

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 16-01

AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); CREATING SITE SPECIFIC BONUS DENSITY REGULATIONS FOR THE OLD U.S. 41 REDEVELOPMENT OVERLAY DISTRICT; EXPANDING SUBDIVISION III OF DIVISION 12 OF THE SUPPLEMENTARY REGULATIONS TO ALLOW BONUS DENSITY FOR REASONS OTHER THAN AFFORDABLE HOUSING; AMENDING SECTIONS 4-868, 4-870, AND SECTIONS 4-1310 THROUGH 4-1319; CREATING 4-1320, REGULATIONS AND PROCESSES FOR BONUS DENSITIES WITHIN THE OLD U.S. 41 REDEVELOPMENT OVERLAY DISTRICT (OPTION 3); PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

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

WHEREAS, Florida Statutes §166.021 authorizes the City of Bonita Springs to establish, coordinate and enforce laws that are necessary for the protection of the public; and

WHEREAS, City Council in its comprehensive plan (a/k/a "Bonita Plan") permits bonus density within certain portions of the Old U.S. 41 Redevelopment Overlay District through either Affordable Housing, as defined, or when developers provide one or more site specific improvements as set forth in the comprehensive plan; and

WHEREAS, comprehensive plan policy 1.1.11 b.2.B, "Old 41" Town Center Mixed-Use Redevelopment Overlay Area, sets forth that the City can provide density bonuses for developers who provide public river access; unique design solutions; and /or contribution to the cost of proposed infrastructure or other improvements of the Old U.S. 41 Corridor Redevelopment Area; and

WHEREAS, City Council finds it necessary to change its Land Development Code zoning provisions to implement regulations for this comprehensive plan provision.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

SECTION ONE: BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4

Bonita Springs Land Development Code sections 4-868, 4-870, and 4-1310 - 4-1319 are hereby amended and section 4-1320 is hereby created, to read as follows, with strike-through identifying deleted language and underline identifying additional language:

SECTION ONE: BONITA SPRINGS LAND DEVELOPMENT CODE

CHAPTER 4

ARTICLE V. DISTRICT REGULATIONS

DIVISION 11. REDEVELOPMENT OVERLAY DISTRICTS

Subdivision II. - Old U.S. 41 Redevelopment Overlay District

Sec. 4-868. - Overview of Redevelopment Overlay District regulations and processes.

- (a) Property owners in the Redevelopment Overlay District are required to develop or redevelop their property in conformance with the applicable redevelopment overlay district regulations and the approved community redevelopment plan.
- (b) The review process explained in this section may be before or concurrent with the zoning process, but is mandated prior to the issuance of the development order. If prior to zoning, recommendations will be given to the zoning reviewer and applicant in the form of conditions to be incorporated in the zoning process. The review process may not take longer than 60 days from the date the matter is placed on the reviewers agenda, unless agreed to by the applicant.
- (c) Density.
 - (1) The relationship of the Old U.S. 41 Corridor Redevelopment Area Master Plan as depicted in Exhibit 1 to the Bonita Plan Policy 1.1.11 is as follows:

**OLD U.S. 41 CORRIDOR REDEVELOPMENT AREA MASTER PLAN
RESIDENTIAL DENSITY RANGE**

Sub-area	Land Use Category	Maximum Standard Density	Maximum Standard Density with Bonus
2A and 2B	Single-family residential	5.8 du/ac	N/A
4	Multifamily residential	10 du/ac	15 du/acre
5	Townhomes	10 du/ac	14 du/acre
6A and 6B	Mixed-Use	15 du/acre 1.2 FAR	20 du/acre
8A and 8B	Hospitality	15 du/acre 1.2 FAR	20 du/acre

- (2) Existing lots that exceed current density may be permitted to replace up to the existing lawful density or intensity prior to a natural disaster in accordance with Bonita Plan Future Land Use Element Objective 1.6. Any application under this process must comply with the design standards set forth in the overlay regulations.
- (3) Bonus densities are permitted in accordance with the Bonus Density provisions set forth in Division 12 of this chapter.

Sec. 4-870. - Regulations and processes for development applicable to all areas within the Old U.S. 41 Redevelopment Overlay District.

The regulations contained in this section are applicable to all areas in the Old U.S. 41 Redevelopment Overlay District ("District"), in addition to the regulations within the core area. Commercial and multifamily developments in all areas of the Old U.S. 41 Redevelopment Overlay District must comply with the design review processes set forth in section 4-869.

(1) Parking.

a. Requirements and vehicular standards.

1. Surface parking lots shall not be allowed on a front yard setback or within 30 feet of the front yard setback line.
2. Required parking may be provided offsite, subject to approval by the city manager or designee.
3. On-street parking along designated streets shall count 100 percent toward required parking requirements, as set forth in the next section.
4. Approved outdoor seating for restaurants and similar uses shall not require additional parking beyond the standard indoor required parking.
5. Pavers used in the parking areas can be utilized with a 50 percent credit toward the maximum allowed impervious area.

b. Parking and vehicular circulation.

1. Number of on-site parking spaces required and parking alternatives.

- (i) The required parking may be provided off-site, provided the site is approved by the city manager or designee and the number of required off-street parking spaces may be reduced by no more than one-third, if supported by a parking study submitted by the applicant.
- (ii) Developers may pay a fee in lieu of providing the required spaces. The fee shall be based on the average cost of constructing a surface parking space in the ~~city~~-District, as determined in an applicable administrative code, until such time as surface parking spaces are determined to be infeasible due to land availability in the District. Said fee shall be a one-time payment, to be placed in the redevelopment trust fund and shall be utilized for parking and other public improvements that benefit within the community redevelopment area-District.
- (iii) Developers may provide valet parking program for commercial and mixed-use projects in accordance with the requirements set forth in the Administrative Code to off-set a maximum of 50% of the required parking spaces. Valet parking programs may not be utilized to off-site parking requirements for stand-alone residential development.
- (~~iii~~ iv) Approved on-street parking along the corresponding frontage(s) of the site shall count 100 percent towards the parking requirements.
- (iv) Specific parking space requirements:

