

CITY OF BONITA SPRINGS  
ZONING RESOLUTION NO. 19-04

A ZONING RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING PETITION VAR18-52915-BOS REQUESTING A VARIANCE TO ALLOW A WIRELESS COMMUNICATIONS TOWER TO EXCEED THE MAXIMUM PERMITTED HEIGHT OF 75 FEET TO 120 FEET IN HEIGHT; TO BE LOCATED ON APPROXIMATELY 4.5+/- ACRES WITHIN THE AG-2 AGRICULTURAL ZONING DISTRICT; LOCATED AT 11400 EAST TERRY STREET, BONITA SPRINGS, FL 34135; PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, Bonita Springs City Council adopted Ordinance No. 15-07, amending the land development code (LDC) provisions relating to wireless communication facilities limiting wireless communications facilities in conjunction with a special exception for the siting of broadcast antenna supporting structures to 75 height; and

**WHEREAS**, Vertex Development, LLC has requested a variance from the 75 foot height limitation in residential districts contained in Section 4-1221 of the LDC to allow a 120 foot stealth wireless communications tower and ancillary equipment at the Vision Baptist Church located at 11400 East Terry Street, Bonita Springs, Florida 34135; and

**WHEREAS**, a Public Hearing was advertised and heard on September 17, 2019 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case SPE18-52915-BOS who recommended approval (6-1) after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all parties; and

**WHEREAS**, City Council at their October 16, 2019 zoning meeting considered the record of the Zoning Board, as well as a transcript of the Zoning Board hearing submitted as part of the City Council hearing record, and gave full consideration of the Staff Recommendation, the evidence and testimony, including the expert opinion of the Applicant, Vertex Development, LLC.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Bonita Springs, Lee County, Florida:

**SECTION ONE: APPROVAL OF REQUEST**

City Council of Bonita Springs hereby grants a variance from the height limitations under Section 4-1221 on wireless communications facilities and makes the following findings in support of this approval:

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of a variance, Bonita Springs City Council makes the following findings and conclusions pursuant to Section 4-1219(c)(3):

1. The applicant is not already providing adequate coverage or adequate capacity in the geographic search area;
2. The applicant is not able to use existing wireless communications facility sites either with or without repeaters to provide adequate coverage or adequate capacity in the geographic search area;
3. The applicant has agreed to rent or lease available space on the antenna- supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers;
4. The proposed wireless communications facility or antenna- supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or manmade resources;
5. The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities; and
6. The proposal will comply with FCC Reg. 96-326 regarding emissions of electromagnetic radiation.

Additionally, based upon an analysis of the application approval criteria for a wireless communications facility, the recommendation of the Zoning Board, and the standards for approval of a variance in LDC 4-131, the City Council finds the requested variance:

1. Does provide for any exceptional or extraordinary conditions or circumstances that are inherent to the property in question;
2. Does provide for any exceptional or extraordinary conditions or circumstances that are not the result of actions of the Applicant taken subsequent to the City's adoption of the 2015 Wireless Communication Facilities ordinance;
3. The variance requested is the minimum relief needed to relieve the Applicant of an unreasonable burden caused by the application of the regulation in question to the subject property;

4. The granting of the variance will not have an adverse impact to the surrounding neighborhood; and
5. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature.

**SECTION TWO: EFFECTIVE DATE**

This resolution shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the City Council of the City of Bonita Springs, Lee County, Florida, this 20<sup>th</sup> day of November, 2019.

AUTHENTICATION:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

Vote:

Carr	Aye		
DeWitt	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Gibson	Aye		

Date filed with City Clerk: 2/10/20

**EXHIBIT A:**  
Legal Description of the  
Subject Property

## LEGAL DESCRIPTIONS

### **PARENT PARCEL**

(OFFICIAL RECORD BOOK 2843, PAGE 386)

THE NORTH HALF OF LOT 2, OF THAT CERTAIN SUBDIVISION KNOWN AS BONITA FARMS, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY, FLORIDA, IN PLAT BOOK 3, PAGE 27, LOCATED IN SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST.

### **TOWER PARCEL**

(PREPARED BY GEOLINE SURVEYING, INC.)

