

LAKE COUNTY PLANNING AND ZONING DIVISION
VARIANCE STAFF REPORT

Board of Adjustment



March 9, 2017



Requested Action: A variance from Lake County Land Development Regulations Section 9.03.06, Parking Requirements, to allow a restaurant to provide twenty-four (24) parking spaces in lieu of the required forty (40) parking spaces to accommodate a three-thousand (3,000) square foot restaurant.

Owner: Lamika Vishurti

Applicant: SCR, Inc. c/o Paul Mooney

- Site Location & Information -

Size	1.04 +/- acres
Location	Along County Road 42 in the Paisley Area
Property Address	24929 Highway 42, Paisley
Alternate Key No.	2592371
Future Land Use	Rural
Zoning District	Community Commercial (C-2)
Overlay Districts	Wekiva-Ocala River Protection Area Paisley Rural Support Corridor
Joint Planning/ISBA Area	None

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural	Community Commercial	Commercial	Paisley Mart
South	Rural	Agriculture (A)	Undeveloped	
East	Rural	Agriculture (A)	Improved Pasture	Adjacent to CR 42
West	Rural	Agriculture (A)	Undeveloped	

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** with conditions, of the variance request from Lake County Land Development Regulations Section 9.03.06, Parking Requirements, to allow a three-thousand (3,000) square foot restaurant to provide twenty-four (24) parking spaces in lieu of forty (40) parking spaces.

-Staff Analysis-

The subject property consists of 1.06 +/- acres and is located along County Road 42 in the Paisley area. The Lake County Geographic Information Services (GIS) wetland map indicates that there are wetlands abutting the western boundary of the property. According to the 2012 Federal Emergency Management Agency (FEMA) maps, the subject property does not lie within the 100-year flood zone. The property is zoned Community Commercial (C-2) by Ordinance 1978-12 and is part of the Rural Future Land Use Category. The property is located within the Paisley Rural Support Corridor.

The property was zoned C-2 in 1978 to accommodate a farm store and was developed with a 3,000 square foot structure. On April 2, 1999 the subject property obtained site plan approval (SP #99-03-14) for an Italian Restaurant and Pizzeria (Attachment A). The site plan provided 40 parking spaces to accommodate the 3,000 square foot restaurant. The property was developed in accordance with the approved site plan.

The property is currently vacant. The current owner wishes to reopen the restaurant but there are no records of a business tax receipt being issued for this property. Comprehensive Plan Policy I-7.1.1 *Nonconforming Uses and Antiquated Plats*, states that there shall be regulations adopted that allow for the continuation or reestablishment of nonconforming uses previously existing on a site, including the type, size and intensity of such uses, unless the use is abandoned or discontinued for a period of 18 months. Since the property has been vacant for an extended period, greater than 18 months, the property must come into conformance with current regulations. Prior to occupying the structure, the owner will need to obtain a change of use permit through the Building Division to obtain a Certificate of Occupancy (CO). Prior to applying for the change of use

permit, the owner needs to obtain a zoning permit from the Planning and Zoning Division. To facilitate the zoning permit, the applicant has submitted a minor site plan (Project No. 2016110007, Application Request No. 3051). During staff review of the site plan, it was determined that a portion of the parking lot containing 15 parking spaces was developed within a road, drainage, and utility easement (Attachment B). Staff cannot approve the site plan with parking spaces within the road, draining, and utility easement.

The applicant submitted an application for a variance to Land Development Regulation (LDR) Table 9.03.06 which requires general restaurants to provide one (1) off-street parking space per seventy-five (75) square feet of gross leasable area. Based on this requirement, the property would need to be able to accommodate forty (40) parking spaces. The applicant has proposed a different configuration with less parking spaces (Attachment C). The proposed site plan eliminates the fifteen (15) spaces within the easements and one additional space to provide a landscaped area between the parking spaces, consistent with LDR Section 9.01.07.A.1. The proposed site plan depicts twenty-four (24) off-street parking spaces.

The **intent of the Code**, LDR Section 9.03.06, Parking Requirements, is to ensure that all buildings and uses shall provide adequate off-street parking facilities for use by the owner, occupants, employees, visitors, customers and patrons, in conformance with the requirements of this Section, in order to lessen congestion in the streets.

The applicant has submitted the following reasons as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**:

“Parking was incorrectly placed in roadway easement. Site constraints do not allow additional parking without having disconnect. Existing septic tank and drain field, grease trap, and retention will restrict placement.”

