

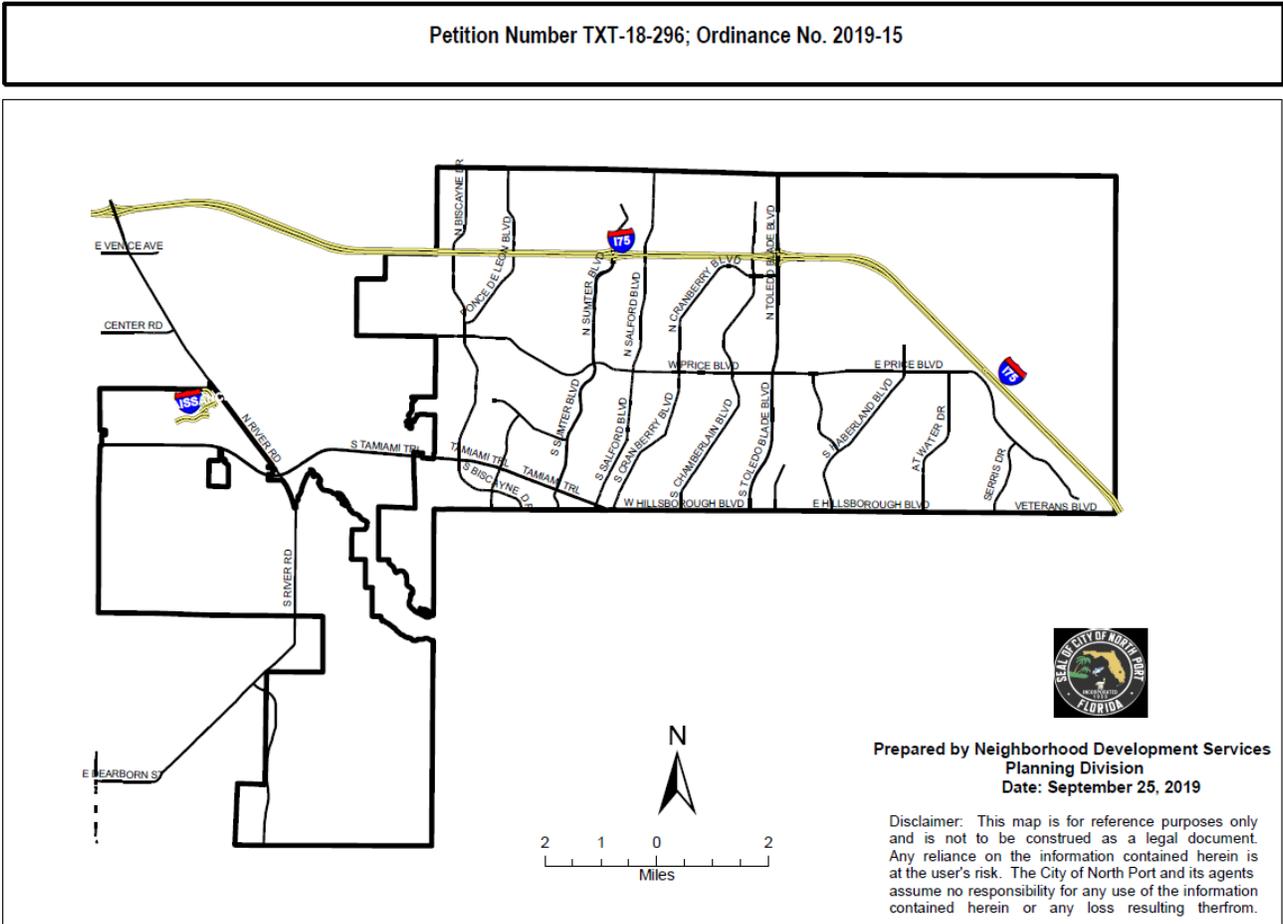


STAFF REPORT

Proposed Revisions to Fence Height & Setback Requirements

Ordinance No. 2019-15 adopting proposed ULDC Text Amendments (TXT-18-296)

From: Alison Christie, Senior Planner
Thru: Nicole Galehouse, AICP, Planning Manager
Frank Miles, MPA, Director, Neighborhood Development Services
Date: October 31, 2019



PROJECT: ORD. NO. 2019-15, Proposed ULDC text amendments related to the City's fence standards (Exhibit A)

REQUEST: Review, discuss, and take action on proposed ULDC text amendments (TXT-18-296)

APPLICANT: City of North Port

LOCATION: Citywide

I. BACKGROUND

In July 2018 a North Port resident requested that the Unified Land Development Code (ULDC) be amended to allow for the 6-foot fence height limit in residential areas to be measured relative to the elevation at the location of house rather than the location of the fence (**Exhibit B**). This would allow for fences that are taller than 6 feet if the house is at a higher elevation due to fill.

At a special Commission meeting on November 5, 2018, staff was directed to bring forward ULDC text amendments related to fence height and location. Specifically, per the approved minutes:

- (1) *Allow an eight-foot fence as measured from the elevation of the house (ground level at house) and around all sides (of the lot-no setbacks);*
- (2) *Remove hedges from the language;*
- (3) *Be sure to cross reference the landscaping section of the code bringing any necessary changes there to be consistent;*
- (4) *Make sure the code is consistent within the language itself; and*
- (5) *Review the visibility triangle language to be consistent with the changes.*

Planning staff drafted the proposed amendments and reviewed them with staff in other departments with expertise in traffic safety and State Building Code requirements before finalizing the ordinance. During that process, several issues and potentially unintended consequences were identified that staff wanted to discuss with the Commission prior to finalizing the Ordinance.

These issues were discussed at a Special Meeting on March 7, 2019 and new direction was given. The issues generally fell into two categories: (A) Public and Traffic Safety, and (B) Construction and Site Development.

A. Public and Traffic Safety-Related Issues

- *Visibility Triangle:* If tall solid fences are allowed on all property lines, the visibility triangle language currently in the ULDC is not adequate to protect the safety of pedestrians, tricycles/bicycles, dogs being walked, strollers, etc. from drivers pulling out onto the street, especially when backing out. Another potential consequence is that a fence on the front property line could affect the visibility triangle of driveways on adjacent property and limit the safety and location of those driveways.
- *Stopping Sight Distance Triangle:* This is the area that needs to be clear of visual obstruction to allow drivers adequate time to perceive a problem (e.g., vehicle, person, animal, or object), react to it, and safely stop to avoid collision or injury. The length and shape of the triangle is affected by the speed of the vehicle, pavement conditions, curves in the roadway, and other factors. If there are no longer any fence setback requirements along roadways, new language will be needed to address how this is measured and applied in cases where there are curves in the road, irregular intersections, or any circumstances that would potentially affect the stopping sight distance triangle due to the location of the fences.

B. Construction and Site Development-Related Issues

- *State Building Codes-Wind Shear:* Fences over 6 feet in height are required to be built so they can withstand wind speeds of 140-150 mph in this area. This will require that the fence construction and installation be engineered, which will require additional construction costs, inspections, and permit fees.

