

**CITY OF BONITA SPRINGS, FLORIDA**

**ORDINANCE NO. 21-03**

**AN ORDINANCE OF THE CITY OF BONITA SPRINGS FLORIDA, AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE, CHAPTER 4 – ZONING, TO CLARIFY LANGUAGE FOR PROPERTIES ZONED PLANNED DEVELOPMENT THAT WANT TO VOLUNTARILY DEVELOP OR REDEVELOP UNDER THE BONITA BEACH ROAD CORRIDOR OVERLAY DISTRICT STANDARDS; 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**, in 2019, the City Council adopted amendments to the Land Development Code creating the Bonita Beach Road Corridor Overlay District based on recommendations of the the Bonita Beach Road Visioning Study by Toole Design and the concepts of simplifying the zoning code and focusing on form rather than uses as recommended in the Bonita Beach Road Land Use Report by DPZ CoDesign; and

**WHEREAS**, the Overlay impacted both conventional and planned development zoning districts within the corridor, including several partially developed projects, and

**WHEREAS**, the City of Bonita Springs desires to add clarifying language such as specific development standards to implement the intent of those amendments accordingly; 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 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 Chapter 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 court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

**Section 4.**                    **CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance or Florida Statutes, the more restrictive shall apply.

**Section 5.**                    **CODIFICATION AND SCRIVENER'S ERRORS**

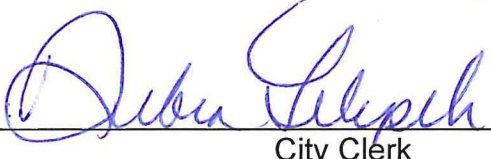
It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word 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 ENACTED by the City Council of the City of Bonita Springs,  
Lee County, Florida, this 19<sup>th</sup> day of May, 2021.

AUTHENTICATION:

 Mayor       City Clerk

APPROVED AS TO FORM:

  
City Attorney

Vote:

|        |     |            |     |
|--------|-----|------------|-----|
| Carr   | Aye | Gibson     | Aye |
| Purdon | Aye | Quaremba   | Aye |
| Forbes | Aye | Steinmeyer | Aye |
| Corrie | Aye |            |     |

Date filed with City Clerk:

5/20/2021

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## Subdivision V. Bonita Beach Road Corridor Overlay

### Sec. 4-897. Applicability.

- (a) Development and redevelopment within the Bonita Beach Road Corridor District are defined by four distinctive zones as described herein and graphically depicted in figure 4-V-1.
  - (1) *The Interstate zone*—This zone is located between Imperial Boulevard and Bonita Grande Road. Has also been referred to as the "Gateway Zone".
  - (2) *Commercial zone*—This is located between Vanderbilt Road and the Railroad Tracks, and between Race Track Road and Imperial Boulevard
  - (3) *Historic zone*—This zone is located between the Railroad tracks and Race Track Road.
  - (4) *Beach zone*—This zone is located between Hickory Boulevard and Vanderbilt Road.
  - (5) *Community zone*—This zone is located between Bonita Grande Road and the eastern limits of Bonita Beach Road. Each network zone may include specific design regulations.
- (b) Provisions of this division shall apply to all development and redevelopment located within the geographical boundaries set forth in Figure 4-V-1 and further defined as minor development and major development, as follows:
- (c) Minor development. For the purpose of this section, minor developments, are defined as:
  - (1) Projects requiring a Type 9/I limited review development order in accordance with section 3-159; or
  - (2) Building expansion of more than 15 percent of the existing square footage, but less than 50 percent; or
  - (3) Building renovation or improvements performed over a period of five years that exceed 15 percent of the existing square footage and less than 50 percent of the current assessed value of the structure.
  - (4) Redevelopment of existing minor developments and structures are to be into compliance with the provisions of this subdivision. If the strict application of these regulations are deemed impractical or unfeasible the existing minor development project be brought into conformity to the maximum extent possible. Request for this relief shall be made by the applicant, to the community development director, said request shall include an alternate plan, and this plan shall demonstrate compliance with the section 4-896. If approved by the city manager or designee said plan may be substituted in part for the standards of this district.
- (d) Major development. For the purpose of this section, major developments are defined as:
  - (1) New construction requiring local development order approval or an amendment to an existing development order (including large and small projects as defined in chapter 3; or
  - (2) Building expansion of more than 50 percent of the existing square footage; or
  - (3) Building renovation or improvements performed over a period of five years that exceed 50 percent.
- (e) Projects that result in redevelopment or a change in use shall be subject to the regulations set forth in (b)—(c) of this section.
- (f) If a parcel is located in one or more overlay districts, the more restrictive overlay standards shall apply.
- (g) Applicability and exemptions:
  - (1) It is the intent of this overlay to apply to all property within the overlay district. Existing planned developments may voluntarily comply with the standards herein.
  - (2) Notwithstanding, the provisions of this subdivision shall not apply to the following:

