



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING FEBRUARY 10, 2020

**8:30 AM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Notice is hereby given to all interested parties that if any person should decide to appeal any decision made at the aforementioned meeting of the P&Z Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City Clerk, City of Daytona Beach Shores, at least five working days prior to the meeting.

1. OPENING REMARKS

2. MINUTES

A. Planning & Zoning Minutes Jan. 13, 2020

3. QUASI-JUDICIAL HEARING

A. Zoning Map Amendment RZ12019030: Atlantic Avenue Estates, LLC-Parcel ID 6302-05-07-0150

4. DISCUSSION ITEMS

- A. Ordinance 2020-Tree Removal: Amending the Daytona Beach Shores Land Development Code tree removal exemption provisions consistent with Sec. 163.045, Florida Statutes.
- B. Ordinance 2020-03: An ordinance relating to temporary promotional outdoor activities within City limits.
- C. Board duties and procedures

5. OTHER
6. BOARD COMMENTS
7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
January 13, 2020
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Rick Delange, Member Rose Ann Tornatore, Member Chuck Horion, Member James Lilly, Chairman John Schmitz, Member Van Alder

Staff: City Clerk Cheri Schwab, City Attorney Raymond Branch, Community Services Director Fred Hiatt, and City Planner Stewart Cruz.

2. MINUTES

A. **Planning & Zoning Minutes December 9, 2019**

Ms. Tornatore moved, seconded by Mr. Horion to approve the Planning & Zoning Minutes of December 9, 2019.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6 No = 0).

3. QUASI-JUDICIAL HEARING

A. **Zoning Map Amendment RZ12019030: Atlantic Avenue Estates, LLC-Parcel ID 6302-05-07-0150**

Chairman Schmitz announced the agenda item. City Planner Stewart Cruz explained that the applicant had requested a continuance until next month.

Mr. Alder moved, seconded by Mr. deLange to continue the item until the February 10th meeting.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6 No = 0).

There were two audience members who requested to speak. Mrs. Louise Spence spoke against the project. As she has stated in the past, the neighborhood is a single family community and she felt apartments would not fit in the area. She mentioned the project would produce an increase in traffic and a loss of green space. She did not view the project as economic development for the city. Gary Copeland also spoke against the development. He owns the duplex to the north of the property. He is not happy with the size of the proposed buildings. It originally was rezoned for three single-family homes. It has now changed to two taller apartment buildings.

4. DISCUSSION ITEMS

- A. Comprehensive Plan Amendment CPA12020001: To create a new Future Land Use Goal that would allow the limited expansion of nonconforming single-family residential uses and structures on properties with the High Intensity Future Land Use.

City Planner Stewart Cruz presented his staff report. He reminded the board of the special exception that came before them last August. The project included an expansion of a non-conforming single family residence. The current Land Development Code would not allow it. When it reached the City Council level, they had to deny it. During the discussion, the council requested staff to propose language that would allow expansion in this zoning area. The proposed amendment would allow the four properties in the area to be impacted. The amendment would allow the expansion of single-family residential structures to expand within and up to the existing building footprint of the existing structure but in no case shall expansion extend beyond the existing building height of the highest part of the roof structure. City staff recommended approval. Attorney Robert Riggio explained that he is the new attorney for the applicant. He felt this would remedy the situation for his client.

Mr. Alder moved, seconded by Mr. deLange to recommend approval of Comprehensive Plan Amendment CPA12020001 to the City Council.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6 No = 0).

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Chairman John Schmitz, Member Rose ann Tornatore, Member Van Alder

5. OTHER

6. BOARD COMMENTS

Chairman Schmitz inquired if the board had an policy or procedure regarding the length of time for speakers. He would like to implement the three minute time limit and the signed request form that the City Council used.

MEMBER ALDER moved, seconded by Member HORION to approve the use of a speaker form that limits remarks to three minutes.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6 No = 0).

The Chairman also requested that general meeting rules be presented to the board for consideration.

7. ADJOURNMENT

The meeting ended at 8:59 am.



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AGENDA PLANNING & ZONING BOARD MEETING FEBRUARY 10, 2020

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PLANNING & ZONING BOARD AGENDA MEMORANDUM FEBRUARY 10, 2020 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Zoning Map Amendment RZ12019030: Atlantic Avenue Estates, LLC-Parcel ID 6302-05-07-0150

SYNOPSIS:

NOTE: This item was continued from the previous Planning and Zoning Board meeting at the request of the applicant/owner.

