

**CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 01-01**

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING THE OAK CREEK CROSSING PROJECT; TO REZONE FROM COMMERCIAL (C-1) AND TWO-FAMILY CONSERVATION (TFC-2) TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ON LAND LOCATED AT 10852 BONITA BEACH ROAD, BONITA SPRINGS, FLORIDA (STRAP NO. 35-47-25-B3-00122.0160) ON 3.923 ± ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Andy DeSalvo, representing the Henderson, Franklin, Starnes & Holt Employee Profit Sharing Plan has filed an application for rezoning from Commercial (C-1) and Two-Family Conservation (TFC-2) to Commercial Planned Development (CPD); and

WHEREAS, the subject property is located at 10852 Bonita Beach Road, Bonita Springs, Florida, and is described more particularly as:

See Exhibit "A", attached.

WHEREAS, a Public Hearing was advertised and heard on December 8, 2000 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case No. DCI 96 4595 who gave full consideration to the evidence available and recommended approval with conditions and a deviation; and

WHEREAS, City Council has given 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 November 1, 2000 Staff Report prepared by Lee County Development Services Division and any 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 3.923 ± acres from Commercial (C-1) and Two-Family Conservation (TFC-2) to Commercial Planned Development (CPD) with the following conditions and deviations:

1. The development of this project must be consistent with the one-page Master Concept Plan entitled "Master Concept Plan (option 1), "stamped received August 18, 2000, last revised 6/20/00",

except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs 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.

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

a. Schedule of Uses

Administrative Offices
Animals, Clinic (no outside kennels)-limited to Area #I only
Bank and Financial Establishments, Groups I & II
Business Services, Groups I & II
Caretaker's Residence
Clothing Store, General-limited to Area #I only
Contractors and Builders, Group I
Cultural Facilities
Day Care Center, adult and child
Drugstore or Pharmacy-limited to 7 a.m. until 10 p.m. only-
limited to Area #I only
Entrance Gates and Gatehouses
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention (see limiting condition)
Food Stores, Groups I & II (limited to 7 a.m. until 10 p.m.)
and limited to Area #I only
Household and Office Furnishing, Group II only-limited to
Area #I only
Medical Office
Personal Services, Groups I, II, III and IV; Group IV is
limited to debt counseling services and tax return
preparation services
Pet Services (no outside kennels)-limited to Area #I only
Pet Shop (no outside kennels)-limited to Area #I only
Plant Nursery-limited to Area #I only
Recreation Facilities, Group I-limited to Area #I only
Rental or Leasing Establishments, Group II only outdoor
Display or storage of merchandise is prohibited-
Limited to Area #I only
Repair Shops, Groups I & II-limited to Area #I only
Schools, Commercial
Signs, in accordance with the LDC
Social Services, Group I
Specialty Retail Shop, Groups I & II only-limited to
Area #I only
Warehouse, Mini

b. Site Development Regulations

1. The subject property is limited to a maximum of 60,000 square feet of total commercial square footage, which includes mini-warehouse, office and retail uses. This limit is further refined as follows:
 - (A) a maximum of 30,000 square feet of general office use confined to Areas #1 and #2 only, not to exceed the maximum square footage allowed in each Area per site plan. If medical offices are developed, the square footage must not exceed the Traffic Impact Statement's trip information for general office uses; and
 - (B) a maximum of 15,000 square feet of retail commercial use. Retail uses must be confined to Area #1 only; and
 - (C) a maximum of 60,000 square feet of mini-warehouse use, not to exceed the maximum square footage allowed in each Area per site plan, unless the mini-warehouse use is the ONLY use of entire CPD. If mini-warehouse use is the only use, the project can develop up to 60,000 square feet of mini-warehouse uses.
 - (D) This project can be comprised of medical, general office, retail, mini-warehouse or service uses (in compliance with the Schedule of Uses), or any combination of those uses, up to the maximum square footage shown in (A) through (C) above, provided all limiting conditions and parking, open space, buffering, and water management requirements are met.
2. Development of the CPD will comply with the following Property Development Regulations:

Minimum Setbacks:

Street: 25 feet
Side: 15 feet
Rear: 25 feet
Water Body: 25 feet

Minimum Lot Area: 0.75 acres

| | |
|--------------------------|---|
| Minimum Lot Width: | 165 feet |
| Minimum Lot Depth: | 200 feet |
| Minimum Open Space: | 30% |
| Maximum Lot Coverage: | 40% |
| Maximum Building Height: | limited to no more than 35 feet in any portion of the project and no more than two stories |

