

REQUESTED MOTION: (Second Reading) AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 – ZONING, TO AMEND CHAPTER 4, ARTICLE V, DIVISION 11, SUBDIVISION II, DOWNTOWN FORM-BASED CODE (SECTION 4-866) CREATING AN ADMINISTRATIVE VARIANCE PROCESS; TO AMEND CHAPTER 4, ARTICLE VI, DIVISION 17- CONSTRUCTION OF FENCES; TO ADOPT CHAPTER 4, ARTICLE VI, DIVISION 44- EMPLOYEE LIVING FACILITIES CREATING PROPERTY DEVELOPMENT REGULATIONS FOR EMPLOYEE LIVING FACILITIES; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE

REQUESTOR: Mike Fiigon II, Senior Planner; Mary Zizzo, Senior Planner; Jacqueline Genson, Planning and Zoning Manager

AGENDA: Public Hearing

STRATEGIC PRIORITY: N/A

BACKGROUND:

This agenda item was continued from the February 21, 2024 City Council meeting to address questions on the draft employee living facilities regulations.

The request is to amend three sections of Chapter 4 (Zoning) of the City of Bonita Springs Land Development Code (LDC). Changes are identified in yellow highlight as follows: strike-thru is removal of text and underline is the addition of text. The LPA reviewed the LDC amendments at their January 18, 2024, public hearing and provided minor comments, which are reflected in this current draft. The LPA found the LDC amendments consistent with the comprehensive plan. The first reading for this item occurred on February 7, 2024 and Council voted unanimously to move the ordinance to second reading. The second reading occurred on February 21, 2024. At that hearing, Council voted to continue this item to March 6, 2024, in order to provide Staff additional time to amend the proposed language related to employee living facilities, based on direction that was provided at the February 21st meeting. **At this time, Staff is recommending that City Council consider approving the proposed changes below listed as (1) Form Based Code Administrative Variance Process; and (2) Fence Code, and remove (3) Employee Living Facilities, which can be considered at a later date.**

1. The first request is to amend Section 4-866 of the Downtown Form Based Code to add an administrative variance process for projects that contain commercial uses and are located within a commercial transect (T4, T5, T5 Core, and Special Transect Zone Districts). The criteria for approval closely mirror the already-established variance criteria found elsewhere in the Land Development Code. However, a specific addition to the criteria for the Form Based code has been included, which requires the Applicant to demonstrate that the proposed variance is not in conflict with Section 4-866(a), Intent of the Form-based Code. Staff coordinated with DPZ CoDesign on creating this process and agreed it may be appropriate so long as requests meet the overall intent of the Form-based Code.

2. The second request is to amend the existing fence code. The proposed changes include opportunities to improve aesthetics, provides property owners additional fence and landscape material options, and provides additional standards for property owners to secure their property:
 - Allowing a second material of fencing within waterbody setbacks and within the San Carlos Estates Agricultural Overlay.
 - Allowing Director/agency discretion to reduce locational requirements for entrance gates and gatehouses.
 - Allowing service entrances for nonresidential parcels that are open during operating hours.
 - Allowing chain link in commercial zoning districts, provided they are powder coated and shielded by matching height hedges.
 - Allowing fence wings over seawalls/rip rap consistent with Florida Building Code.

3. The third request is to provide development regulations for Employee Living Facilities pursuant to Council's direction at the October 4, 2023 (Bonita Bay PUD Employee Housing Appeal). These regulations include checks for compatibility with the surrounding developments, level of impacts and an approval process.

Attached for consideration are copies of the proposed amendments and a draft ordinance.

STAFF RECOMMENDATION: Approve proposed amendments to the Downtown Form Based Code and the Fencing amendments; Remove the proposed employee housing language.

ATTACHMENTS:

1. Draft LPA Meeting Minutes
2. Draft LDC Changes
3. Draft Ordinance

REVIEWERS:

City Manager: Arleen Hunter
City Attorney: Derek Rooney
City Clerk: Michael Sheffield
Department Director: John Dulmer, AICP

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 24 – ___

AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 – ZONING, TO AMEND CHAPTER 4, ARTICLE V, DIVISION 11, SUBDIVISION II, DOWNTOWN FORM-BASED CODE (SECTION 4-866) CREATING AN ADMINISTRATIVE VARIANCE PROCESS; TO AMEND CHAPTER 4, ARTICLE VI, DIVISION 17 – CONSTRUCTION OF FENCES; TO ADOPT CHAPTER 4, ARTICLE VI, DIVISION 44 – EMPLOYEE LIVING FACILITIES CREATING PROPERTY DEVELOPMENT REGULATIONS FOR EMPLOYEE LIVING FACILITIES; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, the City of Bonita Springs desires to streamline, clarify, and otherwise update provisions of the City’s Land Development Code; and

WHEREAS, additionally, the City Council of the City of Bonita Springs desires to amend certain sections of Chapter 4 of its Land Development Code to bring it into conformity with recent decisions of the City Council including (1) administrative variances within the downtown form-based code, (2) update the City’s fence standards, and (3) establishing regulations for employee living facilities; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted as legislative findings of the City Council and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending the pertinent provisions of Chapters 4 Zoning of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as provided and further depicted in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Severability

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any part of this Ordinance is found to be invalid, preempted, or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such invalid, preempted, or superseded part as if adopted with such part had not been included herein.