Zoning Map Amendment RZ12019030 application (**Exhibit A**) was submitted to the City on October 17, 2019 by owner/applicant, Atlantic Avenue Estates, LLC. The subject application is a request to change the Official Zoning Map District designation of the property generally located at 3828 S. Atlantic Avenue (PID 6302-05-07-0150) from RMF-3 Multifamily Residential (Low Density) District to RMF-2 Multifamily Residential (Medium Density) District. The former permits up to 12 units per acre while the latter allows up to 35 units per acre. Ordinarily if this change were to be approved, the subject +/-0.71 acre property density entitlement will change from a total of nine (9) units to 25 residential units on the site. However, the applicant has also submitted a concurrent Comprehensive Plan Map and Text amendment that would limit the number of units on the site to 16. The applicant has noted his intention is to construct a total of 16 residential apartments on site in two separate 8-

unit buildings. The east and west buildings will each have separate driveways to S. Atlantic Avenue and Cardinal Boulevard, respectively. There will be no cross vehicular access between the apartments. The applicant has indicated construction will start as soon as government approvals are obtained. It should be noted there has been public opposition to the associated requested land use changes (**Exhibit B**).

FISCAL IMPACT STATEMENT:

The FY2019/2020 Budget has adequate funding to implement all administrative and technical functions associated with the proposed amendment. If approved, the subject property will experience an increase in assessed taxable value subsequent to construction of the proposed development.

BACKGROUND:

Analysis: Community Services Director/Building Official, Fred Hiatt

The subject property was previously rezoned to RMF-3. Per 14-20.1 of the City's Land Development Code, the purpose and intent of the RMF-3 zoning is to provide some low density multifamily that can abut single-family zoning districts. In my opinion the previous rezoning was consistent with the city's zoning. However, the requested zoning (RMF-2) is not intended to directly abut single-family districts. Hence, the reason this language is omitted from the RMF-2 Purpose and Intent (14-19.1).

Further, I'm not convinced the application meets the city's zoning criteria and minimum standards. Specifically, I'm concerned with Item #'s 12 and 13 found in the staff report. I don't see evidence in the application demonstrating how this change benefits anyone other than the property owner. The RMF-2 zoning would triple the allowable density from 8 units to 25 units. Even if the property owner agrees to limit the number of units to 16, it is still twice as many. Because the majority of this property directly abuts single-family (on three sides), I cannot support this request. In the future, if rezonings continue southward from the Ocean Terrace Club, it may be more appropriate, then, but not now.

Planning Analysis: See **Exhibit C** attached.

LEGAL REVIEW:

The City Attorney will provide comments, if any, during the public hearing.

RECOMMENDATION:

Staff has varying recommendations regarding the subject application and will be prepared to answer any questions the Board may have.

SUGGESTED MOTION:

A Planning and Zoning Board member may move as follows:

1. "I move to recommend approval of RZ12019030 as presented"
OR

2. "I move to recommend approval of RZ12019030 with the following conditions..."

OR

3. "I move to deny the application on the basis of the following "

- ATTACHMENT:**
1. Exhibit A-Application and Zev Cohen Analysis
 2. Exhibit B-Public Comments
 3. Exhibit C-RZ212019030 Atlantic Avenue Estates S. Atlantic Rezoning (P&Z Staff Report)
 4. Ord. 2019-ZZ-RZ Atlantic Ave Estates



City of Daytona Beach Shores
Building & Codes Division
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377

pd \$ 110.00
+ 70.40
180.40
ck# 5914
402437

12019030

APPLICATION TO AMEND ZONING MAP

The Undersigned Applicant requests the Planning and Zoning Board and City Council to decide upon this application in accordance with Section 14-66 and 14-67 of the Land Development Code.

FEES MUST BE PAID AT THE TIME THE APPLICATION IS SUBMITTED

Date Submitted: 10/17/2019

Current Zoning: RMF - 3

Requested Zoning: RMF

Applicant's Name: Atlantic Avenue Estates LLC

Address: 133-15 Beach Channel Drive
Rockaway Park, NY, 11694

Phone #: 718-236-6065

Representative: Zev Cohen & Associates, Inc.

