

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 06-04

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A REZONING REQUEST BY BEACH ROAD DEVELOPMENT, LP IN REFERENCE TO BONITA BEACH GOLF CLUB RPD ON LAND LOCATED AT 17001 BONITA BEACH ROAD, S.E., BONITA SPRINGS, FLORIDA, (STRAP NO. 01-48-26-B1-00001.0000), ON 500 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Beach Road Development, LP in reference to Bonita Beach Golf Club RPD has filed an application for rezoning 500 acres from Residential Planned Development (RPD) to Residential Planned Development (RPD) to allow for the development of up to 1,601 dwelling units (651 single family and 950 multiple family dwelling units) and up to 50,000 square feet of amenity center uses with no more than 5,000 square feet as retail and office uses, with a maximum building height of 60 feet.

WHEREAS, the subject property is located at 17001 Bonita Beach Road, S.E., Bonita Springs, Florida, and is described more particularly as:

"See Schedule A"

WHEREAS, a Public Hearing was advertised and heard on April 7, 2005 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case DCI 2005-00108 who gave full consideration to the evidence available and recommended approval, and gave full and complete consideration of the record, consisting of the Staff Recommendation, the Zoning Board, the documents on file with the City and the testimony of all interested parties. The March 21, 2006 Staff Report prepared by Lee County Development Services Division 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 Applicant's request from Residential Planned Development (RPD) to Residential Planned Development (RPD) with the following conditions and deviations:

A. Conditions

1. The development of this project must be consistent with the four-page Master Concept Plan entitled "Bonita Beach Golf Club RPD," stamped received February 7, 2006 (with Sheet 4 revised and submitted on February 10, 2006), except as modified by the conditions below. This development must comply with all requirements of the Bonita Springs Land Development Code at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

The development is approved for a maximum of 1,601 dwelling units (651 single family and 950 multiple family dwelling units) and up to 50,000 square feet of amenity center uses with no more than 5,000 square feet as retail and office uses. However, the unit types may be converted from multi-family to single family (or single family to multi-family) at the rate of one single family unit for every two multi-family units converted or two multi-family units for each single family unit converted (i.e., conversion ratio is two multi-family units equals one single family unit), but in no event shall more than 1,601 total units be constructed within this development. For the purposes of this project "single family" is defined as a single family unit AND "multiple family" is defined as zero lot line, duplex, multiple family, townhouse, and two family attached dwelling units.

2. The following limits apply to the project and uses:
 - a. Schedule of Uses
See attached Exhibit A
 - b. Site Development Regulations
See attached Exhibit B
3. Prior to local development order approval, the development order plans must be in substantial compliance with the standards set forth in the Bonita Springs Comprehensive Plan Urban Fringe Community District (proposed Policy 1.1.10.1). This includes the provisions within the Policy concerning the development of a golf course.
4. **AGRICULTURAL USES:** Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:

- a. Existing bona fide agricultural uses may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude City approved requests for the removal of invasive exotic vegetation.
 - c. The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the City Attorney.
5. Vegetative materials for land clearing may not be burned on-site. Any vegetation that must be removed for purposes of development must be disposed of in a properly licensed and permitted disposal site. This condition will not prohibit open burns for bona-fide agriculture provided that all conditions are met under state law and the Developer provides written notice to both the City of Bonita Springs and local residents (those living within 1,000 feet of the location of the open burn).
 6. All required buffers must utilize 100% all native vegetation.
 7. As part of any local development order, the developer must demonstrate compliance with the City's Comprehensive Plan.
 8. The Developer Agreement entered into between the City of Bonita Springs and Beach Road Development Company, LLC. has fully addressed mitigation of the project's vehicular impacts and the Level of Service in Transportation Elements Policy 1.1.3. Pursuant to the Developer Agreement, developer has received from the City of Bonita Springs transportation concurrency.
 9. The development will be required to provide a shuttle service as an alternative means of transportation for residents and all employees of this development along Bonita Beach Road, to include one stop connecting with Lee Tran transportation and one

stop at a public park on Bonita Beach. This program must be in place and available for use (at least twice daily) at the time that the 300th Certificate of Occupancy is issued for the residential portion of this project. There must be a drop-off/pick-up point at the amenity center/clubhouse for this planned development. Other drop-off/pick-up point(s) may be provided throughout the development. Upon buildout, or the turnover of the common areas and facilities to the Homeowner's Association (HOA), this responsibility shall be borne by the HOA. This service may be discontinued or reduced by the HOA with the consent of the City Manager or designee AND notification to City Council, should the existence of the shuttle be deemed unnecessary due to low utilization.

10. As part of the local development order for this project, the developer shall provide for an eight-foot wide multi-use pedestrian/bikeway along the south side of Bonita Beach Road Extension. The multi-use pathway shall commence at the terminus of the pathway serving East Bonita Active Adult Community and Bonita Beach Road Estates. This pathway must be shown on the development order plans and constructed in the initial phase of the project.
11. Prior to local development order approval, the development order plans must include the preservation of sabal palm hammock (2.01 acres), mixed hardwood wetland (0.03 acres), and cypress wetland (0.39 acres) just east of Tract 29 and south of Tract 28 delineated on the Master Concept Plan.

Prior to local development order approval, the development order plans must include a table showing the open space required for Sections 1 & 2 per the Bonita Springs Comprehensive Plan Policy 1.1.10.1 (4) and the table must demonstrate how this requirement is met.