- *Floodplain*: In most cases, when fill is placed on a lot that is below base flood elevation, only the building site is filled, which then slopes down to the property line. In those cases, the location of the fence is still below base flood elevation and the fence will need to be built so it complies with the Federal Emergency Management Agency's National Flood Insurance Program regulations. This will also require additional construction cost, inspections, and permit fees.
- *Houses on small lots or with minimum setbacks*: The amount of fill placed on residential lots in flood zones or without sewer service varies from 2-6 feet, so a fence that could be up to 14 feet tall will have a negative impact on the adjacent property owner by shading their yard and pool and blocking airflow. It can also be a potential safety hazard if it falls over and is within striking distance of the house, pool, or accessory structure next door.
- *Houses that are lower than the house next door*: This is the situation in many areas of town where homes were built in the 1960s and 1970s. When the vacant lots nearby are developed now, there is often fill placed where the house will be built, which results in the new house being at a higher elevation than the existing house next door. Residents in this situation cannot build a taller fence to shield the view from their new neighbor's house into their house or yard since the proposed amendments do not address this circumstance.
- *Two and three-story homes*: All single-family residential zones have a 35-foot height limit for the house. If the objective is to allow fences that will be tall enough to afford privacy between neighbors' homes and yards, what if the house has 2 or 3 stories?

After the discussions on the abovementioned issues, the Commission directed staff to adjust their original direction in response to A. Public and Traffic Safety-Related Issues as follows:

- *Fence height and setback in front yards and yards adjacent to roadways*: In addition to height allowances for fences in front yards in the current ULDC code section, allow for a solid fence if it is set back 15 feet from the property line, all the way across the front and going back the remainder of the way around the property. And when there is a road adjacent to the side or back of the lot, use the same regulations as the front yard with a 15-foot setback.

No changes were made in response to B. Construction and Site Development-Related Issues.

II. REVIEW PROCESS

Planning staff drafted the ordinance and sent it out for review by City staff in Public Works, Building, and Zoning. Several items were addressed through this review and are detailed throughout this staff report. The proposed Text Amendment ordinance was then distributed to Directors for Management Review. No substantive comments were received.

The proposed ordinance for the Text Amendment petition was submitted to the City Attorney's Office and reviewed as to form and correctness.

III. DATA & ANALYSIS

This text amendment to the Unified Land Development Code is amending Chapter 53 – Zoning Regulations and Chapter 61 – Definitions to change fence height regulations. Specifically, this amendment would allow fence height to be measured from the elevation of the house rather than from the location of the fence and changes the allowed height from 6 feet to 8 feet.

As a result of these changes to fence height regulations, visibility triangle language and design requirement language in Chapter 53 was amended. No obstruction to vision is permitted at driveway intersections from 3 feet above the grade of the street to 8 feet. Additionally, any fence 6 feet in height or greater must be designed to withstand winds of 150 miles per hour. This requires engineered plans to be submitted at the time of fence permit. A definition for stopping sight-distance triangle was added to Chapter 61 – Definitions to reflect the language requiring fence height not to obstruct the vision at driveway and roadway intersections.

FLORIDA STATUTES

FLA. STAT. §166.041 Procedures for adoption of ordinances and resolutions

The notice requirements pursuant to this Statute have been met and are detailed in Section IV of this Staff Report.

Staff concludes that the ordinance for the Text Amendment to the ULDC has been properly noticed.

COMPREHENSIVE PLAN

Future Land Use – GOAL 1: Ensure that the character and location of land uses maximize the potential for economic benefit and the enjoyment of natural and man-made resources by citizens while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.

Staff Findings and Conclusion: Allowing solid fences to be built on property lines that could potentially be 10-14 feet tall have the potential to be a threat to public safety and a hazard to neighboring properties. Staff cannot conclude that the proposed amendments are consistent with this goal.

NEIGHBORHOODS, CITY WIDE – Objective 4: Support the City’s diversity of neighborhoods by implementing targeted development and planning strategies for neighborhoods. This can be accomplished through methods including the establishment of City-wide and neighborhood specific policies addressing development and redevelopment efforts, safety, stability, property values, mobility and aesthetic controls including street trees, public art, and entry features.

Staff Findings and Conclusion: The ability to build solid fences on the property line that could potentially be 10- 14 feet tall creates a potential safety hazard and could negatively affect property values. Staff cannot conclude that the proposed amendments are consistent with this objective.

Policy 4.19: Encourage and support site and building design features that promote neighborhood gathering points and stimulate social relationships.

Staff Findings and Conclusion: The effect of tall solid fences in front and side yards would not encourage interactions between neighbors. Staff

cannot conclude that the proposed amendments are consistent with this policy.

Policy 5.3: Land development regulations, consistent with F.S. 163.3202 (1), shall contain performance standards which: a. Address buffering and open space requirements; and b. Address historically significant properties meriting protection.

Staff Findings and Conclusion: A fence can be used as a buffer between properties. Staff concludes the proposed amendment is consistent with Policy 5.3.

Section 1-12, Amendments. (E) Nature and requirements of Planning and Zoning Advisory Board report. (2)

This section states that when pertaining to other proposed text amendments of these zoning regulations, the Planning and Zoning Advisory Board shall consider and study the following two criteria:

(a) The need and justification for the change.

Staff Findings and Conclusion: A resident requested a text amendment to allow for taller fences to address different elevations on adjacent properties. In response to the request, the Commission gave direction to amend the ULDC to allow for taller fences, in addition to other fence standards.

(b) The relationship of the proposed amendment to the purposes and objectives of the City's Comprehensive Plan, with appropriate consideration as to whether the proposed change will further the purposes of these zoning regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.

Staff Findings and Conclusion: Staff evaluated the proposed amendment and included these criteria in the Comprehensive Plan analysis section on of this staff report.

For the following reasons, staff recommends limiting the fence height to 6 feet as measured at the location of the house, with an upper limit of 8 feet:

- The resident requesting the ULDC text amendment asked that the 6-foot fence limit be measured from the elevation of the house with an upper limit of 8 feet (**Exhibit B**).
- Using 8 feet as the standard and having no upper limit could regularly result in a fence 10-14 feet tall since 2-6 feet of fill is commonly placed at the location of the home for septic systems and in floodplain areas. The grade then slopes down from the home site to the property line where the fence is typically located.
- A fence higher than 8 feet could negatively impact the next-door neighbors' properties by blocking light and air circulation. It would also create a potential hazard if it were to fall over and strike the house, accessory structure or landscaping next door.
- Fences taller than 8 feet would create a solid wall-like barrier around the property giving it a compound or fortress effect. In addition to the abovementioned safety issues, it does not appear that the proposed amendments are consistent with the Comprehensive Plan, as outlined in the previous Comprehensive Plan section.

ULDC TEXT
AMENDMENT
CRITERIA

STAFF
RECOMMENDATION

IV. PUBLIC NOTICE & HEARING SCHEDULE

PUBLIC NOTICE

The Text Amendment was advertised in a newspaper of general circulation within the City of North Port on November 6, 2019 pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 7.01(c) of the Charter of the City of North Port, and Chapter 1 Article II, Section 1-12 of the City's Unified Land Development Code (ULDC) as amended (**Exhibit C**).

PUBLIC HEARING SCHEDULE

Planning & Zoning Advisory Board	November 22, 2019 9:00 AM or as soon thereafter
City Commission – 1 st Reading	December 10, 2019 10:00 AM or as soon thereafter
City Commission – 2 nd reading	TBD

V. RECOMMENDED ACTION

Approval of Ordinance 2019-15 with staff's recommendation of an upper limit on fence height.

VI. ALTERNATIVE ACTIONS

- Approval of Ordinance 2019-15 as is.
- Deny the Ordinance 2019-15.

