

CITY OF BONITA SPRINGS  
ZONING ORDINANCE NO. 07-08

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A REQUEST BY BONITA VILLAGE, LLC/BONITA VILLAGE MPD TO AMEND ITS MIXED USE PLANNED DEVELOPMENT; CONSISTING OF A MAXIMUM OF 220 MULTIPLE FAMILY RESIDENTIAL DWELLING UNITS; 60,000 SQUARE FEET OF COMMERCIAL FLOOR AREA; AND 40 HOTEL/MOTEL UNITS; MAXIMUM BUILDING HEIGHT IS PROPOSED TO BE 55 FEET (FOUR STORIES); ON LAND LOCATED AT 27934 MEADOWLARK LANE, BONITA SPRINGS, FLORIDA, (STRAP NOS. 33-47-25-B4-00282.0000; 33-47-25-B4-00281.0000; 33-47-25-B4-00295.0010; 33-47-25-B4-00296.0010; 33-47-25-B4-00296.0070; 33-47-25-B4-00296.0020; 33-47-25-B4-00296.0000; 33-47-25-B4-00296.0090; 33-47-25-B4-00296.010A; 33-47-25-B4-00296.0100; 33-47-25-B4-00296.0110; 33-47-25-B4-00296.0080; 33-47-25-B4-00296.0050; 32-47-25-B3-03201.0010; 32-47-25-B3-03204.0010), ON 19 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bonita Village, LLC/Bonita Village MPD has filed an application for rezoning 19 +/- acres from Mixed Use Planned Development (MPD) and Commercial District (C-1) to Mixed Use Planned Development to allow a mixed use development consisting of a maximum of 220 multiple family residential dwelling units; 60,000 square feet of commercial floor area; and 40 hotel/motel units. Maximum building height is proposed to be 55 feet (four stories).

**WHEREAS**, the subject property is located at 27934 Meadowlark Lane, Bonita Springs, Florida, and is described more particularly as:

“See Schedule A”

**WHEREAS**, a Public Hearing was advertised and heard on August 3, 2007 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals (“Zoning Board”) on Case DCI 2006-00095 who gave full consideration to the evidence available and recommended approval (4-2); 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 July 18, 2007 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 of 19 +/- acres from Mixed Use Planned Development (MPD) and Commercial District (C-1) to Mixed Use Planned Development to allow a mixed use development 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 Village MPD," stamped received March 09, 2007, 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 approved development may not exceed 220 multiple family residential dwelling units; 60,000 square feet of commercial floor area; and 40 hotel/motel units. Maximum building height is limited to 55 feet (four stories).

Each development order application for residential development must demonstrate that the residential density is not exceeding the allowed maximum of 10 dwelling units per acre as provided for in the City of Bonita Springs Comprehensive Plan.

Each development order application submitted for this development must provide documentation providing a running total of the developing and developed uses of the project stating: (a) the intensity of development approved under all previously approved development orders, (b) the intensity of development sought in any current application(s) for local development Order approval, and (c) the intensity of development already developed within the project.

2. The following limits apply to the project and uses:

#### a. Schedule of Uses

#### Residential Parcel R-1 and R-2

Accessory uses and structures  
Administrative offices

Dwelling unit: Multiple-family building  
Entrance gates and gatehouse  
Essential services  
Essential service facilities: Group I  
Excavation: Water retention  
Fences, walls  
Recreation facilities:  
    Personal  
    Private--On-site  
Signs in accordance with Chapter 30