The applicant has submitted the following reasons as proof of **meeting the intent of the Code**:

“Tried to comply with Regulation.”

The Lake County Land Development Regulations, Section 14.15.02 states that variances shall be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance.

The property is +/- 1.04 acres in size and is developed with a 3,000 square foot building, 1,624 square foot drain field, 1,200 gallon septic tank, parking areas, and a stormwater pond. In addition, the site has been developed around a large canopy tree in order to protect and preserve the tree. LDR Section 9.02.00.A is intended to recognize the importance of trees and palms and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, lakeshore erosion protection, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands and the general promotion of the health, safety, welfare and well-being of the community.

The applicant cannot provide parking spaces within the drainage/utility/road easement because it would impair the property's drainage patters, obstruct access to the non-exclusive easement for ingress and egress, and could potentially cause problems if the utilities within the easement need to be accessed.

The applicant is meeting the intent of the code by providing as much parking as possible to accommodate the previously developed site; removing parking spaces incorrectly developed within the drainage/road/utility easement; and by making provisions to protect the existing tree on the property. Due to the site constraints of the property, it is difficult to provide the required number of parking places established by LDR Table 9.03.06 without redeveloping the entire property. Relocating the existing septic system, drain field, and building would be a substantial economic hardship due to the cost. Demolishing a portion of the building to reduce the square footage and parking requirements would also be an economic hardship due to costs.

FINDINGS OF FACT: Staff has reviewed the application for this variance request and found:

1. The applicant is meeting the intent of the code by providing as many off-street parking spots as the property can accommodate; and
2. The applicant is meeting the intent of the code by eliminating parking spaces incorrectly developed within a road, drainage, and utility easement; and
3. Demolishing a portion of the building or reconfiguring the site by relocating the septic system, drain field, and building would be a substantial economic hardship due to the cost; and
4. The applicant has demonstrated a hardship by not being able to accommodate the required number of parking spots on the subject property.

The owner and applicant have submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, Staff recommends **Approval with conditions** of the variance request from Lake County Land Development Regulations Section 9.03.06, Parking Requirements, to allow a three-thousand (3,000) square foot restaurant to provide twenty-four (24) parking spaces in lieu of forty (40) parking spaces.

WRITTEN COMMENTS FILED:

Support: -0-

Questions: -0-

Opposition: -0-

Case Manager: Michele Janiszewski, Chief Planner

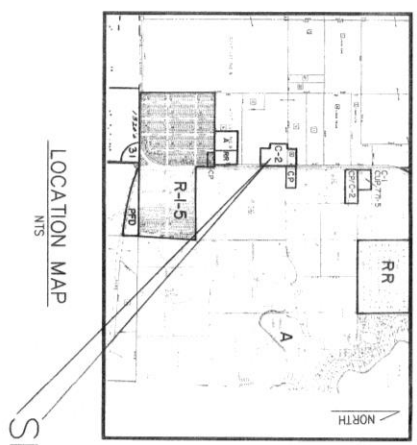
SITE PLANS OF:

BIG OAK

ITALIAN RESTAURANT & PIZZA

PAISLEY, FLORIDA

UTILITY COMPANIES
 SANITARY SEWER: ON-SITE SEPTIC
 WATER DISTRIBUTION: ON-SITE WELL



PREPARED FOR:

