

CITY OF BONITA SPRINGS  
ZONING RESOLUTION NO. 18 – 05

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA;  
REMANDING A REQUEST BY BONITA GRANDE PROPERTIES,  
LP, A/K/A BG MINE, LLC, FOR FURTHER REVIEW BY THE CITY  
OF BONITA SPRINGS BOARD FOR LAND USE HEARINGS AND  
ADJUSTMENTS AND ZONING BOARD OF APPEALS ON LAND  
LOCATED AT 25501 BONITA GRANDE DRIVE, BONITA  
SPRINGS, FLORIDA 34135, ON +/-1,268.0 ACRES; AND  
PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Bonita Grande Properties, LP (“Applicant” or “BG Mine”), has filed an application to amend Lee County Zoning Resolution No. 98-071 (“Zoning Application”), as subsequently amended, to extend the termination date of mining by ten (10) years from May 27, 2020, to February 4, 2033, with the current termination date of mining statutorily extended to February 24, 2027, pursuant to Section 252.363, *Florida Statutes*; and

**WHEREAS**, a Public Hearing was advertised and heard on October 20, 2015, by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals (“Zoning Board”) on Case PD14-16327-B0S, which recommended 6-0 to deny (one member absent) based upon full and complete consideration of the record, consisting of the Staff Report, the documents on file with the City, and the testimony of all interested parties. The Staff Report dated October 12, 2015, which was prepared by the Community Development Department, and the evidence submitted at the Zoning Board hearing is on file with the City Clerk; and

**WHEREAS**, after the Zoning Board’s October 20 hearing but prior to the City Council hearing, the Applicant requested that the Zoning Application be reviewed pursuant to §171.062(2), *Florida Statutes*, which requires that, “if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment that includes the annexed area”; and

**WHEREAS**, the City Council approved Zoning Resolution 16-R09 on December 7, 2016, thereby remanding the Zoning Application to the Zoning Board to be reviewed pursuant to §171.062(2) *Florida Statutes*, and authorizing the Applicant to submit additional analysis of its request using the Lee County Comprehensive Plan and the applicable Lee County land development regulations, as they were in effect at the time of the City’s annexation of the Applicant’s property (June 20, 2003); and

**WHEREAS**, the City Council extended the remand by Zoning Resolution 17-R13 on May 17, 2017, for the submittal and review of the Lee County Comprehensive Plan and the applicable Lee County land development regulations, as they were in effect at the time of the City's annexation of the Applicant's property (June 20, 2003); and

**WHEREAS**, at the request of the Applicant, the City Council extended the remand by Zoning Resolution 18-R02 after the Applicant sent a written request on January 10, 2018, to the City asking for additional time to be able to respond to the City Staff's questions related to the Zoning Application; and

**WHEREAS**, on July 24, 2018, BG Mine, LLC, filed a "Complaint for Declaratory and Supplementary Relief" in Circuit Court in Case No. 18-CA-003465, requesting the Circuit Court to: (1) direct the City of Bonita Springs ("City") to send BG Mine's request to extend the time limitation of the mine to the Lee County Hearing Examiner, following certain Lee County procedural requirements; and (2) enjoin the City's Zoning Board or other tribunal from exercising jurisdiction over such application ("BG Mine Lawsuit"); and

**WHEREAS**, in light of the pending BG Mine Lawsuit, the City Council believes it would be prudent, at this juncture, to not proceed with public hearing(s) by the City's Zoning Board regarding the BG Mine's request to extend its mining activities under its IPD zoning until the BG Mine Lawsuit has been resolved; and

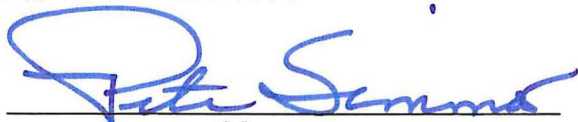
**WHEREAS**, notwithstanding this Resolution, the City Council reserves the right, in its sole discretion, to proceed with public hearing(s) by the City's Zoning Board regarding BG Mine's request to extend its mining activities under its IPD zoning, while the BG Mine Lawsuit remains pending, in the event the City Council determines that it would be in the best interests of the City to do.


**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Bonita Springs, Lee County, Florida:


1. The City Council of Bonita Springs hereby agrees to continue the remand of the rezoning request, for the case to be brought to hearing before the City's Zoning Board for a period of six (6) months after the conclusion of BG Mine Lawsuit, including any time necessary for appeals, unless further continued by the Bonita Springs City Council and the Applicant.
2. This Resolution shall take effect immediately upon adoption.

DULY PASSED by the City Council of the City of Bonita Springs, Lee County, Florida, this 1<sup>st</sup> day of August, 2018.

AUTHENTICATION:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:   
\_\_\_\_\_  
City Attorney

Vote:

Carr	Aye	O'Flinn	Aye
DeWitt	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Gibson	Aye		

Date filed with City Clerk: 8/6/18