#### Town Center Parcels TC-1 to TC-5

Accessory uses and structures  
Administrative offices  
Banks and financial establishments: Group I  
Bar or cocktail lounge (limited to an ancillary use to a restaurant use)  
Broadcast studio, commercial radio and television  
Business services: Group I (excluding bail bonding and blood donor stations)  
Cleaning and maintenance services  
Clothing stores, general  
Clubs: Country  
    Fraternal, membership organization  
    Private  
Consumption on premises - limited to private club or restaurant use  
Contractors and builders: Group I  
Convenience food and beverage store  
Cultural facilities  
Day care center, child, adult  
Dwelling unit: Multiple-family building  
Entrance gates and gatehouse  
Essential services  
Essential service facilities: Group I  
Excavation: Water retention  
Fences, walls  
Food and beverage service, limited (limited to private club)  
Food stores: Group I  
Hardware store  
Hobby, toy and game shops  
Home occupation  
Hotel/motel  
Household and office furnishings, Groups I and II (limited to 10,000 square feet)  
Laundry or dry cleaning: Group I  
Medical offices  
Package Store  
Paint, Glass, and Wallpaper (limited to 2,500 square feet)

Parking lot:     Accessory  
                    Commercial  
                    Garage, public parking  
                    Temporary

Parks: Group I

Personal services: Groups I, II, and III (excluding massage establishment or parlors, steam or turkish baths, escort services, palm readers, fortune teller or card reader, and tattoo parlors, except massage may be permitted within a health or beauty spa)

Pet services

Pet shop

Pharmacy

Place of worship

Police or Sheriff's office

Post office

Recreation facilities:

    Commercial: Group IV (limited to health club)

    Personal or Private

Rental or leasing establishment: Groups I, and II

Repair shops: Groups I, and II

Research and development laboratories: Groups I, II, III, IV

Residential accessory uses

Restaurant, fast food (includes outdoor seating, limited to Tracts TC-1, TC-2, TC-4, and TC-5)

Restaurants: Groups I, II, and III (includes outdoor seating)

Schools: Commercial (limited to 2,500 square feet)

Signs in accordance with Chapter 30

Social services: Groups I and II

Specialty retail shops: Groups I, II, and III

Storage: Indoor only

Studios

Temporary uses

Used merchandise stores: Groups I and II

Variety store

#### Resource Conservation Parcels RC-1 & RC-2, and 30' buffer area

Fencing

Interpretive Signage

Recreation Amenities (i.e. Pool/decking common area patio)

Trails

#### b. Site Development Regulations

See attached Exhibit B.

3. All required buffers must consist of 100 percent native vegetation.
4. 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).
5. Approval of this zoning request does not relieve the applicant from payment of an proportionate road impact fee that may be adopted by the City of Bonita Springs because of significant impacts to Bonita Beach Road prior to issuance of a development order, or should the proportionate road impact fee not be adopted before development order issuance, prior to certificate of occupancy. By virtue of this being a planned development where conditions may be included if they reasonably relate to the project, by the approval of this zoning request applicant waives any estoppel arguments to any lawfully enacted ordinance creating the proportionate road impact fee for mitigating significant impacts to Bonita Beach Road because of the project's vehicular or pedestrian traffic impacts.
6. No direct access is permitted from the project to Bonita Beach Road between Imperial River Road and Luke Street. The developer must convey a cross-easement pursuant to LDC Section 3-282 to provide access to the parcel located at the northwest quadrant of the Luke/Vanderbilt and Bonita Beach Road intersection prior to the approval of any development orders for the portion of Bonita Village that is located west of Luke Street. In addition, the developer must provide a cross-access easement to the Rodes parcel located at the intersection of Meadowlark Lane and Bonita Beach Road prior to the issuance of any development orders for commercial uses on the portion of Bonita Village that is located east of Luke Street. The developer must provide stub-outs to these adjoining properties.
7. Realignment of the interior driveway intersection with Luke Street as shown in the Master Concept Plan Exhibits II-F-3, and IV-F as revised on 1/07.
8. Prior to local development order approval, a gopher tortoise management plan meeting the Florida Fish and Wildlife Conservation Commission and Lee County requirements must be

submitted for review and approval by the Division of Environmental Sciences.