3. The following conditions are included to address environmental issues:
 - (A) The developer must preserve in place or relocate to appropriate open space areas any sabal palms with a minimum eight-foot clear trunk. The preservation or relocation must be completed in a horticulturally correct manner. Prior to local development order approval, the preserved trees and any relocated palms must be delineated on the plans. Preserved trees and relocated sabal palms will receive protected tree credits per LDC Section 10-420(h). Preservation and relocation plans are subject to review and approval by Environmental Sciences staff.
 - (B) Prior to local development order approval, the development order plans must delineate 30% or 1.18 acres of open space; individual lots or tracts must provide a minimum of 10% open space; and the portion of the development containing the natural waterway buffer and Oak Creek must be labeled as "Indigenous Preserve."
 - (C) Prior to local development order approval, a Gopher Tortoise Management Plan must be submitted for the Division of Planning/Environmental Sciences staff for review and approval.
4. This project must comply with any future access management plans, increased parking lot or building setback requirements; architectural standards, including but not limited to color and materials approval; enhanced roadway landscaping requirements; amendments to the signage regulations; and bikeway requirements adopted for Bonita Beach Road prior to the date of approval of any development order for this property.
5. This development must comply with all the requirements of the Land Development Code (LDC), specifically including the

requirements of LDC Section 10-600 et. seq., (Design Standards and Guidelines for Commercial Buildings and Developments) and approval of materials and colors, at the time of local Development Order approval, except as may be granted by deviation as part of this planned development approval or subsequent amendments thereto.

6. No excess excavated material may be removed from the site unless the developer can demonstrate to the Director of Community Development that the material to be removed: (1) is unsuitable material that cannot be used onsite and (2) the material must be excavated to meet the minimum requirements to provide a water management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use offsite.
7. Approval of this zoning request does not address access onto Bonita Beach Road, since City of Bonita Springs has no jurisdiction over this roadway. The Developer must pursue Bonita Beach Road access issues with the Lee County Department of Transportation (LCDOT). Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the City of Bonita Springs LDC may be required to obtain a local development order.
8. Approval of this rezoning does not guarantee local development order approval or vest present or future development rights for Bonita Springs Comprehensive Land Use Plan consistency. Development order approvals must satisfy the requirements of the Bonita Springs Comprehensive Plan Use Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table I(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Bonita Springs Land Use Plan provision.
9. This development must comply with all of the requirements of the Bonita Springs Land Use Code at the time of local development order approval, except as may be granted by deviations approved as part of this planned development rezoning action or subsequent amendments.
10. The Developer will include in its development order a 6' chain link fence around the mini warehouse portion of the development, as reviewed and permitted by Lee County Division of Natural Resources Management and Community

Development. This fence is in addition to any buffers necessary.

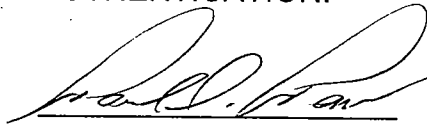
11. If applicant submits a development order to put in mini-warehouses in Areas #1 and #2 before the adoption of the Bonita Beach Road Corridor Study, the applicant will submit to City Council the plans for approval of the fence and any aesthetic matters.
12. Deviation No. 1 from LDC Section 10-416(d) 3 is granted to eliminate the buffer along the west property boundary line.
13. Deviation No. 2 from LDC Section 10-285(a) was withdrawn by the applicant.

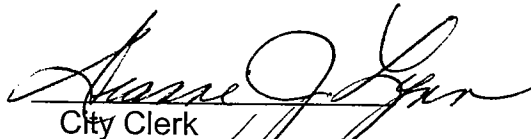
SECTION TWO: EFFECTIVE DATE

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 8th day of January, 2001.

AUTHENTICATION:


Mayor Paul Pass


City Clerk

APPROVED AS TO FORM:


City Attorney

1-8-01
Date

Vote:

| | |
|--------|------------|
| Arend | <u>Aye</u> |
| Edsall | <u>Nay</u> |
| Nelson | <u>Aye</u> |
| Pass | <u>Aye</u> |

| | |
|----------|------------|
| Piper | <u>Aye</u> |
| Wagner | <u>Aye</u> |
| Warfield | <u>Aye</u> |

