

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 05 - 12

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A REQUEST BY ROCKPOINT/RONTO NAPLES, LLC IN REF TO BONITA BEACH ROAD ESTATES RPD TO REZONE 504.35 +/- ACRES FROM RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO ALLOW A 1,200 UNIT MIXED USE RESIDENTIAL DEVELOPMENT WITH MAXIMUM BUILDING HEIGHT OF 60 FEET (6 STORIES) AND UP TO 30,000 SQUARE FEET OF AMENITY CENTER USES; ON LAND LOCATED AT 16350, 16750 AND 17001 BONITA BEACH ROAD S.E., 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 504.35 +/- ACRES PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Rockpoint/Ronto Naples, LLC has filed an application for rezoning on 504.35 +/- acres from Residential Planned Development (RPD) to Residential Planned Development (RPD) to allow a 1,200 unit mixed use residential development.

WHEREAS, the subject property 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 2004-00077 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 with the following conditions and deviations:

Conditions

1. The development of this project must be consistent with the three-page Master Concept Plan entitled "Bonita Beach Road Estates," stamped received June 24, 2005, except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Spring Land Development Code (LDC) 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 limited to a maximum of 1,200 dwelling units (of this total not more than 240 units may be multiple family units and the remaining 960 may be single family units) and up to 30,000 square feet of amenity center 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 1200 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 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 above 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 (limited to existing only and General Note 13 on the approved Master Concept Plan)
Clubs: Country
Private (34-2111 et seq.)
Consumption on premises (34-1261 et seq.)
Food and beverage service, limited (Note 1)
Health Club or Spa - limited to use of a CLUB
Dwelling unit: Single-family (Note 29) - limited to tracts marked as "S" && "S/M"
Multiple-family building (Note 28) - limited to tracts marked as "M" "S/M"
Two-family attached (Note 28) - limited to tracts marked as "M"
Townhouse (Note 28) - limited to tracts marked as "M" & "S/M"
Entrance gates and gatehouse (34-1741)
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 (Note1, 34-1741)
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 the Land Development Code
Temporary uses (Note 1, 34-3041 et seq.) - limited to temporary sales
 office, and construction trailer and staging area

AMENITY CENTER 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 (limited to existing only
 and General Note 13 on the approved Master Concept Plan)
Banks and financial establishments (34-622(c)(3)): Group I
Business services (34-622(c)(5)): Group I - limited solely to travel agencies
Car wash - only in conjunction with a convenience food and beverage store
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 (Note1, 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
Real estate sales office (Note 23, 34-1951, 34-3021)
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

b. Site Development Regulations

See attached Exhibit B

3. Prior to local development order approval, the development order plans must delineate the 175.64 acres of Conservation Area as shown on the Master Concept Plan. An invasive exotic removal plan for the preservation area must be submitted including the method of removal, the species to be removed and a time table for completion. The landscape plans must include a typical sign denoting the Conservation Area limits and delineate a sign to be located at every other lot line where single family lots abut the Conservation Area. A minimum of 256 acres of open space must be provided within the Urban Fringe Community District. The development order plans must track how this acreage is being met within the entire Urban Fringe Community District in substantial compliance with the Site Summary table included on page 3 of the Master Concept Plan.
4. Prior to local development order approval, the development order plans must be in compliance with the standards set forth in the Bonita Springs Comprehensive Plan Urban Fringe Community District (proposed Section 1.1.10.1).
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 the Division of Environmental Sciences on February 16, 2005.
6. 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.
7. 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.

8. 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 400th 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.
9. 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.
10. 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).
11. All required buffers must utilize 100% all native vegetation.

12. As part of any local development order, the developer must demonstrate compliance with the City's Comprehensive Plan.
13. 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.
14. 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.
15. 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.

Deviations

Deviation one 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 two is withdrawn, which sought relief from LDC Section 10-256(d)(3) (new 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.

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 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 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 will be available and adequate to serve the proposed land use.
5. The proposed 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: _____