURVEYING CERT. OF AUTH. LB 0005151 LANDSCAPE ARCH. BUSINESS LV 26000366
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SKETCH TO ACCOMPANY LEGAL

ACCESS EASEMENT
PREPARED FOR
BONITA 75 PARTNERS, LLC
SECTION 31, TOWNSHIP 47 SOUTH, RANGE 26 EAST
CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA

DRAWN BY:	JD
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DATE:	MAY 2009
FILE:	B-3672-1
SHEET:	2 OF 2

J:\PROJ-SURVEY\TEMP BONITA WORK\BONITA 175\DWG\B-3672-1.DWG

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-090
May 3, 2023

REQUESTED MOTION: Consider a special event application from the Springs Church to conduct a church service in Riverside Park from 6:00 pm to 7:00 pm on Christmas Eve.

REQUESTOR: Lora Taylor, Communications Director

AGENDA: City Manager's Items

STRATEGIC PRIORITY: N/A

BACKGROUND: The Springs Church would like to host a Christmas Eve Service from 6:00pm-7:00pm on December 24, 2023.

The Springs Church offers services at Riverside Park each Sunday, which does not require a City permit. Historically, if a permit was issued for a Sunday event, the church service would relocate.

The City does not typically permit private events on holidays. The City hosts a Holiday Stroll at the park in December. In 2021, the church requested permission to host a Christmas Eve service as it has grown larger and triggered the requirement for a special event permit. At that time, the organizer notified staff that they were in the process of approval for a Master Plan on a property for the church services to be held. The council approved for the church to host a Christmas Eve Service in 2021 and 2022.

The applicant was informed that approval of an event permit during a holiday would be contingent on a staff member volunteering to work. A staff member volunteered to work for the last two years. If the council approves the event this year, it will be contingent on a staff member volunteering to work.

The Holiday Stroll is typically scheduled at Riverside Park from dusk to 9:00pm nightly December through January 1st. If the Council issues approval for the Christmas Eve Service and a staff member volunteers to work, the city employee will pause the holiday music for the stroll during the event.

Should the City Council approve the event, staff recommends not permitting the amplified sound to exceed 65 dB from the point of the closest residence during the duration of the event.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS:

1. Special event application

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	Lora Taylor

Council Action: Approved __ Denied __ Deferred ___ Other_____

You do not have to partner with the charities on this list. You may choose any charity. This list is intended as informational only.

SPECIAL EVENT PERMIT APPLICATION

PERMIT. SEP- _____

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

Date Received: _____

Effective Date/Time: _____

Application Fee: ☐ $50.00 ☐ $25.00 (501C3 organizations)
Fee is non-refundable

Phone: 239/949-6262 Fax: 949-6239

Use this form for: Parades, Festival/Carnival, Any Activity Requiring Off-Site Parking, Street Closure, Sound Amplification or City Personnel, Run/Race/Walk, Art Shows, Concerts, Special Musical Presentation, Street Dances, Photography Shoots, and Fireworks. For information call 949-6262.

Completed Special Event Permits take 45 days to process with all necessary attachments and without errors. Your permit will go to the next City Council Meeting after the 45 days. Please take this into consideration when planning your event.

Organization: The Springs of Bonita Church
Nature of Event: Christmas eve Service.
Location (Attach Site Plan): Riverside Park - Bonita Springs

Date	Set-Up Time	Actual Event Times	Take Down Time
12/24/23	4:00 pm to 6:00pm	6:00pm to 7:00pm	7:00pm to 8:00pm

For multiple dates, please attach letter.

Has this event been held in the past? Yes If so, when was the last event? 12/24/22
Individual Contact for Activity/Event: Pastor Russ Winn Phone: 239·923·3310
Address: Po Box 3279 Bonita Springs, FL 34133 Website: thespringsofBonita.com
E-Mail Address: thespringsofbonita@yahoo.com
Major Sponsor(s): The Springs of Bonita
Promoter(s): _____ Phone or Contact #: _____

	Yes	No
1. Crowd: Is anticipated crowd size 1,000 or more?	☒	☐
Actual Anticipated number: 1,900		
2. Parking: Will off-site parking be provided? _____	☐	☒
Will "shuttle" service to parking be provided? By whom? _____	☐	☒
4. Noise: Will there be amplified music or entertainment? If yes, please attach type(s) of Entertainment and time(s) of performances(s). Indicated stage location(s) on siteplan.	☒	☐

Christmas Music 5:30 - 7:00pm

	Yes	No
5. City Co-Sponsorship: Is City co-sponsorship being requested? If yes, please explain with letter of attachment, listing benefitting organizations.	☑	☐
6. Fireworks: Is this a public_____or private_____display? Applicant must comply with State Law F.S. 791; and NFPA 1123 and obtain any applicable Lee County permit.	☐	☒
7. Banners, Signs, Etc.: Will exterior banners, balloons, signs or other types of advertising techniques be used? Temporary signs may only be placed in accordance with the Sign Ordinance.	☐	☑
8. Alcohol Beverages: Will alcoholic beverages be sold_____or consumed_____on the premises? Please check one or both. A copy of the Florida Beverages Commission permit is required to finalize before event. Permit Holder: _____ **Division of Alcoholic Beverages and Tobacco: (239) 278-7195.**	☐	☒
9. Security: Will private security be provided to protect exhibits, equipment or facilities brought on-site for the event? Name of Company: _____ Contact Number: _____	☐	☒
10. Private Property: Does the applicant own the property where the event is to be held? If not, please attach a letter of permission from the property owner.	☐	☒
11. Public Safety: Will Police and Fire District Personnel be requested? (Based on responses to questions 1-6 certain Public Safety personnel may be required, i.e., Lee County Sheriff's Office, emergency services, fire, etc. Once staffing needs are determined, applicant will be required to provide copies of its contracts detailing obligated public safety staff necessary for event.	☐	☑
12. Tents/Canopies: Will tents or canopies be used? <u>If yes, indicate on site plan the tent size, location, and type of surface on which the tent(s) will be installed and intended use of each tent.</u>	☐	☒
13. Air Conditioning Units/Power Generators: Will exterior air conditioning units or power generating equipment be operated from vehicles or trailers? <u>If yes, indicate location of equipment on-site plan.</u>	☐	☒
14. Food/Cooking: Will food be cooked_____ catered_____on-site during this event? <u>Indicate on site plan the location of vendors and cooking equipment to be used.</u> (Appropriately rated fire extinguishers required.) Lee County Health Department approval is required to finalize permit before event. Environmental Health Section: (239) 332-9559.	☐	☒

	Yes	No
15. Sanitary Facilities:		
Will temporary sanitary facilities be provided? If yes, indicate location on site plan.	☐	☒
Will disposable cardboard trash receptacles be provided? If yes, indicate on site plan.	☐	☒
Will additional refuse containers/dumpsters be provided?	☐	☒

If yes, by whom: _____

16. Insurance Requirement: Permittee is required to obtain and present evidence of surety indemnity bond or comprehensive liability insurance naming the city as an additional insured. The insurance requirement is a minimum of $1,000,000.00 general liability (personal injury) and $100,000.00 property damage against all claims arising from permits issued pursuant to this ordinance, naming the city of Bonita Springs **as additional insured**. If the event poses higher risks than covered by such insurance, permittee shall be responsible for assessing the risks of the event and obtaining additional insurance coverage.

yes

17. Non-Profits are required to provide either a form 990 or a financial report to the city showing revenue from the event where at least 10% of the proceeds will remain within the Bonita Springs area, supporting the community or charities, within 60 days after the event. If the event is of a non-monetary nature, the non-profit must show they provide an impact to 5% of the area.

free event

DURING REVIEW BY VARIOUS CITY DEPARTMENTS, ADDITIONAL CONDITIONS MAY BE IMPOSED. THIS PERMIT IS VALID ONLY FOR THE TIME INDICATED ON THIS PERMIT. IN THE EVENT THAT THE APPLICANT FAILS TO FULFILL THE REQUIREMENT(S) AS SET FORTH IN THIS PERMIT, OR FAILS TO OBTAIN PROPER AUTHORIZATION TO PROCEED IF CONDITIONS HAVE CHANGED ON THE EXPECTED OUTCOMES, IMPACTS, OR SPECIFICATIONS, INCLUDING BUT NOT LIMITED TO TIME AND ACTIVITIES, THE PERMIT MAY BE CANCELLED BY THE CITY MANAGER AND THE ACTIVITY SHALL CEASE IMMEDIATELY.

I, the undersigned, will indemnify, defend, and hold harmless, the City of Bonita Springs, its agents, employees, officers and any and all other associates, from and against any and all actions, in law or in equity, from liability or claims for damages, demands or judgments to any person or property which may result now or in the future from the conduct of this event.

The undersigned has read and voluntarily signed the release and waiver of liability and Indemnity Agreement, and further agrees that no oral representations, statements, or inducements apart from the foregoing written agreement have been made.

Stephanie Seidel · 2/27/23

Signature of Applicant Date

Comments: _____

_____

City Manager Date

Comments: _____

Application Fee is non-refundable.

PLEASE NOTE: Lee County Sheriff's Department will not sign-off on your event unless they see a completed Special Event Packet. This sign-off sheet must be completed by the Lee County Sheriff's Office with your Special Event Packet when you return it to Bonita Springs City Hall.

CITY OF BONITA SPRINGS SPECIAL EVENT DEPARTMENT
9101 BONITA BEACH ROAD | BONITA SPRINGS. FL 34135 | (239) 949-6262

LEE COUNTY SHERIFF'S DEPARTMENT SIGN-OFF

Details Unit - 14750 Six Mile Cypress Parkway | Fort Myers, FL 33912 | (239) 477-1199

Parking:

All parking will be in authorized areas only and the right of way must not be impeded at any time.

Road Closures (Please Explain):

No road closures required for this event.

Alcoholic Beverages:

Alcohol will not be served at this event.