VII. EXHIBITS

A.	Ordinance 2019-15
B.	Brad Turner email
C.	Legal Ad
D.	Minutes of November 5, 2018 and March 7, 2019 Commission meetings



City of North Port

ORDINANCE NO. 2019-15

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE RELATED TO FENCES, BY AMENDING SECTION 53-3, SECTION 53-240, AND SECTION 61-3; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

1 **WHEREAS**, Chapter 53 of the Unified Land Development Code (“ULDC”) sets forth regulations for special
2 structures within the City and Chapter 61 of the ULDC provides definitions for terms used in the ULDC;
3 and
4

5 **WHEREAS**, on November 5, 2018, the City Commission of the City of North Port, Florida, directed staff to
6 bring back an ordinance loosening height and location restrictions for fences in districts zoned single-
7 family residential; and
8

9 **WHEREAS**, on March 7, 2019, the City Commission discussed various public and traffic safety concerns
10 regarding fences and provided further direction to staff regarding fence regulations; and
11

12 **WHEREAS**, on November 21, 2019, the City of North Port Planning and Zoning Advisory Board, designated
13 as the Local Planning Agency for the City, held a properly noticed public hearing to receive public
14 comments on the proposed amendment of the ULDC; and
15

16 **WHEREAS**, the City Commission has held properly-noticed public hearings to review the
17 recommendations of the Planning and Zoning Advisory Board and to receive public comments on the
18 proposed amendment of the ULDC; and
19

20 **WHEREAS**, the City Commission has determined that the proposed amendments serve the public health,
21 safety, and welfare of the citizens of the City of North Port, Florida.
22

23 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**
24

25 SECTION 1 - FINDINGS

26
27 1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set
28 forth herein.
29

30 SECTION 2 - ADOPTION

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2.01 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 53 - ZONING REGULATIONS

...

PART 1. - GENERAL PROVISIONS

...

Sec. 53-3. - General requirements.

...

~~F. Exposed PVC, split rail fence, untreated cinder block, is not permitted.~~

...”

2.02 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 53 – ZONING REGULATIONS

...

PART 3. – SPECIAL DISTRICT REGULATIONS

ARTICLE XX. – SPECIAL CIRCUMSTANCE REGULATIONS

...

Sec. 53-240. – Special structures.

...

~~M. (Original subsection M deleted in its entirety and replaced with the following.)~~

M. Fences. Except as otherwise provided in Subsection (6) below, all fences must comply with the following regulations.

(1) Setback. Fences are not required to meet minimum setback requirements for accessory structures in any zoning district.

(2) Stopping sight-distance triangle. No obstruction to vision is permitted at the intersection of a driveway and the street. The area must be clear of all visual obstructions to allow drivers adequate time to perceive a problem (e.g., vehicle, person, animal, or object), react to it, and safely stop to avoid a collision or injury. The length and shape of this area is affected by the speed of a vehicle, pavement conditions, curves in the road, slopes, and other factors. This area, known as the stopping sight-distance triangle, must meet the requirements set forth in the most current edition of the Florida Department of Transportation Design Manual, as amended.

(3) Height limits.

(a) Front yard or abutting street.

(i) Opacity requirements. Where a fence is installed in a front yard or abutting a street, its opacity will determine the maximum height permitted. A fence that has

78 an opacity of fifty percent (50%) or less may be a maximum of four feet (4') high.
79 A fence that is more than fifty percent (50%) opaque may be a maximum of three
80 feet (3') high.

81
82 (ii) Exception. A fence set back from the property line at least fifteen feet (15') may
83 be a maximum of eight feet (8') high, regardless of its opacity.

84
85 (b) Side or rear yard not abutting street. Where a fence is installed in a side or rear yard
86 that is not abutting a street, the fence may be a maximum of eight feet (8') high.

87
88 (4) Calculating height. Fence height is measured starting at ground level and includes all
89 components of the fence, such as the posts, rails, panels, and embellishments.

90
91 (a) Single-Family Residential (RSF). Ground level for calculating fence height is ground
92 level of the primary residence.

93
94 (b) All Other Zoning Districts. Ground level for calculating fence height is the lowest
95 elevation located along the fence line. Where the elevation at the fence line is
96 inconsistent, the Public Works Director or designee may determine the natural or
97 original grade for determining ground level.

98
99 (5) Design requirements.

100
101 (a) Wind-load requirements. A fence more than six feet (6') high must be designed to
102 withstand winds of at least one hundred fifty mile per hour (150 mph), or the
103 minimum wind speed permitted by the Florida Building Code, as amended, whichever
104 is higher. To obtain a fence permit, an applicant must provide engineered plans
105 indicating that the fence is designed and constructed to meet these wind-load
106 requirements, measuring the fence from the lowest side. Once installed, a fence must
107 remain in compliance with these wind-load requirements.

108
109 (b) Posts and supports. All exposed fence posts and supports must face in the direction
110 of the fence owner's property.

111
112 (c) Material.

113
114 (i) A chain-link fence located in a non-residential district must be vinyl coated and
115 be black or North Port City Center Green in color.

116
117 (ii) No exposed PVC or exposed cinder block fences are permitted.

118
119 (iii) Split-rail fence. A split-rail fence is permitted only in a district zoned Agricultural
120 (AG) or Government Use (GU).

121
122 (iv) Electric fence. A fence charged with electricity is permitted only in a district zoned
123 Agricultural (AG).

124

125 (v) Barbed wire. A fence with barbed wire is permitted only in a district zoned
126 Agricultural (AG) or Light Industrial and Warehousing (ILW). The barbed wire may
127 only be installed on the top of the fence, and is included in the calculation of the
128 fence height.

129
130 (6) Special locations. In addition to the above requirements, the following regulations apply
131 to fences installed at the specified locations.

132
133 (a) Playground fence. A fence abutting the perimeter boundary of a playground at a
134 daycare or school must be transparent so that activity behind the fence may be
135 observed from either side, must be between six feet (6') and eight feet (8') high, and
136 must have at least one (1) accessible gate that is operational.

137
138 (b) Recreational sport facility. The following apply to fences attached to or part of a
139 recreational sport facility, such as a racquetball, tennis, or basketball court, swimming
140 pool, soccer, or baseball field, etc. Any attached netting, such as safety netting
141 attached to a baseball backstop, is not a fence for purposes of this subsection.

142
143 (i) Height. Fences for sport courts and baseball backstops may be a maximum twenty
144 feet (20') high. Fences for other types of recreational sport facilities may be a
145 maximum of twelve feet (12') high.

146
147 (ii) Setbacks. The setback for a fence is the same as for an accessory structure at the
148 same location. However, once a fence reaches fifteen feet (15') in height, each
149 one foot (1') increase in fence height will result in a one foot (1') increase in the
150 required side yard setback.

151
152 (iii) Visibility. A fence that is visible from a roadway must be made of decorative
153 wrought iron or a product with similar characteristics. A fence not visible from a
154 roadway may be made of chain-link, provided that it is vinyl coated.

155
156 (iv) Color. A fence must be black or North Port City Center Green in color.

157
158 (7) Public rights-of-way. A fence or other structure is not permitted in a public right-of-way.

159
160 (8) Public easements. A fence is permitted in a public easement other than a right-of-way
161 easement.

162
163 (a) Required factors. All of the following factors must be present before a fence will be
164 approved for placement in a public easement:

165
166 (i) There will be no impediment to the flow of storm water within the drainage
167 systems or a reduction of drainage performance;

168
169 (ii) There will be no impediment to the City's ability to access public utilities, whether
170 above or below ground;

171

172 (iii) There will be no impediment to the City’s ability to properly maintain the public
173 easement, if applicable;

174
175 (iv) The fence does not otherwise interfere with the City’s exercise of its easement
176 rights;

177
178 (v) The fence location will not be injurious to the neighborhood or otherwise
179 detrimental to the public welfare;

180
181 (vi) The fence location is more than twenty feet (20’) from a body of water; and

182
183 (vii) If installed in a waterfront yard, the fence must be transparent.