Section 4. Conflicts of Law

This Ordinance shall supersede any ordinances in conflict herewith to the extent that such conflict exists. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of the requirements of state or federal law, the more restrictive shall apply.

Section 5. Codification and Scrivener's Errors

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. Effective Date

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL of the City of Bonita Springs, Florida this _____ day of _____, 2024.

Attest:

CITY OF BONITA SPRINGS, FLORIDA

By: _____
City Clerk

By: _____
Mayor

Reviewed for legal sufficiency:

By: _____
City Attorney

Vote:

Carr
Purdon
Forbes
Fullick

Corrie
Bogacz
Steinmeyer

Date filed with City Clerk: _____

Subdivision II. Downtown Form-Based Code¹

Sec. 4-866. General provisions.

- (a) *Intent.* The requirements set forth in this section are intended to:
- (1) Support the goals, objectives and policies of the city's comprehensive plan and downtown district.
 - (2) Keep cognizant the elements are scale, aesthetics, predictability, and new investment.
 - (3) Capitalize on opportunities to attract the development of a variety of building types and uses in order to contribute to a robust economic base.
 - (4) Encourage mixed-use development within the downtown district in support of viable and diverse locally-oriented business and cultural institutions.
 - (5) Promote development attractive to past, present and future generations that allows them to participate in the economic growth.
 - (6) Enable a walkable streetscape and predictable, small-town urban character.
 - (7) Achieve context-based development and complete streets.
- (b) *Application of the transect zones.* The transect, as a framework, identifies a range of habitats from the most natural to the most urban. Its continuum, when subdivided, lends itself to the creation of zoning categories. These categories include standards that encourage diversity similar to that of organically evolved settlements. The standards overlap (they are parametric), reflecting the successional ecotones of natural and human communities. The transect methodology allows for a wide range of building types in each transect zone, arranged to provide balanced walkable streetscapes. This Code contains the following transect zones:
- (1) T-5 urban zone consists of higher density mixed-use buildings that accommodate retail, offices, rowhouses, and multi-family. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the sidewalks. The T-5 urban zone has two variations:
 - a. The core T-5 zone is used for portions of downtown fronting Old-41 and near civic open spaces such as Riverside Park and the Imperial River. These important lots shall have retail-ready ground floors to activate Old-41, as well as gallery frontages to create a walkable and shaded streetscape. Other lots in the T-5 zone, are not required to have retail-ready ground floors but may have them by option (See: section 4-487(a)(2))

¹Ord. No. 20-10 , § 2(Exh. A §§ 1—14), adopted November 4, 2020, repealed the former Subdivision II, §§ 4-866—4-872, and enacted a new Subdivision II as set out herein. The former Subdivision II pertained to Old U.S. 41 Redevelopment Overlay District and derived from Ord. No. 09-13; Ord. No. 11-02, §§ 3(4-1151)—(4-1156), January 9, 2011; Ord. No. 13-01, §§ 1(4-1151), 1(4-1152), 1(4-1153), 1(4-1154), 1(4-1155), 1(4-1155), 1(4-1156), February 6, 2013; Ord. No. 13-09, §§ 1(4-1151)—(4-1154), (4-1155(a)—(h)), (4-1156), August 7, 2013; Ord. No. 15-02, § 1, February 7, 2015; Ord. No. 15-08, § 1, April 15, 2015; Ord. No. 15-21, § 1, October 21, 2015; Ord. No. 16-01, § 1, January 20, 2016; Ord. No. 16-19, § 1, December 7, 2016.