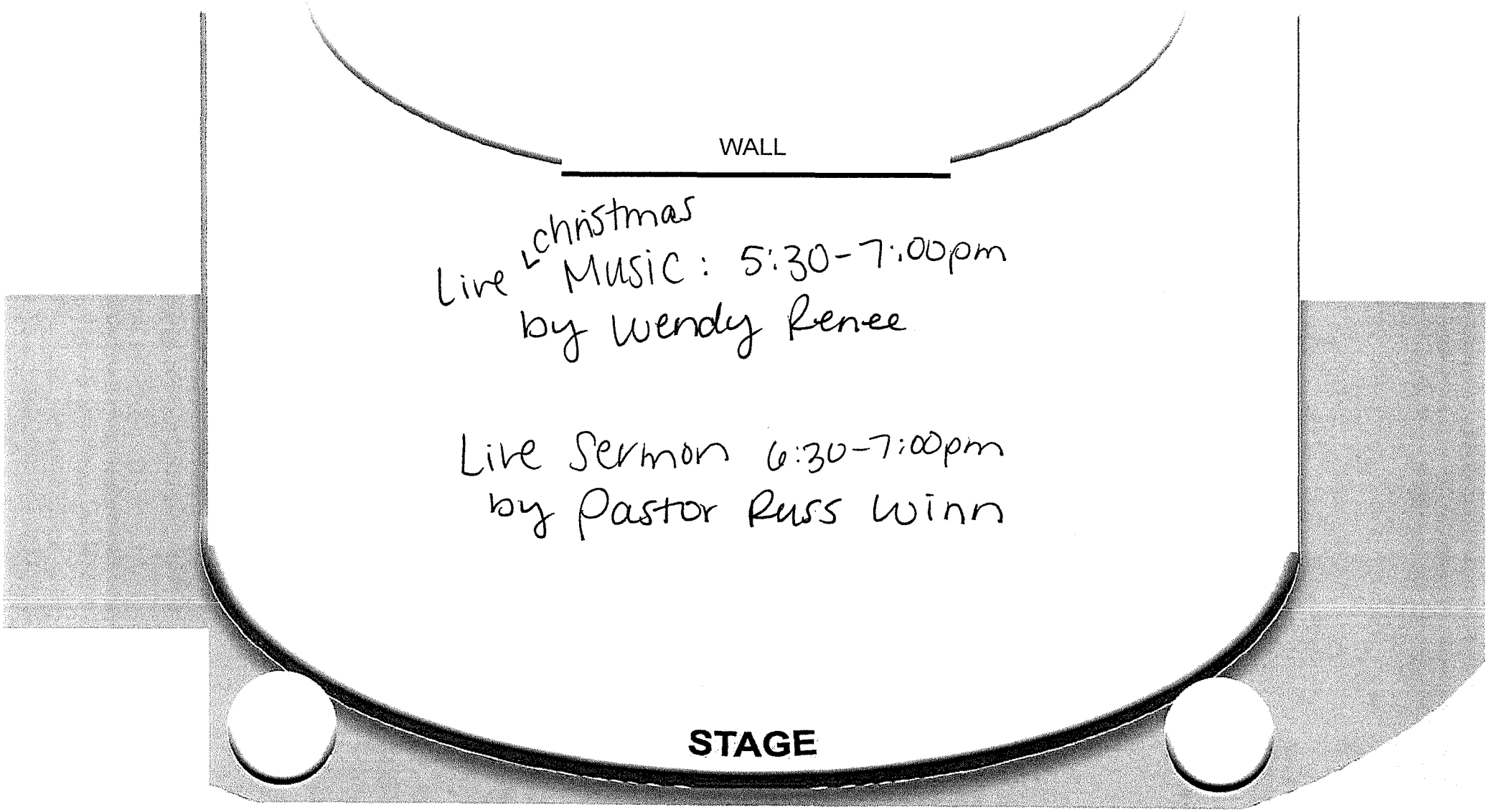
Special Arrangements:

It is understood through this application that all parking is expected to be on site around the park.

All amplified sound should adhere to the City of Bonita Springs noise ordinance.

SHERIFF'S PERSONNEL USE ONLY	
LCSO DETAIL COMMANDER: Sgt. David M. Lehl *SIGNATURE*	DATE: 3/15/23
DEPUTIES BOOKED FOR EVENT (How Many?): 0	DATE BOOKED:

Please Note: "Deputies Booked for Event" is an estimate. Amount of Deputies may change at any time before or during your event.


WALL
Live Christmas Music: 5:30-7:00pm
by Wendy Renee
Live Sermon 6:30-7:00pm
by Pastor Russ Winn
STAGE

Parking
Music & Sermon
Parking
Parking
Parking
Accessible Parking
Accessible Parking

Russ Winn

27061 Rue de Paix

Bonita Springs, FL 34135

Logan,

Our Christmas Eve service will be a celebration of the birth of Christ for our church and the community. We will use the band shell to present live music and a message. This will be our 13th year hosting this one-hour Christmas Eve church service. This event draws a crowd of around 1,000 people.

Set up for this event in two hours prior and tear down one hour after, we typically use the park from 4:00 pm – 8:00 pm.

Blessings,

Russ Winn

0000453 08/16/19

FLORIDA

Consumer's Certificate of Exemption

Issued Pursuant to Chapter 212, Florida Statutes

Attachment DR-14
R. 01/18

Certificate Number	Effective Date	Expiration Date	Exemption Category
85-8016562046C-7	10/16/2019	10/31/2024	501(C)(3) ORGANIZATION

This certifies that

THE SPRINGS OF BONITA INC
27970 CROWN LAKE BLVD
BONITA SPRINGS FL 34135-4255

is exempt from the payment of Florida sales and use tax on real property rented, transient rental property rented, tangible personal property purchased or rented, or services purchased.

FLORIDA

Important Information for Exempt Organizations

DR-14
R. 01/18

1. You must provide all vendors and suppliers with an exemption certificate before making tax-exempt purchases. See Rule 12A-1.038, Florida Administrative Code (F.A.C.).

2. Your *Consumer's Certificate of Exemption* is to be used solely by your organization for your organization's customary nonprofit activities.

3. Purchases made by an individual on behalf of the organization are taxable, even if the individual will be reimbursed by the organization.

4. This exemption applies only to purchases your organization makes. The sale or lease to others of tangible personal property, sleeping accommodations, or other real property is taxable. Your organization must register, and collect and remit sales and use tax on such taxable transactions. Note: Churches are exempt from this requirement except when they are the lessor of real property (Rule 12A-1.070, F.A.C.).

5. It is a criminal offense to fraudulently present this certificate to evade the payment of sales tax. Under no circumstances should this certificate be used for the personal benefit of any individual. Violators will be liable for payment of the sales tax plus a penalty of 200% of the tax, and may be subject to conviction of a third-degree felony. Any violation will require the revocation of this certificate.

6. If you have questions about your exemption certificate, please call Taxpayer Services at 850-488-6800. The mailing address is PO Box 6480, Tallahassee, FL 32314-6480.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 23-05-098
May 3, 2023

REQUESTED MOTION: Provide direction to staff regarding updates to the City's Wireless Facilities regulations in the Land Development Code.

REQUESTOR: John Dulmer, Director of Community Development; Mike Fiigon II, Senior Planner

AGENDA: City Manager's Items

STRATEGIC PRIORITY:

BACKGROUND: At the request of the Technology Advisory Board, City Council has directed Staff to provide a copy of existing regulations for allowable cell tower height and submittal requirements, as found in Chapter Four of the City of Bonita Springs Land Development Code. It is staff's understanding that the Technology Advisory Board supports an amendment that would allow towers to be 125 feet in height within all land use categories and without having to go through a public hearing process or review by City Council.

The current regulations address height by tower type and the land use category of the property. The two methods of review are administrative (done by staff) and by special exception (which requires review by the Zoning Board and approval/denial by City Council). The code provides the strongest regulations for towers proposed on a property with residential land use by only allowing stealth or camouflaged structures and only up to 75 feet in height (if approved by special exception). The least restrictive land use category is Industrial, which would allow a stealth tower 100 feet in height to be permitted administratively, or 149 feet in height if approved by special exception. Other land use categories (such as the DRGR) would require special exception approval for any tower exceeding 35 feet in height. A table showing the current height and tower types is included as an attachment to this green sheet.

Additionally, a list of submittal requirements is attached, most of which are at the discretion of the City and not required by the FCC.

It is Staff's understanding that should City Council vote to amend the code, the Technology Advisory Board would like to be involved in the process and provide language for consideration.

STAFF RECOMMENDATION: Council's pleasure.

ATTACHMENTS:

1. Summary of Definitions, Locational Standards and a Table of Tower Heights and Types
2. Application Submittal Requirements

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Department Director:	John Dulmer

DIVISION 11. WIRELESS COMMUNICATION FACILITIES

Sec. 4-1215. Purpose and intent.

The purpose and intent of this division is to:

(1) Promote the health, safety and general welfare of the public by regulating the siting of wireless communications facilities;

(2) Minimize the impacts of wireless communications facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility;

(3) Accommodate the growing need and demand for wireless communications services;

(4) Provide for the location (and collocation) of wireless communications equipment on buildings so as to minimize visual, aesthetic, and public safety impacts, and adverse effects upon the natural environment and wildlife, including without limitation, avian flyways;

(5) Provide for the collocation of wireless communications equipment on existing antenna-supporting structures, especially where it will reduce the need for additional antenna-supporting structures;

(6) Encourage coordination between providers of wireless communications services in the city;

(7) Protect the character, scale, stability, and aesthetic quality of the residential districts of the city by imposing certain reasonable restrictions on the placement of amateur radio antennas that are over 50 feet in height;

(8) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless service or to prohibit or have the effect of prohibiting personal wireless service in the city;

(9) Establish predictable and balanced regulations governing the construction and location of wireless communications facilities, within the confines of permissible local regulation;

(10) Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time;

(11) Require the timely removal of antennas and antenna-supporting structures, the use of which has been discontinued.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1441), 1-19-2011)

Sec. 4-1216. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amateur radio antenna will have the meaning set forth in section 4-927.