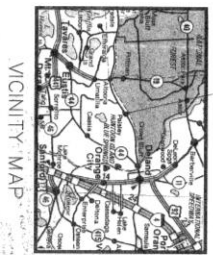
ANTONIO ORSILLO AND JOSEPHINE ORSILLO

PROJECT DIRECTORY

OWNER: ANTONIO ORSILLO AND JOSEPHINE ORSILLO
 P.O. BOX 489
 PAISLEY, FLORIDA 32767
 (352) 889-4280

ENGINEER: AMERICAN CIVIL ENGINEERING CO.
 707 N. WISSE ROAD, SUITE 117B
 JOHN HENBERT, P.E.
 (407) 387-7700

SUPERVISOR: STRONGT LAND SURVEYING, INC.
 512 WEST OCE DRIVE
 SUITE 100
 (352) 337-0922



PERMIT STATUS	DATE ISSUED	DATE EXPIRES

SHEET	DESCRIPTION
1	COVER SHEET
2	BOUNDARY SURVEY
3	SITE PLAN

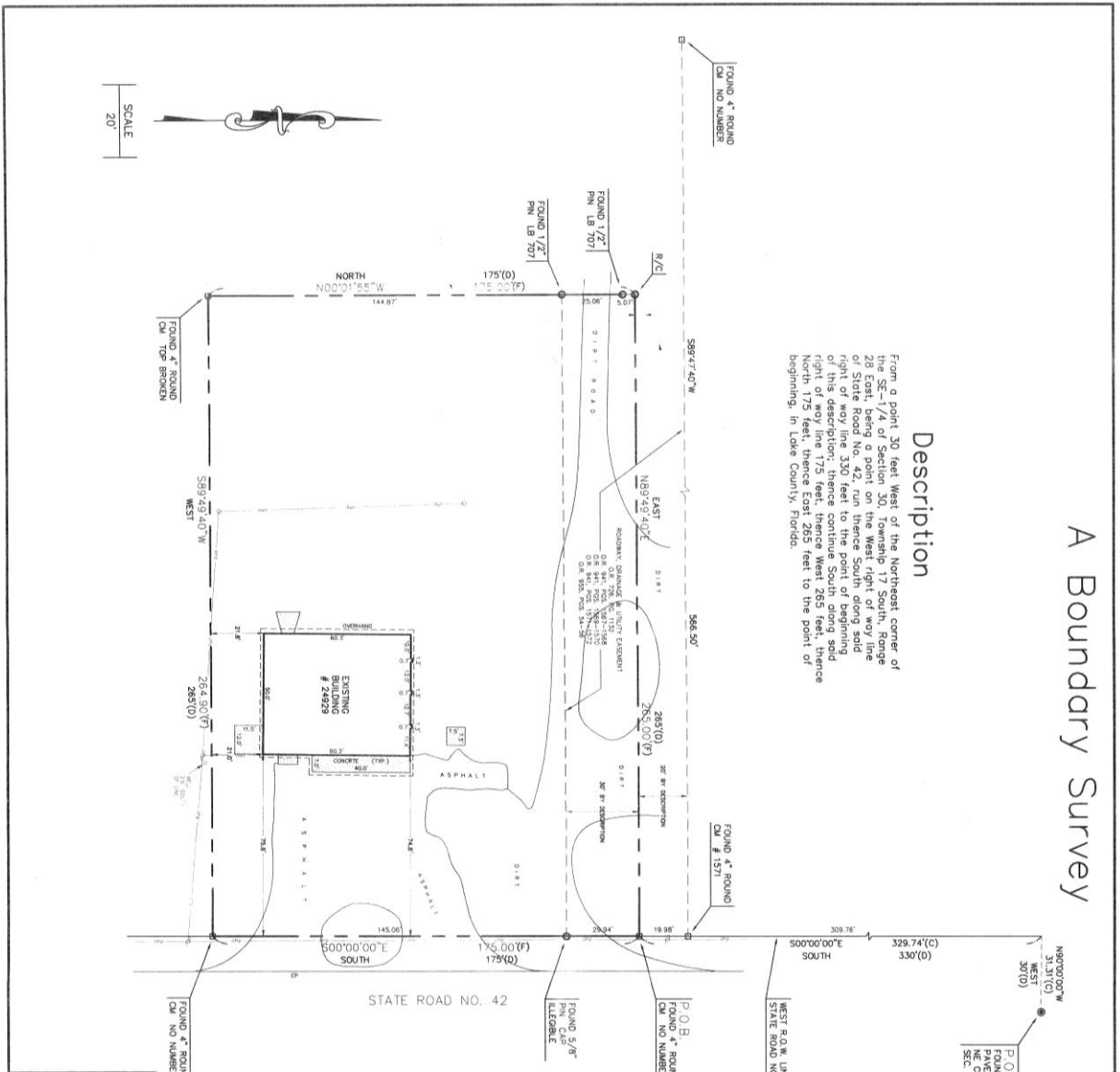
DATE	DESCRIPTION	BY	CHECKED
11/27/11	DEVELOPMENT APPROVAL	[Signature]	[Signature]
11/27/11	PERMITTING	[Signature]	[Signature]
11/27/11	CONSTRUCTION	[Signature]	[Signature]
11/27/11	FINAL	[Signature]	[Signature]

AMERICAN CIVIL ENGINEERING CO.
 707 N. WISSE ROAD, SUITE 117B
 JOHN HENBERT, P.E.
 (407) 387-7700

A Boundary Survey

Description

From a point 30 feet West of the Northeast corner of the SE-1/4 of Section 30, Township 17 South, Range 28 East, being a point on the West right of way line of State Road No. 42, run thence South along said right of way line 330 feet to the point of beginning of this description; thence continue South along said right of way line 175 feet; thence West 285 feet; thence North 175 feet; thence East 285 feet to the point of beginning, in Lake County, Florida.