- A. Residential:
 - (a) One space per residential unit when developed as part of a mixed-use development.
 - (b) 1.5 spaces per residential units for stand-alone residential uses.
 - B. Commercial:
 - (a) Office: Two spaces per 1,000 sq. ft. of leasable space.
 - (b) Retail: Three spaces per 1,000 sq. ft. of leasable space.
 - C. Mixed use. See Shared Parking Factor Table in Exhibit III.
 - D. Dock space for waterside uses shall be counted as follows: One dock space equals two parking spaces.
 - E. Lodging: One space per bedroom.
- c. Location of on-site parking spaces.
 - 1. On-site parking will be restricted to the side or rear yards of those properties fronting Old U.S. 41, Terry Street, and Felts Ave.
 - 2. In the case of side yard parking, the parking area shall be a minimum of five feet behind the front build-to line and a street wall or opaque screen, shall be provided at the right-of-way line or build-to line, whichever is further removed from the roadway. Such street wall or opaque screen shall be no taller than four feet.
 - d. Buffer. There shall be a minimum ten-foot buffer between parking areas and adjacent residential uses.
 - e. Access.
 - 1. Adjoining public or private parking lots must share ingress/egress points where practically and physically feasible or legally permitted; and
 - 2. Public or private parking lots may be accessed from alleys provided the alleyways are constructed to city standards.
 - f. Location and design, generally. Parking lots shall be designed in accordance with the adopted design guidelines for the Old U.S. 41 District Community Redevelopment Plan.
 - g. Joint use of off-street parking lots. Mixed use developments, on a single parcel that include a residential component, do not have to meet these requirements. Other developments are encouraged to employ joint use of parking, but shall be subject to the following conditions:
 - 1. Shared parking lots must be located within 500 feet of each use. These lots may be separated from the use(s) by a street, easement, or other right-of-way;
 - 2. Parking shared by different uses must provide evidence that peak parking demands of each use occur at different times of the day; and
 - 3. Each use required is to have on-site parking may provide a range of parking stall sizes to accommodate compact and larger vehicles; however, 50 percent of the spaces shall meet the standards specified in section 4-1728(1)b. The remaining spaces shall meet the following minimum dimensions:

- (i) Compact spaces: 15 percent of total parking maximum (minimum size eight inches feet by 16 inches feet).
 - (ii) Eight inches feet by 18 inches feet for 90 degree parking.
 - (iii) Angled spaces: Eight inches feet by 18 inches feet (16 inches feet with two foot overhang).
 - (iv) Parallel spaces: Eight inches feet by 22 inches feet.
 - (v) Drive aisle. 20 inches feet two way, ten inches feet one way.
4. Bicycle racks to be provided in accordance with section 3-438. (Rack provision may be shared by different businesses within each block.)
- (2) Pedestrian ways. All development shall provide pedestrian access adjacent to their roadway frontage, unless prohibited by public works.
- (3) Service, refuse, and delivery design.
- a. Locate trash storage, loading, and truck parking so as to minimize visibility from the street/sidewalk and building entrances; preferably to the rear of buildings and accessed through an alley or secondary street.
 - b. Avoid locating service and loading areas along important view corridors.
 - c. All exterior trash receptacles should be enclosed from view on three sides; and, on the fourth side, by a gate that also screens the receptacles from view.
 - d. Screen loading docks and truck parking from public view using building mass, freestanding walls, and/or minimum landscaping of three feet at planting.
 - e. Ensure that all utility equipment is located, sized, and designed to be as inconspicuous as possible. All utility lines should be located underground.
- (4) Lighting standards. All outdoor lighting must comply with section 3-269.
- a. Outdoor lighting cannot exceed 0.5 footcandles at the property line.
 - b. All applicants must submit a photometric plan in accordance with section 3-269
 - c. All outdoor lighting must be shielded to direct light downward.
- (5) Buffering and shielding.
- a. Purpose and intent. The purpose and intent of this section is to diminish the visual impacts outdoor storage and service functions that may detract or have a negative impact on the streetscape, landscape and/or the overall community image.
 - b. Loading areas and docks (including delivery truck parking), outdoor storage, trash collection, heating/air conditioning and other similar mechanical equipment, solid waste disposal facilities, trash compaction, recycling, and other similar service function areas must be fully shielded from adjacent properties and street rights-of-way when viewed from ground level. The shielding must extend vertically a distance equal to or greater than the items, delivery trucks, or facilities being shielded.
 - c. Shielding material and design must be consistent with design treatment of the primary facades of the commercial building or development and the landscape plan. Roof top mechanical equipment must be shielded from view at ground level by parapet or similar architectural features.
- (6) Urban landscape.

a. General Applicability.

1. These landscape standards and guidelines apply to all projects within the Old U.S. 41 ~~Corridor Redevelopment Master Plan~~ District area.
2. These landscape standards and guidelines apply to all areas of the site plan that are not covered under the streetscape and plaza design guidelines.
3. All landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures with the quality of plant materials as hereinafter described. (All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements.)
4. Landscaped areas shall require protection from vehicular encroachment. community development will inspect all landscaping and no certificates of occupancy and use or similar authorization will be issued unless the landscaping meets the requirements provided herein.
5. All landscaped areas shall provide an automatic irrigation water supply system or as an alternate, an irrigation system consistent with Florida friendly landscape plans, to the extent the irrigation plan conforms ~~with~~ to the Florida Yards and Neighborhoods Program, as administered by the University of Florida Institute of Food and Agricultural Sciences.
6. The property owner, or his agent, shall be responsible for the maintenance of all on-site landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. All existing and newly landscaped properties shall receive an initial landscape/irrigation inspection to ensure compliance with these standards and guidelines.

(7) Sign standards. Signs in the Old U.S. 41 ~~Redevelopment Overlay~~ District shall comply with the regulations contained in chapter 6, Signs, in particular, section 6-116

Sec. 4-871. - Guidelines and definitions.