Ancillary appurtenances means equipment associated with a wireless communications facility including, but not limited to, antennas, attaching devices, transmission lines, and other equipment associated with a wireless communications facility. Ancillary appurtenances do not include equipment enclosures.

Antenna means any apparatus, or group of apparatus, designed for the transmitting and receiving of electromagnetic waves that includes, but is not limited to, telephonic, radio, or television communications. Antennas include omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi or single bay (FM & TV), yaggie, or parabolic (dish) antennas, but do not include satellite earth stations.

Antenna, dish, means a parabolic, spherical, or elliptical antenna intended to receive wireless communications.

Antenna, flush-mounted, means a dual-polarization antenna that is attached flush to an antenna-supporting structure, without the use of sidearms or other extension devices.

Antenna, panel, means a directional antenna, with more than one panel per sector, designed to transmit and/or receive signals in a directional pattern that is less than 360 degrees.

Antenna, roof-mounted, means an antenna mounted on the roof of a building, that extends above the roofline by 20 feet or less. An antenna, mounted on the roof of a building, that extends more than 20 feet above the roofline is an antenna-supporting structure.

Antenna, surface-mounted, means an antenna that is attached to the surface or facade of a building or structure other than an antenna-supporting structure including, without limitation, billboards, utility poles and water towers.

Antenna, whip, means a cylindrical, omni-directional antenna designed to transmit and/or receive signals in a 360 degree pattern.

Antenna-supporting structure means a vertically projecting structure, including any foundation, designed and primarily used to support one or more antennas or which constitutes an antenna itself. Antenna-supporting structures do not include stealth wireless communications facilities, but do include roof-mounted antennas that extend above a roofline by more than 20 feet. For purposes of this division, a utility pole not exceeding 40 feet in height will not be construed to be an antenna-supporting structure.

Antenna-supporting structure, broadcast, means an antenna-supporting structure, including replacements, which contains antennas that transmit signals for broadcast radio and television communications.

Antenna-supporting structure, camouflage, means an antenna-supporting structure that is disguised to visually blend into the surrounding area or infrastructure, such as a tree or an architectural building feature.

Antenna-supporting structure, guyed, means a style of antenna-supporting structure supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

Antenna-supporting structure, lattice, means a style of a stand-alone antenna-supporting structure, not supported by guy wires, which consists of vertical and horizontal supports with multiple legs and cross-bracing.

Antenna-supporting structure, monopole, means a style of a stand-alone antenna-supporting structure that is composed of a single shaft attached to a foundation. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices.

Antenna-supporting structure, replacement, means an antenna-supporting structure intended to replace an antenna-supporting structure in existence at the time of application.

Available space means the space on an antenna-supporting structure or other structure to which antennas are both structurally and electromagnetically able to be attached.

Balloon test means an event in which the applicant arranges to fly, or raise upon a temporary mast, for one day, consistent with section 4-1220(d), a brightly colored balloon not less than three feet in diameter, at the maximum height and at the location of the proposed antenna-supporting structure.

Base station means a structure or equipment at a fixed location that enables wireless communications between user equipment and a communications network, but does not a tower as defined in this subpart or any

equipment associated with a tower, as further defined in § 6409 of the Spectrum Act (codified at 47 U.S.C. 1455), as further defined in Subpart CC of FCC Rule 1.40001.

Broadcast facility means a wireless communications facility used for the transmission and reception of commercial radio or television signals.

Collocation means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Combined antenna means an antenna designed and utilized to provide services by more than one provider.

Equipment enclosure means an enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communications signals and support of a wireless communications facility, but not used primarily to store unrelated equipment or used as habitable space.

Exempt communication facility means a collocated facility that does not increase the overall height of the existing structure on which the equipment is placed, and their ancillary appurtenances and equipment enclosures. Such collocations shall comply, however, with all applicable building code and permit requirements and with all applicable conditions or restrictions placed on the first antennas or ancillary equipment approved for the building or structure or on the antenna-supporting structure, as applicable.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Geographic search area means the area in which an antenna is proposed to be located in order to provide the designed coverage or capacity. The geographic search area must be based on radio frequency engineering considerations, including grids, frequency coordination, propagation analyses, and levels of service consistent with accepted engineering standards and practices.

Land use, for the purpose of this section, means the existing use of the property or land use designation as set forth in the Bonita Springs Comprehensive Plan. When there is a conflict between the existing and future land use, the conflict shall be resolved as treating the property as a residential use.

Letters of coordination means documentation provided by the applicant that the following notice was mailed, via certified mail, to all providers or, where applicable, owners of existing antenna-supporting structures, and that the applicant was unable to secure a lease agreement to allow the placement of the proposed antennas on an existing structure or building within the geographic search area.

The department will maintain a list of known service providers and owners. Letters of coordination must be mailed at least 15 days prior to the preapplication conference required by this division and must request a response from the recipient within ten days of receipt.

Overall height means the height of a wireless communications facility measured as set forth in section 4-1870, but without any adjustment for minimum required flood elevation. Overall height includes all antennas and other ancillary appurtenances.

Personal wireless service means commercial mobile services (which include cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging), unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

Provider means a wireless provider as defined in F.S. § 365.172.

Radio frequency (RF) emissions means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, an antenna-supporting structure, building, or other vertical projection.

Repeater means a small receiver or relay transmitter of low power output relative to a base station output, designed to provide service to areas that are not able to receive adequate coverage directly from a base station.

Roofline means the uppermost line of the roof or parapet.

Satellite earth station will have the meaning set forth in section 4-927.

Shared use plan means a plan that includes the following:

(1) A signed statement from the antenna-supporting structure owner agreeing to allow multiple providers to collocate on the structure, where reasonable and structurally feasible; and

(2) A written evaluation of the feasibility of accommodating future collocations. Such evaluation must address the structural capacity of the proposed antenna-supporting structure.

Sight lines means a graphic representation consisting of the U.S.G.S. Quadrangle map, at a scale of one to 25,000 as a base map, with eight view lines, shown beginning at True North and continuing clockwise at 45 degree intervals in a two-mile radius from the site or as agreed upon with staff.

Stealth wireless communications facility means a wireless communications facility, ancillary appurtenance, or equipment enclosure, designed in a manner not readily identifiable as such, and that is aesthetically compatible with nearby uses. A stealth facility must have, or appear to have, a concealing or separate function including, but not limited to, the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, etc. A stealth facility may be an approved secondary use of other structures concealing the stealth facility.

Utility pole means a vertical structure used primarily by publicly regulated utilities or for street lighting and located within a street right-of-way, road easement or public utility easement.

Utility pole, replacement, means a vertical structure used primarily by publicly regulated utilities or for street lighting and located within a street right-of-way, road easement or public utility easement limited to 40 feet in height to accommodate wireless communication facilities.

Wireless communications means any personal wireless service, radio and television broadcast services, and any other radio frequency signals, including amateur radio.

Wireless communications facility means any facility used for the transmission and reception of wireless communications, usually consisting of an antenna or group of antennas, base station, transmission lines, ancillary appurtenances, equipment enclosures, or repeaters, and may include an antenna-supporting structure. Any of the following will be considered a wireless communications facility: antennas, antenna-supporting structures (including replacement and broadcast), base stations, equipment enclosure, roof-mounted antennas, surface-mounted antennas, repeaters, stealth wireless communications facilities, and amateur radio facilities.

Wireless communications facility site means a property, or any part thereof, owned or leased by one or more providers and upon which one or more wireless communications facilities and required landscaping are located.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1442), 1-19-2011; Ord. No. 15-07 , § 1, 3-18-2015)

Sec. 4-1217. Applicability and exemptions.

(a) Except as provided in subsection (b) of this section, this division applies to the installation, construction, or modification of wireless communications facilities.

(b) The following items are exempt from the provisions of this division:

(1) Amateur radio antenna with an overall height of 50 feet or less. Any such structures may be developed only in accordance with the provisions of section 4-927.

(2) Satellite earth stations, other than broadcast, may only be developed in accordance with section 4-927.

(3) Maintenance of existing wireless communications facilities that does not include the placement or replacement of an antenna-supporting structure. Any replacement antennas must be of the same

design, or narrower profile, and the same size, or smaller, as the antennas being replaced, or meet the exemptions pursuant to Subpart CC—State and Local Review of Applications for Wireless Service Facility Modification in § 1.40001 Wireless Facility Modifications.

(4) Wireless communications facilities erected as a temporary use, that receives a temporary use permit pursuant to the provisions of section 4-2124.

(5) Wireless communications facilities erected upon the declaration of a state of emergency by a federal, state, or local government. However, no wireless communications facility will be exempt pursuant to this paragraph, unless the director of public safety makes a determination of public necessity for the facility. The written determination must be submitted to the director. No wireless communications facility will be exempt from the provisions of this division beyond the duration of the state of emergency, and such facility must be removed within 90 days of the termination of the state of emergency.

(6) Collocations that comply with the Section 6409(a) of the Spectrum Act and 47 C.F.R. Part 1 and Part 17, as set forth in FCC Order 14-153 or do not increase the overall height of the existing structure on which placed, and their ancillary appurtenances and equipment enclosures. Such collocations shall comply, however, with all applicable building code and permit requirements and with all applicable conditions or restrictions placed on the first antennas or ancillary equipment approved for the building or structure or on the antenna-supporting structure, as applicable. Applicant will have the burden of proof to show consistency with the federal law, at which point the applicant (for applicable antennas and existing towers) will go straight to permitting.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1443), 1-19-2011; Ord. No. 15-07 , § 1, 3-18-2015)

Sec. 4-1218. Permissible wireless facility locations.