Date filed with City Clerk: 1-9-01

Exhibit "A"
DCI964595

Oak Creek Crossing

EXHIBIT II-B-1

LEGAL DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF LOT 22, BONITA FARMS, A SUBDIVISION
LYING AND BEING IN SECTION 35, TOWNSHIP 47 SOUTH, RANGE 25 EAST, AND
RECORDED IN PLAT BOOK 3, PAGE 27, PUBLIC RECORDS OF LEE COUNTY, FLORIDA;
RUN N 0° 54' 50" W FOR 30.00 FEET TO THE NORTH RIGHT-OF-WAY OF EAST
BONITA BEACH ROAD; THENCE CONTINUE N 0° 54' 50" W ALONG THE WEST LINE OF
LOT 22 FOR 500.00 FEET; THENCE N 89° 59' 54" E FOR 183.00 FEET TO THE INTER-
SECTION OF THE TOP OF THE SLOPE OF OAK CREEK; THENCE ALONG THE TOP OF THE
SLOPE OF OAK CREEK N 52° 11' 43" E FOR 50.44 FEET; THENCE N 74° 48' 46" E FOR
41.76 FEET; THENCE N 74° 51' 52" E FOR 69.47 FEET TO AN INTERSECTION WITH
THE EAST LINE OF LOT 22; THENCE LEAVING THE TOP OF SLOPE RUN
S 0° 50' 41" E ALONG THE EAST LINE OF LOT 22 FOR 560.00 FEET TO THE NORTH
RIGHT-OF-WAY OF EAST BONITA BEACH ROAD; THENCE RUN S 0° 50' 41" E FOR 30.00
FEET TO THE SOUTHEAST CORNER OF LOT 22; THENCE RUN N 90° 00' 00" W FOR
330.46 FEET TO THE POINT OF BEGINNING, LESS THE SOUTHERLY 30.00
FEET FOR BONITA BEACH ROAD. CONTAINING 3.923 ACRES, MORE OR LESS

RECEIVED
NOV 30 1999

PERMIT COUNTER

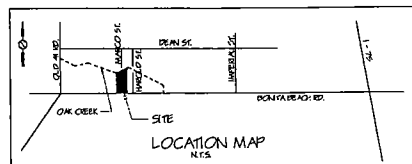
Applicant's Legal Checked
by SPH

Exhibit II-B-1

EXHIBIT II-D-2
EXHIBIT II-D-3
EXHIBIT IV-A
EXHIBIT IV-C
EXHIBIT IV-G

LEGAL DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF LOT 22, BONITA FARMS, A SUBDIVISION
UNRECORDED IN SECTION 35, TOWNSHIP 47 SOUTH, RANGE 25 EAST, AND
RECORDED IN PLAT BOOK 3, PAGE 27, PUBLIC RECORDS OF THE COUNTY OF FLORIDA,
BEN A/O 9-4-81, 1/10/81, 1/10/81, 1/10/81, 1/10/81, 1/10/81, 1/10/81, 1/10/81, 1/10/81,
BONITA BEACH ROAD, THENCE CONTINUE N 74° 50' 11" W ALONG THE WEST LINE OF
LOT 22 FOR 300.00 FEET, THENCE N 89° 59' 54" E FOR 183.00 FEET TO THE INTERSECTION
SECTION OF THE TOP OF THE SLOPE OF ONE CREEK, THENCE ALONG THE TOP OF THE
SLOPE OF ONE CREEK N 52° 11' 45" E FOR 50.44 FEET, THENCE N 74° 48' 46" E FOR
47.76 FEET, THENCE N 74° 51' 52" E FOR 69.47 FEET TO AN INTERSECTION WITH
THE EAST LINE OF LOT 22, THENCE LEAVING THE TOP OF SLOPE RUN
S 1° 50' 41" E ALONG THE EAST LINE OF LOT 22 FOR 300.00 FEET TO THE NORTH
RIGHT-OF-WAY OF EAST BONITA BEACH ROAD, THENCE S 81° 50' 41" E FOR 300.00
FEET TO THE SOUTHWEST CORNER OF LOT 22, THENCE RUN N 90° 00' 00" W FOR
300.46 FEET TO THE POINT OF BEGINNING, LESS THE SOUTHERLY 300.00
FEET FOR BONITA BEACH ROAD, CONTAINING 3.923 ACRES, MORE OR LESS.