P.O.C. PAVED UNDER
NE CORNER, SE 1/2,
SEC. 30-17-28

WEST R.O.W. LINE OF
STATE ROAD NO. 42

P.O.B.
R.O.W. LINE
CM NO NUMBER

FOUND 5/8"
PIN, C.I.D.
ALLOBAE

FOUND 4" ROUND
CM NO NUMBER

FOUND 4" ROUND
CM TIP BROKEN

Legend & Standard Abbreviations

- | | | | |
|--------|----------------------------|--------|-------------------------------------|
| \$ | = Centerline | R/C | = Set 5/8" Rebar, PLS #1351 |
| ROW | = Right of Way | PMU | = Permanent Monument |
| CM | = Concrete Monument | N/D | = Not Determined |
| PCB | = Permanent Control Point | PLS | = Set Nail and Disk, PLS #1351 |
| PCP | = Permanent Control Point | PLS | = Permanent Utility Lines |
| PCF | = Point of Commencement | PLS-99 | = Plat Book, Page |
| PLR.M. | = Flood Insurance Rate Map | EP | = Edge of Pavement |
| ORL | = Official Record Book | UB | = Utility Box per Field Measurement |
| PT | = Point of Tangency | UT | = Dimension per Plat |
| FL | = Fence Line | (D) | = Dimension per Description |

Land Surveyor's Notes

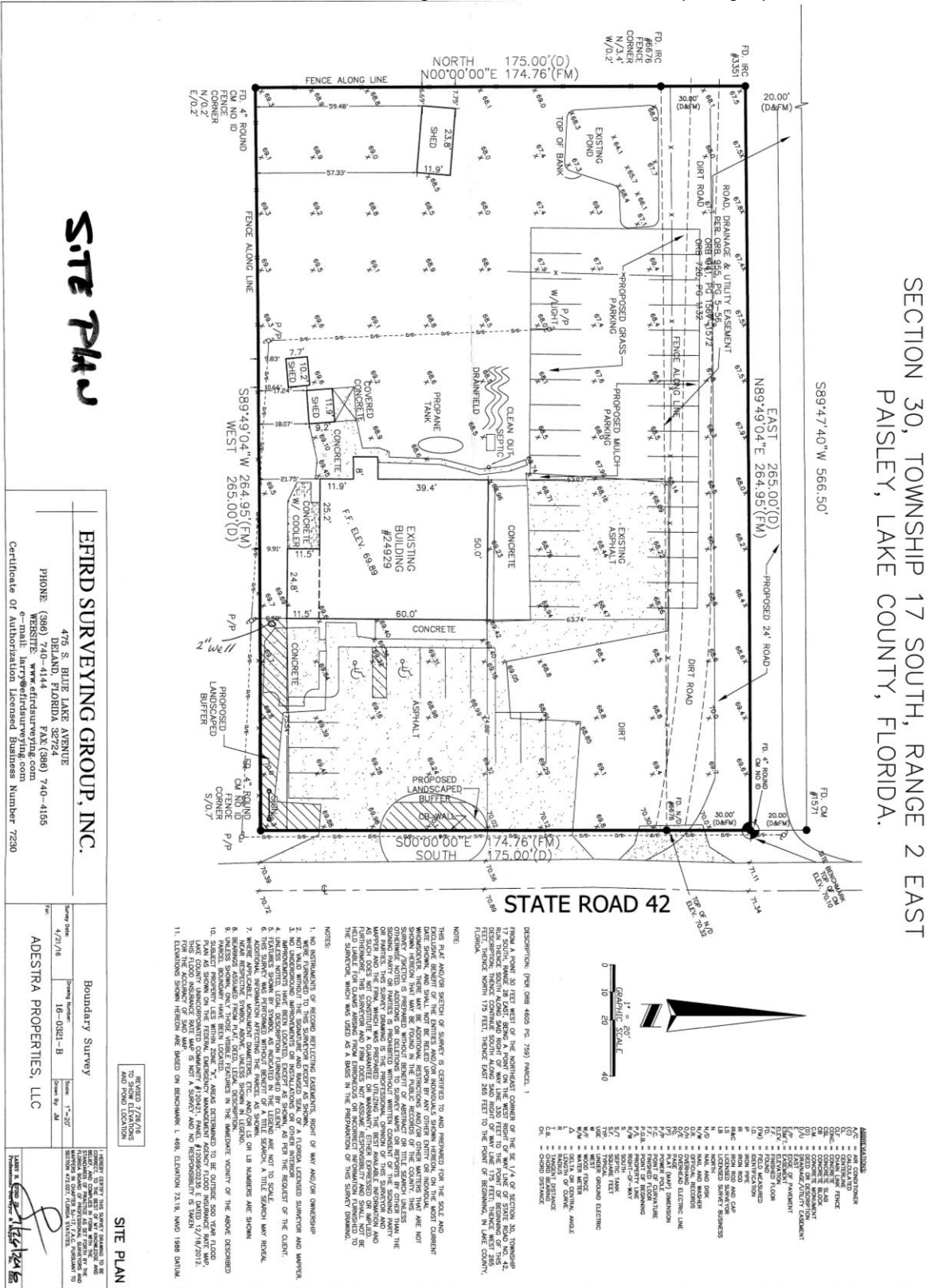
1. Bearing Basis is an assumed bearing of S 00°00'00" E along the West right of way line of State Road No. 42.
2. Subject to easements and restrictions of Record.
3. All of the above captioned property lies within F.I.R.M. Zone "C" according to F.I.R.M. parcel No. 120421 0150 B dated 4-1-82.
4. This Survey is based on the Description provided. Plat information, Found Monumentation and other data acquired by this firm.
5. Foundations, Underground Structures, and Underground Improvements, if any, not located by this firm.
6. This is not a certificate of title, zoning or freedom of information.
7. Certification is limited only to the party or parties named herein.
8. Not valid without the signature and original raised seal of a Florida licensed surveyor and mapper.
9. The scope of this survey does not address environmental matters, jurisdictional boundaries and hazardous waste concerns should any of the foregoing exist.
10. Fences were located ONLY where dimensioned and may not run straight; ownership of fences, if any, unknown.
11. Date of the field survey was 1-5-99, drawn by S.B.
12. Type of Survey: Boundary Survey (for mortgage purposes)
13. The address of this parcel is
14. This is Drawing File: C:\301728A.DWG