9. The paving and grading sheet of the development order must include the surface water management system specifically designed to direct water away from xeric oak and upland scrub plant communities. Surface water out-falls are not permitted within the xeric oak and upland scrub plant communities within the Resource Conservation Parcels as depicted on the Master Concept Plan.
10. All plants used to meet the Land Development Code landscaping requirements must be species native to southwest Florida pine flatwoods, xeric oak, and upland scrub plant communities.
11. Dumpsters cannot be located adjacent to the indigenous preserve areas.
12. The RC-1 and RC-2 preserves meet the intent of Section 10-416 (d) of the Land Development Code. Therefore, no additional buffer is required along Meadowlark Lane or between RC-2 and the vacant C-1 property to the south
13. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Bonita Springs Land Development Code (Regulations) may be required to obtain a local development order.
14. The applicant will contact Lee Tran prior to its first development order, to determine the viability of a trolley stop integrated within the development. If feasible, a trolley stop will be incorporated.
15. The tennis courts proposed in this development are for playing tennis from dawn to dusk. The tennis area is not to have lighting to permit play during other hours. Safety lighting is acceptable.

**B. Deviations**

Deviation 1 was withdrawn.

Deviation 2 is approved, granting relief from LDC Section 3-608.C.5 and LDC Section 34-1985 which requires that vehicle loading areas shall be screened from streets and adjacent residential districts. Screening shall consist of wing walls, shrubs, trees, berms, or combination thereof; to allow no screening for loading areas along

parking aisles adjacent to commercial uses that contain residential uses on the upper floor.

Deviation 3 is denied, seeking relief from LDC Section 34-940(1)(and (2) which requires mixed use planned development must contain a minimum intensity of 2 or more land uses; to allow this application to be filed with an intensity of 100 dwelling units and 5 acres or 50,000 square feet.

Deviation 4 is approved, granting relief from LDC Section 3-416(D) which requires either a 125 foot setback from an existing residential subdivision or an eight foot wall or combination wall and berm; to allow a 30 foot setback from the property boundary to the roadway with indigenous open space along the boundary. A "B" size buffer will be provided as originally approved.

Deviation 5 is approved, granting relief from LDC Section 3-416 that requires that an eight foot wall or wall and berm combination a minimum of 25 feet from the property line; to allow an eight foot high PVC fence be placed 5 feet from the property line.

Deviation 6 is approved, as conditioned, granting relief from LDC Section 34-2020(4)K which requires parking at one space per 100 square feet for private clubhouse facilities within a residential community; to allow the private club in the TC-2 tract of the planned development to calculate parking at one space per 300 square feet, subject to the condition that the private club (clubhouse) is used solely by the residents and their guests and may not be leased out or used by non-residents of the planned development.

Deviation 7 is approved, granting relief from LDC Section 34-2020(5) which requires multiple occupancy complexes (commercial) between 25,000 square feet and 599,999 square feet provide parking at 4.5 spaces per 1,000 square feet; to allow multiple occupancy complexes (including in-line restaurants) to provide parking at 3.75 spaces per 1,000 square feet.

Deviation 8 is approved, granting relief from LDC Section 3-416, landscaping standards, which requires commercial parking areas abutting single family or multiple family areas to provide a 15 foot wide, Type C buffer; to allow the development of the mixed use project to provide no buffers between commercial parking areas and residential uses within the mixed use planned development, except as noted on the Master Concept Plan.

C. 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. The applicant has proven entitlement to the rezoning from MPD and C-1 to MPD by demonstrating compliance with the City of Bonita Springs Comprehensive Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested MPD zoning, as conditioned:
  - a) is consistent with the densities, intensities and general uses set forth in the City of Bonita Springs Comprehensive Plan;
  - b) is compatible with existing or planned uses in the surrounding area; and
  - c) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request, 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, are 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 approved 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 24<sup>th</sup> day of September, 2007.

AUTHENTICATION:

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

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

Vote:

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

Date filed with City Clerk: \_\_\_\_\_