PROPOSED DEVELOPMENT REGULATIONS

OPEN SPACE - 30%
MAXIMUM INDIGENOUS NATIVE VEGETATION REQUIRED - .5 ± 30 ± 3.92 ACRES - .59 ACRES
NATURAL 25' WATERWAY BUFFER PROVIDES 0.21 ACRES INDIGENOUS NATIVE VEGETATION
MAXIMUM LOT COVERAGE - 40%
MINIMUM LOT AREA - 0.75 ACRES
MINIMUM LOT WIDTH - 165'
MINIMUM LOT DEPTH - 200'
MINIMUM BUILDING SETBACKS:
FRONT - 25'
SIDE - 15'
REAR - 25'
BODY OF WATER - 25'
MAXIMUM BUILDING HEIGHT - 35 FEET AND THREE STORES
PERMIT A TOTAL OF 60,000 S.F. MINI WAREHOUSE, OFFICE & RETAIL.
MINI-WAREHOUSE MAY NOT EXCEED 60,000 S.F. AND MAY BE LOCATED
IN AREAS 1, 2 & 3. RETAIL MAY NOT EXCEED 15,000 S.F. AND MAY ONLY
BE LOCATED IN AREA 1. OFFICE SPACE MAY NOT EXCEED A MAXIMUM
OF 30,000 S.F. AND MAY ONLY BE LOCATED IN AREAS 1 & 2.

UTILITIES TO BE PROVIDED BY THE FOLLOWING

WATER
Bonita Springs Utilities, Inc.
11860 East Ferry Street
Bonita Springs, Fla. 33923

SEWER
Private Septic System

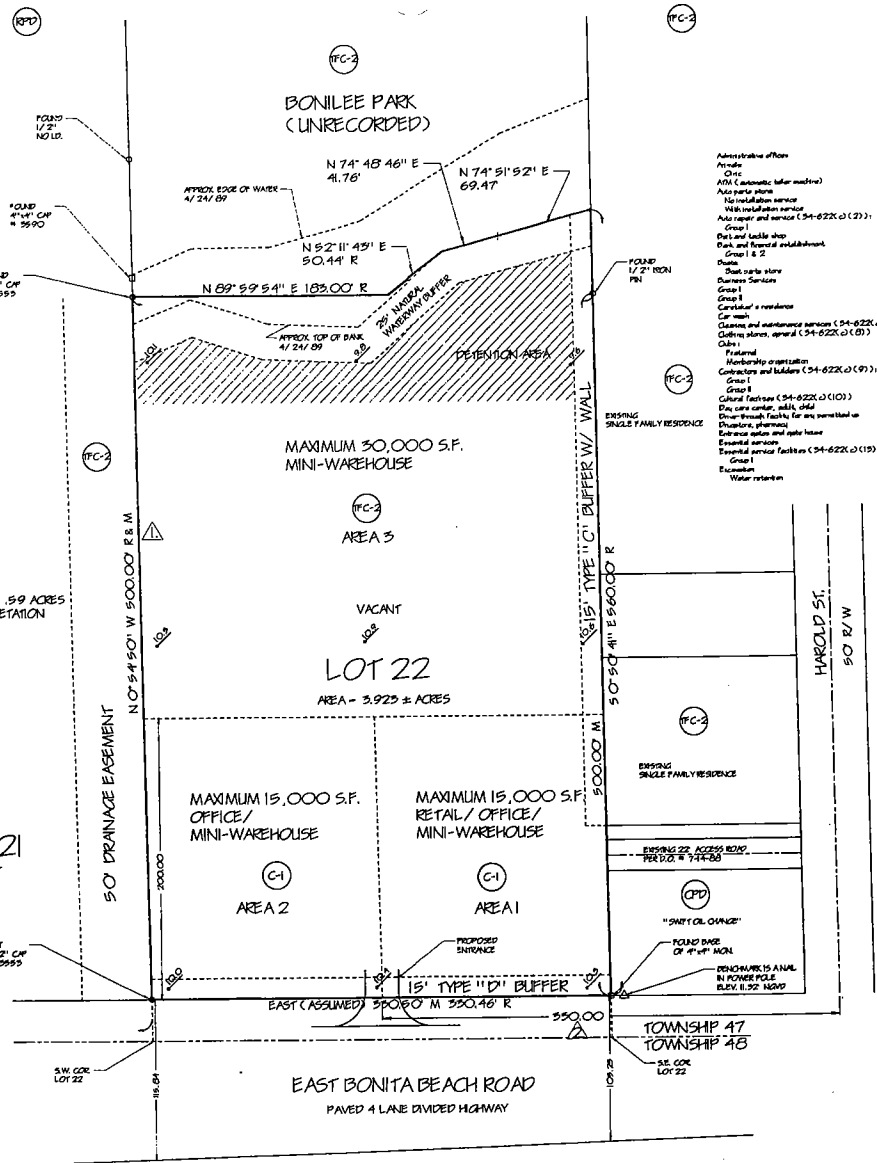
ELECTRIC
Florida Power and Light
995 10th Ave. North
Naples, Fla. 33940

