



26 NOV

GIS Tracking Sheet

Case No.: DRI2003-00001

Intake Date: May 5, 2003

Project Name: Diamond Ridge DRI

04-48-25-B3-0180B.0000, 04-48-25-B3-03000.0040,
 04-48-25-B3-03000.0050, 04-48-25-B3-03000.000A,
 STRAP Number(s): 04-48-25-B3-02600.000A, 04-48-25-B3-02600.0070, .0060, .0080,
 04-48-25-B3-018N0.0000, 04-48-25-B3-018M0.0000, 04-48-25-
 Planner Name: B3-018L0.0000| Ext. 8371

Chip Block

LEGAL DESCRIPTION VERIFICATION and INITIAL GIS MAPPING

Date: 26 Nov 03

INTAKE: DRI03001

LEGAL SUFFICIENT☒ YES☐ NOInitials: *mm*

If not, give brief explanation:

MAP UPDATE following FINAL ACTION

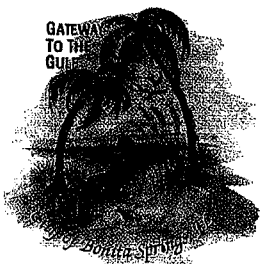
Date: 89DEC04

☒ BONITA SPRINGS☐ Hearing Examiner Decision☐ Board of County Commissioner's Resolution☐ Administrative Approval☐ Blue Sheet

Zoning Notes: DRI2003-00001, BS ORD #04-08, 24 MAY 04, APRVL TO
 EXTEND BUILDOUT DATE TO AUGUST 14, 2004, DIAMOND RIDGE, CONDS

MAP UPDATED☒ YES☐ NOInitials: *mm*

If not, give brief explanation:



*City of
Bonita Springs*

9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135
TEL: (239) 949-6262
FAX: (239) 949-6239
www.cityofbonitasprings.org

Jay Arend
Mayor

Richard Ferreira
Councilman
District One

Alex Grantt
Councilman
District Two

Patrick McCourt
Councilman
District Three

John Joyce
Councilman
District Four

Martha Simons
Councilwoman
District Five

Ben L. Nelson, Jr.
Councilman
District Six

Gary A. Price
City Manager
Tel. (239) 949-6238

Audrey E. Vance
City Attorney
Tel. (239) 949-6254

City Clerk/Treasurer
Tel: (239) 949-6250

Public Works
Tel: (239) 949-6246

Code Enforcement
Tel: (239) 949-6257

Parks & Recreation
Tel: (239) 992-2556

Copy Chip
DRI File
Gibb Don't

June 1, 2006

RECEIVED
JUN 05 2006

COMMUNITY DEVELOPMENT

Shaw Stiller, Esquire
Florida Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-7018

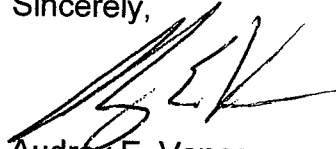
RE: Diamond Ridge DRI – Essentially Built-Out Agreement
State DRI No. 5-8687-74

Dear Mr. Stiller:

Enclosed is the Essentially Built-Out Agreement ("Agreement") drafted by attorney Robert D. Pritt on behalf of Diamond Ridge Properties, Ltd. Other than a few minor typographical errors, I believe it is in conformance with the sample of an essentially built-out agreement that you sent me last year. Kindly review (or forward to the reviewing attorney) and once the agreement is satisfactory, Mr. Pritt will forward the agreement as executed by his client to me to schedule to the Southwest Florida Regional Planning Council, and after their approval, I will schedule to City Council and forward to your attention for DCA's approval.

As always, thank you for your assistance.