This section provides guidelines and definitions for terms in the Bonita Springs Old U.S. 41 ~~District Corridor Redevelopment Overlay~~ area that are technical in nature or that otherwise may not reflect a common usage of the term. These terms will be used during the review process to implement these design standards.

Accessory apartment is no less than 500 square feet, but no more than 50 percent of the principle structure.

Addition means a new construction added to an existing building or structure.

Apartment means a residential unit sharing a building and a lot with other units and/or uses; may be for rent, or for sale as a condominium.

Arcade means a private frontage conventional for retail use wherein the facade is a colonnade or arch supporting habitable space that overlaps the sidewalk, while the facade at sidewalk level remains at the frontage line.

Architectural feature means a part, portion, or projection that contributes to the beauty or elegance of a building or structure, exclusive of signs, that is not necessary for the structural integrity of the building or structure or to make said building or structure habitable. Features may include, but are not limited to: cantilevers, columns, dormers, pediment, turrets, windows, etc.

Architectural style means a type of architecture distinguished by special characteristics of structure and ornament and often related in time; also, a general quality of distinctive character.

Articulation means the emphasis of architectural elements (like windows, balconies, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller, identifiable pieces. Articulation also includes the use of projections and recesses that divide large facades into human-scaled proportions and that avoid repetitive, monotonous, undifferentiated wall planes.

Attic means the interior part of a building contained within a pitched roof structure.

Balcony means a railed projecting platform found above ground level on a building.

Baluster means one of a series of short pillars or other uprights that support a handrail. One of the upright, usually rounded or vase-shaped, supports of a balustrade. Related term: picket, spindle.

Balustrade means a row of balusters topped by a rail, serving as an open parapet, as along the edge of a balcony, terrace, bridge, staircase, or the eaves of a building.

Base means the lowest part of a column or architectural structure. A base story is the lowest story of a building.

Bay means a main division of a structure, usually containing a window or door. A building with three windows across the front is referred to as three bays wide. Also, an enclosed space protruding from the exterior of a building such as a bay window.

Bed and breakfast means an owner-occupied lodging type offering one to 12 bedrooms, permitted to serve breakfast in the mornings to guests.

Board and batten means siding fashioned of boards set vertically and covered where their edges join by narrow strips call battens.

Bond means a term used to describe the various patterns in which brick, or stone is laid, such as "common bond" or "Flemish bond."

- (1) Common bond means a brickwork pattern where most courses are laid flat, with the long "stretcher" edge exposed, but every fifth to eighth course is laid perpendicularly with the small "header" and exposed, to structurally tie the wall together.
- (2) Flemish bond means a brickwork pattern where the long "stretcher" edge of the brick is alternated with the small "header" end for decorative as well as structural effectiveness.

Bracket means a projecting support member found under eaves or other overhangs. Related terms: modillion, corbel.

Building means a structure created to shelter any form of human activity. This may refer to a house, barn, garage, church, hotel, retail store, or similar structure.

Bulkhead means the structural panels just below display windows on storefronts. Bulkheads can be both supportive and decorative in design. Nineteenth century bulkheads are often of wood construction with rectangular raised panels. Twentieth century bulkheads may be of wood, brick, tile, or marble construction. Bulkheads are also referred to as kick plates.

By right means characterizing a proposal or component of a proposal for a community plan or building scale that complies with zoning and is permitted and processed administratively, without public hearing.

Cantilevered means a projecting structure, such as a beam, that is supported at one end and carries a load at the other end or along its length. A member, such as a beam, that projects

beyond a fulcrum and is supported by a balancing member or a downward force behind the fulcrum. A bracket or block supporting a balcony or cornice.

Chamfer means a beveled edge.

Character means the qualities and attributes of any structure, site, street or district.

Civic means the term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

Civic building means a building operated by not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking, or for use approved by the legislative body.

Civic space means an outdoor area dedicated for public use. Civic space types are defined by the combination of certain physical constants including the relationships among their intended use, their size, their landscaping and their enfronting buildings.

Clapboards means horizontal wooden boards, thinner at the top edge, which are overlapped to provide a weather-proof exterior wall surface.

Column means a supporting pillar. The parts of a column in classical architecture are the base, shaft, and capital.

Commercial means the term collectively defining workplace, office, retail, and lodging functions.

Density means the number of dwelling units within a standard measure of land area.

Disposition means the placement or siting of a building on its lot.

Driveway means a vehicular lane within a lot, often leading to a garage.

Edge-yard means a building that occupies the center of its lot with setbacks on all sides.

Effective parking means the amount of parking required for mixed use after adjustment by the shared parking factor.

Elevation, building, means an exterior wall of a building not along a frontage. See Facade.

Expression line means an architectural change in plane of no less than 12 inches in width, such as a reveal, an offset, or a projecting rib or ledge.

Facade means the exterior wall of a building that is set along a frontage line. See Elevation, building.

Facade band area means that portion of a building face between ten feet and 14 feet above finish floor.

Frontage means the area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage.

Frontage line means a line bordering a frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lines.

Gallery means a frontage conventional for retail use wherein the facade is aligned close to the frontage line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.

Human scale means the proportional relationship of the physical environment (buildings, trees, parking lots, streets, etc.) to human dimensions. For purpose of any building design, the

reviewer and applicant are to consider specifically the massing, scale, articulation, streetscape, and open space design.

Infill means (noun) new development on land that had been previously developed, including Brownfield sites and cleared land within urbanized areas; (verb) to develop such areas.

Layer means a range of depth of a lot within which certain elements are permitted.

Liner building means a building specifically designed to mask a parking lot or a parking structure from a frontage.

Mixed use means multiple functions within the same building through superimposition or adjacency, or in multiple buildings by adjacency. For the purposes of calculating parking requirements in accordance with this division, non-residential uses must comprise 20% or more of the building's floor area, or 20% of more of the total project area in the case of stand-alone commercial buildings, in order to constitute a mixed-use development. Any floor area utilized for structured parking may be excluded when calculating the floor area of the building.