184
185 (b) Waterfront yards. In addition to meeting all of the required factors in subsection (a),
186 a fence installed in a public easement located in a waterfront yard is subject to all the
187 following conditions:

188
189 (i) The property owner is solely responsible for the maintenance and repair of the
190 fence regardless of the cause of the damage;

191
192 (ii) The property owner must defend, indemnify, and hold the City harmless from any
193 and all claims, liabilities, losses, or damages on account of or in any way arising
194 from the existence of the fence in the easement;

195
196 (iii) If the Public Works Director or designee determines that the area occupied by a
197 fence is needed for any purpose whatsoever, the City has the absolute right to
198 terminate the occupation of the easement and require that the fence be
199 removed. Whenever practicable, the City will attempt to provide advance written
200 notice of termination to the property owner; and

201
202 (iv) If the City removes a fence, in whole or in part, the property owner will be billed
203 and must pay for the cost of removal by the date indicated on the invoice. The
204 City shall not be responsible for reinstalling, replacing, or repairing the fence,
205 regrading the ground, or returning the area where the fence was installed to the
206 condition existing prior to the fence removal.

207 ...

208
209 ~~X. (Original subsection X deleted in its entirety and replaced with the following.)~~

210
211 X. Residential property entries and gated community features.

212
213 (1) Residential entry features. Residential entry features are only permitted in districts zoned
214 Single Family Residential (RSF) and Agricultural (AG) provided that the property meets the
215 requirements of this subsection. Such entry features include but are not limited to walls,
216 gates, decorative posts and markers.

217
218 (a) Property point of entry. The maximum height of a structure at a property’s main point
219 of entry may be no more than six feet (6’) high. However, if the main point of entry

220 has an entry feature such as a gate, lighting, or decorative posts or markers, the
 221 maximum height of the total structure including the entry feature may be no more
 222 than eight feet (8') high.

223
 224 (b) Minimum lot size shall be forty-three thousand five hundred sixty (43,560) square
 225 feet.

226
 227 (c) Minimum lot depth shall be two hundred feet (200').

228
 229 (d) Minimum setback shall be fifteen feet (15').

230
 231 (2) Gated community features. A fence or wall may be constructed along the perimeter
 232 boundary of a residential development to create a gated community. A gated
 233 community's boundary fence or wall must be no more than eight feet (8') high. The fence
 234 or wall must comply with the landscaping requirement found in Unified Land
 235 Development Code Section 21-9.

236 ...
 237

238 BB. Swimming pools, tennis courts, and other recreational facilities.

239
 240 (1) Scope. The following regulations apply to all swimming pools, tennis courts, shuffleboard
 241 courts, and other similar recreational facilities which are accessory to an individual single-
 242 family, two-family, or duplex dwelling or modular home. a permitted use and which are
 243 not owned or operated by a governmental agency or school.

244
 245 (2) Location of accessory recreational facilities accessory to an individual single family, two-
 246 family or duplex dwelling or modular home shall be in accordance with the following:

247
 248 (a) Open-mesh screen. All swimming pools, tennis courts, decks and other similar
 249 screened accessory facilities shall comply with the side, rear and street setback
 250 requirements for accessory uses, buildings and structures as set forth in Sec. 53-
 251 240(A).

252
 253 (b) Roofed enclosures. Swimming pools, patios, decks and other recreational facilities
 254 may be covered by a solid roof (impervious to weather), provided that compliance
 255 with all setback requirements for the principal structure are met.

256
 257 ~~(3) Fencing.~~

258
 259 ~~(a) Fenced enclosures or components attached to or part of a recreational facility shall~~
 260 ~~not exceed the height limitations for the zoning district in which the facility is located.~~

261
 262 ~~(b) Setbacks for fenced enclosures shall be the same for accessory structures; provided,~~
 263 ~~however, that for every one (1) foot increase in height of the fenced enclosure over~~
 264 ~~fifteen (15) feet, an increase of one (1) foot in the side yard setback requirement shall~~
 265 ~~be maintained.~~

266
 267 ~~(c) Fences shall be of decorative wrought iron or of a product with similar characteristics.~~

268 ~~(d) Where chain link fences are allowed, the fence shall not be visible from the roadway~~
269 ~~and shall be vinyl coated.~~

270
271 ~~(e) Permitted fence colors are black and North Port City Center Green.~~
272 ~~..."~~

273
274
275 2.03 The City Commission hereby approves and adopts the following amendments to the City of North
276 Port Unified Land Development Code:

277
278 **"Chapter 61 – DEFINITIONS**

279 ...
280 **Sec. 61-3. - Definitions and word usage.**

281 ...
282
283 **BOUNDARY FENCE** — See "Fence, boundary."

284 ...
285
286 **FENCE** — Any artificially constructed barrier of any material or combination of materials
287 constructed along the full length, or portion thereof, of any or all property line(s), or within the
288 property for the purpose of protection or confinement or as a boundary or for the purpose of
289 blocking part of the property from view or access. For the purposes of these land development
290 regulations, a ~~boundary~~ fence is considered to be an accessory structure and therefore requires
291 a principle use or structure in order to be permitted.

292 ...
293
294 **YARD, FRONT** — A yard extending along the full width of a front lot line between side lot lines and
295 from the front lot line to the nearest part of the front building line in depth. For buildings placed
296 on the diagonal of a lot or parcel, the front lot line shall be defined as the line measured in a
297 straight line from the right and left front corners of the building to the property line.

298
299 **YARD, REAR** — A yard extending across the full width of the lot and lying between the rear lot line
300 and the nearest part of the primary structure building. Rear yard depth shall be measured at right
301 angles to the rear line of the lot.

302 ..."
303

304 **SECTION 3 – CONFLICTS**

305
306 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or
307 portions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

308
309 **SECTION 4 – SEVERABILITY**

310
311 4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason
312 held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be
313 deemed a separate, distinct, and independent provision and such holding shall not affect the
314 validity of the remaining portions hereof.

315

316 **SECTION 5 – CODIFICATION**

317

318 5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any
319 additional codification information and notations appear in *italics*. These editorial notations shall
320 not appear in the codified text.

321

322 **SECTION 6 – EFFECTIVE DATE**

323

324 6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of
325 North Port, Florida.

326

327

328 READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public
329 session this _____ day of _____ 2019.

330

331 PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida on the second and
332 final reading in public session this _____ day of _____ 2019.

333

334

335

CITY OF NORTH PORT, FLORIDA

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CHRISTOPHER HANKS

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MAYOR

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342

ATTEST

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344

345

346

HEATHER TAYLOR, CMC

347

INTERIM CITY CLERK

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350

APPROVED AS TO FORM AND CORRECTNESS

351

352

353

354

AMBER L. SLAYTON

355

CITY ATTORNEY

EXHIBIT B

From: Brad Tumer <bradtumer@gmail.com>
Date: July 16, 2018 at 11:31:03 AM EDT
To: commissioners@cityofnorthport.com
Subject: ULDC 53-240M

Good morning,

I am writing to express a concern I have with the fence regulations set forth in North Port ULDC 53-240M. Specifically, that the fence in residential areas may be no more than six feet high, and that the height of the fence be measured from the ground at the location of the fence.

Due to the grading required for drainage, the location of fences are frequently much lower than the grade of the house. This frequently results in privacy fences that fail to offer privacy. At only 5'7" tall, I am below the average height for American men, but when standing on my lanai I can easily look over the fence in by back yard and see the smiling faces of my neighbors.