Wireless communications facility may be permitted only as indicated below and in accordance with the provisions of this chapter. Regardless of the process required, the applicant must comply with all applicable submittal, procedural and substantive provisions of this chapter. Variances or deviations from the requirements of this division may be granted only in accordance with the requirements of section 4-1225 for a variance.

(1) Antenna supporting structures shall only be approved in the locations and through the process indicated in Table 4-1221.

(2) Broadcast antenna-supporting structures in excess of 25 feet will only be allowed within an agricultural zoning district by special exception and must address the requirements of section 4-1225. Broadcast studios are not allowed in the agricultural zoning district and must comply with all other applicable zoning and development regulations.

(3) All antennas proposed to be mounted on existing buildings or structures as the first wireless communications antenna placement on the building or structure and their ancillary appurtenances and equipment enclosures, require administrative review as set forth in section 4-1219(c).

(4) Wireless communications facilities are prohibited in wetlands.

(5) Wireless communications facilities are prohibited in the density reduction groundwater resource (DRGR) future land use areas, environmentally critical zoning districts and the Downtown District, except for:

a. Stealth wireless communication facilities;

b. Surface-mounted and flush-mounted antennas on existing buildings or structures;

c. Collocations on existing facilities.

The design of any facility proposed in these areas must be reviewed in accordance with the provisions of sections 4-1219 and 4-1221.

(6) Stealth wireless communications facilities must apply for administrative review as set forth in section 4-1219(c).

(7) Collocations on an antenna-supporting structure that increases the overall height of the existing structure, but do not increase the height above the applicable height allowed by Table 4-1221, must apply for a special exception review. Collocations that increases the overall height of the existing building or non-antenna-supporting structure or, for collocations on an existing antenna-supporting structure, increase the overall height above the applicable height allowed by Table 4-1221 must apply for a variance review in accordance with the requirements of section 4-1225. The variance shall be to review only the increase in height, not the antenna placement itself, the ancillary appurtenances that do not increase the height or the equipment enclosures.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1444), 1-19-2011; Ord. No. 15-07 , § 1, 3-18-2015; Ord. No. 21-02 , § 2(Exh. A), 5-19-2021)

Sec. 4-1219. Development review process.

(a) *Preapplication conference.*

(1) Prior to submitting an application for a wireless communication facility, the applicant may file a request for a preapplication conference with the director. The purpose of the preapplication conference is to acquaint the participants with the applicable requirements of this chapter and with preliminary concerns of the department.

(2) The applicants written request for a preapplication conference should include the following information with regard to the proposed facility:

a. Location and existing conditions;

b. Overall height;

c. Number of antennas proposed (including those of other providers);

d. Types of wireless communications to be provided; and

e. Proof that the letters of coordination were mailed.

(3) Among the matters to be addressed at the preapplication meeting are:

a. The ability of the proposed wireless communication facility to accommodate future collocations;

b. Alternative locations or facility configurations that may result in reduced impacts on adjacent properties and the surrounding community;

c. Compatible colors for the proposed facility;

d. The vantage points from which required photo-simulated post-construction renderings must be oriented;

e. The need for special exceptions, variances or deviations from the provisions of this chapter; and

f. The expected date of application and a preliminary schedule for development review.

g. It is at this time that it is suggested that applicants provide the basis for any exemptions that they are exempt from any zoning requirements pursuant to state or federal law.

(b) *Expedited review.*

(1) *Sufficiency of application.* Upon receipt of an application for a wireless communication facility regulated by this division, the city shall notify the applicant in writing within 20 business days after the date the application is submitted, whether the application, for administrative purposes only, is properly completed and has been properly submitted. Such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, shall make the application properly completed. Failure to find the application properly completed or to provide the applicant a written notification specifying any deficiencies within the timeframe specified herein shall be deemed an automatic finding that the application is properly complete.

(2) *Placement of antennas and ancillary equipment.*

a. *Administrative review.* Upon submission of a properly completed application for the first placement of antennas on an approved structure and the related ancillary appurtenances and equipment enclosures, the city shall conduct an administrative review and shall grant or deny a properly completed application within 45 business days after the date the properly completed application is initially submitted. Failure to grant or deny such application within the timeframe specified herein shall be deemed an automatic approval of the application.

b. *Public hearing review.* Upon submission of a properly completed application for the collocation of a wireless communications facility on an antenna-supporting structure that increases the overall height of the existing structure, but does not increase the height above the applicable height allowed by Table 4-1221, the city shall process the application as a special exception and shall grant or deny a properly completed application within 45 business days after the date the properly completed application is initially submitted. Failure to grant or deny such application within the timeframe specified herein shall be deemed an automatic approval of the application.

c. *Variance review.* Upon submission of a properly completed application for the collocation of a wireless communications facility on an existing structure that increases the overall height of the existing building or, for collocations on an existing antenna-supporting structure, increase the overall height above the applicable height allowed by Table 4-1221, the city shall process the application as a variance, in accordance with section 4-124.

d. *Exemption.* Any collocation of an antenna on an existing structure that does not increase the overall height of the existing structure, and its ancillary appurtenances and equipment enclosures, or otherwise meets the exemptions pursuant to Subpart CC—State and Local Review of Applications for Wireless Service Facility Modification in § 1.40001 Wireless Facility Modifications, shall be exempt from the provisions herein and subject only to applicable local building, state and federal regulations and any applicable condition or requirement placed on the first antenna placement on the structure or on the antenna-supporting structure.

(3) *Applications for a new antenna-supporting structure or stealth wireless communication facility.*

a. *Administrative review.* Upon submission of a properly completed application for a new antenna-supporting structure that requires an administrative review or for a stealth wireless communication facility, the city shall conduct an administrative review and shall grant or deny a properly completed application within 90 business days after the date the properly completed application is initially submitted. Failure to grant or deny such application within the timeframe specified herein shall be deemed an automatic approval of the application.

b. *Special exception review.* Upon submission of a properly completed application for a new antenna-supporting structure that requires a special exception review, the city shall schedule the application for public hearing within 45 days before the zoning board. The city shall grant or deny a properly completed application within 90 business days after the date the properly completed

application is initially submitted. Failure to grant or deny such application within the timeframe specified herein shall be deemed an automatic approval of the application.

(4) *Waiver.* To be effective, a waiver of the timeframes set forth in subsections (b)(1) through (3) of this section must be voluntarily agreed to by the applicant and the city. The city may request, but not require, a one-time waiver of the time frames set forth herein in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the city.

(c) *Zoning.*

(1) *Administrative review.* Where provided by this division, an application will be reviewed by the director for compliance with this chapter. The director may attach conditions to any facility approved administratively if such conditions are reasonably necessary to effectuate the intent and purpose of this Code and other applicable regulations.

(2) *Special exception.* Where, pursuant to Table 4-1221, a special exception is required, the application must be reviewed pursuant to the provisions of section 4-145(c) and this division. The city council decision constitutes final agency action.

(3) *Final decision.*

a. *Approval.* For administrative approvals and in addition to the findings required by section 4-124 for special exceptions and variances, the city must make all of the following findings (or conclude that a finding is not applicable) before granting approval of an application:

1. The applicant is not already providing adequate coverage or adequate capacity in the geographic search area;

2. The applicant is not able to use existing wireless communications facility sites either with or without repeaters to provide adequate coverage or adequate capacity in the geographic search area;

3. The applicant has agreed to rent or lease available space on the antenna-supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers;

4. The proposed wireless communications facility or antenna- supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or manmade resources;

5. The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities; and

6. The proposal will comply with FCC Reg 96-326 regarding emissions of electromagnetic radiation.

b. *Denial.* Decisions by the city to deny an application for a proposed wireless communications facilities must be in writing and supported by substantial competent evidence contained in a written record.

c. *Building permits and development orders.* Building permits and development orders are required for all nonexempt wireless communication facilities in accordance with this chapter and chapters 3 and 6.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1445), 1-19-2011; Ord. No. 15-07 , § 1, 3-18-2015)

Sec. 4-1220. Application submittal requirements.

(a) *Minimum required information for all wireless communication facilities applications.* Unless an applicant can demonstrate to staff that the proposed change is nonsubstantial by meeting the exemptions pursuant to Subpart CC—State and Local Review of Applications for Wireless Service Facility Modification in § 1.40001 Wireless Facility Modifications, applications for wireless communication facilities must include the information specified below. However, upon written request, on a form prepared by the city, the director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the director prior to submitting the application. A copy of the request and the director's written response must accompany the application and will become a part of the permanent file.

(1) *First antennas on existing or new structures (and the ancillary appurtenances and equipment enclosures).*

a. Documentation of authority and acceptance of responsibility for compliance with these regulations, executed by the property owner, the applicant, and if different, the provider who will be placing antennas.

b. The name, address, and telephone contact information for the owners of proposed wireless communication facility.

c. An affidavit that such information will be updated annually or upon a change of ownership after the application is approved.

d. A license issued by the FCC or authorization to transmit radio signals in the city.

e. A letter or letters:

(i) Demonstrating consent from the Lee County Port Authority if the wireless communications facilities is to be located within the county airspace notification limits of sections 34-1008 and 34-1010 of the Lee County Land Development Code and if the structure is over 125 feet, regardless of location, proof that a tall structures permit was issued by the Lee County Port Authority;

(ii) Confirming review and recommendation from the county mosquito control district, the county sheriffs department and the director of public safety or their respective designee, for any first roof-top wireless communication facility exceeding 35 feet above the height of the existing structure;

(iii) Indicating that the antenna-supporting structure and appurtenances are in compliance with all applicable federal rules and regulations, if required by the United States Fish and Wildlife Service; and

(iv) Confirming FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.

f. A survey of the proposed wireless communications facility site completed by a registered land surveyor which shows all existing conditions. This requirement does not apply to roof-mounted and surface-mounted antennas.

g. Floor plans, elevations, and cross sections at a scale no smaller than ¼ = 1 (1:48) of any proposed accessory structure.

h. To-scale elevation drawings, indicating the roof, facades, doors, and other exterior appearance and materials of the proposed wireless communication facility, signed and sealed by a professional engineer.