Stevemat Land Surveying, Inc.
32 West Dicle Drive
Eustis, Florida 32726
Telephone (352) 357-9922

Ronald R. Stevemat
Certificate #3351

Attachment B. Second Page of Site Plan for AR 3051 (2 Pages)

SECTION 30, TOWNSHIP 17 SOUTH, RANGE 2 EAST
PAISLEY, LAKE COUNTY, FLORIDA.



SITE PLAN

EFIRD SURVEYING GROUP, INC.
 475 S. BLUE LAKE AVENUE
 PALM BEACH, FLORIDA 33409
 PHONE: (561) 740-4144 FAX: (561) 740-4155
 WEBSITE: www.efirdsurveying.com
 e-mail: jarry@efirdsurveying.com
 Certificate of Authorization Licensed Business Number 7230

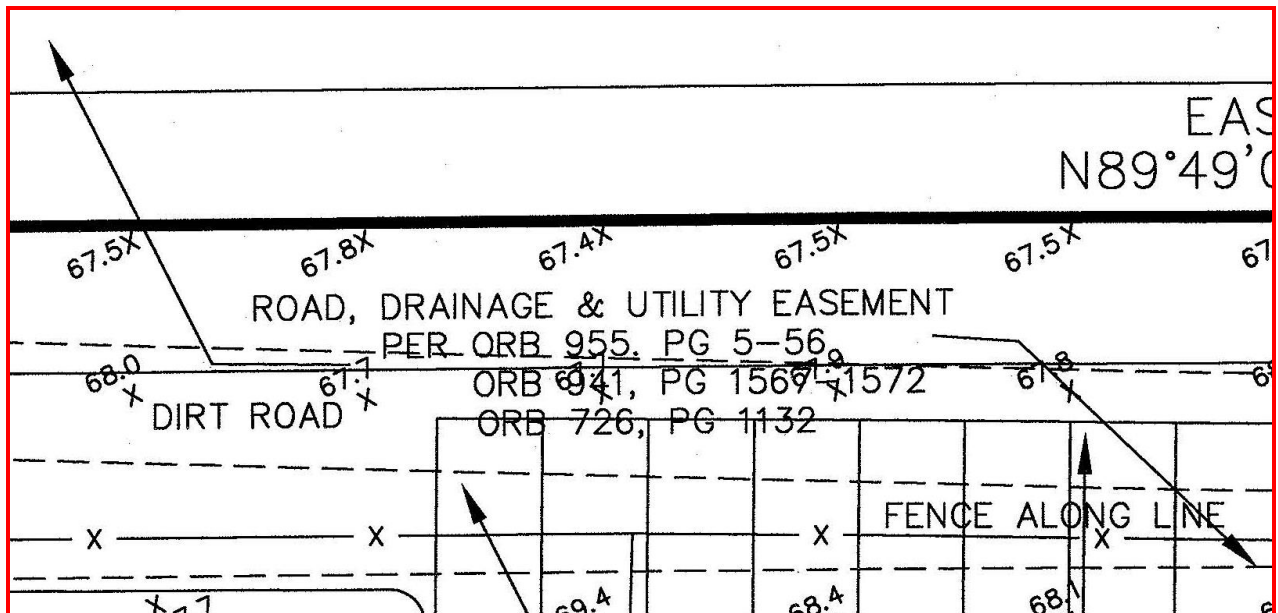
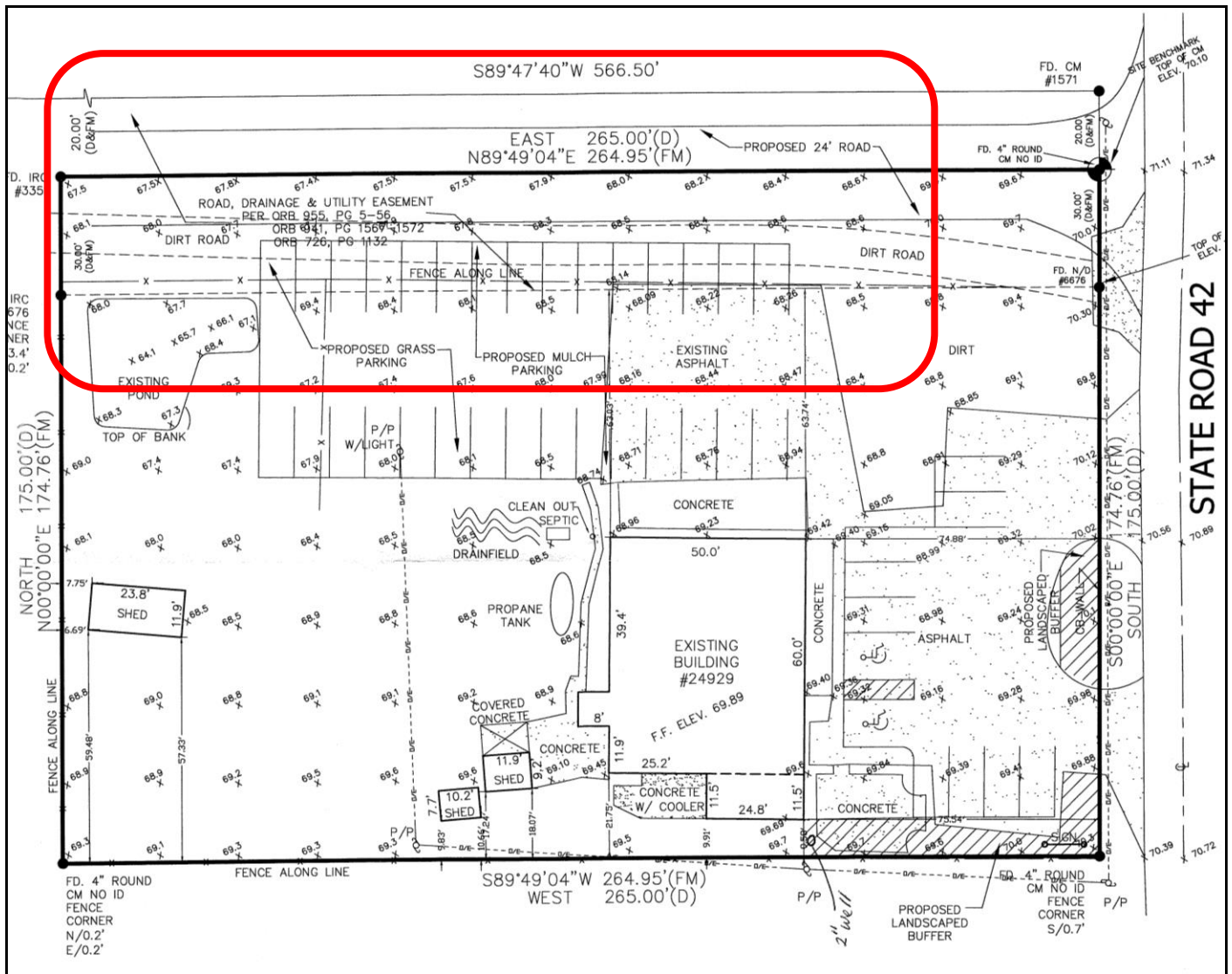
BOUNDARY SURVEY
 Survey Date: 4/21/18
 Boundary Number: 18-0281-B
 Scale: 1"=20'
 Drawn By: JAL