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- (2) T-4 general urban zone consists of a primarily residential urban fabric. It may have a wide range of building types: single-family houses, side-yard houses, rowhouses, and small apartment buildings. Live/work buildings with home occupations are allowed in small quantities. Setbacks and landscaping are variable. Most streets in their existing form lack sidewalks and curbs.
 - (3) T-3 sub-urban zone consists of low density residential areas, adjacent to higher zones that may have some mixed use. Accessory dwellings are allowed. Planting is naturalistic and setbacks are relatively deep. Blocks may be large and the roads irregular to accommodate natural conditions. The T-3 sub-urban zone has two variations:
 - a. The restricted T-3 zone is used for portions of the downtown which are sub-divisions with an HOA or areas which contain multiple historically significant buildings. The T-3 zone is for all T-3 areas not included in the restricted zone.
 - (4) Civic zone consists of civic buildings and/or civic spaces appropriate to their transect zones.
 - (5) Special districts consist of areas with buildings that by their function, disposition, or configuration cannot, or should not, conform to one or more of the six normative transect zones. The existing industrial area in the southwest corner of the downtown district shall be designated as a special district with an emphasis on incubation of local businesses. City-owned parcels along the Imperial River are also designated to be a special district.
- (c) *Boundaries of the downtown district.* The boundaries of the Bonita Springs Downtown Form-Based Code are derived from the boundary found on the Old U.S. 41 Corridor Redevelopment Master Plan, with slight modifications. These expansions of the boundary are shown below as Figure 2.1-1.
- (1) *Regulating plan.* The boundaries of the downtown district shall be as outlined on Figure 2.1-1.
- (d) *Applicability.*
- (1) Unless approved through the planned development process, these standards shall apply to all new construction and substantial modifications within the downtown district. "Substantial modifications" shall be defined as any modification, alteration or repair or combination thereof, to a structure or land, which exceeds 50 percent of the combined building cost and land value, over a five-year period, as assessed by the Lee County Property Appraiser. Existing planned developments may voluntarily comply with the standards herein.
 - (2) This document shall replace all prior regulatory documents for the Downtown District of the City of Bonita Springs. Where a conflict exists between this section and other land development regulations, this section shall prevail, except for those contained within the comprehensive plan.
 - (a) Properties and/or projects located within the Downtown District but have frontage along Bonita Beach Road may be developed in accordance with the regulations of the Bonita Beach Road Corridor Overlay.
 - (3) This section may be expanded to other portions of the City of Bonita Springs, so long as their boundaries are explicitly defined under section 4-867(c) and added to Figure 2.1-1.
 - (4) Standards, activated by "shall", are regulatory in nature. Deviations from these standards shall only be permitted by variance or special exception in accordance with applicable LDC sections.
 - (5) Guidelines, activated by "should", are encouraged and recommended but not mandatory. Developments subject to this overlay district are encouraged to incorporate them as appropriate in order to enhance and complement the built and natural environment. The intent is to create the highest level of design quality while providing the needed flexibility for creative site design.

(e) *Existing conditions.*

- (1) Existing buildings, structures, and land features that do not conform to the requirements of this downtown district may be occupied, operated, repaired, renovated or otherwise continue in use in their existing non-conforming state until such time as a substantial modification is requested to 50 percent or more of the combined building cost and land value, over a five-year period, as assessed by the Lee County Property Appraiser, and as outlined in LDC 4-866(d)(1).
- (2) The adaptive re-use of a building shall not be required to comply with minimum height standards established in section 4-870.
- (3) The restoration or rehabilitation of an existing building does not require the provision of parking in addition to the existing, if less than six new spaces are required.

(f) *Administrative Variances. This section is applicable to property proposing a commercial use (or commercial uses) or property that already contains a commercial use (or commercial uses) as described in Section 4-868, Table 3.1-1, Permitted Uses, and located in the T4, T5, T5-Core, and Special Transect Zone Districts.*

- (1) An Applicant may request a variance from any of the Form Based Code Sections by completing and submitting the necessary administrative action application and required documentation listed therein.
- (2) The Applicant shall provide the specific code section and a written justification stating why they cannot comply with the code section.
- (3) The Applicant is required to provide their proposed option for consideration. Staff has the right to request additional details, plans, renderings, surveys, and other information that may be needed for the review. At minimum, a statement explaining how the proposed option does not conflict with Section 4-866(a), Intent of the Form Based Code, shall be provided.
- (4) Before the approval of a variance, Staff shall find that all of the following exist:
 - a. The proposed variance is not in conflict with Section 4-866 (a), Intent of the Form Based Code.
 - b. There are exceptional or extraordinary conditions or circumstances that are inherent to the property or building in question.
 - c. The exceptional or extraordinary conditions or circumstances are not the result of actions taken by the Applicant.
 - d. The variance, if granted, is the minimum necessary to relieve the Applicant from the assumed burden of the code section.
 - e. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (5) If Staff denies the administrative variance request, the Applicant has the right to appeal the decision, pursuant to Section 4-53(c) of the Land Development Code.

(Ord. No. 20-10 , § 2(Exh. A, § 1), 11-4-2020; Ord. No. 21-02 , § 2(Exh. A), 5-19-2021; Ord. No. 23-02 , § 2(Att.), 5-3-2023)

DIVISION 17. FENCES, WALLS, GATES AND GATEHOUSES

Sec. 4-1464. Applicability of division.