Sincerely,


Audrey E. Vance
City Attorney

AEV/dfg
Enclosure

cc: Gary A. Price, City Manager
Barbara Barnes Buchanan, Assistant City Manager
Dianne J. Lynn, City Clerk
Jim LaRue, AICP, President, LaRue & Associates
Mary Gibbs, Director, Community Development
Pam Houck, Director, Zoning
Robert D. Pritt, Esquire
David Burr, Director, SWFRPC
Don Trescott, SWFRPC
(Above with enclosures)



850 PARK SHORE DRIVE
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239.649.6200 MAIN
239.261.3659 FAX
rpitt@ralaw.com

April 12, 2006

VIA E-MAIL: audrey.vance@cityofbonitasprings.org and
Regular Mail

Audrey E. Vance, Esq.
City Attorney
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, Florida 34135

Re: Diamond Ridge DRI – Essentially Built-Out Agreement

Dear Audrey:

We have had discussions concerning the methodology whereby the Diamond Ridge DRI could be deemed to be essentially built-out. You had contacted Shaw Stiller of the Department of Community Affairs and have even done a draft agreement. We would like to proceed toward consummating the agreement, which is entitled “Essentially Built-Out Agreement for Diamond Ridge DRI F/K/A Woods Edge DRI Development of Regional Impact (DRI)”, a draft of which accompanies this letter.

For your information, we are acting on behalf of the following:

- (1) DaVinci Center of Bonita, LLC
4522 Executive Drive, Suite 103
Naples, Florida 34119

Site Address: 28901 Trails Edge Blvd., Bonita Springs, Florida 34134

Legal Description: Diamond Ridge Unit 2, PB 65, PGS 93-95, Lot 2

STRAP No. 04-48-25-B3-03000.0020

- (2) GI Show, LLC
685 Lismore, Lane
Naples, Florida 34108

Site Address: 28320 Trails Edge Blvd., Bonita Springs, Florida 34134

Legal Description: Woods Edge S/D, PB 49, PG 53, Lot 1 Less OR 2753/496

STRAP No. 04-48-25-B2-01800.0010

Audrey E. Vance, Esq.
April 12, 2006
Page 2

We are also acting on behalf of Diamond Ridge Properties, Ltd., by Diamond Ridge, LC, as general partner, by Carmen J. Spinella, Manager, who is the developer of record for Diamond Ridge DRI. Address: 648 Fifth Avenue South, Suite 21, Naples, Florida 34102.

By way of background, Diamond Ridge DRI is essentially built-out with the exception of the above two parcels of vacant land, both of which front on U.S. 41 (Tamiami Trail) (actually fronting Trails Edge Blvd. which runs parallel to South Tamiami Trail). The DaVinci parcel contains 50,239 square feet (including ownership to the centerline of the cul-de-sac at the rear of the parcel). The GI Show parcel contains 64,011.20 square feet.

Without going into the entire history of the Woods Edge/Diamond Ridge DRI, the most recent activity concerning Bonita Springs is that which is set forth in City of Bonita Springs Zoning Ordinance No. 04-08 which was the adoption of the new DRI Development Order for that portion of the DRI located within the City of Bonita Springs by extending the build-out date to August 14, 2004.

It was always contemplated that these two parcels would be separate parcels and in fact each has its own parcel identification (STRAP) number. The developer has allocated the following square footage to each parcel:

DaVinci Parcel – Unit 2, Lot 2 – 1.15 acres – 7,500 square feet commercial retail
and 7,500 square feet commercial office space

GI Show Parcel – Lot 1 – 1.47 acres – 9,450 gross square feet medical office space

As shown in the draft Essentially Built-Out Agreement, there is ample unallocated space in the DRI to allow for a development of these two vacant parcels in the above manner. However, due to the expiration of the DRI Development Order, the parcels are unable to obtain a local Development Order from the City.

Therefore, we are asking that the City and the Department of Community Affairs enter into an Essentially Built-Out Agreement along the lines of the draft Agreement, pursuant to Florida Statutes 380.032(3) and 380.06(15)(g)3.a. and b.(II).

We ask that you transmit a copy to Mr. Stiller at the Department of Community Affairs and that whatever is required for formalizing the process be implemented.

Please also note that the developer would like to retain the rights he would otherwise have under the DRI to the square footage that had not been otherwise allocated so that in the future, should the occasion arise, development could be approved by City Development order under its normal procedures. Please be assured that neither the DRI developer nor the owners of the two parcels are requesting any square footage of development in excess of what was authorized for the DRI. This is not a case of a request for an increase in density or development intensity.

Audrey E. Vance, Esq.
April 12, 2006
Page 3

When you have reviewed this request and the draft agreement, please contact me so that we can finalize any methodology for proceeding. Thank you for your consideration.