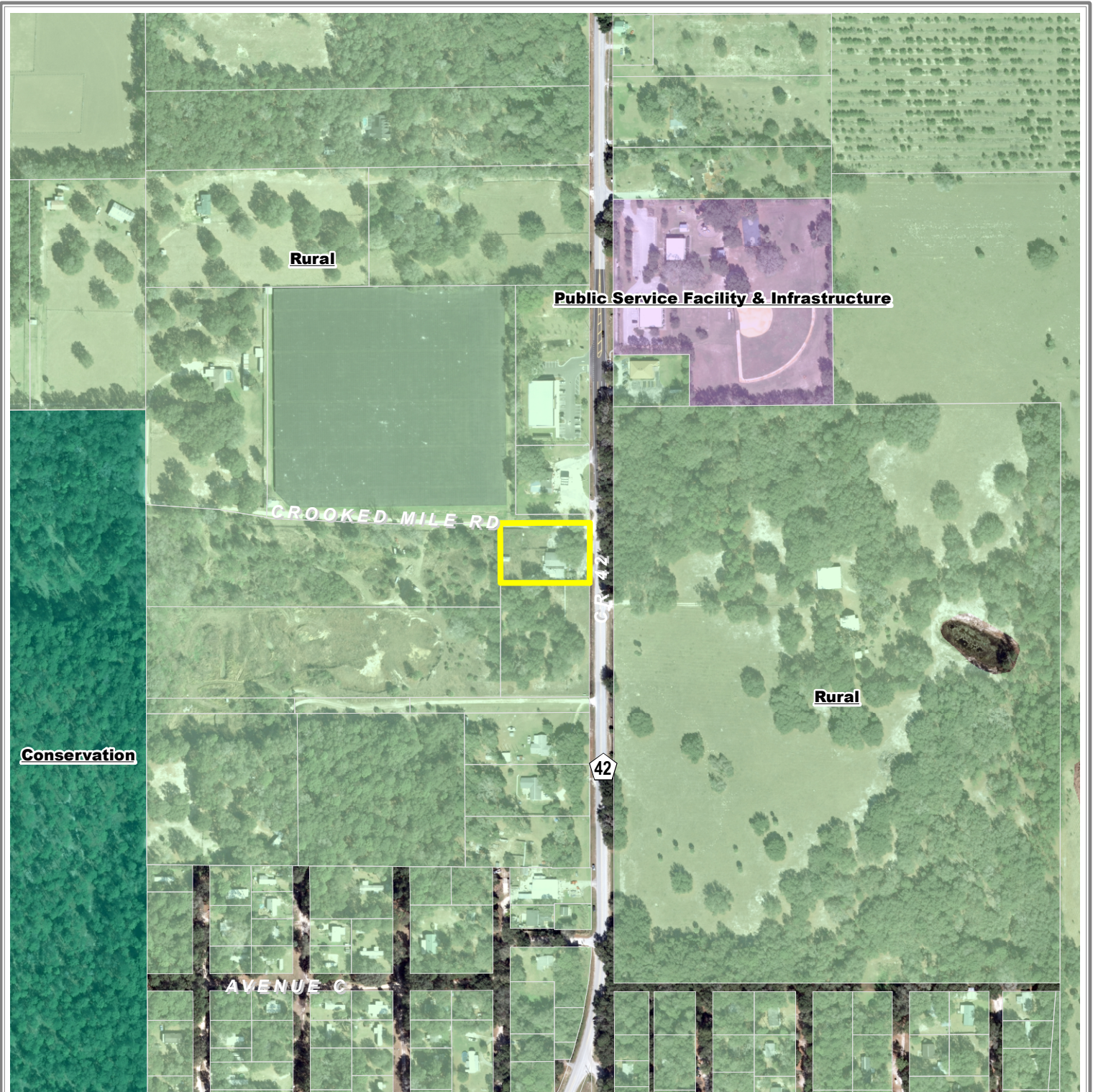
ADISTRA PROPERTIES, LLC
 1801 N. US HWY 1
 SUITE 100
 PALM BEACH, FLORIDA 33410
 PHONE: (561) 740-4144
 FAX: (561) 740-4155
 WEBSITE: www.adistra.com