This division applies to all fences, walls, gatehouses and entrance gates that are not specifically exempted in this division. This division does not apply to seawalls (see section 4-1588 for regulations on seawalls) or to city-initiated walls related to capital improvement projects.

(Ord. No. 11-02, § 3(4-1741), 1-19-2011; Ord. No. 12-13, § 1(4-1741), 8-15-2012)

Sec. 4-1465. Construction of fences.

- (a) Except for fences used for bona fide agricultural uses that are exempt under F.S. § 604.50, all fences and walls that are over 25 inches in height must comply with established building permit procedures.
- (b) All fences and fence walls on each property must be of uniform materials, design and color. ~~Any additions to existing fences or walls that do not exceed the length of the existing fence or wall shall maintain a uniformity of materials, design and color with that of the existing fence or wall. Fences reviewed at time of local development order and deemed to be provided architecturally consistent by the City Architect may waive this requirement.~~

(1)An exception exists for:

 - (a) fences at or within the waterbody setback area may use an additional material to meet Section 4-1467(b)(2)a.
 - (b) Fences within the Agricultural Overlay as well as within the San Carlos Estates Water Control District are permitted up to two materials. One uniform material shall be used within the street setbacks.
- (c) All fences and fence walls must be constructed and maintained in a manner that will not detract from the neighborhood or community. Fences must not contain missing materials or components of which it was built and must remain substantially vertical so that it serves the function or aesthetic purpose for which it was built and has not been compromised to the point that the fence would present a danger of flight or destruction during severe weather.
- (d) Fences and fence walls must be constructed of conventional and traditional building materials including, but not limited to, concrete block, brick, wood, decorative aluminum, iron or steel, vinyl, chain link or composite products manufactured specifically for fences and walls. Non-traditional materials, including, but not limited to, tires, mufflers, hubcaps, etc., are prohibited. Fabric sheets or nets, or plastic, metal or vinyl sheets or slats may not be used as part of the fence or attached to a fence for the purpose of effecting privacy or required screening.
- (e) Fences and walls must be constructed to present the finished side of the fence or wall to the adjoining lot or any abutting right-of-way. Where there is an existing fence, wall or continuous landscape hedge on the adjoining parcel, this provision may be administratively waived upon written request.

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- (f) Barbed wire, spire tips, sharp objects, hog wire, game fence, horse wire or other similar materials or electrically charged fences are prohibited in all zoning districts, except as provided below and unless exempted under F.S. § 604.50 for agricultural uses and permitted in accordance with section 4-1471.
- (1) Fence material such as, hog wire, game fence, horse wire or other similar materials may be erected but cannot be the primary material when the property is within 100 feet of any residential area or residential zoning district under separate ownership.
 - (2) Bona fide agricultural uses may use barbed wire or electrically charged fences to control livestock when located in districts permitting the raising, keeping or breeding of livestock.
 - (3) The use of barbed wire for temporary security fences around construction materials or equipment in conjunction with an active construction project may be permitted when approved by the director.
 - (4) The use of chainlink fence with three strands of barbed wire on top of the fence with six-inch spacing between the strands of barbed wire may be required or approved by the director around structures or equipment of potential hazard to residents or passersby not otherwise protected.
- (g) Electrical fences must comply with National Electrical Safety Code requirements.
- (Ord. No. 11-02, § 3(4-1743), 1-19-2011; Ord. No. 12-13, § 1(4-1742), 8-15-2012; Ord. No. 15-27, § 2, 12-2-2015)

Sec. 4-1466. Residential project walls.

- (a) For purposes of this section, a residential project fence means a wall or fence erected around a residential subdivision (but not individual lots) or development of ten or more dwelling units.
- (b) A residential project fence or wall:
- (1) May be a maximum height of eight feet around the perimeter of the project upon a finding by development services that the fence does not interfere with vehicle visibility requirements (see section 4-2251) at traffic access points.
 - (2) May include architectural features such as columns, cupolas, fountains, parapets, etc., at a height not to exceed half the fence or wall height (up to four additional feet); provided they are compatible with the project and abutting properties.
 - (3) Required or optional residential project walls must be landscaped on the exterior side (between the wall and the abutting property or street right-of-way) with a minimum of five trees per 100 lineal feet and shrub hedges, within a minimum plantable width of 7½ feet located on the exterior side of the wall or fence.
 - a. Hedges must be planted and maintained so as to form a 36-inch-high continuous visual screen within one year after time of planting.
 - b. Trees adjacent to a right-of-way must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms adjacent to the right-of-way will add design flexibility and reduce conflicts.
 - (4) Must be constructed to ensure that historic water flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD (South Florida Water Management District requirements).
 - (5) May not be permitted until proper documents have been recorded providing for the maintenance of the project fence and landscaping.