Address: 300 Interchange Blvd. Suite C
Ormond Beach, Florida 32174

Phone #: 386-677-2482

Property Address & Parcel ID: No assigned address - VC PID: 6302-05-07-0150

Property Owner: Atlantic Avenue Estates LLC

NOTE: If applicant is not property owner, attach a notarized statement of authorization

Legal Description of Property:

Lots 14, 15 & 16, Block 7, Ocean View Section of Halifax Estates per Map Book 11,

Page 100 per the Official Records of Volusia County, Florida (1612 PG 0174 per or

4705 PGS 2478-2479 per OR 5532 PG 4310)


Applicant's Signature

10/17/19
Date

THE PLANNING & ZONING BOARD WILL APPLY THE CRITERIA IN SECTION 14-66(4) OF THE LAND DEVELOPMENT CODE WHEN CONSIDERING ZONING MAP AMENDMENTS. PLEASE EXPLAIN HOW YOUR REQUEST MEETS THE FOLLOWING CRITERIA: (YOU MAY ATTACH ADDITIONAL SHEETS)

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

Please refer to the attached analysis regarding the responses to this criterion

402437

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

Please refer to the attached analysis regarding the responses to this criterion

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

Please refer to the attached analysis regarding the responses to this criterion

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

Please refer to the attached analysis regarding the responses to this criterion

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment

Please refer to the attached analysis regarding the responses to this criterion

6. The proposed zoning is basically consistent with the comprehensive land use plan.

Please refer to the attached analysis regarding the responses to this criterion

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

Please refer to the attached analysis regarding the responses to this criterion

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

Please refer to the attached analysis regarding the responses to this criterion

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

Please refer to the attached analysis regarding the responses to this criterion

10. Would the proposed changes constitute "spot zoning"?

Please refer to the attached analysis regarding the responses to this criterion

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

Please refer to the attached analysis regarding the responses to this criterion

12. Is the change solely for the benefit of the owner and to the detriment of the community?

Please refer to the attached analysis regarding the responses to this criterion

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

Please refer to the attached analysis regarding the responses to this criterion

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

Please refer to the attached analysis regarding the responses to this criterion

402437

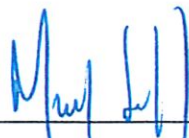
11/17/2019
BLUES
CITY OF PORTLAND, OREGON

LETTER OF AUTHORIZATION

Re: Atlantic Avenue Estates, LLC

To Whom It May Concern:

Please be advised that Zev Cohen & Associates, Inc., is our Civil Engineer/Landscape Architect for the above referenced project. In this regard, this letter authorizes Zev Cohen & Associates, Inc., to act as our agent for and with all regulatory agencies, departments and their respective personnel, in an effort to receive all governmental approvals and permits necessary for the construction and development of Parcel 630205070150 located in Daytona Beach Shores, Florida.

By:  Date: 10/11/2019

STATE OF New York
COUNTY OF Kings

The foregoing instrument was acknowledged before me this 11 day of October, 2019 by Mark Schanck. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 11 day of October, 2019.

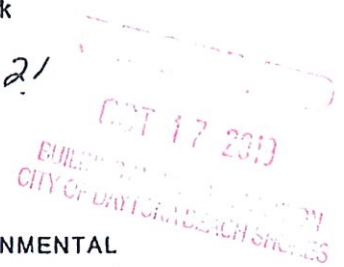


My commission expires: June 13 2021

MK/ns
15200009
cc:

MICHAEL J. DONOHOE
Notary Public, State of New York
No. 01D08128399
Qualified in Kings County
Commission Expires June 13 2021

CIVIL ENGINEERING • TRANSPORTATION • ENVIRONMENTAL
LANDSCAPE ARCHITECTURE • PLANNING


OCT 17 2019
BUILDING DEPARTMENT
CITY OF DAYTONA BEACH SHORES

402437

ATLANTIC AVENUE ESTATES FLUM & ZONING ANALYSIS

Requested Action:

The applicant is requesting an amendment to the City of Daytona Beach Shores Future Land Use Map for this vacant 0.71± acre property located on the west side of South Atlantic Avenue, approximately 670 feet south of the Amelia Avenue intersection with Atlantic Avenue. The property has 150' of frontage on both South Atlantic Avenue and Cardinal Boulevard. The Property is current designated "Low Density Residential" and is zoned RMF-3. The applicant is requesting a "Medium Density Residential" Future Land Use designation which allow up to 35 units per acre. However the applicant is proposing a text amendment to the Future Land Element that will restrict the permitted density on the subject property to no more than 16 units. The applicant is proposing to rezone the property to RMF-2.