Office means premises available for the transaction of general business but excluding retail, artisanal and manufacturing uses.

Open market building means a roofed pavilion. A roofed structure without air-conditioning, where at least three of its four sides are without walls. An open air structure reminiscent of farmer's markets of yore.

Open space means land intended to remain undeveloped; it may be for civic space.

Parking structure means a building containing one or more stories of parking above grade.

Passage means a pedestrian connector, open or roofed, that passes between buildings to provide shortcuts through long blocks and connect rear parking areas to frontages.

Pediment means a triangular crowning element forming the gable of a roof; any similar triangular element used over windows, doors, etc.

Permastone means facade material that handles like plaster with stone-like results. Can be cast into virtually any mold type reproducing building details. Finished pieces are a warm bisque white, but can also be buffed to a high luster. Accepts paints, is waterproof, weather-proof and scratch resistant.

Picket means a wooden strip forming part of a fence.

Pointing means the process of removing deteriorated mortar from the joints of a masonry wall and replacing it with new mortar.

Principal entrance means the main point of access for pedestrians into a building.

Principal frontage means on corner lots, the private frontage designated to bear the address and entrance to the building, and the measure of minimum lot width. Prescriptions for the parking layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages of a corner lot. See Frontage.

Private frontage means the privately held layer between the frontage line and the building facade.

Proportions means the relative size of two or more dimensions of a building.

Public frontage means the area between the curb of the vehicular lanes and the frontage line.

Rear alley means a vehicular way located to the rear of lots providing access to service areas, parking, and outbuildings and containing utility easements. Rear alleys should be paved with associated drainage.

Rear yard building means a building that occupies the full frontage line, leaving the rear of the lot as the sole yard. (Synonym: Rowhouse, Townhouse)

Retail frontage means frontage designated on a regulating plan that requires or recommends the provision of a shopfront, encouraging the ground level to be available for retail use.

Roof:

- (1) Dormer/dormer window means a window that projects from a roof.
- (2) Eaves means the edge of a roof that projects beyond the face of a wall.
- (3) Pitch means the degree of the slope of a roof.
- (4) Ridge means the top horizontal member of a roof where the sloping surfaces meet.
- (5) Gable roof means a pitched roof with one downward slope on either side of a central, horizontal ridge. The following are some variations of gable roofs:
 - a. Gambrel roof means a ridge roof with two slopes on either side.
 - b. Shed roof means a single pitched roof with only one slope.
 - c. Hipped roof means a roof with uniform slopes on all sides.
 - d. Mansard roof means a roof with a double slope on all four sides, with the lower slope being almost vertical and the upper almost horizontal.

Rowhouse. See Townhouse.

Scale means the perceived relative height and bulk of a building relative to that of neighboring buildings. The relationship of a building's height to human height.

Secondary frontage means on corner lots, the private frontage that is not the principal frontage. As it affects the public realm, its first layer is regulated.

Setback means the area of a lot measured from the property line to a building facade or elevation that is maintained clear of permanent structures.

Shared parking factor means an accounting for parking spaces that are available to more than one function.

Sheathing means an exterior covering of boards or other surfaces applied to the frame of the structure.

Shopfront means frontage conventional for retail use, with substantial glazing and an awning, wherein the facade is aligned close to the frontage with the building entrance at sidewalk grade.

Side yard building means a building that occupies one side of the lot with a setback on the other side. This type can be a single or twin building (across property lines) depending on whether it abuts the neighboring structure.

Spindles means slender, elaborately turned wood dowels or rods often used in screens and porch trim.

Stand-alone residential means a project, or portions thereof, containing only residential uses, and/or mixed-use buildings or projects where non-residential uses comprise less than 20% of the building's floor area or total project area. Any floor area utilized for structured parking may be excluded when calculating the floor area of the building.

Stoop means a small porch, platform, or staircase leading to the entrance of a house or building.

Story means a habitable level within a building, excluding an attic or raised basement.

Street tree means a tree that is currently located or proposed for planting along streets or highways. Such tree can be located on private or on publicly owned property. Street trees typically provide spatial enclosure as well as environmental and aesthetic benefits.

Street-screen means a freestanding wall built along the frontage line or coplanar with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

Stucco means a type of exterior plaster applied as a two-or-three part coating directly onto masonry or other substrate.

Townhouse means a series of at least three attached single-family dwellings that are separated by a vertical common wall. See Rear yard building. (Syn: Rowhouse)

Transition line means the point at which one architectural feature meets another. Example: Where an awning attaches to a building, the beginning of a sign band.

Trim means the decorative framing of an opening and other features on a facade.

Turret means a small slender tower.

Urban Open Space Zone means an urban open space zone is an area of landscape, hardscape or combination thereof located between the building and the pedestrian walkway.

Veranda means a covered porch or balcony on a building's exterior.

Visual compatibility criteria means factors dealing with height, proportion, rhythms, materials and color, which the reviewer uses to determine whether new construction and renovation of existing buildings is visually compatible with the intent of the overlay.

Walkability means the extent to which an area is friendly to the presence of people living, shopping, visiting, enjoying or spending time in the area, considering factors such as street connectivity; land use mix; residential density (residential units per area of residential use); frequency and variety of buildings, entrances and other sensations along street frontages, transparency (amount of glass in windows and doors), orientation and proximity of homes and buildings to watch over the street; providing places to go to near the majority of homes; placemaking so that the street designs work for people rather than cars and retail floor area ratio.

Wall dormer means dormer created by the upward extension of a wall and a breaking of the roofline.

Weatherboard means wood siding, consisting of overlapping boards usually thicker at one edge than the other.

Window means a glazed opening in a wall that provides an interior space with natural light and ventilation. Awning windows are top-hinged windows that swing out horizontally from the bottom.