(Ord. No. 12-13, § 1(4-1743), 8-15-2012)

Sec. 4-1467. Location and height of fences and walls other than residential project fences.

- (a) *Setbacks.* Except as may be specifically permitted or required by other sections of this chapter or chapter 3, no fence or wall, excluding seawalls, may be erected, placed or maintained:
- (1) Within any street right-of-way or street easement.
 - (2) Closer to the Gulf of Mexico than permitted by chapter 5, article III.
 - (3) Closer than five feet to the mean high-water line along natural water bodies, including canals created from sovereign lands, except that, where the canal is seawalled, the fence may be built landward of the seawall.
 - a. An exception exists for pool barriers, which allow for fence wings to extend 18" seaward beyond a seawall or rip rap.
- (b) *Fence or wall height.*
- (1) Determination of height. Except as set forth in section 3-418 for required buffers, fence or wall height will be measured from the existing elevation of the abutting property. In rear and side yards, the building official has the discretion to allow a deviation of up to four inches in height where required to compensate for variations in grade, drainage, or weed maintenance; provided that the length of the structural materials for the fence do not exceed the permitted height.
 - (2) Except as provided for in section 4-1465(b)(1), the maximum permitted height for fences and walls is as follows:
 - a. *Residential areas.*
 1. A fence or wall located between a street right-of-way or easement and the minimum required street setback line may not exceed three feet in height, except that fences may be a maximum height of four feet so long as the fence is of open mesh screening* and does not interfere with vehicle visibility requirements (see section 4-2251) at traffic access points.

**For purposes of this section only, open mesh screening may include vertical picket-type fencing; provided that the minimum space between vertical members must be a minimum of 1½ times the width and thickness of the vertical members or bars. i.e., if the vertical members are 2¼ inches wide and three-quarters of an inch thick (total three inches), then the minimum space between them must be 4½ inches (1.5 × 3.0 = 4.5). In no case may the space between vertical members or bars be less than four inches.*
 2. A fence or wall located between a side or rear lot line and the minimum required setback line for accessory buildings is limited to a maximum height of six feet. For purposes of this section, the side yard will be considered that portion of the lot extending from the minimum required street setback line to the rear lot line.
 3. A fence located within 25 feet of a body of water must be open mesh screening above a height of 3½ feet.
 - b. *Commercial and industrial areas.* A commercial fence or wall may be a maximum height of six feet around the perimeter of the commercial development upon a finding by development services that the fence does not interfere with vehicle visibility requirements at traffic access points. A commercial fence or wall up to eight feet is permitted when adjacent to residential. See also section 4-2251 and chapter 3, appendix C.

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1. Chain link fences, barbed wire, and unpainted or unfinished block fences or walls are prohibited, except:
 - a. Chain link fence material is permitted subject to:
 1. A green or black powder coated chain link fence is proposed; and
 - ~~a.~~ 2. A continuous visual screen is installed along the exterior of the fence to match the height of the proposed fence within one year after time of planting.
 2. All walls or block fences visible from a public right-of-way or an adjacent parcel shall be architecturally finished (i.e., brick, stucco, or textured concrete masonry units) and consistent with and complimentary to the architectural character of the principal structure(s).
 3. Fences and walls may not exceed six feet in height and must not prohibit pedestrian access to the development.

An industrial fence may be a maximum height of eight feet around the perimeter of the project upon a finding by development services that the fence does not interfere with vehicle visibility requirements (see section 4-2251) at traffic access points.

- c. *Walls and fences along limited access or controlled access streets.* A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street; provided it complies with the same regulations as are set forth for residential project fences in section 4-1465.
- d. *Agricultural fences.* An open mesh or wire fence for bona fide agricultural uses may be a maximum height of eight feet along any property line in an agricultural district; provided that the fence does not interfere with vehicle visibility requirements (see section 4-2251) at traffic access points, unless exempted under F.S. § 604.50.
- e. *Community garden fences.* Fences for community gardens located in residential zoning districts AG, RS, TFC, RM, MH, RV, CFPD, CPD, RPD, MHPD, RVPD, and MPD may be a maximum height of six feet high along any property line; provided the fence does not interfere with vehicle visibility requirements at traffic access points (see section 4-2251). The design of the fence must be in compliance with this division. Barbed wire, spire tips, sharp objects or electrically charged fences are prohibited.

(Ord. No. 11-02, § 3(4-1744), 1-19-2011; Ord. No. 12-13, § 1(4-1744), 8-15-2012; Ord. No. 15-27, § 2, 12-2-2015)

Sec. 4-1468. Buffer for commercial and industrial uses.