(2) *Stealth or camouflaged wireless communication facilities.*

a. Documentation of authority and acceptance of responsibility for compliance with these regulations, executed by the property owner, the applicant, and, if different, the provider who will be placing antennas.

b. The name, address, and telephone contact information for the owners of the proposed stealth wireless communication facility; and an affidavit that such information will be updated annually or upon a change of ownership after the application is approved.

c. A license (and for broadcast structures, a construction permit) issued by the FCC to transmit radio signals in the city.

d. A letter or letters:

1. Demonstrating consent from the Lee County Port Authority if the wireless communications facilities is to be located within the county airspace notification limits of sections 34-1008 and 34-1010 of the Lee County Land Development Code and if the structure is over 125 feet, regardless of location, proof that a tall structures permit was issued by the Lee County Port Authority;

2. Confirming review and recommendation from the county mosquito control district, the county sheriffs department and the director of public safety or their respective designee, for any stealth wireless communication facility exceeding 35 feet; and

3. Confirming FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.

e. A survey of the subject property completed by a registered land surveyor which shows all existing conditions within a radius the height of the proposed stealth wireless communication facility.

f. Floor plans, elevations, and cross sections at a scale no smaller than ¼ = 1 (1:48) of any proposed accessory structure.

g. To scale elevation drawings, indicating the roof, facades, doors, and other exterior appearance and materials of the proposed wireless communication facility, signed and sealed by a professional engineer.

(3) *New antenna-supporting structures.*

a. Documentation of authority and acceptance of responsibility for compliance with these regulations, executed by the property owner, the applicant, and, if different, the provider who will be placing antennas on the proposed antenna-supporting structure.

b. The name, address, and telephone contact information for the owners of the proposed antenna-supporting structure; and an affidavit that such information will be updated annually or upon a change of ownership after the application is approved.

c. A license (and for broadcast structures, a construction permit) issued by the FCC to transmit radio signals in the city.

d. To determine the availability of existing structures that could be used as an alternative to constructing a new antenna-supporting structure:

1. A graphical representation and an accompanying statement of the site coverage area, design radius planned for the cell, and the geographic search area used to locate the proposed facility.
2. A radio frequency plot indicating the coverage of the provider's existing wireless communications sites adjacent to the proposed site.
3. A statement of the power levels of the facility.
4. A statement confirming the overall height of the facility and all other facilities on the subject property, in terms of grade and sea-level.
5. A list and map identifying all existing wireless communications facilities to which the proposed facility will be a handoff candidate, including latitude, longitude, and power levels of each.

e. A letter or letters:

1. Demonstrating consent from the Lee County Port Authority if the wireless communications facilities is to be located within the county airspace notification limits of sections 34-1008 and 34-1010 of the Lee County Land Development Code and if the structure is over 125 feet, regardless of location, proof that a tall structures permit was issued by the Lee County Port Authority;
2. Confirming review and recommendation from the county mosquito control district, the county sheriffs department and the director of public safety or their respective designee, for any antenna-supporting structure exceeding 35 feet; and
3. Confirming FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.
4. Letters of no objection from affected easement holders, not older than six months from the time of the application submittal.
5. Letters of coordination, as defined in section 4-1216, with text of the required notice as follows:

   "Pursuant to the requirements of the Bonita Springs Land Development Code, (name of applicant) is hereby providing you with notice of our intent to meet with the Bonita Springs Department of Community Development in a preapplication conference to discuss the location of a free-standing wireless communications facility that would be located at (location). We plan to construct an antenna-supporting structure of (number of) feet in height for the purpose of providing (type of wireless service). Please inform the city and us if either of the following applies:

   a. You intend to place additional wireless communications facilities within two (2) miles of our proposed facility; or
   b. You know of an existing building or structure that might accommodate the antennas associated with our proposed facility.

   Please provide us with this information within ten (10) days following the receipt of this letter.

   Sincerely, (applicant, wireless provider)"

f. A survey of the subject property completed by a registered land surveyor which shows all existing conditions.

g. Photo-simulated post-construction renderings of the proposed antenna-supporting structure, equipment enclosures, and ancillary appurtenances as they would look after construction from areas where the proposed antenna-supporting structure will be visible according to the balloon test and sight lines.

h. Shared use plan or copy of an executed shared use plan for the existing facility.

i. Floor plans, elevations, and cross sections at a scale no smaller than ¼ = 1 (1:48) of any proposed accessory structure.

j. To scale elevation drawings, indicating the roof, facades, doors, and other exterior appearance and materials of the proposed wireless communication facility, signed and sealed by a professional engineer.

(b) *Additional required information for wireless communication facilitiesrequiring a public hearing.* In addition to the submittals required by sections 4-194 and 4-195, and the requirements of subsection (a) of this section, the following information must be provided:

(1) *Lease required.* If the property owner is not a provider, the application must include a copy of an executed lease agreement or memorandum of lease between the applicant or property owner and a provider. Where no lease agreement has been executed, the applicant must include an affidavit signed by a provider attesting to the providers intent to make application for development order approval to place antennas on the wireless communications facility if the zoning application is approved.

(2) Graphic results of the balloon test conducted by the applicant pursuant to the requirements set forth in subsection (d) of this section.

(c) *Information for wireless communication facilities required at time of application for a development order or building permit.* In addition to the submittals required by subsection (a) or (b) of this section, as applicable, the following information must be provided along with the application for a development order or building permit:

(1) A certificate of insurance as required by section 4-1222.

(2) Proof the wireless communications facility has been designed to withstand sustained winds in accordance with the state building code.

(3) For new antenna-supporting structures, proof the antenna-supporting structure has been designed so that, in the event of structural failure, it will collapse within the boundaries of the leased area of the lot on which it is located.

(4) A stamped or sealed structural analysis of the wireless communication facility prepared by a professional engineer indicating the proposed and future loading capacity of the facility and specifying the design structural failure modes of the proposed facility; or, where the wireless communication facility is to be mounted on an existing building or structure, a stamped or sealed structural analysis prepared by a professional engineer showing the ability of the building or structure to carry the load of the wireless communication facility.

(5) For new antenna-supporting structures and first antennas on antenna-supporting structures, a landscape plan prepared by and bearing the seal of a landscape architect, including a narrative and calculations to ensure that the proposed landscaping will be in compliance with this Code.

(6) Surety for removal. For new antenna-supporting structures, a financial surety or other form of financial guarantee, payable to the city, to ensure timely removal of the structure in the event of abandonment, non-use or cessation of use. The surety must conform with the following requirements:

a. *Approval required.* The surety must be posted prior to issuance of a building permit or development order to guarantee the removal of the antenna-supporting structure. The amount

of the surety must be acceptable to the director. Additionally, before any surety instrument is accepted by the director as to compliance with this section, the surety instrument must be reviewed and approved by the city attorney's office. Once approved and funded, the surety instrument must be filed with the city clerk.

b. *Types of surety.*

1. Cash performance bond.

2. Other types of security. The city clerk may accept letters of credit or escrow account agreements or other forms of security provided the reasons for not obtaining the bond are stated and the city attorney approves the document.

c. *Certified cost estimate required.* The amount of the surety will be based upon a professional engineer's certified cost estimate of all costs associated with removing the antenna-supporting structure from the site and properly disposing of the dismantled antenna-supporting structure. A revised certified cost estimate for removal and disposal must be submitted to the director every 36 months beginning from the date of the original certification and continuing until the structure is removed from the site and is properly disposed of.

d. *Initial amount of surety.* The required surety must be posted with the city clerk and made payable to the city in an amount equal to 110 percent of the full cost of removal and disposal of the antenna-supporting structure as set forth in the professional engineer's certified cost estimate.

e. *Surety to remain in effect.* The amount of the surety must be kept in full force and effect at all times. The approved surety, including any additional amounts required by the revised cost certification, must remain funded at 110 percent of the cost of removal and disposal until the antenna-supporting structure is removed from the site and properly disposed of.

f. *City's use of surety funds.* The city may use the posted surety funds to remove or secure a wireless communication facility upon a determination of abandonment, non-use or cessation of use as set forth in section 4-1223. The city may use surety funds to pay for any and all costs associated with the removal and disposal of the structures. Contemplated costs may include, but are not limited to, costs incurred by any agency necessary to facilitate the safe removal and proper disposal of the structure, including traffic control, transportation of those at risk during the tower removal, temporary sheltering costs for evacuees, emergency services and utility disconnection, etc. In the event the posted amount of surety funds is insufficient to cover the full cost of removal, the city may file a lien on the site property for the amount of unpaid costs, including legal fees.

g. *Exemption from surety requirement.* The director may, with approval from the city attorney's office, exempt the city or a governmental entity from the surety requirement.

(d) *Balloon test.* A balloon test must be submitted prior to any application for an antenna supporting structure being deemed sufficient. The applicant must conduct the balloon test in accordance with the following regulations:

(1) Seven to 14 calendar days in advance of the first test date, the applicant must advertise, in a newspaper of general circulation in the city the dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test. A copy of the ad and proof of publication must be provided to the director as part of the application.

(2) At least 14 calendar days in advance of this balloon test, the applicant must inform the director, in writing, of the dates and times of the test.

(3) The balloon must be flown for at least eight hours between 7:00 a.m. and 7:00 p.m. on the dates chosen.

(4) The applicant must provide photographs of the balloon taken from each sight line. The photographs must identify the sight lines and distances from the proposed antenna-supporting structure.

(5) The test is to be performed not more than six months prior to an application submittal.

(Ord. No. 03-15; Ord. No. 04-17; Ord. No. 11-02, § 3(4-1446), 1-19-2011; Ord. No. 15-07 , § 1, 3-18-2015)

Sec. 4-1221. Development regulations.