- (1) Bay window means a projecting window that forms an extension to the floor space of the internal room; usually extending to the ground level.
- (2) Casement windows means a window with one or two slashes which are hinged at the sides and usually opens outward.
- (3) Double-hung window means a window with two sashes, one sliding vertically over the other.

- (4) Fanlight means a semi-circular window usually over a door with radiating muntins suggesting a fan.
- (5) Louvered. Louvered windows have several strips of glass that are tilted open to allow ventilation.
- (6) Mullion means the vertical bar between coupled windows or multiple windows.
- (7) Muntin means one of the thin strips of wood used for holding panes of glass within a window. Related terms: glazing bar, division bar, mullion.
- (8) Pane means a single piece of window glass. Double hung windows are often described according to the number of panes they have in each sash. For example, a six over six indicates that each sash has six panes.
- (9) Sash means the framework into which window panes are set.
- (10) Sill means the bottom crosspiece of a window frame.
- (11) Transom means a horizontal opening (or bar) over a door or window.

DIVISION 12. SUPPLEMENTARY REGULATIONS

Subdivision III. - Affordable Housing Bonus Density Provisions

Sec. 4-1310. - Applicability of subdivision.

This subdivision applies to any developer seeking to have housing bonus density under the Bonita Plan.

Sec. 4-1311. - Definitions.

The following words, terms and phrases, when used in this subdivision, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actual bonus density means the number of additional dwelling units permitted per acre in excess of standard density pursuant to the density bonus program. The actual bonus density per acre is not necessarily the maximum bonus density for the area.

Bonus density owner-occupied unit means a dwelling unit built in excess of the standard density and sold or reserved for sale to eligible ~~families~~ households under the provisions of of site-specific bonus option 1 of the density bonus program.

Bonus density program means the program created by this subdivision to ~~stimulate the construction of very low and low income housing in the city, by permitting~~ permit qualifying developers, by their participation in the program, to exceed the standard density limits otherwise imposed by law.

Bonus density rental unit means a dwelling unit built in excess of the standard density and occupied or reserved for occupancy by eligible ~~families~~ households in exchange for the payment

of rent to the owner of the unit under the provisions of site-specific bonus option 1 of the density bonus program.

Eligible family household means a family household that qualifies as low-income or very low-income as defined herein.

Family household.

- (1) For purposes of this subdivision only, the term "family household" means:
 - a. A disabled person as defined in 24 CFR 812.2(f);
 - b. A handicapped person as defined in 24 CFR 812.2(e);
 - c. An elderly person who lives alone or is the head of a family household and is at least 62 years of age;
 - d. A single person living alone;
 - e. Two or more persons sharing residency whose combined income and resources are available to meet the combined needs of such persons and who are related by blood, marriage or operation of law; or
 - f. Two unrelated persons who have a biological child of record and who can establish that they have maintained a family household unit for at least three years. Evidence of this must be represented, which can be two or more of the following:
 1. Birth certificate of the child;
 2. Joint tax return;
 3. Prior lease (held jointly);
 4. Joint bank accounts;
 5. Insurance policies or equivalent documentation.
- (2) In addition, a person deemed to be essential to the care or well-being of an elderly, disabled or handicapped person may reside in a dwelling unit with an eligible person who otherwise would meet the definition of a family household without disqualifying that person from meeting the definition. However, the need must be documented by a letter from a medical doctor or the state department of health and rehabilitative services or an equivalent federal or state agency. In these cases, the caretaker's income will be counted towards the income tests for eligible families households only if the caretaker's income is available to meet the needs of the eligible persons.

Fund means the Affordable Housing Trust Fund established by section 4-1319(a).

Low income means a person or household whose annual (gross) income does not exceed 80 percent of the area median income, as determined by HUD.

Maximum bonus density means the maximum number of dwelling units per acre allowed above the density within each land use category under the bonus program.

Moderate income means a person or household whose annual (gross) income does not exceed 120 percent of the area median income, as determined by HUD.

Standard density means the number of dwelling units permitted per acre in a particular land use category pursuant to all applicable policies and objectives of the Bonita Plan, without the application of the bonus density program.

Standard density range means the possible number of dwelling units per acre permitted within a land use category designated by the Bonita Plan without application of the bonus density program.

Very low income means a person or household whose annual (gross) income does not exceed 50 percent of the area median income, as determined by HUD.

Work Force Income means a person or household whose annual (gross) income does not exceed 140 percent of area median income as determined by HUD.

Sec. 4-1312. - Conflicting provisions.

Whenever the requirements or provisions of this subdivision are in conflict with the requirements or provisions of another lawfully adopted ordinance, the most restrictive requirements will apply.

Sec. 4-1313. - Administration and enforcement of subdivision; verification of income.

- (a) The city manager or designee will be responsible for maintaining public records of:
- (1) All dwelling units constructed pursuant to the bonus density program;
 - (2) All such dwelling units that are occupied by eligible ~~families~~ households, where applicable;
 - (3) Complaints of violations of the bonus density program that are alleged to have occurred and the disposition of all those complaints;
 - (4) A list of all eligible ~~families~~ households who have participated in the bonus density program, where applicable; and
 - (5) All such improvements, both on- and off-site, which are constructed pursuant to the bonus density program
 - (6) Such other records as the city manager or designee believes may be necessary or desirable to monitor the success of the program and the degree of compliance therewith.
- (b) The developer or the subsequent owner of dwelling units obtained via the density bonus program using the affordable housing site specific density bonus (option 1) set forth in section 4-1317 must submit the following eligible family household income verification reports to the planning director so that they may monitor the program for compliance.
- (1) Verification of the incomes of the ~~families~~ households occupying units must be:
 - a. On a form provided by the city;
 - b. Notarized; and
 - c. Submitted annually for ten years from the date that the certificate of occupancy is issued for the unit in question.
 - (2) For owner-occupied units, the income verification forms must be submitted once prior to the issuance of a certificate of occupancy and each time thereafter that the unit is sold during the following ten-year period.
 - (3) For a renter-occupied unit the income verification forms must be submitted once prior to the issuance of the certificate of occupancy for the unit in question and annually for the next ten years.