This problem is exacerbated by what seems to be the trend in new development for lots to be engineered higher. There is a house currently being built across the street from me, and I would estimate its slab to be a full two feet higher than mine. I have a six foot vinyl fence on that side, and the ground there is nine inches lower than the grade of my house. That fence has until now provided excellent privacy. However, with this house being built so much higher than mine, whoever buys in will have a wonderful view into my back yard.

I would like to suggest that the code be changed so that the height of the fence be measured from the elevation of the house, and not the location of the fence.

Thank you for your consideration,

Brad Tumer
(540) 421-6277
3249 Cunliffe Rd
North Port, FL 34287
bradtumer@gmail.com

EXHIBIT C

PUBLIC NOTICE - CITY OF NORTH PORT NOTICE OF INTENT TO AMEND THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE PROPOSED ORDINANCE NO. 2019-15

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 7.01(c) of the Charter of the City of North Port, and Chapter I, Article II, Section 1-12 of the City's Unified Land Development Code (ULDC), that the City of North Port proposes to adopt Ordinance No. 2019-15, Amendment to the City of North Port Florida Unified Land Development Code (ULDC).

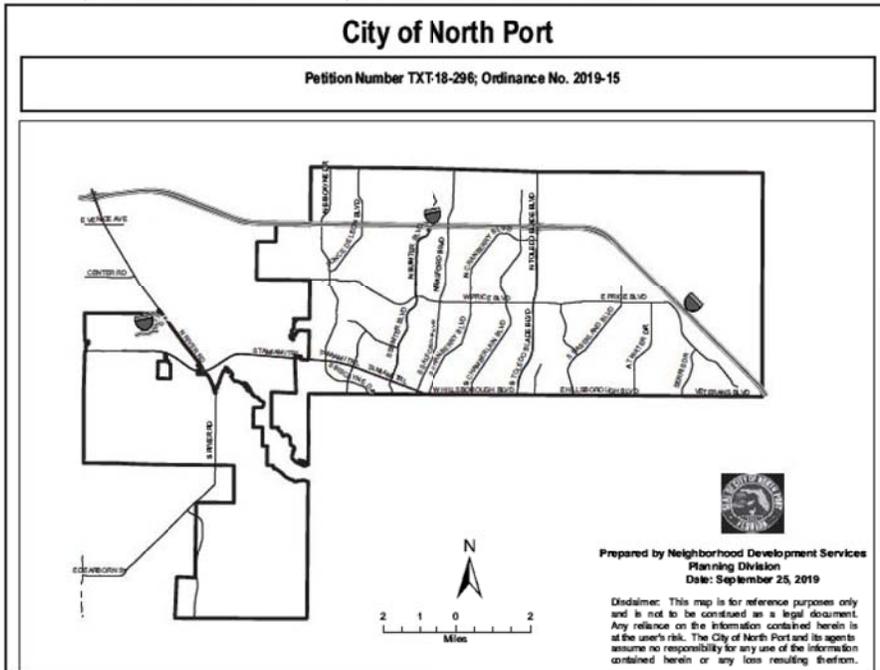
A Public Hearing will be held before the Planning and Zoning Advisory Board (designated as the Local Planning Agency (LPA) on **Thursday, November 21, 2019 at 9:00 a.m. in the City Hall Commission Chambers, 4970 City Hall Boulevard, North Port, Florida 34286.**

A Public Hearing for the first reading of Ordinance 2019-15 will be held before the North Port City Commission in Commission Chambers on **Tuesday, December 10, 2019 at 10:00 a.m.**, or as soon thereafter as the matter may be heard. The second and final reading will be held before the North Port City Commission in Commission Chambers on a date to be determined to consider enactment of Ordinance No. 2019-15.

These Public Hearings will be held in the **North Port City Hall Commission Chambers, 4970 City Hall Boulevard, North Port, Florida, 34286.**

ORDINANCE NO. 2019-15

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE RELATED TO FENCES, BY AMENDING SECTION 53-3, SECTION 53-240, AND SECTION 61-3; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.



Note: The proposed Ordinance 2019-15, (Adoption of Amendments to the City of North Port Unified Land Development Code) applies citywide.

All interested parties are invited to appear and be heard in respect to this Ordinance at the public hearings in the City Hall Commission Chambers. Written comments filed with the Planning and Zoning Advisory Board and the City Commission will be heard and considered and will be made a matter of public record at these meetings. These public hearings may be continued from time to time as announced at the hearings, as may be found necessary. The file pertinent to Ordinance 2019-15, TXT-18-296, may be inspected by the public at the Neighborhood Development Services Department, Planning Division, and in the City of North Port City Clerk's Office, 4970 City Hall Boulevard, North Port, Florida 34286, during regular business hours.

NO STENOGRAPHIC RECORD BY A CERTIFIED COURT REPORTER IS MADE OF THESE MEETINGS. ACCORDINGLY, ANY PERSON WHO MAY SEEK TO APPEAL A DECISION INVOLVING THE MATTERS NOTICED HEREIN WILL BE RESPONSIBLE FOR MAKING A VERBATIM RECORD OF THE TESTIMONY AND EVIDENCE AT THESE MEETINGS UPON WHICH ANY APPEAL IS TO BE BASED (SEE F.S.S. 286.0105).

NOTE: PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK'S OFFICE 48 HOURS IN ADVANCE OF THE MEETING (SEE F.S.S. 286.26).

NONDISCRIMINATION: The City of North Port does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities or services.

AMERICAN WITH DISABILITIES ACT OF 1990 - The North Port City Hall is wheelchair accessible. Special parking is available on the west side of City Hall and the building may be accessed from the parking area. Persons with hearing difficulties should contact the City Clerk to obtain a hearing device for use during meetings.

Heather Taylor,
City Clerk

Publish on Wednesday, Nov 6, 2019

adno=3717730-1



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes - Final City Commission Special Meeting

CITY COMMISSIONERS
Vanessa Carusone, Mayor
Linda M. Yates, Vice-Mayor
Christopher B. Hanks, Commissioner
Jill Luke, Commissioner
Debbie McDowell, Commissioner

APPOINTED OFFICIALS
Peter Lear, City Manager
Amber L. Slayton, City Attorney
Kathryn Peto, City Clerk

Monday, November 5, 2018

9:00 AM

CITY COMMISSION CHAMBERS

MINUTES APPROVED AT THE 11-27-2018 MEETING.

CALL TO ORDER/ROLL CALL

The North Port City Commission Special Meeting was called to order at 9:14 a.m. in City Commission Chambers by Vice-Mayor Yates.

Present: Vice-Mayor Yates; Commissioners, Hanks, Luke and McDowell, City Manager Lear; City Attorney Slayton; Recording Secretary Hale and Police Chief Garrison.

Absent: Mayor Carusone.

The Pledge of Allegiance was led by the Commission.

1. APPROVAL OF AGENDA – COMMISSION

After a request by the Vice-Mayor, the Commission determined that they would like to move Consent Agenda item 3.A. after 3.C. for discussion.

A motion was made by Commissioner McDowell, seconded by Commissioner Hanks, to approve the Agenda moving 3.C. to be heard first followed by 3.B., 3.A. and then 3.D. The motion carried by the following vote, with Mayor Carusone absent:

Yes: 4 - Vice-Mayor Yates, Commissioner Hanks, Commissioner McDowell and Commissioner Luke

2. PUBLIC COMMENT:

There was no public comment.

3. GENERAL BUSINESS:

C. [18-767](#) Legislative Calendar of Events

City Manager Lear gave an overview of the item.