Very truly yours,

s/Robert D. Pritt

Robert D. Pritt
Board Certified City, County &
Local Government Lawyer
For the Firm

RDP/dk
Enclosure

cc: Carmen J. Spinella (via e-mail: cspin7126@aol.com)
David R. Bartley (via e-mail: dave@bartleyrealty.com)
William Laforce, Esq. (via e-mail: wlaforce@hseilaw.com)
Clifford Olson (via e-mail: chip@colonialsquare.net)
Raymond Phillips (via e-mail: rphillips212@comcast.net)
Alan Roseman (via e-mail: aroseman@gradyminor.com)

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**ESSENTIALLY BUILT-OUT AGREEMENT FOR
DIAMOND RIDGE DRI *fka* WOODS EDGE DRI
DEVELOPMENT OF REGIONAL IMPACT (DRI)**

Pursuant to Florida Statutes §380.032(3) and §380.06(15)(g) 3.a. & b. (II)

This Agreement ("Agreement") is entered into by and among Diamond Ridge Properties, Ltd. a Florida Limited Partnership, ("Owner" or "Developer"), the City of Bonita Springs ("City"), and the Florida Department of Community Affairs ("DCA").

WHEREAS, the City is a political subdivision of the State of Florida; and

WHEREAS, DCA is the state land planning agency responsible for the administration and enforcement of Chapter 380, Florida Statutes, including those provisions relating to developments of regional impact ("DRI"); and

WHEREAS, pursuant to Section 380.032(3), Florida Statutes, DCA is authorized to enter into such agreements as may be necessary to effectuate the provision and purposes of Chapter 380, Florida Statutes; and

WHEREAS, the Owners, the City and the DCA desire to enter into this Agreement; and

WHEREAS, the Woods Edge DRI is approved by the State as State DRI No. 5-8687-74; and

WHEREAS, Lee County, predecessor to the City, approved an application on a project known as Woods Edge DRI, by Resolution No. Z-88-156, adopted October 27, 1988; amended by Resolution No. Z-97-017, adopted May 5, 1997; further amended by Resolution No. Z-99-020, adopted May 17, 1999, which approvals and most recent Development Order ("DO") for ~~***~~DIAMOND RIDGE DRI *f/k/a* WOODS EDGE DRI approved the following:

235,000 Gross Square Feet of Retail Commercial Space,
135,000 Gross Square Feet of Non Retail Commercial Space
34,000 Gross Square Feet of Ancillary Commercial Space
160 units of Hotel Space -(40 converted to residential units)=120 hotel units
366 residential units

on approximately 113.86 +/- acres of property as more fully described in Exhibit A, for development of residential and commercial, with out-parcels for future development; and

WHEREAS, the actual development constructed to date is approximately as follows:

169,955 Gross Square feet of Retail Commercial Space
114,500 Gross Square Feet of Non Retail Commercial Space
9,000 Gross Square Feet of Ancillary Commercial Space
89 Units of Hotel Space
364 Residential Units
on such acreage; and

WHEREAS, there are only 2 parcels that remain vacant, namely, Lot 2 of Diamond Ridge Unit 2, which is a part of Tract D "Woods Edge" Unit 2, containing approximately 1.15 +/- acres and proposing 7,500 gross square feet of commercial retail space and 7,500 gross square feet of commercial office space; and Lot 1, of "Woods Edge" Subdivision (less OR 2753/496, containing approximately 1.47 +/- acres, and proposing 9,450 gross square feet of medical office space ; both of which have been sold to owners who wish to develop their properties; and

WHEREAS, on May 24, 2004, the City approved Zoning Ordinance No. 04-08 to extend the build-out date one (1) year and three hundred sixty four (364) days to August 14, 2004 which did not constitute a Substantial Deviation; and

WHEREAS, the May 24, 2004 Ordinance to extend the build-out date produced no additional transportation impact as indicated in Exhibit B, attached; and

WHEREAS, Diamond Ridge DRI is located in a highly urbanized area zoned for General Commercial land use consistent with the Comprehensive Plan; and

WHEREAS, the build-out date for the Diamond Ridge DRI expired on August 14, 2004 pursuant to Ordinance No. 04-08; and

WHEREAS, based on the above Resolutions, the existing development represents 90% of the development authorized by the DO and approximately 2.62 acres of the total land area remains undeveloped: and