- (c) The city manager or designee is hereby delegated the responsibility and authority for enforcing the provisions of this subdivision in cooperation with such other agencies of the city as the city manager or designee may request.
- (d) The planning director will maintain a list, open to the public, of units available to eligible families households by the bonus density program. Developers must inform the planning director when units are occupied by eligible families households so that these units may be removed from the list.
- (e) For site specific density bonuses in the Old US 41 Redevelopment Overlay District (option 3), the city manager or designee will enforce this subdivision through the local development order approval process and a binding bonus density agreement as set forth in section 4-1320(g).

Sec. 4-1314. - Prohibited acts; notice of violation.

- (a) It is a violation of this subdivision to rent or sell, or attempt to rent or sell, a bonus density rental unit or a bonus density owner-occupied unit which are permitted and constructed in accordance with site-specific options 1, except as specifically permitted by the terms of this subdivision, or to knowingly give false or misleading information with respect to the information requested by the city manager or designee pursuant to the authority delegated to him by this subdivision.
- (b) If the city manager or designee determines there is a violation of this subdivision, a notice of violation will be issued and sent, by whatever reasonable method seems most likely to ensure that the notice is received, to the person committing the violation. The notice of violation issued must:
 - (1) Be in writing.
 - (2) Be dated and signed by the director.
 - (3) Specify the violation.
 - (4) State that the violation must be corrected within ten days of the date of the notice of violation.
 - (5) State that the city may pursue civil criminal proceedings if the violation is not corrected by the specified date.

Sec. 4-1315. - Eligibility for program.

- (a) A developer may be eligible to exceed the standard density range for a particular land use category if:
 - (1) The additional dwelling units that are achieved through the bonus density program are available only to eligible households in a site specific manner as described in section 4-1317; or
 - (2) The developer makes a cash contribution to the Affordable Housing Trust Fund as described in section 4-1318; or
 - (3) The additional dwelling units that are achieved through the provision of site design features and/or developer contributions in accordance with the bonus density program for the Old U.S. 41 Redevelopment Overlay District (option 3).
- (b) The maximum bonus density a given area of land may be eligible for is set forth in the Bonita Plan.

- (c) All requests for participation in the program must comply with and be consistent with the Bonita Plan and all other applicable federal, state and regional laws and regulations and must be designed so that:
 - (1) The resulting development does not have substantially increased intensities of land uses along its perimeter, unless adjacent to existing or approved development of a similar intensity, or where such densities are permitted in accordance with the Old U.S. 41 Redevelopment Overlay District;
 - (2) Existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest;
 - (3) There will be no decrease in required open space, buffering, landscaping and preservation areas or cause adverse impacts on surrounding land uses; and
 - (4) Storm shelters or other appropriate mitigation is provided if the development is located within the Category 1 Storm Surge Zone for a land-falling storm as defined by the October 1991 Hurricane Storm Tide Atlas for Lee County prepared by the Southwest Florida Regional Planning Council.
 - (5) All dwelling units constructed as a bonus density are mandated green, as outlined in the Green Building Program Ordinance.
- (d) Parcels of land of one-half acre or less. Where the total actual bonus density will consist of only one dwelling unit and the developer agrees to participate in the program, a copy of the agreement required by section 4-1317(b)(1) and the bond required by section 4-1317(b)(2) may be waived upon written request by the Community Development director prior to approval of the bonus density.
- (e) Assisted living facilities whose annual rental rates, including all services, do not exceed the levels established for eligible households will be eligible for bonus density consistent with the applicable land use category. Where the cash-contribution density bonus option is used, the cash contribution must be applied for each dwelling unit or its equivalent unit built above the standard density.

Sec. 4-1316. - Approval of density increases.

- (a) Administrative approval of density increases in conventional zoning districts. The department city manager or designee may administratively approve the use of housing bonus density to increase the density of a proposed development in a conventional zoning district, including the Old U.S. 41 Redevelopment Overlay District zoning classifications set forth in section 4-866, Exhibit I; provided:
 - (1) The request does not exceed the maximum total density allowed by the Bonita Plan for the applicable land use category; and
 - (2) The city manager's or designee's written findings conclude that the proposed development:
 - a. Is in compliance with the Bonita Plan;
 - b. Is zoned for the type of dwelling units to be constructed;
 - c. Is designed so that the resulting development does not have substantially increased intensities of land uses along its perimeter, unless adjacent to existing or approved development of a similar intensity, or where such densities are permitted in accordance with the Old U.S. 41 Redevelopment Overlay District;

- d. Is in a location outside of the Category 1 Storm Surge Zone for a land-falling storm as defined by the October 1991 Hurricane Storm Tide Atlas for Lee County prepared by the Southwest Florida Regional Planning Council (except within the Old U.S. 41 Redevelopment Area, as permitted in the Bonita Plan, and as approved by city council) or that the developer has provided sufficient storm shelter or other appropriate mitigation;
 - e. Is in a location where existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest; and
 - f. Will not decrease any required open space, buffering, landscaping and preservation areas or cause adverse impacts on surrounding land uses.
- (3) The city manager or designee's written approval may contain reasonable conditions to mitigate any adverse impacts that could otherwise be created by the density increase. The city manager's or designee's decision may be appealed according to the provisions for appeals of administrative decisions.
- (b) Planned development zoning districts. An application for a planned development rezoning district may request bonus density concurrently with the rezoning application, where the master concept plan clearly shows the location of the additional density and the conditions for approval set forth appropriate commitments to ensure compliance with this division. An existing planned development's approved density may be increased using affordable housing bonus density units the bonus density program by amending the planned development approval pursuant to section 4-302. The applicant must submit, as part of the submittal documents, a revised master concept plan that clearly shows the location of the proposed additional density, and must also provide additional information as is needed to describe the changes in impact that the increased density will have over that which was contained in the application for the original approval.
- (c) Rezoning. If a property owner or developer applying for rezoning intends to use ~~affordable housing bonus density units~~ the bonus density program to increase densities above the Bonita Plan standard density range, the application for the rezoning, ~~the use of affordable housing density units,~~ and the contract required by sections 4-1317(b)(1) and 4-1318(c), where applicable for options 1 and 2, may be submitted at the same time for concurrent review. The maximum density may not exceed the maximum total density for the land use category in which the property is located. The application process, including the use of bonus density, will follow the same procedures applicable to any other rezoning case.
- (d) If the use of bonus density has been approved, a developer may choose one of the two options set forth in sections 4-1317 and 4-1318 for the provision of affordable housing site-specific density bonus (option 1) or cash contribution density bonus (option 2). Where projects are located within the Old U.S. 41 Redevelopment Overlay District, the developer may also choose option 3 as set forth in section 4-1320 for the provision of eligible improvements.