Proposed Development:

The applicant plans to develop two 8-unit 2-story multifamily buildings in 2 phases. One building will face South Atlantic Avenue the other building will face Cardinal Boulevard. Each building will have its own parking.

Comprehensive Plan Amendment Analysis

The following provides a discussion of land use compatibility and a summary of the potential impacts on infrastructure resulting from the change in land use. There is also a discussion on how the proposed amendment is consistent with the requirements of the City of Daytona Beach Shores Comprehensive Plan.

1. Surrounding Land Uses

The area shown below depicts the existing development nearby (within 500' of the center of the property) the subject property. The area is a mixture of single family homes, duplexes and large multi-family residential land uses. Table 1 summarizes the land uses in the area. It is apparent from the table and aerial map that amending the Future Land Use Map will not introduce an incompatible use that will have a negative impact on surrounding uses, given the existing mix of residential land uses.

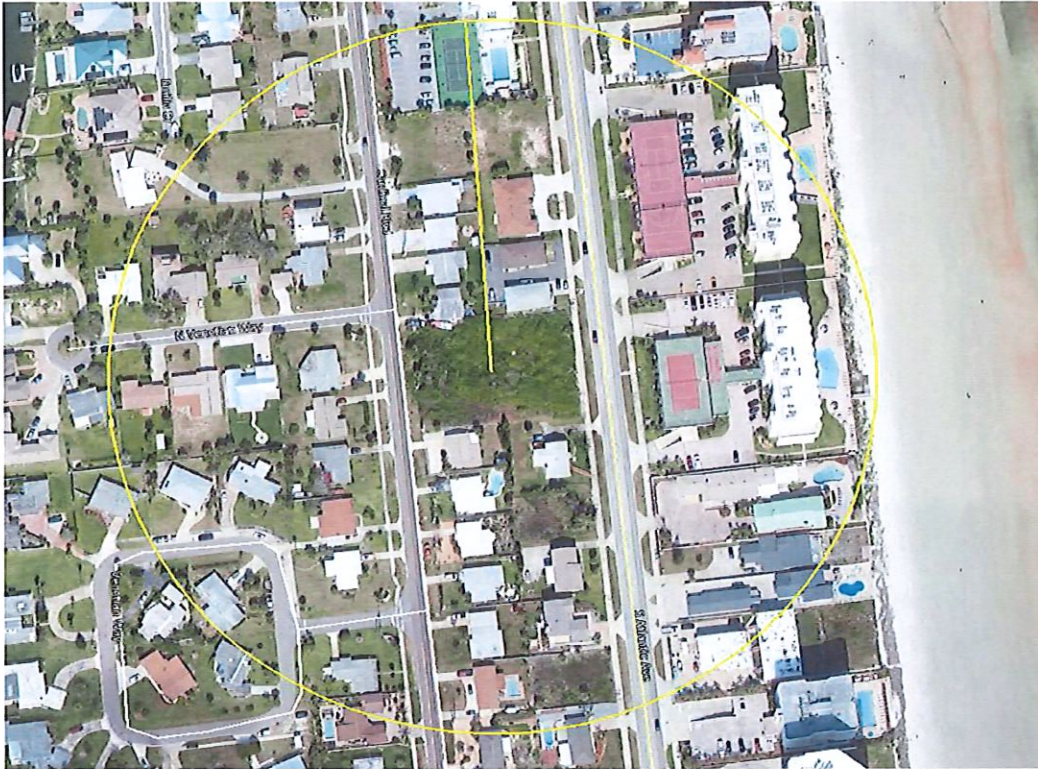


Table 1. Nearby Land Uses

Location	Future Land Use Designation	Existing Use
South	Low Density Residential, High Intensity Use & VC Urban Low Intensity	Single-Family & Multi-family Residential
East	High Intensity Use	Multi-family Residential
North	VC Urban Low Intensity & DBS Medium Density Residential	Duplexes & Multi-family Residential
West	VC Urban Low Intensity	Single-Family Residential

2. Public Facility Impacts

Potential Development Impact on Infrastructure: The following summarizes the difference in the demand for services between the current land use and the proposed amendment. The current land use designation is Low Density Residential (LDR). The LDR allows up to 12 units per gross acre. Based on the current land use and property size, the projected maximum development on the subject site could be eight (8) dwelling units. The proposed land use designation is Medium Density Residential (MDR). The MDR allows a gross density in a range of 12.1 and 35 units per acre. Based the property size, the projected maximum density is 24 dwelling units. However the applicant is proposing to restrict the density to no more than 16 units.