WHEREAS, the total remaining land area is contiguous to and part of Diamond Ridge DRI, shares common infrastructure, and is presently accessible via an internal ring-road; and

WHEREAS, the Owner wishes to allow the development of the remaining Lots consistent with the Commercial General land use within the expired DRI and wishes to retain the right to develop or redevelop within the parameters of the DRI allowances;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, it is hereby agreed as follows:

1. The parties agree that Diamond Ridge DRI is "essentially built-out" in accordance with Section 380.06(15)(g)3.a. & b.(II), Florida Statutes; as the land uses and all infrastructure presently built are consistent with the terms and condition of the DR/DO; the project is in compliance with all applicable terms and conditions of the DO except the built-out date; all physical improvements required by the DO have been made; only 10% of the total approved GBA remains undeveloped; and the amount of development that remains to be built does not create the likelihood of any additional regional impact not previously reviewed. The determination of no additional regional impacts is based upon the analysis and representations by the owners of the project.

2. Notwithstanding the build-out date contained within the expired DO, as amended, DCA and the City agree that the remaining Square footage of Gross Building Area in the unbuilt areas (Lots 1 and 2, as described above) may be developed on the portion of the that property more fully described in Exhibits A and B, attached hereto, without further DRI impact review, subject to the City's comprehensive plan and land use regulations, and also upon the previously-developed portions of the

property for which there may be unallocated units or square footage, so long as the units and/or square footage authorized under the DRI Development Order are not exceeded.

3. Owner asserts and warrants that the information it has presented and the representations and statements set forth above are true and accurate. Based upon such information and representation, DCA concludes that this Agreement reasonably applies and effectuates the provisions and purposes of Chapter 380, Florida Statutes.

4. In the event of a breach of this Agreement or failure to comply with any condition of this Agreement, or if this Agreement is based upon materially inaccurate information, DCA may terminate this Agreement or file suit to enforce this Agreement as provided in Section 380.11, Florida Statutes. Injunctive relief shall be granted to the other parties in the event of a breach of this Agreement or a failure to comply with any condition by another party.

5. This Agreement affects the rights and obligations of the parties under Chapter 380, Florida Statutes. It is not intended to determine or influence the authority or decision of any other state or regional agency or the county in the issuance of any other permits or approval required for the development specifically authorized by this Agreement.

6. The terms and condition of this Agreement shall run with the property more particularly described in the attached Exhibits "A" and "B" and inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto. Owners shall insure and provide that any successor in interest in and to any lands or parcels affected by this Agreement is bound by the terms of this Agreement. Owners shall record a notice of this Agreement that complies with Section 380.06(8) (a) 10, Florida Statutes, and shall provide DCA with a copy of the recorded notice within 30 days of execution of this Agreement.

7. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same agreement.

8. Any amendment to or modification of this Agreement shall not be effective unless contained in writing signed by the parties.

9. The effective date and the date of execution of this Agreement shall be the date that the last party signs and acknowledges the Agreement.

IN WITNESS THEREOF, the parties, by and through the undersigned duly authorized representative have executed this Agreement of the date(s) set forth below.

City of Bonita Springs, a Florida municipal corporation

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this _____ day of _____, 2006.

Attest:

CITY OF BONITA SPRINGS

By: _____
City Clerk

By: _____
Mayor

APPROVED AS TO LEGAL FORM:

By: _____
City Attorney

Owners' Authorized Representative

Diamond Ridge Properties, Ltd., a Florida
Limited Partnership, By: Diamond Ridge, L.C.,
a Florida Limited Liability Company, as General
Partner, by Carmen J. Spinella, Manager

Date

The foregoing instrument was acknowledged before me this _____ day of _____, 2006,
by _____, as _____ of _____, Inc., who is
personally known to me or has produced _____ as identification.

Notary Public, State of Florida

Print Name

Department of Community Affairs

H.E. 'Sonny' Timmerman, Director
Division of Community Planning

Date

The foregoing instrument was acknowledged before me this _____ day of _____, 2006,
by _____, as _____ of the Department of Community
Affairs, Division of Community Planning, who is personally known to me or has produced
_____ as identification.

Notary Public, State of Florida

Print Name