Sec. 4-1317. – Affordable housing Site-specific density bonus (option 1).

- (a) A developer may apply for bonus density if he agrees to build and make the bonus density units available for eligible ~~families~~ households.
- (b) Prior to receiving a final development order or building permit, the developer must:

- (1) Execute a contract with the city council, in a form approved by the city attorney's office that will bind the developer and his successor:
 - a. In the case of rental units, to rent the unit exclusively to eligible families households for a period of ten years or more from the date when the certificate of occupancy for the unit is received. If the dwelling unit is rented initially to an eligible family household whose income increases above the levels established for eligible families households, the developer must designate another unit for eligible family household use in order to maintain the required level of eligible family household units;
 - b. In the case of owner-occupied units, to sell the unit to an eligible family household, by conveyance that must include a recorded deed restriction prohibiting the transfer, either through rental or sale of the unit, for a period of ten years, to any other person except another eligible family household who has never owned a bonus density rental unit or owner-occupied unit;
 - c. To adhere to the limitation on monthly payments set forth in subsection (e) of this section;
 - d. To acknowledge and waive objections to the remedies reserved to the city in subsection (d) of this section;
 - e. To agree to rent or sell only to eligible families households, as defined in section 4-1311; and
 - f. To agree to comply with all federal, state and local fair housing laws, rules, regulations or orders applicable to the development.
 - (2) Deliver a bond or equivalent performance guarantee acceptable to the city attorney, in an amount equal to 110 percent of the contribution required by section 4-1318 (option 2). The bond or equivalent performance guarantee must guarantee the developer's performance under this option, notwithstanding any subsequent events, including, but not limited to, bankruptcy, change of ownership or death. Such bond or equivalent performance guarantee must provide that the surety will pay to the city an amount equal to 110 percent of the contribution rate set forth in section 4-1318(b)(2) for each bonus density rental unit or owner-occupied unit rented or sold by the principal of the bond in violation of the requirements of subsection (b)(1)a or b or subsection (e) or (f) of this section, plus costs of litigation, including attorney's fees and interest incurred by the city, directly or indirectly, to enforce the requirements of this subdivision.
- (b) The city council may waive any requirement of this section if the developer is a Florida not-for-profit corporation exempt from federal income taxation as a charitable organization under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, or of any corresponding section of a subsequently enacted federal revenue act, or if the development is a nonprofit housing project financed, in whole or part, by a mortgage made by or through any agency of the government of the United States of America that is subject to tenant income limitations established by that agency as a condition of the mortgage.
 - (d) In addition to any action necessary to enforce payment of the secured amounts described in subsection (b)(2) of this section, the city may bring an action for legal and equitable relief be necessary to invalidate attempted transfers of legal or equitable real property ownership or possessory rights that would violate the restrictions of subsection (b)(1)a or b of this section.
 - (e) The rental rate of bonus density rental units and the selling price of bonus density owner-occupied units may be determined by the developer; provided, however, that the monthly rent (exclusive of utility charges) or mortgage payments may not exceed 35 percent of the gross monthly income of the lessees or buyers. In the case of assisted living facilities, the

rental payment, including all services, may not exceed 80 percent of the family's household's income.

- (f) Lessors and sellers may rent or sell bonus density rental units and owner-occupied units only to eligible families households.

Sec. 4-1318. - Cash-contribution density bonus (option 2).

- (a) A developer may elect to pay the cash contribution set forth in subsection (b)(3) of this section and satisfy the other requirements of this section. The degree to which density may be increased pursuant to this option above the standard density limitations otherwise imposed by law represents a bonus to the developer of the land and is offered as a means of encouraging the developer to contribute to the city's Affordable Housing Trust Fund, thereby assisting the city in its efforts to provide adequate housing for eligible families households.
- (b) The bonus density for which a given area of land may qualify depends upon the amount the developer of the land contributes to the city's Affordable Housing Trust Fund ~~a low' and moderate income housing fund~~.
 - (1) Contributions will be based on the number of dwelling units by which the developer desires to exceed the standard density range.
 - (2) The contribution per-unit rate will be established by the administrative code, based on the current fair market value of the land by evidence of a bona fide sales contract or a current property appraisal prepared by a qualified professional that appraises the entire development of a planned development as to the value per unit increased. Once the current fair market value of the land is ascertained, the contribution per-unit rate will be specified in the schedule contained in the administrative code, as may be amended from time to time.
 - (3) For every unit for which a contribution is paid, the developer will be entitled to exceed, by an equal number of units applied to the development as a whole, the standard density cap which otherwise may be imposed on the development in question. However, the development will not be permitted to exceed the applicable maximum bonus density set forth in section 4-1316(b).
 - (4) Final zoning approval, final development order, or building permit if a development order is not required, whichever occurs at the earliest date, will not be issued until the required contribution is paid in full. Except when the density requested in a zoning case is denied, contributions will not be refunded once made, even if the development in question fails to occur for any reason. Density bonuses for which contributions are made will run with the specific development plan submitted and approved by the city concurrent with the request for bonus density units.
- (c) The developer must execute a contract with the city council, in a form approved by the city attorney's office that binds the developer to the standard contribution per-unit rate and conditions set forth in subsections (b)(2) and (b)(3) of this section.
- (d) Development made in excess of the standard density which otherwise would be imposed by law but for the provisions of this subdivision must comply with all other legal requirements

which may be imposed by current or future federal, state, regional or local laws and regulations.