(a) The development regulations set forth herein apply to all wireless communications facilities as indicated.

(1) Where permissible, antenna-supporting structures.

TABLE 4-1221. PERMISSIBLE TOWER HEIGHTS, TYPES, LOCATIONS AND APPLICABLE REVIEW PROCESS

Land Use (Notes 1, 2, 3)	Tower Type	Maximum Overall Height Allowed by Administrative Approval	Overall Height Allowed by Special Exception (Note 4)
Residential	Stealth	35 feet	35.1 feet—75 feet
	Camouflaged	35 feet	35.1 feet—75 feet
Commercial	Stealth	75 feet	75.1 feet—125 feet
	Camouflaged	65 feet	65.1 feet—110 feet
	Monopole	50 feet	50.1 feet—75 feet
Industrial	Stealth	100 feet	100.1 feet—149 feet
	Camouflaged	90 feet	90.1 feet—149 feet
	Monopole	80 feet	80.1 feet—149 feet
	Self-Support	75 feet	75.1 feet—149 feet
	Guyed	75 feet	75.1 feet—149 feet
	Lattice	75 feet	75.1 feet—149 feet
Other	Stealth	35 feet	Over 35 feet
	Camouflaged	35 feet	Over 35 feet
	Monopole	35 feet	Over 35 feet
	Self-Support	35 feet	Over 35 feet
	Guyed	35 feet	Over 35 feet
	Lattice	35 feet	Over 35 feet

Notes:

1. Antenna supporting structures over 35 feet may be approved administratively in accordance with the above table only when located at least 500 feet, as measured from the property line, from any residentially-zoned property or property having a residential land use.
2. Additional regulations may apply (See section 4-1221(d)(2) regarding height).
3. See *Land Use* definition provided in section 4-1216.

4. Roof-mounted, flush-mounted and surface-mounted antennas on existing buildings or structures can be administratively approved, up to the maximum height allowed in the land use category or the height previously permitted for the building, provided that the antennas and any associated equipment is stealth or camouflaged in design, and architecturally and aesthetically compatible with the existing building or structure housing the antennas and equipment.

(b) *District impacts minimized.*

(1) *Generally.* Antenna-supporting structures must be located in a manner that is consistent with the city's interest in land use compatibility, within and between zoning districts, as set forth in section 4-399 et seq.

(2) *Siting priorities.* In order to justify the construction of an antenna-supporting structure, the applicant must demonstrate that higher ranking alternatives in the following hierarchy, do not constitute reasonable, compatible or feasible alternatives. Such demonstration must include a statement of position, qualifications, and experience by a qualified radio frequency engineer.

a. Surface-mounted antennas on existing facilities.

b. Roof-mounted antennas on existing facilities.

c. Stealth wireless communication facility, or antennas collocated or combined with a stealth facility.

d. Collocated or combined antennas.

e. Antenna-supporting structure, monopole.

(3) *Proliferation minimized for nonexempt wireless facilities.*

a. *Generally.* No antenna-supporting structure will be permitted, unless the applicant demonstrates that the proposed antenna cannot be accommodated on an existing building or structure or by construction of a stealth facility.

b. *Additional documentation.* Additional documentation may also be submitted to demonstrate compliance with this section:

1. That no existing buildings or structures within the geographic search area meets the applicant's radio frequency engineering requirements;

2. That no building or structure within the geographic search area has sufficient structural strength to support the applicant's radio frequency engineering requirements; or

3. That there are other radio frequency engineering factors that render stealth, surface-mounted, roof-mounted or collocated wireless communication facilities unfeasible.

(4) *Land use priorities.* In order to justify locating a proposed antenna-supporting structure within a land use lower in the hierarchy below, the applicant must adequately demonstrate that siting alternatives within higher ranked districts, beginning with subsection (2)a. of this section, are not reasonable or feasible. This demonstration must include the submission of a statement of position, qualifications, and experience by a qualified radio frequency engineer.

a. Commercial.

b. Industrial.

c. Mixed use/planned development.

d. Residential.

e. Density reduction groundwater resource, resource protection, public/semi-public and the Downtown District.

(c) *Visual impacts minimized.*

(1) *Generally.* Antennas must be configured in a manner that is consistent with the character of the surrounding community and must be of a color that blends with the structure to which it is attached, so that adverse visual impacts on adjacent properties are minimized.

(2) *Antenna type priorities.* In order to justify the use of an antenna type lower in the hierarchy below, the applicant must adequately demonstrate that higher-ranked alternatives in the following hierarchy, beginning with subsection (2)a. of this section, are not reasonable or feasible.

a. Flush-mounted.

b. Panel.

c. Whip.

d. Dish.

(3) *Stealth facilities.*

a. No stealth facility may have antennas or ancillary equipment that are readily identifiable as wireless communications equipment.

b. Stealth facilities must be designed so they are reasonably consistent with the surrounding built or natural environment. In order to determine compliance with this requirement, the city will consider the following criteria:

1. Overall height;

2. The compatibility of the proposed facility with surrounding built and natural features;

3. Scale;

4. Color;

5. Extent to which the proposed facility blends with the surrounding environment;

6. Extent to which the proposed facility has been designed to reasonably replicate a non-wireless facility; and

7. Extent to which the proposed facility is not readily identifiable as a wireless communications facility.

(4) *Camouflage, screening, and placement.*

a. *Color.* Antenna-supporting structures and ancillary appurtenances, including transmission lines, must maintain a galvanized gray finish or other contextual or compatible color as determined by the city, except as otherwise required by the FAA or FCC.

b. *Fencing.* The developer of a wireless communication facility must install a fence or wall not less than eight feet and not more than ten feet in height from finished grade to enclose the base of the antenna-supporting structure and equipment enclosures associated with any wireless communication facility. Access to the antenna-supporting structure must be controlled by a locked gate. The fence must be constructed in accordance with section 4-1465. Not more than three strands of barbed wire, spaced six inches apart, may be allowed above the fence.

c. *Landscaping.*

1. A landscaped buffer of at least ten feet in width must be planted along the entire exterior perimeter of the fence or wall required by subsection (c)(4)b of this section. Where the proposed antenna-supporting structure will be located adjacent to a residential or public recreational use, or a lot within a residential zoning district, the landscaped buffer must be at least 15 feet in width.

2. A buffer required by this section must contain sabal palms planted one feet on center, and a double hedge row of native shrubs. Section 3-422, planting standards, must be met. The hedge must be maintained at a minimum height equivalent to the fence height.

3. Where these regulations would require existing facilities to meet current landscaping requirements, the director may reduce or eliminate such requirements if the director determines that the requirements would be unreasonable, unfeasible or otherwise inequitable under the circumstances. The director's decision is discretionary and may not be appealed. Applicants may apply for a variance from the landscaping requirements herein.

(5) *Other facilities.*

a. Roof-mounted facilities must be camouflaged by a parapet or other device, or otherwise situated so as to screen its visual impact along each sight line.

b. Transmission lines placed on the exterior of a building must be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building to which they are attached, as determined by the city.

c. Surface-mounted antennas must be placed no less than 15 feet from the ground and may not exceed the height of the building or structure to which they are attached. When proposed for placement on a building, antennas must be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building to which they are attached, as determined by the city.

(d) *General property development regulations.*

(1) *Setbacks.*

a. *New facilities.* All new antenna-supporting structures must meet the setback requirements for the zoning district in which they are proposed or a distance equal to their overall height from all lot lines of the fee property on which they are proposed, whichever is greater; unless a greater distance is required as a condition of the approval. A deviation may be requested when the applicant can sufficiently demonstrate that the greater setback is not needed.

b. *Replacement facilities.* In accordance with the development review process set forth in section 4-1219 and consistent with F.S. § 365.172, setback requirements for replacement wireless communication facilities may be reduced by up to 50 percent. No replacement facility may be placed closer to a lot line than the wireless communication facility it is replacing.

c. *Stealth wireless communications facilities, ancillary appurtenances, and equipment enclosures.* Stealth wireless communications facilities, ancillary appurtenances, and equipment enclosures must meet the minimum setback requirements for the zoning district in which they are proposed. Setback requirements for stealth facilities may be reduced if necessary to reduce the visual impact or enhance the compatibility of the proposed facility on adjacent properties and the surrounding community.

(2) *Height.*

a. All antenna-supporting structures must comply with the requirements of sections 34-1008 and 34-1010 of the Lee County Land Development Code.

b. Antenna-supporting structures on the barrier islands or within the outer islands future land use areas may not exceed 35 feet, or the special height limits set forth in section 4-1874, whichever is less.

c. Roof-mounted antennas, attachment devices, equipment enclosures or ancillary appurtenances may be placed on commercial, institutional, industrial, common element and multifamily buildings at least 35 feet in height and may not extend more than 20 feet above the roofline of the building on which it is attached. Antennas exceeding the height of the existing building or structure must be either stealth or camouflage in design.

d. Collocations may not increase the existing overall height of an antenna-supporting structure.

e. In all other cases, the overall height of an antenna-supporting structure approved in accordance with section 4-1219 may not exceed 149 feet, except as provided below:

1. FCC approved AM broadcast antenna-supporting structures may not exceed 250 feet in overall height.

2. All other FCC approved broadcast antenna-supporting structures may not exceed 500 feet.

3. Stealth facilities must be consistent with the scale and aesthetic qualities of the proposed facility, and consistent with the character of the surrounding community.

f. In no event may the provisions set forth in section 4-1873 apply to wireless communication facilities, except for stealth.

g. The overall height of ground-mounted equipment or equipment enclosures may not exceed 12 feet.

h. Private aircraft and helicopter landing facilities. Antenna-supporting structures proposed within a designated notification height boundary of a private aircraft or helicopter landing facility, as specified on the Airspace Notification Map, will be limited to the height specified by that boundary, according to the proposed facility's distance from the runway or landing facility.

