

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 05 - 11

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A REQUEST BY ROCKPOINT/RONTO NAPLES, LLC IN REFERENCE TO EAST BONITA ACTIVE ADULT RPD; APPROVING A REQUEST BY ROCKPOINT/RONTO NAPLES, LLC TO REZONE A 294.85 ACRE PARCEL FROM RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO PERMIT THE DEVELOPMENT OF UP TO 799 RESIDENTIAL DWELLING UNITS CONSISTING OF SINGLE FAMILY AND MULTIPLE FAMILY UNITS AND UP TO 50,000 SQUARE FEET OF AMENITY USES; ON LAND LOCATED AT 16350, 16750, AND 17001 BONITA BEACH ROAD, SOUTHEAST, BONITA SPRINGS, FLORIDA 34135 (STRAP NOS. 01-48-26-B1-00001.0000; 02-48-26-B1-00001.0000; 02-48-26-B2-00001.1000), ON 294.85 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, has filed an application for rezoning 294.85 +/- acres from Residential Planned Development (RPD) to Residential Planned Development (RPD) to permit the development of up to 799 residential dwelling units consisting of single family and multiple family units and up to 50,000 square feet of amenity uses; and,

WHEREAS, the subject properties is located at 16350, 16750 and 17001 Bonita Beach Road, Bonita Springs, Florida, and is described more particularly as:

"See Exhibit A"

WHEREAS, a Public Hearing was advertised and heard on June 3, 2005 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case DCI 2004-00071 who gave full consideration to the evidence available and recommended approval (7-0); 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 May 17, 2005 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 rezoning from Residential Planned Development (RPD) to Residential Planned Development (RPD) with the following conditions and deviations:

Conditions

1. The development of this project must be consistent with the four-page Master Concept Plan (MCP) entitled "East Bonita Active Adult," stamped received JAN 04, 2005, 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, except as may be granted by deviation as part of this planned development. General Note 1 (found on Page 2 of the MCP) has no force or effect as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

The approved development intensities allows for the development of a maximum of 799 dwelling units (limited to 500 single family and 299 multiple family dwelling units) and 50,000 square feet of commercial and recreational floor area. 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 799 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 (Any Note referenced below is taken from LDC Section 34-934)

RESIDENTIAL TRACTS:

Accessory uses and structures: Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106
Administrative offices: Note (1)
Agricultural uses and agricultural accessory uses - See Condition 7 and Master Concept Plan General Note 14
Clubs: Country
Private (34-2111 et seq.)
Consumption on premises (34-1261 et seq.) - limited to use of a CLUB
Dwelling unit: Duplex (Note 29) - limited to tracts marked as "M"
Single-family (Note 29) - limited to tracts marked as "S" & "SC"
Multiple-family building (Note 28) - limited to tracts marked as "M" & "SC"
Two-family attached (Note 28) - limited to tracts marked as "M"
Townhouse (Note 28) - limited to tracts marked as "M" & "S/C"
Zero lot line (Note 28) - limited to tracts marked as "M"
Essential services (Note 1, 34-1611, 34-1741)

Essential service facilities (34-622(c)(13)): Group I (Note 1, 34-1611, 34-1741, 34-2141)
Excavation: Water retention (34-1651)
Fences, walls (Note 1, 34-1741)
Food and beverage service, limited (Note 1) - limited to use of a CLUB
Health Club or Spa - limited to use of a CLUB
Home occupation (Notes 1 and 31, 34-1771)
Models: (34-1951 et seq.)
 Model home
 Model unit
Parking lot: Accessory
Recreation facilities:
 Personal (Note 1)
 Private--On-site (Note 1)
Signs in accordance with Land Development Code
Temporary uses (Note 1, 34-3041 et seq.) - limited to temporary sales office, and construction trailer and staging area

AMENITY CENTER TRACTS:

Accessory uses and structures: Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106
Administrative offices: Note (1)
Agricultural uses and agricultural accessory uses - See Condition 7 and Master Concept Plan General Note 14
Banks and financial establishments (34-622(c)(3)): Group I
Business services (34-622(c)(5)): Group I - limited solely to travel agencies
Cleaning and maintenance services (34-622(c)(7))
Clubs: Country
 Private (34-2111 et seq.)
Convenience food and beverage store - limited to a total of 8 pumps
Consumption on premises (34-1261 et seq.) - limited to use of a CLUB
Essential services (Note 1, 34-1611, 34-1741)
Essential service facilities (34-622(c)(13)): Group I (Note 1, 34-1611, 34-1741, 34-2141)
Fences, walls (Note 1, 34-1741)
Food and beverage service, limited (Note 1) - limited to use of a CLUB
Food stores (34-622(c)(16)): Group I, excluding supermarkets
Health Club or Spa - limited to use of a CLUB
Laundry or dry cleaning (34-622(c)(24)): Group I
Parking lot: Accessory
Personal services (34-622(c)(33)): Group I (34-3021) - limited to ATM, barber shop, beauty shop, clothing alterations and repair including dress makers, seamstress, and tailors
Group II - limited beauty spas, health clubs or spas, and massage establishments
Recreation facilities:
 Personal (Note 1)
 Private--On-site (Note 1)
Rental or leasing establishment (34-622(c)(39)): Group II (34-1201 et

seq., 34-1352, 34-3001 et seq.) - limited to movies, video tapes, and similar home entertainment
Restaurants (34-622(c)(43)): Groups I, II, and III - limited to residents of the development and their guests
Signs in accordance with Land Development Code
Specialty retail shops (34-622(c)(47)): Group I - limited to bookstore and newsstands
Temporary uses (Note 1, 34-3041 et seq.) - limited to temporary sales office, and construction trailer and staging area