Discussion ensued: (1) there was discussion regarding how and where the Commission would meet with the legislators, it was noted that meeting with the legislators should take place prior to them going to Tallahassee;(2) it was suggested to invite the legislators here and provide them with a tour of the City to make a personable impression; (3) providing a tour of the City and discussing legislative matters are two separate issues, a preference was opined for meeting with the legislators in their office; (4) it was suggested to invite a house and senate member here for the December meeting to discuss legislative action and provide them with a tour of the City, then follow up with a meeting in their office; (5) Vice-Mayor Yates distributed information in support of restoring and preserving local zoning authority and suggested it be added to the list of legislative priorities; (6) the City's list of legislative actions has not been sent to ManaSota League of Cities and a date for the legislative delegation meeting has not been set. There was no public comment.

A motion was made by Commissioner McDowell, seconded by Commissioner Luke, to have the City Manager include in the legislative priorities that the City supports any legislation that restores and preserves local zoning authority and that the City Manager may word the details as he deems necessary. The motion carried by the following vote, with Mayor Carusone absent:

Yes: 4 - Vice-Mayor Yates, Commissioner Hanks, Commissioner McDowell and Commissioner Luke

There was a unanimous consensus to have the City Manager invite the elected representatives for a tour of the City and schedule a presentation at a Commission meeting to discuss legislative priorities inviting the representatives to participate, as soon as possible.

B. [18-772](#) Axon Field Trial Agreement for Body Worn Cameras

City Manager Lear introduced Police Chief Garrison who provided an update of the item.

Discussion ensued: (1) it was explained there are blanks in the agreement because they need to meet with the vendor and discuss options, initially ten to 12 body worn cameras will be deployed, that is the maximum number of cameras for the trial period; (2) the recordings are subject to sunshine laws, the videos will be uploaded into the cloud through a program provided by the vendor, and the information will continue to be available to the City even if a different vendor is selected; (3) there is not a fee to extend the trial period and it's not expected to go beyond 30 days; (4) the cameras will be worn by two patrol officers per shift and both K-9 officers, the cameras will remain with those officers during the 30-day trial period; (5) legal aspects are being reviewed for final approval by the City Attorney's office, policy can be tweaked as the program evolves; (6) it was explained that the Commission needs to give approval of the agreement to start the trial period. There was no public comment.

A motion was made by Commissioner McDowell, seconded by Commissioner Luke, to approve the agreement with Axon and the City of North Port for the field training for the body worn cameras. The motion carried by the following vote, with Mayor Carusone absent:

Yes: 4 - Vice-Mayor Yates, Commissioner Hanks, Commissioner McDowell and Commissioner Luke

Mayor Carusone joined the meeting at 9:47 a.m.

Recess 9:47 a.m. - 9:57 a.m.

Present: 5 - Mayor Vanessa Carusone, Vice-Mayor Linda M. Yates, Commissioner Christopher Hanks, Commissioner Debbie McDowell and Commissioner Jill Luke

A. [18-757](#) Fence Height Measurement Discussion with Possible Action

Discussion ensued: (1) it was noted that the maximum height for a residential fence is six feet and commercial is eight feet, a suggestion was made to allow for a residential fence to be eight feet high and change the allowable hedge height; (2) it was suggested that fence or hedge height be based on elevation; (3) concern was expressed for the limitations listed within an easement that may not be necessary, it was suggested that staff explain what the City does to maintain an easement, and that a fence or shed should be allowed in the easement; (4) a suggestion was made to correct the typo in section (2)(b), it should reference subsection (4), not (5); (5) drainage, utility easements and their legalities were explained, some easements vary based on lot size; (6) there is a process to request a vacation of easement or a partial vacation and those are looked at case by case, there are some areas where the easement must remain; (7) concern was expressed to not make a blanket rule where each vacation request is already handled case by case; (8) Fire Chief Titus expressed concern about fencing, sheds or obstructions in the easement that can make it difficult to respond in an emergency; (8) it was suggested that language regarding owner responsibility as stated in (vii)(f) should apply to hedges and fences; (9) it was noted there is conflicting language in section 53-240 and the regulation requirements regarding setback; (10) this item will be addressed before the Unified Land Development Code (ULDC) rewrite occurs; (11) there was discussion regarding elevation and it was suggested that fence height be eight-foot from the elevation of the home, and that there could be a 15 to 16-foot-tall fence; (12) it was suggested to remove hedge height requirements with the understanding if the Fire Department needs access they may remove or drive over hedges; (13) it was noted that the current regulation provides for different fence height requirements for front, side and back yards; (14) a suggestion was made that the new fence height be allowed all the way around the house; (15) it was explained that the lower fence requirement in the front is for visibility and safety; (16) the landscaping code should be updated if necessary to reflect changes being made today; (17) Mayor Carusone summarized changes: [a] allow an eight-foot fence from the house elevation with setbacks equal on all sides; [b] remove the hedge requirements; [c] the landscaping code to match direction given today; [d] setback language in the code should be consistent; [e] staff to bring back a draft ordinance with the revisions within three months; (18) staff will review if this will be put in Property Standards or the ULDC; (19) staff will review the visibility triangle provision for modification; (20) it was noted that berms may need to be addressed; (21) concern was expressed regarding easements, sheds and wells, and that further discussion may be necessary.

A motion was made by Vice-Mayor Yates, seconded by Commissioner Luke, to direct staff to bring an ordinance back to Commission within three months regarding the fence section in the code with the following changes: (1) allow eight-foot fence from the elevation of the house and around all sides; (2) remove hedges from the language; (3) be sure to cross reference the landscaping section of the code bringing any necessary changes there to be consistent; (4) make sure the code is consistent within the language itself; (5) the visibility triangle language is to be reviewed to be consistent with the changes. The motion carried by the following vote:

Yes: 5 - Mayor Carusone, Vice-Mayor Yates, Commissioner Hanks, Commissioner McDowell and Commissioner Luke

Discussion continued: (1) a suggestion was made that when the draft ordinance is brought back the Commission can have a discussion regarding sheds within an easement where a well exists; (2) it was suggested to have a workshop to discuss easements and that the history of the easements should be provided; (3) staff can review the pros and cons of allowing sheds in an easement, not to be included as part of the ordinance, and provide that information to the Commission when sheds are discussed again; (4) a suggestion was made to review the process for what is or is not exempt, and the internal procedures and policies; (5) third-party easements have to be considered in addition to City easements. There was no public comment.

A motion was made by Commissioner McDowell, seconded by Commissioner Luke, to have a workshop or an Agenda item in four to six months, for an overview of the pros and cons regarding placement of sheds in the easement, the current policy and procedures for exemptions, what are the other easements and measurements including third-parties and their coordination. The motion carried by the following vote:

Yes: 5 - Mayor Carusone, Vice-Mayor Yates, Commissioner Hanks, Commissioner McDowell and Commissioner Luke

Mayor Carusone presented Vice-Mayor Yates a plaque acknowledging her service as a Commissioner.

Recess 11:19 a.m. - 11:47 a.m.

D. [18-784](#)

City Code Chapter 46 Article II Division 2 - Noise Regulations

Vice-Mayor Yates provided an overview of the item.

Discussion ensued: (1) it was suggested to remove the exemption and restore the ordinance; (2) there haven't been any code enforcement complaints in the planned development communities since this code exemption, and that only one complaint was made prior; (3) Commissioner McDowell expressed concerns that the exemption was implemented because staff does not have a way to determine the decibel level within a planned development that has a zero-lot line, and that the Community Development District (CDD) and Home Owners Associations should be regulating; (4) a suggestion was made to regulate construction decibel limits based on certain times; (5) it was noted there were two incidents regarding a noise complaint and the second incident had a reading of 60 decibels which is the volume of a conversation; (6) by removing the exemption the HOA will need to act if there is a problem; (7) it was explained that removing the exemption will be the responsibility of the City to enforce, not the HOA. There was no public comment.