TELEPHONE
United Telephone Company of Florida
821 5th Ave. South
Naples, Fla. 33940

GARPAGE
Kimmerling Recycling
P.O. Box 77623
Tampa, Fla. 33675-2623

DEVIATIONS

- △ NO BUFFER ALONG WEST SIDE NEXT TO DRAINAGE EASEMENT (SEC. 10-416.23)
△ INTERSECTION SEPARATION DISTANCE OF 330 FEET (SECTION 10-285 (a)).

BONILEE PARK
(UNRECORDED)

SCHEDULE OF USES

Administrative offices
Group I
Group II
Group III
Group IV
Group V
Group VI
Group VII
Group VIII
Group IX
Group X
Group XI
Group XII
Group XIII
Group XIV
Group XV
Group XVI
Group XVII
Group XVIII
Group XIX
Group XX
Group XXI
Group XXII
Group XXIII
Group XXIV
Group XXV
Group XXVI
Group XXVII
Group XXVIII
Group XXIX
Group XXX
Group XXXI
Group XXXII
Group XXXIII
Group XXXIV
Group XXXV
Group XXXVI
Group XXXVII
Group XXXVIII
Group XXXIX
Group XL
Group XLI
Group XLII
Group XLIII
Group XLIV
Group XLV
Group XLVI
Group XLVII
Group XLVIII
Group XLIX
Group L
Group LI
Group LII
Group LIII
Group LIV
Group LV
Group LVI
Group LVII
Group LVIII
Group LIX
Group LX
Group LXI
Group LXII
Group LXIII
Group LXIV
Group LXV
Group LXVI
Group LXVII
Group LXVIII
Group LXIX
Group LXX
Group LXXI
Group LXXII
Group LXXIII
Group LXXIV
Group LXXV
Group LXXVI
Group LXXVII
Group LXXVIII
Group LXXIX
Group LXXX
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Group LXXXXXXVI
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Group LXXXXXXVIII
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Group LXXXXXXVII
Group LXXXXXXVIII
Group LXXXXXXIX
Group LXXXXXXX

Food stores (34-622X (183))
Group I
Group II
Group III
Group IV
Group V
Group VI
Group VII
Group VIII
Group IX
Group X
Group XI
Group XII
Group XIII
Group XIV
Group XV
Group XVI
Group XVII
Group XVIII
Group XIX
Group XX
Group XXI
Group XXII
Group XXIII
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Group XXVII
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Group XXXI
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Group XXXVII
Group XXXVIII
Group XXXIX
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Group XLI
Group XLII
Group XLIII
Group XLIV
Group XLV
Group XLVI
Group XLVII
Group XLVIII
Group XLIX
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Group LI
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Group LVII
Group LVIII
Group LIX
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Group LXXXXXXX

Residential
Single-family detached (34-622X (183))
Group I
Group II
Group III
Group IV
Group V
Group VI
Group VII
Group VIII
Group IX
Group X
Group XI
Group XII
Group XIII
Group XIV
Group XV
Group XVI
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Group LXXXXXXVIII
Group LXXXXXXIX
Group LXXXXXXX

LOT 23

Master Concept Plan
Sheet No. 20-01-01 Page 1 of 1
5' = 1' in conditions in Ordinance 20-01-01
C-13: D.C.T. 94.5593
CITY OF BONITA SPRINGS

OWNER

HENDERSON, FRANKLIN, STARNES & HOLT P.A. PROFIT SHARE
c/o AGENT A.P. DeSALVO
3960 VIA DEL REY
BONITA SPRINGS, FL 34134

RECEIVED
AUG 18 2000
FLORIDA COUNTY

DCI 964595

DEVELOPER

I.C.E. DEVELOPER
c/o AGENT A.P. DeSALVO
3960 VIA DEL REY
BONITA SPRINGS, FL 34134

Dear Mr. Area
8/16/00

REVISED: 8/14/00

MASTER CONCEPT PLAN (OPTION 1)
LOT 22, BONITA FARMS
SCALE: 1" = 40'
DATE: 8/16/00
REVISION: 4/25/00, 6/20/00
PREPARED BY: PROGRESSIVE ENGINEERING
25671 GORDON LANE SE.
BONITA SPRINGS, FLA 34135
PH: (941) 992-1697
SHEET 1 of 1