PUBLIC FACILITIES TRACT:

Accessory uses and structures: Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106
Administrative offices: Note (1)
Agricultural uses and agricultural accessory uses - See Condition 7 and Master Concept Plan General Note 14
Emergency operations center
EMS, fire or sheriff's/police station
Essential services (Note 1, 34-1611, 34-1741)
Essential service facilities (34-622(c)(13)): Group I (Note 1, 34-1611, 34-1741, 34-2141)
Fences, walls (Note 1, 34-1741)
Parking lot: Accessory
Storage: Indoor only (Note 1, 34-3001 et seq.)

b. Site Development Regulations

See attached Exhibit B

3. Prior to approval of local development order, the development order plans must demonstrate the preservation of the 3.24 acre wetland, in significant compliance with the Master Concept Plan.
4. Prior to local development order approval, the development order plans must indicate a minimum of 70.11 acres of open space, in significant compliance with the Master Concept Plan. A maximum of 18.38 acres of open space may be designated as lake area.
5. Prior to approval of local development order, the landscape plan must include a littoral planting plan that includes expanded littoral shelves and clustering of plantings, in significant compliance with the exhibit labeled "Littoral Shelf Exhibits: East Bonita Active Adult RPD" and stamped received by Division of Environmental Sciences on February 16, 2005.
6. Prior to approval of local development order, an American alligator management plan must be submitted to Division of Environmental Sciences for review and approval. This management plan must contain details of signs to be placed around the perimeter of lakes informing residents of the possible presence of alligators, the protected status of alligators, and that feeding or

harassment of alligators is illegal. The management plan must also include an educational brochure regarding living with alligators that will be distributed to all residents.

7. 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.
8. 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).
9. All required buffers must utilize 100% all native vegetation.
10. As part of any local development order, the developer must demonstrate compliance with the City's Comprehensive Plan.
11. Prior to the issuance of any development order, the developer must provide evidence that the property has access to central water and sanitary sewer, or that the extension of central water and sanitary sewer will coincide with the development of the property.
12. The Developer Agreement entered into between the City of Bonita Springs and Beach Road Development Company, LLC and dated May 18, 2005 and attached hereto as Exhibit C has fully addressed mitigation of the project's vehicular traffic 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 vesting for a period of 10 years commencing on May 18, 2005.

13. 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 for this project. Other drop-off/pick-up point(s) may be provided throughout the planned development. Upon buildout, or the turnover of the common areas and facilities to the Homeowners 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.
14. 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 western boundary of Section 2 and end at the terminus of Bonita Beach Road. The pathway shall provide a pedestrian crossing at the entrance of each project. This pathway must be shown on the development order plans and constructed during the initial phase of the project.

B. Deviations

Deviation one is granted, affording relief from LDC Section 3-296.L.4 which requires one vehicular access to 50 or fewer multiple family units; to allow one vehicular access to one hundred multiple family units.

Deviation two is granted, affording relief from LDC Section 3-296, Table 1, F.3., which requires 1 & ½ inch asphalt FDOT S-3 concrete; to allow for cement concrete pavers or similar decorative paving materials for selected local street areas.

Deviation three is granted, affording relief from LDC Section 3-329(e)(4) which requires compensating slope on excavation banks; to allow up to 20 percent of the banks to utilize bulkheads, subject to Condition 5.

Deviation four is withdrawn, which sought relief from LDC Section 3-256.D.3, which requires all sidewalks to be either (1) four-inch (4") thick Portland cement concrete, or (2) a minimum of one-one-half-inch (1.5") thick asphaltic concrete of FDOT type S-111; to allow sidewalks to be constructed of decorative pavers. The new Land Development Code (LDC) provides that the developer may submit alternative designs and these designs are subject to the approval of the City Manager or

designee. This application lacks specific enough information at this time to approve this request and should be addressed at the time of review of a development order.

Deviation five is withdrawn, which sought relief from LDC Section 3-291.C, which provides where practical, any residential development of more than 5 acres must provide for two means of access; to allow one full means of access and one emergency access. Staff has confirmed that as long as there is one full means of access and one emergency access, they meet the access requirements.

Deviation six is withdrawn, which sought relief from LDC Section 3-329.E.1, which requires a 25 foot setback for an excavation for water retention or detention from an existing street right-of-way line or easement for a local road; to allow a 20 foot setback with adequate elements for protection of wayward vehicles are provided. This Section of the Code specifically states that the setback will be applied in the instance of a new excavation from an existing local street. All areas where this deviation would be effective would be where a new excavation is planned next to a new local street, all part of this development. This Section of the LDC does not apply in this instance and this deviation is not needed.

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. Provided that the Comprehensive Plan has been amended to address this development, staff can then say that the applicant has proven entitlement to the rezoning to Residential Planned Development (RPD) by demonstrating compliance with the 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 Comprehensive Plan, provided that the Comprehensive Plan amendment has been approved;
 - 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 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 Comprehensive Plan, are, or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses 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 recommended for approval, and 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 25th day of July, 2005.

AUTHENTICATION:

Mayor
City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Arend	Aye	Nelson	Aye
Edsall	Aye	Piper	Absent
Grantt	Nay	Wagner	Aye
Joyce	Aye		

Date filed with City Clerk: _____