

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 17-04

AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING §4-295 – APPLICATION, TO REVISE SUFFICIENCY TIMELINES AND PROCESS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes §166.021 authorizes the City of Bonita Springs to establish, coordinate and enforce laws that are necessary for the protection of the public; and

WHEREAS, on October 5, 2016, Bonita Springs City Council directed staff to prepare an ordinance amending certain portions of the Land Development Code related to planned development, including but not limited to the sufficiency of applications; and

WHEREAS, on January 18, 2017, City Council determined it was appropriate to go forward with the sufficiency of applications process, and to have additional review for the other Land Development Code sections related to planned development; and

WHEREAS, Bonita Springs City Council finds that adoption of this amendment will assist staff and applicant by conforming this section to Florida Statutes §166.033.

THE CITY OF BONITA SPRNGS HEREBY ORDAINS:

SECTION ONE: BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4

Section 4-295 – Application, is amended to read as follows, with strike-through identifying deleted language and underline identifying additional language:

ARTICLE III. - PLANNED DEVELOPMENTS
DIVISION 2. - APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 4-295. - Application.

(a) *Minimum required information for all planned development zoning applications.* Rezoning applications for planned developments must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(1) *General application.* A general application for public hearing in accordance with the requirements set forth in sections 4-193, through 4-195. Two or more planned development categories may be combined in one application under the following circumstances:

- a. The subject property is divided into development areas, each of which corresponds to a different planned development category; and
- b. Each development area is identified by a separate legal description and boundary sketch.

(2) *Filing fee.* The filing fee in accordance with the duly adopted fee schedule. (See section 4-31.)

- (3) *Covenants.* A covenant and documentation of unified control. (See section 4-296.)
- (4) *Description of existing conditions.* The application for a planned development must be accompanied by:
- a. A map or other depiction of the existing zoning and current land uses (i.e., single-family residence, multiple-family building, retail commercial, office building, etc.) surrounding the tract or parcel to a distance of 375 feet.
 - b. An aerial photograph with the site clearly delineated.
 - c. Maps drawn at the same scale as the master concept plan marked or overprinted to show:
 1. Soils, classified in accordance with the USDA/SCS system;
 2. Vegetation and ground cover, classified in accordance with the state land use and cover classification system;
 3. Significant areas of rare and unique upland habitats as defined in the Bonita Plan; and
 4. A county topographic map (required if available) or a USGS quadrangle map showing the subject property.
 - d. A map or other depiction of the property in relation to existing and proposed public transit routes, as well as to bus stops, if located within the Lee Tran public transit service area.
 - e. A map showing the location of the property to be developed in relation to arterial and collector streets as well as the location of existing easements and rights-of-way on or abutting the property.
 - f. The nature and location of any known or recorded historical or archaeological sites as listed on the state master site file or the county historical Site survey, and the location of any part of the property that is located within Level 1 or Level 2 zones of archaeological sensitivity pursuant to chapter 5. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided.
- (5) *Explanation.* A narrative explanation as to how the proposed development complies with the Bonita Plan, the design standards set forth in section 4-325, and the guidelines for decision-making embodied in section 4-131.
- (6) *Master concept plan.* All applications must be accompanied by a graphic illustration (master concept plan) of the proposed development. Copies of the master concept plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size. Both sizes of the master concept plan must be clearly legible and drawn at a scale sufficient to adequately show and identify the following information:
- a. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development. If a subdivision, the plan must also show the general location of all proposed internal street rights-of-way or easements and the general location of all points of vehicular ingress and egress from the proposed internal rights-of-way or easements into multiple-family, commercial, or industrial use lots.
 - b. Where the subject property will be divided into lots or parcels, the plan must indicate the general location, configuration, and approximate dimensions of the lots or parcels (including outparcels) as well as lot coverage, and the minimum proposed setbacks for principal structures. The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application. If the property development regulations for a specific zoning district will be used, reference to the specific district will be sufficient.
 - c. Individual development areas (i.e., residential, retail, office, manufacturing, mixed use-listed, etc.) with detail showing:

1. The boundary of each development area within which buildings, parking or other uses will be located;
 2. The maximum height, in feet and number of habitable stories; if parking under the buildings is proposed, the number of stories proposed for parking must be indicated and included in the total maximum height of the building;
 3. If residential, the maximum number of dwelling units by type;
 4. If a hotel or motel, the number of rooms by size;
 5. If a health care facility, the number of beds; and
 6. If commercial or industrial, the types and the total floor area of each use.
- d. The general location of service areas for delivery of goods or services must be shown for all developments that are not residential subdivisions.
 - e. The general location of proposed parks and recreation areas and facilities, as well as indigenous areas to be preserved.
 - f. The percentage of open space, unless the proposed development is a development consisting solely of conventional single-family dwelling units on lots of no less than 6,500 square feet. For commercial and industrial developments, the percentage of open space within each lot or outparcel must be as set forth in section 4-328(c).
 - g. The minimum width and composition of all proposed buffers along the perimeter of the subject property, as well as between the individual uses, if the types of proposed uses require buffer separations. References to types of buffers as described in chapter 3 are acceptable.
 - h. Proposed access and facilities for public transit in accordance with sections 4-325(e) and 3-450.
 - i. The general location of excavations for on-site fill and wet retention. If the applicant proposes to remove excavated material from the property a planned development for mining and a general mining permit may be required. See section 3-331.
 - j. If the development is located within a floodplain or flow way, it is the applicant's responsibility at the time of local development order or district permitting to compensate for impacts to flood storage capacity or flow ways due to filling of the site.
 - k. The location of any requested deviations, keyed to the schedule of deviations, including drawings demonstrating the effect on the site plan.
- (7) *Traffic impact statement.* A traffic impact statement in a format and to the degree of detail required by a form furnished by the city and in conformance with the adopted administrative code. Upon written request, the director may waive this requirement for minor planned developments.
- (8) *Schedule of uses.* A schedule of uses keyed to the master concept plan as well as a summary for the entire property, including the following information, as well as:
- a. The types of uses proposed for the entire site. For projects with residential uses, the summary must include the types of proposed dwelling units.
 - b. The number of units (gross square feet for commercial/industrial uses, number of units for residential or motel/hotel uses, beds for institutional types of uses, etc.) for each proposed use.
 - c. The proposed percentage of open space for the entire site.
- (9) *Schedule of deviations.* A schedule of deviations and a written justification for each deviation requested as part of the master concept plan. The location of each requested deviation must be indicated on the master concept plan.