THAT PART OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST, SAID LEE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCE AT A FOUND 4" X 4" CONCRETE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING THE SOUTHWEST CORNER OF THE "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL, AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 2843, PAGE 386 OF SAID PUBLIC RECORDS; THENCE NORTH 01°08'06" WEST ALONG THE WEST LINE OF SAID LOT 2 AND ALONG THE WEST LINE OF SAID "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL FOR 202.01 FEET; THENCE NORTH 88°51'54" EAST FOR 176.39 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°08'06" WEST FOR 25.00 FEET; THENCE NORTH 88°51'54" EAST FOR 80.00 FEET; THENCE SOUTH 01°08'06" EAST FOR 25.00 FEET; THENCE SOUTH 88°51'54" WEST FOR 80.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 2,000 SQUARE FEET, (0.046 ACRES), MORE OR LESS.

### **20 FOOT WIDE INGRESS AND EGRESS EASEMENT**

(PREPARED BY GEOLINE SURVEYING, INC.)

THAT PART OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST, SAID LEE COUNTY, LYING WITHIN 10 FEET OF BOTH SIDES OF A CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4" X 4" CONCRETE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING THE SOUTHWEST CORNER OF THE "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL, AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 2843, PAGE 386 OF SAID PUBLIC RECORDS; THENCE NORTH 01°08'06" WEST ALONG THE WEST LINE OF SAID LOT 2 AND ALONG THE WEST LINE OF SAID "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL FOR 202.01 FEET; THENCE NORTH 88°51'54" EAST FOR 176.39 FEET TO THE SOUTHWESTERLY CORNER OF AN 25 FOOT BY 80 FOOT TOWER PARCEL; THENCE NORTH 01°08'06" WEST ALONG THE WESTERLY LINE OF SAID TOWER PARCEL FOR 25.00 FEET TO THE NORTHWESTERLY CORNER OF SAID TOWER PARCEL; THENCE NORTH 88°51'54" EAST ALONG THE NORTHERLY LINE OF SAID TOWER PARCEL FOR 22.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE OF THE HEREIN DESCRIBED 20 FOOT WIDE INGRESS AND EGRESS EASEMENT; THENCE NORTH 01°08'06" WEST FOR 25.00 FEET TO A POINT "A"; THENCE NORTH

88°51'54" EAST ALONG A LINE PARALLEL WITH SAID NORTHERLY LINE FOR 25.00 FEET TO A POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE; THENCE RETURN TO SAID POINT "A"; THENCE NORTH 01°08'06" WEST FOR 56.20 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", AND A CHORD OF 35.36 FEET THAT BEARS NORTH 46°08'06" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE FOR 39.27 FEET TO A POINT OF TANGENCY; THENCE SOUTH 88°51'54" WEST FOR 88.43 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°17'06", AND A CHORD OF 35.44 FEET THAT BEARS NORTH 45°59'33" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE FOR 39.39 FEET TO A POINT OF TANGENCY; THENCE NORTH 00°51'00" WEST FOR 149.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 35.00 FEET, A CENTRAL ANGLE OF 88°44'53", AND A CHORD OF 48.95 FEET THAT BEARS NORTH 43°31'26" EAST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE FOR 54.21 FEET TO A POINT OF TANGENCY; THENCE NORTH 87°53'53" EAST FOR 39.09 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 90°09'40", AND A CHORD OF 42.49 FEET THAT BEARS NORTH 43°50'39" EAST, THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE FOR 47.21 FEET; THENCE NORTH 01°14'11" WEST FOR 4.23 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL, AND THE SOUTH RIGHT-OF-WAY LINE OF TERRY STREET (VARIABLE WIDTH RIGHT-OF-WAY), AND THE POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.

CONTAINING 11,221 SQUARE FEET, (0.258 ACRES), MORE OR LESS.