All commercial and industrial uses shall provide a buffer as required in chapter 3.

(Ord. No. 11-02, § 3(4-1741), 1-19-2011)

Sec. 4-1469. Visibility at entrances and exits.

Any residential project fence or wall, or any fence or wall in a commercial or industrial area, which is over three feet in height between the minimum required street setback line and the street right-of-way line or easement shall be designed so as to provide unobstructed visibility for vehicles entering or exiting the property.

(Ord. No. 11-02, § 3(4-1746), 1-19-2011)

Sec. 4-1470. Construction in easements.

Nothing in this division shall be construed so as to permit the construction or placing of any construction within a public or private easement which prohibits such construction or placement.

(Ord. No. 11-02, § 3(4-1747), 1-19-2011)

Sec. 4-1471. Enclosure of high-voltage transformers and other utility equipment.

- (a) All substation high-voltage transformers and any other utility structures or equipment of potential hazard to residents or passersby not otherwise protected shall be completely enclosed by a chainlink fence not less than eight feet in height. On top of the fence shall be three strands of barbed wire with a six-inch spacing in between each strand. Alternative methods may be considered in compliance with the National Electric Safety Code provided a continuous visual screen is provided to shield the equipment.
- (b) Distribution transformers shall comply with National Electrical Safety Code requirements.

(Ord. No. 11-02, § 3(4-1748), 1-19-2011)

Sec. 4-1472. Entrance gates and gatehouses.

(1) The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

An entrance gate or gatehouse is permitted; provided that:

- a. Appropriate evidence of consent is submitted from all property owners who have the right to use the subject road or from a property owner's association with sufficient authority with the responsibility to maintain;
- b. If it is to be located within a planned development, it is an approved use in the schedule of uses;
- c. The gate or gatehouse is located:
 1. A minimum of 100 feet back from the existing or planned intersecting street right-of-way or easement or
 2. The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting public or private street while waiting to enter or
 3. Where, in the opinion of the Director of Community Development, traffic volumes on the intersecting street are so low that interference with through traffic will be practically nonexistent, the Director may waive or modify the locational requirements set forth in this section. If the intersecting street is City-maintained, then the Director of Public Works must concur. If the intersecting street is County-maintained, then the County Department of Transportation must concur. The decision to waive or to modify the locational requirements is discretionary and may be appealed via a public hearing variance request.
- d. It is located in a manner that does not impede or interfere with the normal operation and use of individual driveways or access points.

(2) Access for emergency vehicles must be provided.

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- a. Any security gate or similar device that is not manned 24 hours per day must be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles.
 - b. If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.
- (3) Extension of fences or walls to an entrance gate or gatehouse. A fence or wall may be extended into the required setback where it abuts an entrance gate or gatehouse, provided vehicle visibility requirements (see Section 4-2251) are met.
 - (4) Entrance gates that are installed solely for security purposes for nonresidential uses, and that will remain open during normal working hours, are not subject to the location requirements set forth in Subsection (1)c of this section.
 - (5) Turn-arounds. A paved turn-around, having a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book, current edition, must be provided on the ingress side of the gate or gatehouse.

The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

- (1) ~~An entrance gate or gatehouse not approved as part of a planned development is permitted; provided that it is not located on a publicly dedicated street or right-of-way; and:~~
 - a. ~~Appropriate evidence of consent from all property owners who have the right to use the subject road or from a property owners' association with sufficient authority is submitted; and~~
 - b. ~~The gate or gatehouse is located a minimum of 100 feet back from the intersecting street right-of-way or easement; or~~
 - c. ~~The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting street while waiting to enter; or~~
 - d. ~~The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.~~
- (2) ~~Access for emergency vehicles must be provided.~~
 - a. ~~All new electronic access control gates to structures and properties that may require emergency services that restrict the free ingress and egress of emergency vehicles and are not constantly attended 24 hours a day shall be equipped with an electronic transmitter/receiver system capable of being programmed with a unique activation code and frequency approved by the authority having jurisdiction.~~
 - b. ~~Such code or frequency shall not be used by or provided to other gate users.~~
 - c. ~~Existing installations shall comply with 180 days subsequent to the notification date by the authority having jurisdiction.~~
 - d. ~~All electronic access control gates shall be compatible with the uniform city-wide transmitters, which transmitters are carried only within emergency service vehicles.~~