- (10) *Filling of site to compensate for impacts.* If the development is located within a floodplain or flow way, it is the applicant's responsibility to compensate for impacts to flood storage capacity or flow ways due to filling of the site at the time of local development order or district permitting.
- (b) *Additional required information for all major planned development zoning.*
- (1) A written description of the surface water management plan that includes:
 - a. The runoff characteristics of the property in its existing state.
 - b. In general terms, the drainage concept proposed, including the outfall to canals or natural water bodies, including how drainage flows from adjacent properties will be maintained.
 - c. The retention features (including existing natural features) that will be incorporated into the drainage system and the legal mechanism which will guarantee their maintenance.
 - d. How existing natural features will be preserved. Include an estimate of the ranges of existing and post development water table elevations, where appropriate.
 - e. If the property is subject to seasonal inundation or subject to inundation by a stream swollen by the rains of a 100-year storm event, indicate the measures that will be taken to mitigate the effects of expectable flooding.
 - (2) For large developments (defined in chapter 9), a protected species survey as required by section 3-455.
 - (3) If the development is to be constructed in phases or if the traffic impact statement utilized phasing, then a description of the phasing program must be submitted.
 - (4) Developments of regional impact. The contents of a complete and sufficient application for development approval (ADA) per F.S. ch. 380 duplicate or exceed the submittal requirements of this chapter.
- (c) *Amendments to built planned developments (PD).*
- (1) Part or all of a planned development which is built may be the subject of an application for a variance or other approval covered by this chapter wherein the subject property is the only part of the original planned development for which the approval is sought. If the subject property meets the threshold for a development of city impact, it will be reviewed in accordance with the provisions in this chapter which apply to developments of city impact. If the subject property is not a development of city impact, it will be reviewed in accordance with the provisions in this chapter which apply to conventional zoning districts. In either case, the applicant will be the owner of the subject property and the consent of the owners of the remainder of the original planned development will be unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.
 - (2) For purposes of this subsection (c), the term "built" means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved master concept plan have been constructed and acknowledged by the city as complete. In the case of residential planned developments or mixed developments which include residential structures, the term "built" does not mean that all residential structures must have been constructed on individual platted lots.
- (d) *Sufficiency.*
- (1) No hearing will be scheduled for an application for a planned development until the application has been found sufficient.
 - a. All applications for planned developments will be deemed sufficient unless a letter advising the applicant of insufficiencies has been provided within 45 working days of submittal of the application.

- b. All amended applications will be deemed sufficient unless a subsequent letter advising the applicant of any insufficiencies has been mailed within ~~45~~ 45 working days of the resubmittal. The contents of insufficiency letters will be limited to brief explanations of the manner in which insufficient applications do not comply with the formal requirements in this section and any provisions within the land development code.
 - c. Staff may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the City, at the applicant's request, shall proceed to process the application for approval or denial.
 - d. After notice of insufficiency, the applicant has 60 days to submit supplemental or corrected documents, unless a longer time is agreed to in writing by the director and the applicant prior to the expiration of the 60 days. If the supplement or corrections are not submitted within the 60 days (or other time period agreed to) the application will be deemed withdrawn.
 - e. Once an application has been found sufficient, it will be scheduled for public hearing. Any new information submitted by the applicant, or any changes made to information submitted for the sufficiency review, which is provided after the finding of sufficiency may, at the discretion of the director, be grounds for a deferral or continuance of the public hearing, depending on the advertised status of the hearing.
- (2) DRI'S: Where a proposed planned development is identified by staff as a possible development of regional impact, the applicant will be notified that the application will be deemed sufficient only when accompanied by either a binding letter of interpretation from DEO or a complete and sufficient application for development approval (ADA). Failure by the city to notify the applicant in a timely manner (within 30 days of the application) will nullify any finding of insufficiency based on this requirement. Assuming the application is sufficient in all other respects, staff will commence its review of the planned development. However, there will be no hearing held before the zoning board until the applicant submits a binding letter of interpretation from DEO DGA or a complete and sufficient ADA. ~~application for development approval (ADA).~~

(Ord. No. 11-02, § 3(4-373), 1-19-2011)

SECTION TWO: CONFLICTS

Whenever the requirements or provisions of this amending ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statutes, the most restrictive requirements shall apply.

SECTION THREE: SEVERABILITY

If any part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reasons, such part, section, subsection, or other portion of the prescribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City declares that no invalid or prescribed provision or application was an inducement to the enactment of this Ordinance, and that it would have enacted this Ordinance regardless of the invalid or prescribed provision application.

SECTION FOUR: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the City Council for the City of Bonita Springs that the provisions of this Ordinance shall become and be made part of the Bonita Springs Land Development Code; and that sections of this ordinance may be renumbered or re-lettered and that the work "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the City Manager, or the City Manager's designee, without need or public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION FIVE: EFFECTIVE DATE

The effective date of this ordinance shall be thirty (30) days from its adoption date.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 5th day of April, 2017.

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: 4/17/17