(e) *Construction.*

(1) *Type of construction.* Broadcast facilities may utilize lattice or guyed antenna-supporting structures. All other wireless facilities must construct its towers in accordance with Table 4-1221.

(2) *Accommodation of future collocations.*

a. Antenna-supporting structures should be designed to accommodate future collocations.

b. The applicant must submit a shared use plan that commits the owner of the proposed antenna-supporting structure to accommodating future collocations where reasonable and feasible in light of the criteria set forth in this section.

(3) *Lighting.*

a. Except for security lighting and site lighting, other types of lights, signals or illumination will only be permitted on an antenna-supporting structure or ancillary appurtenances where lighting is required by the FAA, FCC, the city, or the county mosquito control district.

b. *Security lighting.* Security lighting and site lighting may be placed in association with an approved equipment enclosure. Site lighting must remain unlit, except when authorized personnel are present at the facility. Security lighting and site lighting must be shielded to prevent light trespass.

c. *Required lighting.*

1. All antenna-supporting structures 150 feet or greater in height aboveground level must be artificially lighted and maintained pursuant to the technical requirements of the Federal Aviation Administration's current Advisory Circular 70/7460-1K, Obstruction Marking and Lighting, as amended, or other appropriate aviation authority, unless pre-empted by FAA or FCC regulations. All lighting must be approved in conjunction with the development order for the facility.

2. If the height of a structure under construction equals or exceeds the height at which permanent obstruction lights are required by the FAA, FCC or the division of development services, temporary high or medium intensity flashing lights must be installed at that level in accordance with Advisory Circular 70/7460-1K, Obstruction Marking and Lighting, as amended.

(4) *Notice of commencement of construction.* Forty-eight hours before commencing construction of an antenna-supporting structure, and within 48 hours after the antenna-supporting structure construction reaches its maximum height, the county port authority, sheriff's office, emergency medical services, the local fire district and the county mosquito control district must be notified by the entity constructing the antenna-supporting structure. Notice must include the location of the antenna-supporting structure tied to the state plane coordinate system for the Florida West Zone (North American Datum of 1983/1990 Adjustment).

(5) *Floor area.* Floor area will be calculated based on the total impervious surface associated with an equipment enclosure. Floor area may not exceed 400 square feet per antenna array, not to exceed 2,500 square feet total area, without approval by special exception provided that the floor area meets all applicable setbacks and lot coverage requirements.

(f) *Signage.*

(1) Signs on antenna-supporting structures, ancillary appurtenances, equipment enclosures, or on any fence or wall are prohibited, unless permitted in accordance with this subsection.

(2) If high voltage is necessary for the operation of proposed wireless communications facilities, "High Voltage-Danger" and "No Trespass" warning signs not greater than one square foot in area must be permanently attached to the fence or wall at intervals of not less than 40 feet and upon the access gate, or as otherwise required by the FAA or FCC.

(3) A sign not greater than one square foot in area must be attached to the access gate that includes the following information:

a. Federal registration number, if applicable;

b. Name of property owner, facility owner, providers, and contact person; and

c. An emergency contact number for the contact person.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1447), 1-19-2011; Ord. No. 15-07 , § 1, 3-18-2015; Ord. No. 21-02 , § 2(Exh. A), 5-19-2021)

Sec. 4-1222. Fees and insurance.

(a) Antenna-supporting structures and wireless communications facilities must be insured by the owners against damage to persons and against damage to property. The owners must provide a certificate of insurance to the director annually.

(b) Fees for antenna-supporting structures and wireless communications facilities permitting and renewal, monitoring of emissions and inspection of structures, and other fees will be established by city council by resolution.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1450), 1-19-2011)

Sec. 4-1223. Discontinued use.

(a) *Notice of discontinued use.* The owner of an antenna-supporting structure 75 feet or greater in height, the use of which has been discontinued for a period of one year, on an annual basis must provide the director with an affidavit of an intention to continue the use, including a description of the owners efforts to keep the facility in use. If the affidavit is not provided the director may make a preliminary determination of discontinued use. For any other antenna-supporting structure, the use of which is discontinued for a period of 180 days, the director may make a preliminary determination of discontinued use. In making such a determination, the director may request documentation and affidavits from the property owners regarding the structure's usage, including evidence that use of the structure is imminent. The failure of a property owners to provide updated contact information on the owner of the antenna-supporting structure for two consecutive years will be presumptive evidence of discontinued use. If the director determines that the use of an antenna-supporting structure or antenna has been discontinued, the director will provide the property owner with a written notice of discontinued use by certified mail.

(b) *Declaration of discontinued use.* If the property owner fails to respond to the notice of discontinued use or to adequately demonstrate that the use of the antenna or antenna-supporting structure is not discontinued within 90 days, such failure will be evidence of discontinued use. Based on the foregoing, or on any other relevant evidence before the director, the director may make a final determination of discontinued use, whereupon a declaration of discontinued use will be issued to the property owner by certified mail.

(c) *Removal of facility.*

(1) Within 120 days of a declaration of discontinued use, the property owner must either:

a. Reactivate the use of the antennas or antenna-supporting structure as a wireless communications facility or transfer ownership of the antennas or antenna-supporting structure to another owner who will make use of the facility; or

b. Dismantle and remove the facility.

(2) If transfer of ownership occurs, the new owner must supply the director with an affidavit attesting that the antennas or antenna-supporting structure will be in use within 120 days of the transfer in accordance with subsection (c)(1) of this section. If the facility remains discontinued upon the expiration of 120 days, the city may enter upon the property and remove the facility, with all costs to be borne by the property owner. The city may use the funds posted in the surety for this purpose.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1451), 1-19-2011)

Sec. 4-1224. Nonconforming antenna-supporting structures.

(a) The addition or replacement of antennas and any ancillary appurtenances on or around any type of nonconforming structure will not be treated as an increase in the nonconformity of the structure.

(b) Antenna-supporting structures made nonconforming as to height by implementation of this division that have not received a variance, as indicated in subsection (f) of this section , will be reviewed by city council no sooner than 30 years from the date of adoption of the ordinance from which this division is derived to evaluate whether the use of the portion of the antenna-supporting structure in excess of the height

limitations to support active wireless communication antennas has been discontinued, as described in section 4-1223, and the portion is creating significant visual impacts. The owner of the antenna-supporting structure and each known occupant of the nonconforming structure will receive written notice from the city of the undertaking of this review and shall be allowed to provide information to be used in the review.

(c) If the use of the portion of the antenna-supporting structure in excess of the height limitations to support active wireless communication antennas has been discontinued and the portion is creating significant visual impacts, the city council may, at its discretion, require that the nonconforming portion be removed or otherwise made to conform.

(d) If the portions of the antenna-supporting structure in excess of the height limitations is in use supporting active wireless communication antennas and is creating significant visual impacts, city council will evaluate whether those antennas can reasonably be lowered to a conforming height and the height nonconforming portion be removed, or if the antennas can be reasonably replaced with flush-mounted antennas to reduce the visual impacts; provided that any such modification does not significantly:

(1) Decrease the network service provided; or

(2) Create the need for additional wireless communication facilities elsewhere.

(e) If the portion of the antenna-supporting structure in excess of the height limitations is not creating significant visual impacts, no modification of the structure will be required.

(f) No sooner than 25 years from the date of the adoption of the ordinance from which this division is derived, the antenna-supporting structure owner, with consent from the underlying property owner, may apply for a special exception in accordance with section 4-1225, to exempt the antenna-supporting structure from the review.

(Ord. No. 03-15; Ord. No. 11-02, § 3(4-1452), 1-19-2011; Ord. No. 15-07, § 1, 3-18-2015)

Sec. 4-1225. Special exception criteria; broadcast antenna supporting structure.

In order to grant a special exception for a wireless communication facility, the city council must make at least one of the following findings of fact:

(1) Failure to grant the special exception would prohibit or have the effect of prohibiting the provision of personal wireless services;

(2) The special exception is necessary to ensure adequate public safety and emergency management communications;

(3) The special exception or any required variance or deviation is the minimum necessary in order for the applicant to provide broadcast services pursuant to an FCC-issued license or construction permit (existence of an FCC license requiring a broadcast antenna at a given height will constitute a presumption that this requirement has been met);

(4) Failure to grant the special exception would prohibit or have the effect of prohibiting the provision of amateur radio services; or the special exception will obviate the need for additional antenna-supporting structures in the geographic search area.

(Ord. No. 15-07 , § 1, 3-18-2015)

Editor's note(s)—Ord. No. 15-07 , § 1, adopted March 18, 2015, amended § 4-1225 in its entirety to read as set out herein. Former § 4-1225 pertained to variance criteria and derived from Ord. No. 03-15; and Ord. No. 11-02, § 3(4-1453), adopted January 19, 2011.

Secs. 4-1226—4-1253. Reserved.

DEFINITIONS

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amateur radio antenna will have the meaning set forth in section 4-927.

Ancillary appurtenances means equipment associated with a wireless communications facility including, but not limited to, antennas, attaching devices, transmission lines, and other equipment associated with a wireless communications facility. Ancillary appurtenances do not include equipment enclosures.

Antenna means any apparatus, or group of apparatus, designed for the transmitting and receiving of electromagnetic waves that includes, but is not limited to, telephonic, radio, or television communications. Antennas include omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi or single bay (FM & TV), yaggie, or parabolic (dish) antennas, but do not include satellite earth stations.

Antenna, dish, means a parabolic, spherical, or elliptical antenna intended to receive wireless communications.

Antenna, flush-mounted, means a dual-polarization antenna that is attached flush to an antenna-supporting structure, without the use of sidearms or other extension devices.

Antenna, panel, means a directional antenna, with more than one panel per sector, designed to transmit and/or receive signals in a directional pattern that is less than 360 degrees.

Antenna, roof-mounted, means an antenna mounted on the roof of a building, that extends above the roofline by 20 feet or less. An antenna, mounted on the roof of a building, that extends more than 20 feet above the roofline is an antenna-supporting structure.