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- ~~e. — With the following exceptions, all electronic access control gates shall have a visibly marked override feature that will allow the gate to be fully opened during a power failure.~~
- ~~1. — Exception 1: Any other override or back-up system acceptable to the fire district.~~
 - ~~2. — Exception 2: Existing installations shall be given a reasonable time period to comply as determined by the fire district.~~
- ~~f. — All non-electronic access control gates to structures and properties that may require emergency services that restrict the free ingress and egress of emergency vehicles and are not constantly attended 24 hours a day shall be provided with a key box.~~
- ~~g. — If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.~~
- ~~(3) — Extension of fences or walls to an entrance gate or gatehouse. A fence or wall may be extended into the required setback where it abuts an entrance gate or gatehouse; provided vehicle visibility requirements (see section 4-2251) are met.~~
- ~~(4) — Turnarounds. A paved turnaround, having a turn radius sufficient to accommodate a three-point turn for a single-unit truck (SU) vehicle, as specified in the AASHTO Green Book current edition, must be provided on the ingress side of the gate or gatehouse.~~

~~(Ord. No. 00-13, § 1, 11-1-2000; Ord. No. 11-02, § 3(4-1749), 1-19-2011; Ord. No. 15-27, § 2, 12-2-2015)~~

Sec. 4-1473. Walls and fences along limited access or controlled access streets.

A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street; provided:

- (1) The height of the fence or wall does not exceed eight feet for industrial developments, and six feet for commercial developments except where additional fence/wall height is permitted adjacent to residential in accordance with section 4-1467; and
- (2) Vehicle visibility requirements (see section 4-2251) are met.

(Ord. No. 11-02, § 3(4-1750), 1-19-2011; Ord. No. 15-27, § 2, 12-2-2015)

Sec. 4.1474. Hedges.

Except where otherwise required or specified, where hedge(s) are proposed along a right-of-way, they shall be maintained a minimum of six feet from the paved edge of the right-of-way and shall not overhang the right-of-way. At all times, hedges shall meet site visibility requirements.

Secs. 4-1475—4-1494. Reserved.

Division 44. Employee Living Facilities Regulations

Sec. 4-2320.- General Provision and Intent

- (a) The purpose of these regulations is to allow employee living facilities for local employer companies, to ensure the quality of life in the community, and mitigate negative impacts to surrounding neighborhoods.
- (b) For purposes of this section, “employee living facilities” is a group quarter establishment provided by or at the direction of an employer company with lodging facilities to accommodate unrelated residents, who may share bedrooms, common areas, bathrooms and/or kitchen facilities, whether on a temporary basis or for permanent residency, which are owned and controlled by a employer company, for the purpose of those employees and their immediate family, who shall be directly employed by a common employer company. Employee living facilities are to be distinguished from dwelling units, vacation rentals, hotels, motels, roominghouses and boardinghouses.

Sec. 4-2321.- Location

- (a) Employee living facilities shall be a permitted use within any multi-family residential district and where multi-family dwelling units are a permitted use. Existing planned developments may administratively amend their schedule of uses to add employee living facilities.
- (b) In order to ensure that intensity of the Employee Living Facility remains consistent with other development allowed under this Chapter, all employee living facilities must comply with the zoning district provisions for the district for multi-family dwelling units and/or principal commercial structures, as applicable, as further specified in Section 4-2324.
- (c) To lessen impacts on City infrastructure, the proposed Employee Living Facility shall be located a maximum distance of two miles from the employer office facilities as measured from property line to property line, unless transportation service is provided for the occupants during office facility hours of operation.

Sec. 4-2322.- Density

Wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or kitchen facilities are not provided, density equivalents and impact fees will be calculated at the ratio of four people equals one multi-family dwelling unit.

Sec. 4-2323.- Architectural Standards

- (a) When located within residential zoning districts, shall maintain the general residential character of the district.
- (b) Exterior building materials, bulk, landscaping, fences and walls, and general design must be similar to or compatible with those of surrounding dwellings/structures, in accordance with Chapter 3.
- (c) Design of Facility. The architectural style, massing, height, location and design of parking facilities and vehicular use areas, ingress, egress, on-site circulation, landscaping, and storm water retention/detention areas shall be designed to integrate into the surrounding neighborhood, mitigate impacts of noise and traffic to levels associated with permitted uses in the zoning district, and enhance the safety of both the employee living facility residents, residential neighbors and adjacent parcels, in accordance with Chapter 3.
- (d) Parking.

- a. Where residents share communal cooking facilities, parking shall be provided at a rate of one space per four occupants.
- b. Where cooking facilities are provided per unit, parking shall be provided consistent with LDC Section 4-1732.

Sec. 4-2324.- Approval.

