

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Bonita Springs Utilities, Inc., has properly filed an application for a rezoning from AG-2 to Community Facilities Planned Development, and a request for a General Excavation Permit; and

WHEREAS, the subject property is located at 13402 Snell Lane, Bonita Springs, described more particularly as:

LEGAL DESCRIPTION: In Section 32, Township 47 South, Range 26 East, Lee County, Florida:

The West Half (W1/2) of the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4), AND the East Half (E1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the West Half (W1/2) of the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) of Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East.

Comprising 15 acres more or less.

AND

The West Half (W1/2) of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), AND the East Half (E1/2) of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4), all in Section 32, Township 47 South, Range 26 East, comprising 10 acres more or less, EXCEPTING therefrom the North 30 feet for canal easement and the South 25 feet for road right-of-way.

AND

The East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section 32, Township 47 South, Range 26 East, Lee County, Florida, 5 acres, more or less, EXCEPTING the North 30 feet thereof for canal easement, and the South 25 feet thereof for county roadway right-of-way.

Containing 5 acres, more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 32-47-26-00-00001.0360, 32-47-26-00-00001.0020 and 32-47-26-00-00001.028A; and

WHEREAS, proper authorization has been given to Q. Grady Minor & Associates by T. Harvey Haines, President, Bonita Springs Utilities, Inc., the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on July 21, 1992; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE WITH CONDITIONS a rezoning to Community Facilities Planned Development and a General Excavation Permit.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development of the subject properties shall be in accordance with the three-page Master Concept Plan entitled "Bonita Springs Utilities, Inc., East Water Reclamation Facility," stamped received June 3, 1992, except as modified by the conditions herein.
2. Permitted uses are limited to those listed and shown on the Master Concept Plan and are further limited to the specified parcel as follows:
 - Uses permitted on the 24.65 acre± parcel only:
 - Essential Services Facility, Group II (Section 1001.13), to allow a Wastewater Treatment Facility only
 - Communication Tower (maximum of 95 feet in height) (Free Standing only)
 - Excavation/Water Retention (Section 509)
 - Uses permitted on the 5 acre± parcel only:
 - Excavation - Mining (Section 508)
3. The maximum height of all buildings and structures shall be 35 feet above average grade except the communications tower, which may have a maximum height of 95 feet. The communication tower shall be free standing.
4. Snell Lane shall be paved prior to the commencement of construction of the wastewater treatment facility.
5. Access to the wastewater treatment facility during construction and for subsequent operation shall be from Snell Lane only. However, as conditioned below, the trucks bringing fill material from the 5 acre±/-parcel shall be prohibited from using Snell Lane.
6. The haul route from the 5 acre± parcel may be via the existing dirt road traversing the four parcels between this parcel and the 24.65 acre± parcel, if the developer purchases the four parcels or if the developer obtains a temporary construction easement. If these alternatives are not accomplished, then the existing 50-foot wide easement may be used for access for trucks transporting fill material from the 5 acre± parcel. In any case, the selected haul route shall be subject to the review and approval of the Division of Development Review, with improvements in accordance with the Development Standards Ordinance.

7. Excavation of the 5 acre± parcel shall be completed prior to the Certificate of Compliance approval of the wastewater treatment facility.
8. Blasting, crushing and dewatering activity shall be permitted during construction activity only and shall cease prior to the Certificate of Compliance. No blasting activity will be permitted on the 24.65 acre± parcel.
 - a. Blasting shall be in compliance with the Lee County Blasting Ordinance as amended.
 - b. Dewatering shall be in compliance with all applicable regulations, including those of the South Florida Water Management District.
9. The hours of operation for the excavation shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to noon on Saturday. No excavation or other heavy equipment operations shall be conducted on Sunday.
10. The developer shall comply with Lee County Noise Ordinance 82-32, as amended.
11. Upon completion of the excavation or at the expiration of the Excavation/Mining Operation Permit, the developer shall commence with the reclamation and replanting plan.
12. A reclamation plan shall be in accordance with the Site Excavation and Reclamation Plan, page 3 of 3, stamped received June 3, 1992.
13. A gopher tortoise management plan shall be approved by the Division of Environmental Sciences prior to local Development Order Approval.
14. Should actual construction of the wastewater treatment facility not take place within five years of zoning resolution approval, a new protected species survey shall be provided and reviewed subject to approval by the Division of Environmental Sciences prior to local Development Order Approval.
15. The developer shall contact the Lee County Division of Emergency Management, Hazardous Material representative prior to the Certificate of Occupancy, to discuss the proposed development in relation to the type, use and storage of hazardous materials which will be located on the premises.
16. If access to this development is through a security gate or similar device that is not manned 24 hours per day, the security gate must be provided with an override switch installed in a glass cover for the use of emergency vehicles.
17. Deviation (1) would allow a deviation from Development Standards Ordinance Appendix D-3, from the required 6 foot wide shoulder to 3.5 foot wide shoulder. This deviation is APPROVED WITH THE CONDITION that a guardrail be provided if found necessary at Development Order stage.

Deviation (2) would allow a deviation from Zoning Ordinance Section 509.B, from the required maximum excavation depth of 12 feet to 20 feet or until the confining layer is reached (not penetrated). This deviation is APPROVED WITH THE CONDITIONS that:

- a. All excavation occurring on either parcel shall have a maximum excavation depth of 20 feet or until the confining layer is reached (not penetrated), and
- b. Upon completion of the excavation(s) and lake shoreline reclamation and annually thereafter for a period of 5 years, the developer or his successors or assigns, shall provide to the Division of Environmental Sciences (or other appropriate County authority) a report prepared by a qualified testing laboratory of the dissolved oxygen content of the lake for each 5-foot depth level greater than 15 feet.