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- i. Planned developments that have reached 80 percent build out (based on building square footage or number of dwelling units) are exempt from these regulations and shall abide by the terms, conditions and zoning established in their planned development ordinance.
  - ii. Planned developments that have reached more than 50 percent but less than 80 percent build out (based on building square footage or number of dwelling units) are exempt from these regulations for a period of three years from the adoption of these regulations (approximately December 2022) after which any unbuilt structures shall be subject to the regulations set forth herein.
  - iii. Planned developments that have reached less than 50 percent of (based on building square footage or number of dwelling units) shall be subject to the regulations set forth herein.
  - iv. Planned developments that have not constructed any buildings or infrastructure shall bring their master concept plan into compliance with the regulations contained in this subdivision.
  - v. All planned developments in the beach and community zones.
  - vi. Planned developments with an unexpired master concept plans approved by the city at least 36 months prior to the adoption of this subdivision.
  - vii. All existing development orders authorized pursuant to the interim moratorium processes authorized pursuant to Ordinance 17-12 to the extent of any conflict with this subdivision.
  - viii. Any existing development orders otherwise specifically recognized for their conformity with the Bonita Beach Visioning Study and subsequent Comprehensive Plan Amendments (Ordinance 17-06) to the extent of any conflict with this subdivision; including the Horizon Park CPD (Zoning Ord. 17-07) reaffirmed as modified by the city council on June 19, 2019.
  - ix. Any development orders specifically authorized pursuant to the settlement agreement, approved by council on July 27, 2019, between Angler's Paradise of Bonita Springs, Inc. and the city to the extent any development approvals contemplated by that settlement shall conflict with this subdivision.
  - x. Notwithstanding any other provision of this section, any property owner who believes the strict application of this subdivision interferes with a vested rights may petition the city manager for relief from its application. Any such petition must be received within six months of the effective date of this subdivision and will be reviewed administratively for limited relief from the provisions of this subdivision to the extent such provisions interfere with a vested right. The city manager shall base on such determination on competent substantial evidence and upon consideration of the following factors:
    1. The history of the property along with its present nature and use.
    2. Whether the use or uses proposed in the petition are compatible with the comprehensive plan and overall intent of this subdivision even if its specific terms cannot be met; and
    3. Whether the property owner has made substantial expenditures of money or resources in reliance upon prior approvals and diligently pursued additional regulatory approvals in furtherance of a specific plan for development; and
    4. Whether denial of the petition would expose the petitioner to substantial monetary liability to third parties or leave the petitioner completely unable, after a thorough review of alternative solutions, to achieve their reasonable investment backed expectation for the property.

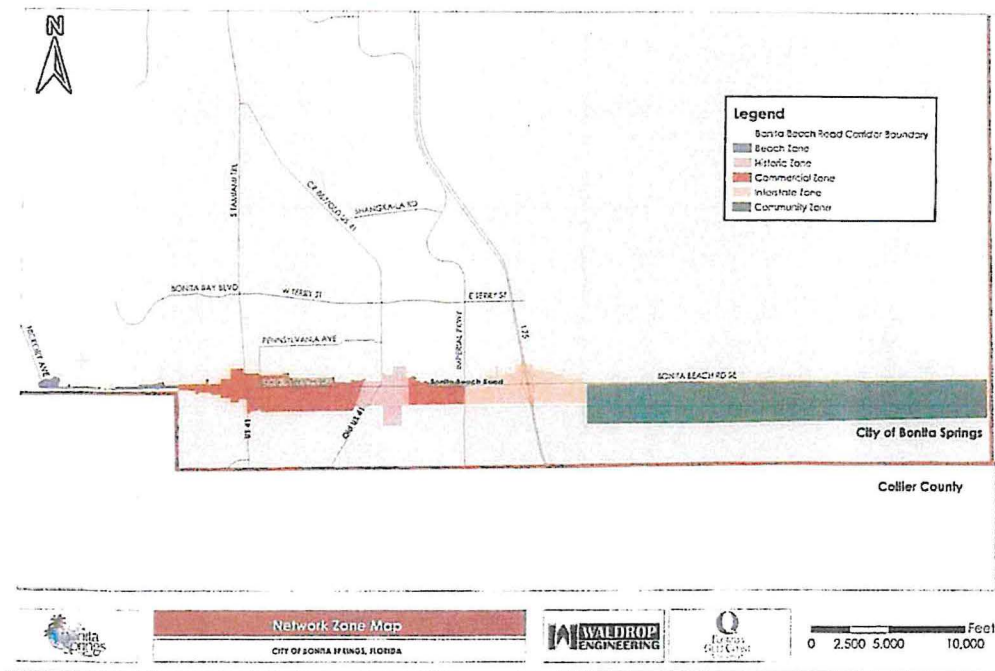
The city manager shall make a written determination within 30 days of receipt of a completed petition. If denied, the petitioner shall have the right to appeal such denial to

the city council within 15 days. The city council will consider the evidence against the aforesaid factors at a public hearing within 30 days of their filing of the appeal.

xi. Development located partially within and outside the boundaries of the overlay district.

1. When the map of this overlay was created, it was intended to follow property lines and to allow for the orderly development/redevelopment of property fronting on Bonita Beach Road.
2. To avoid situations that would create multiple standards and regulations. Since that time, ownership patterns have continued through their natural evolution and property assemblage has created just this condition.
3. When a property owner wishes to create a single standard for a development, such a request may be approved through a planned development. This will allow for the standards and criteria for review for uses and development patterns be based on the defined process while performed through a single process (e.g. A use requiring a special exception would be approved under that criteria through the planned development process).
4. When a property owner choosing to receive approval for numerous requests through a planned development, each request will be reviewed under the standards identified for that particular request. This may include but not limited to the review criteria for a special exception or variance.
5. The opportunity previously outlined does not prevent a property owner from filing individual request(s)/application(s) for uses or development standards consistent with the standards of this overlay.

- (h) Planned developments that are partially constructed will come into compliance with these standards for interconnectivity, building orientation, and multi-modal access. Deviations to these standards will be considered when evidence is provided demonstrating that the literal application of these regulations create a negative result.



( Ord. No. 19-10 , § 1(Exh. A), 11-20-2019)