A motion was made by Vice-Mayor Yates, seconded by Commissioner Luke, to direct staff to bring back an ordinance amending the City Code Chapter 46 Article II Division 2 removing the exemption "a." from section 46-42(13). The motion carried by the following vote, with Commissioner McDowell dissenting for reasons stated:

Yes: 4 - Mayor Carusone, Vice-Mayor Yates, Commissioner Hanks and Commissioner Luke

No: 1 - Commissioner McDowell

4. PUBLIC COMMENT:

There was no public comment.

5. COMMISSION COMMUNICATIONS:

Vice-Mayor Yates expressed gratitude for serving on the Commission.

There were no other Commission Communications.

6. ADMINISTRATIVE AND LEGAL REPORTS:

There were no Administrative and Legal Reports.

7. ADJOURNMENT:

Mayor Carusone adjourned the North Port City Commission Special Meeting at 12:18 p.m.

City of North Port, Florida

By: _____
Christopher B. Hanks, Mayor

Attest: _____
Kathryn Peto, City Clerk

Minutes approved at the City Commission Regular Meeting this ____ day of _____, 2018.



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes - Final City Commission Special Meeting

CITY COMMISSIONERS
Christopher B. Hanks, Mayor
Debbie McDowell, Vice-Mayor
Vanessa Carusone, Commissioner
Peter Emrich, Commissioner
Jill Luke, Commissioner

APPOINTED OFFICIALS
Peter Lear, City Manager
Amber L. Slayton, City Attorney
Kathryn Peto, City Clerk
Heather Taylor, Deputy City Clerk

Thursday, March 7, 2019

1:00 PM

CITY COMMISSION CHAMBERS

MINUTES APPROVED AT THE 04-09-2019 MEETING.

CALL TO ORDER

The North Port City Commission Special Meeting was called to order at 1:04 p.m. in City Commission Chambers by Mayor Hanks.

ROLL CALL

Present: 5 - Mayor Christopher Hanks, Vice-Mayor Debbie McDowell, Commissioner Jill Luke, Commissioner Pete Emrich and Commissioner Vanessa Carusone

Also Present

City Manager Peter Lear, Assistant City Manager Cari Branco, City Attorney Amber Slayton, City Clerk Katy Peto, Deputy City Clerk Heather Taylor, Police Chief Todd Garrison, Fire Chief Scott Titus, Human Resource Director Christine McDade, Outreach Coordinator Anna Duffey, Planning Division Manager Nicole Galehouse, Senior Planner Heather Hansen, Building Official Rick Hopkins, Public Works Director Julie Bellia and Engineering Division Manager Gerardo Traverso.

The Pledge of Allegiance was led by Commissioner Luke.

1. APPROVAL OF AGENDA – COMMISSION

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to approve the Agenda. The motion carried by unanimous voice vote.

Yes: 5 - Mayor Hanks, Vice-Mayor McDowell, Commissioner Luke, Commissioner Emrich and Commissioner Carusone

2. PUBLIC COMMENT:

Public comment took place from 1:07 p.m. - 1:10 p.m.

Linda Yates: school board meeting and non-conforming use

3. WELCOME OF NEW EMPLOYEES:

A. [19-0126](#) New Employee Acknowledgement

Ms. McDade introduced new employees.

4. PRESENTATIONS: TIME LIMIT OF 15 MINUTES

A. [19-0121](#) Public Utility Advisory Board 2018 Annual Report to Commission

Alicia Phidd, Vice Chair Public Utility Advisory Board, provided an annual report to include board membership, board goals and mission, 2018 achievements including support regarding water quality, hydrant maintenance program, and backflow program, various 2018 projects, community outreach, goals for 2019 including input, support and participation in outreach programs, remain informed, and involved and offer diverse perspective on utility matters.

Ms. Duffy responded to Commission questions regarding the U.S. 41 widening project, manhole locations, funding for increasing outreach, and spoke to recognition received for the "Where's Ricky Campaign".

Victor Dobrin, Chair, Public Utilities Advisory Board, recognized the Utility Department Staff for their efforts with the board and the community.

Ms. Duffy responded to Commission questions regarding board vacancies.

Ms. Phidd responded to Commission questions regarding meeting times, and efficiency and cross training with Ms. Duffy's replacement as Staff Liaison.

B. [19-0131](#) 2019 Department of Public Works Presentation

Ms. Bellia provided a presentation to include number of employees, department divisions, stormwater management plan including drainage system, infrastructure with emphasis on emergency versus urgency, maintenance, plan including water control structures, drainage program including neighborhood rehabilitation by grid, road crossing pipe replacement, outfall lining or replacement, swale full front piping, and tractor crossing pipe replacement, funds dedicated to drainage system, flood reduction study, future canal maintenance and outreach, and responded to Commission questions regarding structure life expectancy and timeline for rehabilitation of Biscayne Boulevard.

C. [19-0182](#) Presentation on Plastic Pollution

Commissioner Luke spoke to her request for this item to be added to the agenda following her attendance at City of Sarasota Commission meeting.

Jana Hoefling and Kat Dillard, Rethinking Plastic, provided a presentation to include their location, BADFive items including clamshell to-go containers, cups, lids and straws, bottles, bags and utensils, plastic problem with one use items and alternatives, plastic in beaches, local data, microplastics, loggerhead hatchlings data, state policies and current litigations, recent proposed bills, summary of actions by other jurisdictions, impacts for

local businesses, and recommendations including watching litigation, collaboration, education and taking action.

Discussion took place regarding social media campaign to give up straws for lent, North Port Friends of Wildlife presentation regarding use of plastics, Rethink Plastic providing Commission with draft letter to Governor for review, and student involvement with the campaign against use of plastic, education, and City of Sarasota upcoming discussion on possible ban on use of plastic on public grounds.

Ms. Slayton responded to Commission questions regarding state preemption from ban on single use plastic and possibility to charge for use of bags.

Ms. Hoefling responded to Commission questions regarding emailing Commission informational links and statutes and why the focus is mainly on plastics versus other items.

Recess was taken from 2:22 p.m. - 2:36 p.m.

5. PUBLIC HEARINGS:

A. [19-0097](#) Commission-directed ULDC Revisions to Fence Height and Location Requirements (TXT-18-296)

Mr. Lear introduced the item and in response to Commission questions, clarified this is not a public hearing.

Commissioner Emrich and Commissioner Carusone returned to the meeting at 2:39 p.m.

Ms. Hansen spoke to concerns with fence height at visibility triangle and sight distance triangle, construction and site development related issues, floodplain issues, concern with measuring fence from ground elevation of the house, the need for a surveyor to measure fence, objective to allow fences to be tall enough to provide yard privacy, and safety issues with visibility when backing out of driveway and reviewed three possible options.

Mr. Traverso spoke to safety issues, site distance, and potential ramifications.

Mr. Hopkins spoke to building code determination of where to measure fence from, liability requirements, need for fences in excess of six feet to be engineered, and cost of engineering.

Ms. Hansen responded to Commission questions regarding differentiating lot lines that are against the road, three-foot and four-foot fence distance from street, 10-foot fence engineering requirement, comparison to other municipalities, current code regarding front yard fence height, and side setbacks when abutting a road.

Mr. Lear responded to Commission questions regarding November 5, 2018 Commission direction to bring back an ordinance.