SITE PLAN

LEGEND

1	ADJUSTED CENTERLINE
2	ADJUSTED CORNER
3	ADJUSTED END POINT
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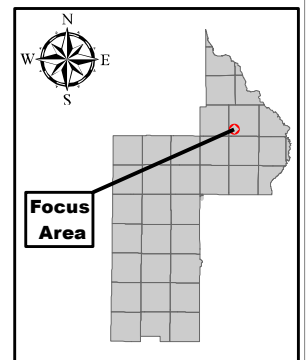




FUTURE LAND USE LEGEND

- | | | | |
|--------------------------------|--|---------------------|----------------------|
| Bella Collina | Heavy Industrial | Recreation | Urban High Density |
| Cagan Crossings | Mt Plymouth-Sorrento Main Street District | Regional Commercial | Urban Low Density |
| Conservation | Mt Plymouth-Sorrento Neighborhood | Rural | Urban Medium Density |
| Green Swamp Core Conservation | Mt Plymouth-Sorrento Receiving Area | Rural Transition | |
| Green Swamp Ridge | Regional Office | Sending Area A-1-20 | |
| Green Swamp Rural | Public Service Facility and Infrastructure | Sending Area A-1-40 | |
| Green Swamp Rural Conservation | Receiving Area A-1-20 | Summer Bay | |

NAME: TONYS PIZZA
CASE NUMBER: VAR-17-09-5
LOCATION (S-T-R): 30-17-28
REQUEST: ALLOW PARKING REDUCTION



Final Development Order
Tony's Pizza
VAR-17-09-6

A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Paul Mooney of SCR, Inc. (the "Applicant"), on behalf of Lamika Vishurti (the "Owner"), requested a variance from Lake County Land Development Regulations Section 9.03.06, Parking Requirements, to allow a restaurant to provide twenty-four (24) parking spaces in lieu of the required forty (40) parking spaces to accommodate a three-thousand (3,000) square foot restaurant; and

WHEREAS, the subject properties consist of 1.04+/- acres Along County Road 42 in the Paisley Area, also described as Alternate Key Number 2592371, and are more particularly described below (hereinafter referred to as the "Property"):

From a point 30 feet West of the Northeast corner of the SE 1/4 of Section 30, Township 17 South, Range 28 East, being a point on the West right of way line of State Road No. 42, run thence South along said right of way line 330 feet to the Point of Beginning of this description; thence continue South along said right of way line 175 feet; thence West 265 feet; thence North 175 feet; thence East 265 feet to the Point of Beginning, in Lake County, Florida.

WHEREAS, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on March 9, 2017; and

WHEREAS, the Board of Adjustment reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

WHEREAS, on March 9, 2017, the Lake County Board of Adjustment approved the variance for the above property.

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, subject to the following terms:

Section 1. Recitals: The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-17-09-6 to allow a restaurant to provide twenty-four (24) parking spaces in

lieu of the required forty (40) parking spaces to accommodate a three-thousand (3,000) square foot restaurant, subject to the following conditions:

1. Any expansion of the existing building will require the need for additional off-street parking spaces to accommodate the increased gross leasable area, consistent with the Land Development Regulations, as amended.
2. No less than twenty-four (24) parking spaces shall be provided to accommodate a general restaurant.

Section 3. Severability: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 9th day of March 2017.

EFFECTIVE March 9, 2017.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

_____, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____, as identification and who did _____ or did not _____ take an oath.

(SEAL)

Signature of Acknowledger