12. Prior to local development order approval, the development order plans must be in substantial compliance with the standards set forth in the Bonita Springs Comprehensive Plan Urban Fringe Community District (Section 1.1.10.1).
13. Prior to local development order approval, the development order plans must include details of the 100-foot wide buffer along the south and east property line, and the two interior flow-ways in substantial compliance with the exhibit entitled "Bonita Beach Golf Club RPD Outfall/Flow Way Plan" prepared by RWA Consulting, stamped received November 1, 2005, with the clarification that

the Eastern Flow-way will be planted with forested wetland, ground cover, and marsh plantings, and the Western Flow-way will be planted with one native wetland herbaceous plant per linear foot of lake shoreline. The flow-way plantings must be a minimum 3-gallon container size for trees, a minimum 1-gallon container size for ground cover, and a minimum 2-inch liner size for marsh/herbaceous plantings.

14. Prior to local development order approval, the development order plans must include the location of signage informing residents that feeding and harassing alligators is prohibited by Florida state law.
15. Prior to issuance of a Certificate of Compliance for any local development order that requires a dumpster, the installed dumpsters must be wildlife proof to discourage bear foraging.

Information must be provided to employees and residents regarding Florida black bears including details of proper disposal of garbage to prevent bear foraging in dumpsters and garbage cans. Prior to local development order approval, a copy of the Florida black bear brochure must be submitted for the Division of Environmental Sciences staff review and approval.

16. Within thirty (30) days after the Bonita Beach Road Expansion is permitted, the Developer will convey to the Worthington Master Association land on the southern portion of Bonita Beach Road running parallel to Worthington Country Club to address off-site improvements and pay Worthington Master Association \$875,000.00 for road mitigation off-site related improvements. Worthington Master Association will be responsible for obtaining all development approvals for said improvements. No road impact fee credits will be issued under this condition.

B. Deviations

Deviation 1 was withdrawn by the applicant.

Deviation 2 is approved, granting relief from LDC Section 3-329(e)(4) which requires compensating slope on excavation banks; to allow up to 40 percent of the banks to use vertical bulkheads subject to the following condition:

Prior to local development order approval, both the paving and grading site plan, and the landscape plan must delineate the proposed bulkheads and compensatory littoral zones. The compensatory littoral zone may be adjacent to the bulkhead or provided elsewhere within the same lake with a minimum linear

footage equivalent to the length of the bulkhead. The compensatory littoral zone must be minimum 5-feet wide and planted to provide a fifty percent coverage at time of installation. The littoral plants must be a minimum 2-inch liner size.

Deviation 3 is approved, granting relief from LDC Section 3-296(J) which requires dead-end streets must be closed at one end by a circular turnaround for vehicles; to allow for the "hammerhead" cul-de-sac design with two short access streets at the "hammerhead" cul-de-sac, subject to the condition that the Bonita Springs Fire and Rescue District provides a letter accepting the final design prior to approval of a local development order.

Deviation 4 was withdrawn by the applicant.

Deviation 5 is approved, granting relief from LDC Section 3-291(C) which requires where practical any residential development of more than 5 acres must provide two means of access; to allow the RPD to have one full ingress and egress point, subject to the condition that the entrance is designed consistent with the Plan entitled BBR RPD Entrance Road, prepared by Banks Engineering, Inc. and stamped received on February 10, 2006.

Deviation 6 is approved, granting relief from LDC Section 3-328 which requires a 20 foot wide lake maintenance easement; to allow a 0 (zero) foot wide easement as depicted on the Master Concept Plan, subject to the condition that the South Florida Water Management District permit provides for alternative maintenance for the lakes.

Deviation 7 was withdrawn by the applicant

Deviation 8 is approved, granting relief from LDC Section 34-2194(C)(3)B which requires a 10-foot setback from non-seawalled artificial bodies of water; to allow a zero (0) foot setback for recreational/amenity structures at the lake control elevation, subject to the provision of railings where any pedestrian areas or decks/platforms will abut the lake and it is limited to 40% of an individual lake shoreline for the following uses: viewing platforms, decks, walkways, and other similar accessory structures.

Deviation 9, 10, 11 and 12 were withdrawn by the applicant.

Findings and Conclusions:

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

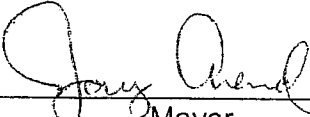
1. The applicant has proven entitlement to the rezoning to Residential Planned Development (RPD) by demonstrating compliance with the Bonita Springs Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested RPD zoning, as conditioned:
 - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b) is consistent with the densities, intensities and general uses set forth in the Bonita Springs Comprehensive Plan;
 - 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 requested RPD zoning, as conditioned, will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
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, as conditioned, is appropriate at the subject location.
6. The recommended conditions to the 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.
8. The deviations as recommended for approval, and 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 22nd day of May, 2006.

AUTHENTICATION:

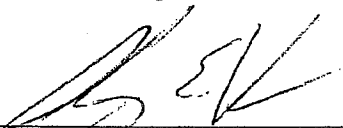


Mayor



Deputy Clerk for
City Clerk

APPROVED AS TO FORM:



City Attorney

Vote:

Arend	Aye	Joyce	Aye
Ferreira	Aye	Simons	Nay
Grantt	Nay	Nelson	Aye
McCourt	Aye		

Date filed with City Clerk:

5/23/06