Ms. Galehouse responded to Commission questions regarding page three of the staff report Part 3. Special District Regulations in reference to application to all zoning districts.

Ms. Hansen continued to respond to Commission questions regarding page four of the

staff report implementing a 15-foot setback, and minimum setback to meet visibility triangle.

Mr. Hopkins provided clarification that the Florida Building Code is based on the International Building Code and responded to Commission questions regarding being stricter in the City's code than the State code, and parts of the Florida Building Code that do not apply and have not been adopted by the City.

In response to Commission questions, Ms. Slayton stated she can bring back information regarding state approval of changes to lessen the building code.

Discussion followed regarding whether there is a need to obtain further information regarding Florida Building Code requirements.

There was a unanimous consensus for the City Attorney to provide additional information regarding Florida Building Code requirements and obtaining state approval.

Ms. Hansen responded to Commission questions regarding shrubbery height limits.

A motion was made by Vice-Mayor McDowell, that Commission adopt Option One, that is the current code, for the front yard of the home.

Discussion took place regarding hybrid of option three with keeping the front at the current requirement in option one, current code setbacks, intent of board to open up property rights of residents, placement of fence in regard to septic location, traffic engineer exemptions, fence transparency, and impact on undeveloped properties.

Ms. Hansen requested clarification from Commission regarding how applying Option 1, 2 and 3 would help the issue of undeveloped properties.

The motion failed for lack of a second.

A motion was made by Commissioner Luke, seconded by Commissioner Carusone, to make a hybrid of Options one, two and three having a 15-foot setback to start the fence in the front yard all the way across and going back the remainder of the way around the property when there is an adjacent road on the side lots thus fulfilling the same regulations as the front yard with a 15-foot setback.

Discussion continued regarding 15-foot setbacks in front yards and average front yard size, option one fence height allowance, setback requirements for fencing higher than eight feet, noting relevance to properties on a street not properties adjacent to a street, clarification of all options, installation of fence from elevation, side and rear areas to be included.

There was no public comment.

The motion carried by the following vote:

Yes: 5 - Mayor Hanks, Vice-Mayor McDowell, Commissioner Luke, Commissioner Emrich and Commissioner Carusone

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, that staff prepare an ordinance for first reading after all legal and other reviews and present to the Planning and Zoning Advisory Board prior to presentation to Commission, with any nuances being addressed in a memorandum. The motion carried by the following vote:

Yes: 5 - Mayor Hanks, Vice-Mayor McDowell, Commissioner Luke, Commissioner Emrich and Commissioner Carusone

Recess was taken from 3:51 p.m. - 4:02 p.m.

6. PROCLAMATIONS AND RECOGNITIONS: TIME CERTAIN AT 4:00 P.M.

A. [19-0053](#) Proclamation, March 2019 Social Work Month

Commissioner Carusone read the National Social Work Month Proclamation into the record and presented it to Janet Carrillo, Social Services Manager.

B. [19-0105](#) Certificates of Appreciation for Lauren Almarode and Norbert Schneider.

Mayor Hanks read the Certificates of Appreciation for Lauren Almarode Art Advisory Board service and Norbert Schneider Planning and Zoning Advisory Board service. The certificates will be mailed.

C. [19-0188](#) Certificate of Appreciation for Shaun Slapp

Mayor Hanks read the Certificate of Appreciation for service as Teen Court Case Manager and presented it Mr. Slapp.

5. PUBLIC HEARINGS CONTINUED:

B. [19-0122](#) Discussion on Research Regarding Potential Expansion of Nonconforming Uses

Mr. Lear introduced this item.

Ms. Galehouse spoke to the item to include prior Commission direction, issues needing to be addressed prior to drafting ordinance to include nonconforming uses within Activity Center One and limitations within the Comprehensive Plan and requested Commission direction.

Ms. Slayton clarified the difference between nonconforming use and special exception, separating commercial business and residential, allowing to protect current businesses in the future, and explained loss of conformity.

Discussion took place regarding the potential of restricting business investments by prohibiting nonconforming expansion, current restrictions on residential properties on U.S. 41, not expanding outside of original footprint, legal implications of allowing different uses for different zoning, not being able to purchase additional property in order to expand and adding a lanai to your property.

Ms. Hansen responded to Commission questions regarding addition of structures in relevance to the requirement of a Comprehensive Plan amendment and changing the code to state fences or sheds less than 200 square feet do not apply.

Discussion continued regarding economic viability, crafting language to allow for expansion, and height restrictions.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to direct staff to work with the City Attorney and City Manager to look at allowing

sheds, fences, lanais, expansion of a home for bedrooms to be allowed in residential nonconforming without expanding the existing property lines or adding additional stories.

Discussion took place regarding property line expansion, further discussion after review, and nonconforming residential in the commercial zone.

The motion carried by the following vote:

Yes: 5 - Mayor Hanks, Vice-Mayor McDowell, Commissioner Luke, Commissioner Emrich and Commissioner Carusone

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to allow nonconforming businesses within the commercial zoning districts to expand within the footprint of their existing property line.

An amendment to the motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, to add "to be brought back at point of the ULDC rewrite". The amendment to the motion carried by the following vote:

Yes: 5 - Mayor Hanks, Vice-Mayor McDowell, Commissioner Luke, Commissioner Emrich and Commissioner Carusone

Discussion took place whether you can apply different standards based on zoning classification.

A vote was taken on the main motion, as amended to allow nonconforming businesses within the commercial zoning districts to expand within the footprint of their existing property line and to be brought back at point of the ULDC rewrite. The motion carried by the following vote:

Yes: 5 - Mayor Hanks, Vice-Mayor McDowell, Commissioner Luke, Commissioner Emrich and Commissioner Carusone

A motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, that nonconforming residential work be brought back at time of ULDC rewrite. The motion carried by the following vote:

Yes: 5 - Mayor Hanks, Vice-Mayor McDowell, Commissioner Luke, Commissioner Emrich and Commissioner Carusone

Discussion took place regarding current nonconforming uses in residential areas in the Agricultural District and ability to sunset.

There was no public comment.

There was a majority consensus to look at what is nonconforming and what has special exceptions within residential for the entire City and look at legality of sunseting special exemptions in residential zones.

7. PUBLIC COMMENT:

There was no public comment.

8. COMMISSION COMMUNICATIONS:

Ms. Galehouse provided clarification regarding Commercial Garden ordinance.

Commissioner Luke reported on Warm Mineral Springs, Utilities, and Atwater Elementary food pantry.

Vice Mayor McDowell reported on attending Government Day at Cranberry Elementary.

Mayor Hanks did not have a report.

Commissioner Carusone reported on Florida League Cities, and federal funding for River Road.

Commissioner Emrich did not have a report.

9. ADMINISTRATIVE AND LEGAL REPORTS:

City Manager did not have a report.

City Attorney did not have a report.

Ms. Peto reported on Charter Review Advisory Board and Youth Council applications.

Discussion ensued regarding modifying language in Youth Council ordinance.

Ms. Branco replaced Mr. Lear on the dais at 5:34 p.m.

Ms. Peto noted applications can be reconsidered after the Youth Council ordinance is reviewed.

There was a unanimous consensus to bring back an ordinance to allow someone who is attending another school but lives in North Port full-time to serve on the Board as an at-large member.

10. ADJOURNMENT:

Mayor Hanks adjourned the North Port City Commission Special Meeting at 5:39 p.m.

City of North Port, Florida

By: _____
Christopher B. Hanks, Mayor

Attest: _____
Kathryn Wong, City Clerk

Minutes approved at the City Commission Regular Meeting this ____ day of _____, 2019.