Antenna, surface-mounted, means an antenna that is attached to the surface or facade of a building or structure other than an antenna-supporting structure including, without limitation, billboards, utility poles and water towers.

Antenna, whip, means a cylindrical, omni-directional antenna designed to transmit and/or receive signals in a 360 degree pattern.

Antenna-supporting structure, means a vertically projecting structure, including any foundation, designed and primarily used to support one or more antennas or which constitutes an antenna itself. Antenna-supporting structures do not include stealth wireless communications facilities, but do include roof-mounted antennas that extend above a roofline by more than 20 feet. For purposes of this division, a utility pole not exceeding 40 feet in height will not be construed to be an antenna-supporting structure.

Antenna-supporting structure, broadcast, means an antenna-supporting structure, including replacements, which contains antennas that transmit signals for broadcast radio and television communications.

Antenna-supporting structure, camouflage, means an antenna-supporting structure that is disguised to visually blend into the surrounding area or infrastructure, such as a tree or an architectural building feature.

Antenna-supporting structure, guyed, means a style of antenna-supporting structure supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

Antenna-supporting structure, lattice, means a style of a stand-alone antenna-supporting structure, not supported by guy wires, which consists of vertical and horizontal supports with multiple legs and cross-bracing.

Antenna-supporting structure, monopole, means a style of a stand-alone antenna-supporting structure that is composed of a single shaft attached to a foundation. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices.

Antenna-supporting structure, replacement, means an antenna-supporting structure intended to replace an antenna-supporting structure in existence at the time of application.

Available Space, means the space on an antenna-supporting structure or other structure to which antennas are both structurally and electromagnetically able to be attached.

Balloon Test, means an event in which the applicant arranges to fly, or raise upon a temporary mast, for one day, consistent with section 4-1220(d), a brightly colored balloon not less than three feet in diameter, at the maximum height and at the location of the proposed antenna-supporting structure.

Base Station, means a structure or equipment at a fixed location that enables wireless communications between user equipment and a communications network, but does not a tower as defined in this subpart or any equipment associated with a tower, as further defined in § 6409 of the Spectrum Act (codified at 47 U.S.C. 1455), as further defined in Subpart CC of FCC Rule 1.40001.

Broadcast Facility, means a wireless communications facility used for the transmission and reception of commercial radio or television signals.

Collocation, means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Combined Antenna, means an antenna designed and utilized to provide services by more than one provider.

Equipment Enclosure, means an enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communications signals and support of a wireless communications facility, but not used primarily to store unrelated equipment or used as habitable space.

Exempt Communication Facility, means a collocated facility that does not increase the overall height of the existing structure on which the equipment is placed, and their ancillary appurtenances and equipment enclosures. Such collocations shall comply, however, with all applicable building code and permit requirements and with all applicable conditions or restrictions placed on the first antennas or

ancillary equipment approved for the building or structure or on the antenna-supporting structure, as applicable.

FAA, means the Federal Aviation Administration.

FCC, means the Federal Communications Commission.

Geographic Search Area, means the area in which an antenna is proposed to be located in order to provide the designed coverage or capacity. The geographic search area must be based on radio frequency engineering considerations, including grids, frequency coordination, propagation analyses, and levels of service consistent with accepted engineering standards and practices.

Land Use, for the purpose of this section, means the existing use of the property or land use designation as set forth in the Bonita Springs Comprehensive Plan. When there is a conflict between the existing and future land use, the conflict shall be resolved as treating the property as a residential use.

Letters of Coordination, means documentation provided by the applicant that the following notice was mailed, via certified mail, to all providers or, where applicable, owners of existing antenna-supporting structures, and that the applicant was unable to secure a lease agreement to allow the placement of the proposed antennas on an existing structure or building within the geographic search area.

The department will maintain a list of known service providers and owners. Letters of coordination must be mailed at least 15 days prior to the preapplication conference required by this division and must request a response from the recipient within ten days of receipt.

Overall Height, means the height of a wireless communications facility measured as set forth in section 4-1870, but without any adjustment for minimum required flood elevation. Overall height includes all antennas and other ancillary appurtenances.

Personal Wireless Service, means commercial mobile services (which include cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging), unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

Provider, means a wireless provider as defined in F.S. § 365.172.

Radio frequency (RF), emissions means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, an antenna-supporting structure, building, or other vertical projection.

Repeater, means a small receiver or relay transmitter of low power output relative to a base station output, designed to provide service to areas that are not able to receive adequate coverage directly from a base station.

Roofline, means the uppermost line of the roof or parapet.

Satellite Earth Station, will have the meaning set forth in section 4-927.

Shared Use Plan, means a plan that includes the following:

(1) A signed statement from the antenna-supporting structure owner agreeing to allow multiple providers to collocate on the structure, where reasonable and structurally feasible; and

(2) A written evaluation of the feasibility of accommodating future collocations. Such evaluation must address the structural capacity of the proposed antenna-supporting structure.

Sight Line, means a graphic representation consisting of the U.S.G.S. Quadrangle map, at a scale of one to 25,000 as a base map, with eight view lines, shown beginning at True North and continuing clockwise at 45 degree intervals in a two-mile radius from the site or as agreed upon with staff.

Stealth Wireless Communications Facility, means a wireless communications facility, ancillary appurtenance, or equipment enclosure, designed in a manner not readily identifiable as such, and that is aesthetically compatible with nearby uses. A stealth facility must have, or appear to have, a concealing or separate function including, but not limited to, the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, etc. A stealth facility may be an approved secondary use of other structures concealing the stealth facility.

Utility Pole, means a vertical structure used primarily by publicly regulated utilities or for street lighting and located within a street right-of-way, road easement or public utility easement.

Utility Pole, Replacement, means a vertical structure used primarily by publicly regulated utilities or for street lighting and located within a street right-of-way, road easement or public utility easement limited to 40 feet in height to accommodate wireless communication facilities.

Wireless Communications, means any personal wireless service, radio and television broadcast services, and any other radio frequency signals, including amateur radio.

Wireless Communications Facility, means any facility used for the transmission and reception of wireless communications, usually consisting of an antenna or group of antennas, base station, transmission lines, ancillary appurtenances, equipment enclosures, or repeaters, and may include an antenna-supporting structure. Any of the following will be considered a wireless communications facility: antennas, antenna-supporting structures (including replacement and broadcast), base stations, equipment enclosure, roof-mounted antennas, surface-mounted antennas, repeaters, stealth wireless communications facilities, and amateur radio facilities.

Wireless Communications Facility, Site, means a property, or any part thereof, owned or leased by one or more providers and upon which one or more wireless communications facilities and required landscaping are located.

EXCEPTIONS TO THIS ORDINANCE:

The following wireless communications facilities are exempt from this ordinance

1. Amateur radio antenna less than 50’ overall height. Must be constructed consistent with 4-927 (satellite dishes and amateur radio antennas).
2. Satellite earth stations. Must be constructed consistent with 4-927 (satellite dishes and amateur radio antennas).

3. The maintenance of an existing wireless communications facility that does not include the placement/replacement of an antenna-supporting structure.
4. Wireless communication facilities permitted under a temporary use permit consistent with 4-2124 (temporary uses).
5. Wireless communication facilities authorized under a declared state of emergency (federal, state, or local) and must be accompanied by a written determination by the Director of Public Safety of their necessity.
6. Colocations on legally permitted wireless communication facilities

PERMITTED/PROHIBITED LOCATIONS

1. Broadcast antenna-supporting structures higher than 25' by Special Exception
2. Antennas proposed to be mounted on existing buildings or structures
3. The only wireless communications facilities that can be approved in DRGR, Environmentally Critical, and Downtown District are:
    a. Stealth towers
    b. Surface-mounted antennas
    c. Collocation on existing facilities
4. Wireless communication facilities are not permitted in wetlands

Land Use (Notes 1, 2, 3)	Tower Type	Maximum Overall Height Allowed by Administrative Approval	Overall Height Allowed by Special Exception (Note 4)
Residential	Stealth	35 feet	35.1 feet—75 feet
	Camouflaged	35 feet	35.1 feet—75 feet
Commercial	Stealth	75 feet	75.1 feet—125 feet
	Camouflaged	65 feet	65.1 feet—110 feet
	Monopole	50 feet	50.1 feet—75 feet
Industrial	Stealth	100 feet	100.1 feet—149 feet
	Camouflaged	90 feet	90.1 feet—149 feet
	Monopole	80 feet	80.1 feet—149 feet
	Self-Support	75 feet	75.1 feet—149 feet
	Guyed	75 feet	75.1 feet—149 feet
	Lattice	75 feet	75.1 feet—149 feet
Other	Stealth	35 feet	Over 35 feet
	Camouflaged	35 feet	Over 35 feet
	Monopole	35 feet	Over 35 feet
	Self-Support	35 feet	Over 35 feet
	Guyed	35 feet	Over 35 feet
	Lattice	35 feet	Over 35 feet

DEVELOPMENT STANDARDS

Setbacks:

New Towers: Must meet setbacks for the zoning district, or the overall height of the tower.

- Deviations may be granted if the applicant can show why a reduced setback is appropriate.

Replacement Towers: Must meet the setbacks of the zoning district, but can be reduced by 50% based on the location but cannot be located closer to the property line than the original tower.

Stealth Towers: Must meet the setbacks of the zoning district, but can be reduced if necessary to reduce impact or increase compatibility with adjacent properties.

Fencing/Landscaping: The tower and equipment must be enclosed within a fence of between 8' and 10' from grade.

- The owner may request up to three strands of barbed wire at the top of the fence.

A minimum 10' landscape buffer must extend around the perimeter of the fence except for portions adjacent to residential or publicly used property in which the buffer must be a minimum of 15'

- Landscaping requirements can be administratively reduced if enforcement of this standard would be, 'unreasonable, unfeasible or otherwise inequitable'.