In the event that it is determined that the dissolved oxygen levels as reported are insufficient to support active marine life at all lake levels, the developer or his successors or assigns shall install or cause to be installed a lake aeration system of a design approved by the Division of Environmental Sciences (or other appropriate County authority) and shall operate and maintain such aeration system in good order thereafter.

Deviation (3) would allow a deviation from Zoning Ordinance Section 800.B.1., from the requirement that all properties within a single application be contiguous, to allow a single application for non-contiguous properties. This deviation is APPROVED WITH THE FOLLOWING CONDITIONS:

- a. If the four parcels between the two subject parcels are purchased by the applicant, then these four parcels shall be rezoned to the CFPD zoning district by the applicant in order to create a contiguous parcel.
- b. The 5 acre parcel shall be used for the excavation of fill material for the wastewater treatment facility only.

Deviation (4) would allow a deviation from Zoning Ordinance Section 508.G.2.a.2., from the requirement of a 100-foot setback from a private property line under separate ownership to allow a 60 foot setback on the 5 acre± parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (5) would allow a deviation from Zoning Ordinance Section 508.G.2.a.1. from the requirement of a 150-foot setback from an existing street right-of-way line or easement to allow a 60 foot setback on the 5 acre± parcel. This deviation is APPROVED WITH THE FOLLOWING CONDITION:

- a. The developer shall provide a berm as shown on the Site Excavation and Reclamation Plan.

Deviation (6) would allow a deviation from Zoning Ordinance Section 509.C.4. from the requirement of a 150 foot setback from an existing street right-of-way line or easement, to allow a 60 foot setback. This deviation would apply to the excavation/water retention area proposed on the wastewater treatment facility site adjacent to Snell Lane only. This deviation is APPROVED.

Site Plan 92-043 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of Community Facilities Planned Development zoning:

- A. That the CFPD rezoning request was not caused by changed or changing conditions which necessitates the approval of the request.
- B. That the CFPD rezoning, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance.
- C. That the CFPD rezoning, as conditioned, is consistent with the goals, objectives, policies and intent of the Lee Plan, and with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the CFPD rezoning, as conditioned, meets or exceeds all performance or locational standards set forth for the proposed use.
- E. That the CFPD rezoning, as conditioned, will protect, conserve or preserve environmentally critical areas and natural resources.

- F. That the CFPD rezoning, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.
- G. That the CFPD rezoning, as conditioned, does not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
- H. That the CFPD rezoning, as conditioned, will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.
- I. That each approved deviation, as conditioned, enhances the achievement of the objectives of the CFPD and protects or preserves the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Manning, and seconded by Commissioner Vicki Lopez-Wolfe and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Vicki Lopez-Wolfe	Aye
Donald D. Slisher	Absent

DULY PASSED AND ADOPTED this 31st day of August, A.D., 1992.

ATTESTED BY
CHARLIE GREEN, CLERK

BY: Charlie Green
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

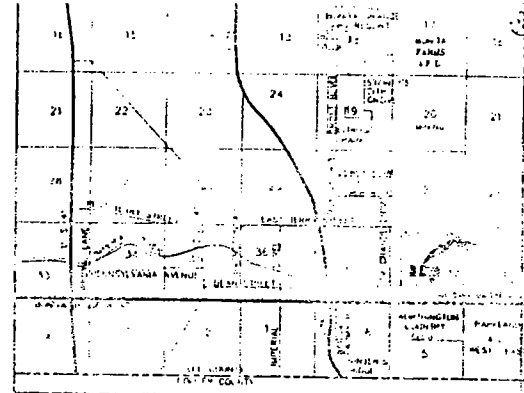
Approved as to form by:

[Signature]
County Attorney's Office

FILED

SEP 9 1992

CLERK CIRCUIT COURT
BY: Charlie W. D.C.

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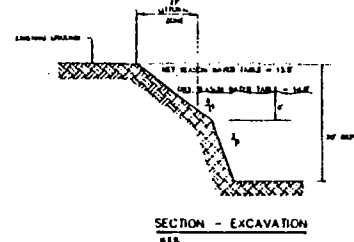
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(00055 ACRES) 29.65 ACRES ±
 COMPLEX DESIGNATION: DENSITY REDUCING / GREEN - WATER
 RESOURCE AREA
 ZONING DESIGNATION: AG-2
 1.0000000000000000
 DISTRICT PLANNING HEIGHT: 30' MAXIMUM
 STRIP # 1: 61-7A-00-00001 USE
 32-00-7A-00-160001 DIST.
 32-00-7A-00-160001 DIST.
 32-00-7A-00-160001 DIST.

APPROVE
 Mayor Gordon Pate
 1 Page of 12 Pages

APPROVED

[illegible]



LEGEND	OWNER/DEVELOPER	PRINTED	DESIGNED BY B.T.	SITE EXCAVATION AND RECLAMATION PLAN
WATERED AREA	BONITA SPRINGS UTILITIES, INC. P.O. BOX 6989 2368 BONITA SPRINGS, FL 33099 T. CARL HAINES, PRESIDENT (305) 932-0711	JUN 8 1982	DRAWN BY L.H.	BONITA SPRINGS UTILITIES, INC.
WATERLINE EASEMENT			APPROVED C.G.M.	EAST WATER RECLAMATION FACILITY
EXISTING ROAD			SCALE N.T.S.	DATE 6/1/82
				FILE NAME 2-25-82 (10)
				DRAWING NUMBER 3 OF 3