Sec. 4-1319. - Affordable Housing Trust Fund.

- (a) All contributions received from developers pursuant to this subdivision will be placed in a fund entitled the Affordable Housing Trust Fund.
- (b) The fund will be used to assist the city in its efforts to provide needed housing for eligible families households. The assistance may include rental assistance, mortgage assistance for eligible families households to become potential homeowners, housing rehabilitation, demolition of dilapidated housing, and relocation of residents to safe, sanitary and decent housing, and other purposes the city council may approve by resolution. The major purpose, however, will be to obtain home ownership for eligible families households. In any given fiscal year, at least 75 percent of the fund must be used to assist eligible families households.

~~Secs. 4-1320—4-1336. —Reserved.~~

Sec. 4-1320. - Regulations and processes for bonus densities within the Old U.S. 41 Redevelopment Overlay District (option 3).

- (a) In addition to affordable housing site-specific bonus density (option 1) and cash-contribution bonus density (option 2), projects located within the Old U.S. 41 Redevelopment Overlay District are eligible for bonus density via the provision of on-site or off-site design features and public improvements (“improvements”) as set forth herein.
- (b) All developments that seek bonus densities must adhere to the regulations set forth in this section and the Bonita Plan.
- (c) Approval procedures. Bonus density will be reviewed and approved in accordance with section 4-1316 of this subdivision.
- (d) The developer must provide one (1) or more eligible on- and/or off-site improvement(s) as set forth in subsection (e) below, and demonstrate the value of the improvement(s) meet or exceed the contribution per unit rate as set forth in the administrative code for the total number of bonus density units proposed. The contribution per unit rate is based on the current fair market value of the land by evidence of a bona fide sales contract or a current property appraisal prepared by a qualified professional that appraises the entire development of a planned development as to the value per unit increased. Once the current fair market value of the land is ascertained, the contribution per-unit rate will be specified in the schedule contained in the administrative code, as may be amended from time to time.
- (e) The value of the eligible improvements must be based upon a signed and sealed/certified Opinion of Probable Cost prepared by a professional engineer, architect, landscape architect, or other registered professional. The land costs directly related to the area of the improvement(s) may be included in the total value of proposed improvements.
- (f) The following are eligible improvements for projects seeking bonus density in the Old U.S. 41 Redevelopment Overlay District, subject to the review and approval by the city manager or designee on a project-specific basis:

- a. Civic space, to be maintained by the developer or their assign, including landscape and hardscape features.
 - b. Public art contribution OR construction of public art feature on-site or on adjacent public lands. The proposal and location must be reviewed and approved by the Art in Public Places Advisory Board.
 - c. Public access to the Imperial River and its tributaries, which at a minimum must include a dock feature and public seating/benches. The developer is responsible for all costs for the design, permitting and construction of the dock and/or public access elements. Where projects seeking bonus density are located on the Imperial River or its tributaries, this design feature must be provided and is not optional.
 - d. Enhanced building perimeter plantings and/or green roofs.
 - e. LEED Silver or Florida Green Building Coalition Green Certification for the principal structure.
 - f. Other design enhancement or infrastructure improvement determined to be of public benefit and approved by the city manager or designee, including, but not limited to: off-street parking; land donation; stormwater management areas; pedestrian infrastructure; provision of a Lee Tran shelter or enhancements to an existing Lee Tran stop or shelter in the overlay district; and/or relocation and rehabilitation of a historical structure, subject to the review and approval of the historic preservation board and city manager or designee.
- (g) Development order plans and master concept plans must clearly delineate compliance with the above on-site design features or infrastructure improvements and provide density calculations in accordance with this section. In addition, the developer must execute a bonus density agreement or similar binding contract with the city council, in a form approved by the city attorney's office that binds the developer to the contribution and conditions set forth in subsections (c)(1) and (c)(2) of this section. The development order plans and binding agreement must be recorded in the public record with the clerk of courts.
- (h) The above improvements must be provided in addition to all requirements for development in the Old U.S. 41 Redevelopment Overlay District set forth in the land development code and the Bonita Plan. Improvements that are provided to meet the minimum requirements of the land development code may not be applied to the calculation of eligible improvements for bonus density.

Secs. 4-1321—4-1336. – Reserved

SECTION TWO: CONFLICTS

Whenever the requirements or provisions of this amending ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statutes, the most restrictive requirements shall apply.

SECTION THREE: SEVERABILITY

If any part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reasons, such part, section, subsection, or other portion of the prescribed application

thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City declares that no invalid or prescribed provision or application was an inducement to the enactment of this Ordinance, and that it would have enacted this Ordinance regardless of the invalid or prescribed provision application.

SECTION FOUR: CODIFICATION, INCLUSION IN CODE & SCRIVENER'S ERRORS

It is the intention of the City Council for the City of Bonita Springs that the provisions of this Ordinance shall become and be made part of the Bonita Springs City Code; and that sections of this ordinance may be renumbered or re-lettered and that the work "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not effect the intent may be authorized by the City Manager, or the City Manager's designee, without need or public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION FIVE: EFFECTIVE DATE

The effective date of this ordinance shall be thirty (30) days from its adoption date. The Preserve at Oak Creek project, which was under zoning review and development order submittal prior to the effective date of this ordinance, will be permitted to obtain bonus density through an agreement as negotiated and approved by City Council prior to the effective date of this ordinance.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 20th day of January, 2016.

AUTHENTICATION:




Mayor



City Clerk

APPROVED AS TO FORM:



City Attorney

Vote:

Nelson	AYE	Simmons	AYE
McIntosh	AYE	Gibson	AYE
Martin	AYE	Lonkart	AYE
Slachta	AYE		

Date filed with City Clerk: 1/25/16