- (a) Zoning Determination Required. Prior to the establishment of an employee living facility, or conversion to employee living facility, the requesting managing entity or their agent shall be responsible for securing a Zoning Verification Letter. A new determination in the name of a new owner or authorized agent shall be required in the event of a change in ownership or leasehold interest in an employee living facility. A survey indicating the distance from the employer office facilities shall be provided at this time.
- (b) Development Order. A local development order is required as well as a commercial building permit. At the time of local development order, a proposed floor plan showing all sleeping, bathroom, common area and kitchen facilities shall be shown. The managing entity shall provide a notarized affidavit of compliance with the submission of all proposed development plan applications for the project ensuring compliance with this Section.
- (c) Employee Living Facility Renewal. An annual report of the list of occupants and their records of employment with the managing entity shall be maintained at all times and may be requested at any point by the City to ensure compliance.

**Bonita Springs
Local Planning Agency
Meeting Minutes (draft)
Thursday, January 18, 2024
9:00 A.M.**

Bonita Springs Fire Control & Rescue District
Station Four Administrative Building
27701 Bonita Grande Drive
Bonita Springs, Florida 34135

I. CALL TO ORDER

Chairman Jeff Maturo called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance. Chairman Maturo also welcomed new LPA member Raymond Townsend.

II. ROLL CALL

Members Present: Chairman Jeff Maturo, Vice-Chairman Steve Lohan, Robert Lombardo, Daniel Dhooghe, Raymond Townsend

Members Absent: Don Colapietro, Robert Bornstein

City Clerk Sheffield made the following announcements:

- On Jan. 17, 2024, Jeff Maturo was reappointed as the Chairman of the LPA by the City Council.*
- LPA Member Bob Bornstein sent a notice of resignation to the City Clerk, effective Dec. 31.*

III. PUBLIC COMMENTS

None

IV. REVIEW OF THE FOLLOWING LAND DEVELOPMENT CODE AMENDMENTS FOR CONSISTENCY WITH THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN.

A. CHAPTER 4, ARTICLE V, DIVISION 11, SUBDIVISION II, DOWNTOWN FORM-BASED CODE (SECTION 4-866)

Mike Fiigon, Senior Planner with Community Development, provided an overview and rationale for the proposed amendment, which is to add an administrative variance review process for commercial projects located within a commercial transect to the Downtown Form-Based Code. The proposed administrative variance review process allows property owners/developers who believe that a variance is necessary due to an extraordinary circumstance or condition to apply for such a variance. The process further outlines conditions that staff must deem have been met in order to grant administrative approval, including the determination that the proposed variance is not in conflict with Section 4-866 (a), Intent of the Form Based Code.

B. CHAPTER 4, ARTICLE VI, DIVISION 17 – CONSTRUCTION OF FENCES

Mary Zizzo, Planner II with Community Development, presented an overview of the proposed changes to the fence code, stating the intent of the changes are to offer property owners with additional fence and landscape material options, additional standards to secure their property, and opportunities to improve aesthetics. Proposed changes include the addition of alternative methods for hiding high-voltage transformers (which still must follow the National Electric Safety Code) and adds the option of green or black powder coated chain link fence material subject to specific conditions.

C. CHAPTER 4, ARTICLE VI, DIVISION 44 – EMPLOYEE LIVING FACILITIES

Mary Zizzo, Planner II with Community Development, presented an overview of the general provision and purpose of the proposed regulation pertaining to Employee Living Facilities, stating that staff is bringing forth the proposed regulation at the direction of City Council, which was provided by Council on October 4, 2023, following the Bonita Bay PUD Employee Housing Appeal. The proposed Employee Living Facilities regulations include checks for compatibility with surrounding developments, level of impact, and an approval process.

Motion and Vote

Chairman Maturo made a motion to approve the three proposed LDC amendments, as they appear to be consistent with the Comprehensive Plan; Seconded by Board Member Dhooghe. The motion carried 5-0.

V. UPDATE FROM OCTOBER LPA MEETING

At the request of Clerk Sheffield, Planning and Zoning Manager Jacqueline Gensen provided a complete overview of the remaining steps in the process for subsequent adoption by City Council of the amendments that were heard today by the LPA. She further provided an update on the Wireless Communications Facilities Regulations that was heard by the LPA in October.

VI. APPROVAL OF PRIOR MEETING MINUTES:

Board Member Dhooghe made a motion to approve the minutes from the meeting held on 10/19/23; Seconded by Vice Chairman Lohan. The motion carried 4-0 (Board Member Townsend did not vote on the motion since he was not present at the October meeting.

VII. NEXT MEETING

The Clerk's office will keep members informed of the date of the next meeting.

VIII. ADJOURNMENT

Chairman Maturo thanked resigning member Bob Bornstein for his service on the LPA. He further thanked staff for providing thorough presentations and thanked the Bonita Springs Fire Control and Rescue District for the use of the facility.

There being no further items to discuss, the meeting adjourned at 9:26 a.m.

Prepared by,

Mike Sheffield, City Clerk

Approved by the Local Planning Agency on the _____ of _____, 2024.

Jeff Maturo, Chairman