**10 FOOT WIDE UTILITY EASEMENT**  
(PREPARED BY GEOLINE SURVEYING, INC.)

THAT PART OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST, SAID LEE COUNTY, LYING WITHIN 5 FEET OF BOTH SIDES OF A CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4" X 4" CONCRETE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING THE SOUTHWEST CORNER OF THE "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL, AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 2843, PAGE 386 OF SAID PUBLIC RECORDS; THENCE NORTH 01°08'06" WEST ALONG THE WEST LINE OF SAID LOT 2 AND ALONG THE WEST LINE OF SAID "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL FOR 202.01 FEET; THENCE NORTH 88°51'54" EAST FOR 176.39 FEET TO THE SOUTHWESTERLY CORNER OF AN 25 FOOT BY 80 FOOT TOWER PARCEL; THENCE NORTH 01°08'06" WEST ALONG THE WESTERLY LINE OF SAID TOWER PARCEL FOR 25.00 FEET TO THE NORTHWESTERLY CORNER OF SAID TOWER PARCEL; THENCE NORTH 88°51'54" EAST ALONG THE NORTHERLY LINE OF SAID TOWER PARCEL FOR 7.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE OF THE HEREIN DESCRIBED 10 FOOT WIDE UTILITY EASEMENT; THENCE NORTH 01°08'06" WEST FOR 73.44 FEET; THENCE SOUTH 88°50'02" WEST FOR 140.62 FEET; THENCE NORTH 00°51'00" WEST FOR 212.59 FEET; THENCE NORTH 03°42'07" WEST FOR 63.58 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND OFFSET 5 FEET SOUTH OF THE NORTH LINE OF SAID "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL, AND THE SOUTH RIGHT-OF-WAY LINE OF TERRY STREET (VARIABLE WIDTH RIGHT-OF-WAY); THENCE WESTERLY ALONG SAID PARALLEL LINE, AND ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 3884.94 FEET, A CENTRAL ANGLE OF 00°36'16", AND A CHORD OF 40.99 FEET THAT BEARS NORTH 89°54'38" WEST, FOR 40.99 FEET TO AN

INTERSECTION WITH SAID WEST LINE AND THE POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.

CONTAINING 5,312 SQUARE FEET, (0.122 ACRES), MORE OR LESS.

**15 FOOT WIDE LANDSCAPE BUFFER**  
(PREPARED BY GEOLINE SURVEYING, INC.)

THAT PART OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SITUATED IN SECTION 36, TOWNSHIP 47 SOUTH, RANGE 25 EAST, SAID LEE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCE AT A FOUND 4" X 4" CONCRETE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE NORTH 1/2 OF LOT 2, BONITA FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 3, PAGE 27 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID POINT BEING THE SOUTHWEST CORNER OF THE "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL, AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 2843, PAGE 386 OF SAID PUBLIC RECORDS; THENCE NORTH 01°08'06" WEST ALONG THE WEST LINE OF SAID LOT 2 AND ALONG THE WEST LINE OF SAID "VISION BAPTIST CHURCH OF BONITA SPRINGS, INC." PARCEL FOR 202.01 FEET; THENCE NORTH 88°51'54" EAST FOR 176.39 FEET TO THE SOUTHWESTERLY CORNER OF AN 25 FOOT BY 80 FOOT TOWER PARCEL AND THE POINT OF BEGINNING; THENCE NORTH 01°08'06" WEST ALONG THE WESTERLY LINE OF SAID TOWER PARCEL FOR 25.00 FEET TO THE NORTHWESTERLY CORNER OF SAID TOWER PARCEL; THENCE NORTH 88°51'54" EAST ALONG THE NORTHERLY LINE OF SAID TOWER PARCEL FOR 14.50 FEET; THENCE NORTH 01°08'06" WEST FOR 15.00 FEET; THENCE SOUTH 88°51'54" WEST ALONG A LINE PARALLEL WITH SAID NORTHERLY LINE FOR 29.50 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND OFFSET 15 FEET WESTERLY OF SAID WESTERLY LINE; THENCE SOUTH 01°08'06" EAST ALONG SAID PARALLEL LINE FOR 55.00 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND OFFSET 15 FEET SOUTHERLY OF THE SOUTHERLY LINE OF SAID TOWER PARCEL; THENCE SOUTH 88°51'54" EAST ALONG SAID PARALLEL LINE FOR 115.00 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND OFFSET 15 FEET EASTERLY OF THE EASTERLY LINE OF SAID TOWER PARCEL; THENCE NORTH 01°08'06" WEST ALONG SAID PARALLEL LINE FOR 55.00 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND OFFSET 15 FEET NORTHERLY OF SAID NORTHERLY LINE; THENCE SOUTH 88°51'54" WEST ALONG SAID PARALLEL LINE FOR 65.50 FEET; THENCE SOUTH 01°08'06" EAST FOR 15.00 FEET TO AN INTERSECTION WITH SAID NORTHERLY LINE; THENCE NORTH 88°51'54" EAST ALONG SAID NORTHERLY LINE FOR 50.50 FEET TO THE NORTHEASTERLY CORNER OF SAID TOWER PARCEL; THENCE SOUTH 01°08'06" EAST ALONG SAID EASTERLY LINE FOR 25.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID TOWER PARCEL; THENCE SOUTH 88°51'54" WEST ALONG SAID SOUTHERLY LINE FOR 80.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 3,825 SQUARE FEET, (0.088 ACRES), MORE OR LESS.