Demand coefficients are based on the Daytona Beach Shores concurrency management regulations. Please be aware that this analysis does not vest the project and that a further review for concurrency is required by the City prior to issuance of the development order for the project.

Table 2. Facility Demand Comparison

Public Facility/Service	Current Land Use/Zoning Demand	Proposed Future Land Use/Zoning Designation Demand
Potable Water*	2,222 gpd	4,444 gpd
Sanitary Sewer	2,000 gpd	4,000 gpd
Stormwater	Attenuation and treatment for 24-hour, 25 year event	
Solid Waste Collection	80 lbs./day	160 lbs./day

*Potable water is overly estimated in order to be consistent with projected sanitary sewer demand.

Table 2 shows the demand for services needed to accommodate the proposed change in land use. Per the Daytona Beach Shores Comprehensive Plan there must be adequate capacity available to serve the project at time of construction. Table 3 provides a summary of the capacity and capabilities of the City of Daytona Beach Shores to provide the required services to the property based on the amended Future Land Use Map.

Table 3. Facility Capacity Analysis

Public Facility/Service	Capacity
Potable Water	Net impact is an increase of 2,222 gallons per day. There is adequate capacity with both water supply and treatment for the proposed amendment.
Sanitary Sewer	Net impact is an increase of 2,000 gallons per day. There is adequate capacity for treatment and disposal of sewage.
Stormwater	Development of the site requires more intensive treatment of stormwater on-site prior to discharge into the existing system. Pre- and post-development flow and rate will be maintained. Stormwater treatment shall comply with federal, state and local requirements.
Solid Waste Collection	This reflects a net increase of 80 pounds per day and there is capacity at the Volusia County landfill.

The demand for potable water and sanitary sewer increases with the proposed amendment and there is adequate supply, treatment and distribution available to serve the proposed increase in intensity. Please note that the estimates are based on concurrency standards from the City of Daytona Beach Shores Comprehensive Plan and Land Development Code, which may overestimate the demand. The actual demand will be a function of the final design and occupancy, which is expected to be considerably less than the demand estimates in this memo. The stormwater standards will require approval from St. Johns River Water Management District (SJRWMD), as well as the City of Daytona Beach Shores. The permitting by SJRWMD and the City of Daytona Beach Shores will ensure that the amount and rate of flow of stormwater from the site is maintained at the pre-development levels and the stormwater quality is improved so as to limit potential for pollution of nearby bodies of water.

Traffic Impacts

A Traffic Impact Analysis (TIA) is not required for the proposed rezoning since the projected traffic will not trip the thresholds established by the City and the River to Sea Transportation Planning Organization (R2CTPO). ZCA completed a preliminary analysis of the transportation impact in order to compare the potential impacts resulting from the proposed Future Land Use Map amendment and rezoning. The analysis shows that under the current land use it is estimated to generate 77 daily two-way trips and 8 PM peak hour trips at build out. The proposed use is projected to 118 daily two-way trips and 9 PM peak hour trips. The net increase of trips at build out will be 41 daily two-way trips and 1 PM peak hour trips that will be distributed on the road network. This means that the transportation demand, specifically the amount of traffic traveling to and from the site, will increase. The following table reflects that the proposed amendment will not have any significant impact on the arterial roads serving the subject area since there is more than adequate capacity. Please note that the City will conduct a formal concurrency review prior to the issuance of the final site development permit.

Table 4. Traffic Impact Analysis

Use	ITE Code	Units	Daily Trip Rate	PM Peak Hour Rate Volume	Estimates Daily Trips	Estimated PM Peak Hour Trips
Single Family Home	210	8 SFDU's	9.57	1.01	77	8
Multi-family Low Rise	220	16 DU's	7.32	.56	118	9

Table 5. Transportation Network Summary

Road	From	To	2018 ADT	LOS Volume	Excess Capacity?
South Atlantic Avenue	Phyllis Avenue	Marcelle Avenue	9,970	14,740	Yes
Cardinal Boulevard	Demotte Avenue	Marcelle Avenue	5,190	13,640	Yes

Consistency with Adopted Comprehensive Plan

The Daytona Beach Shores Comprehensive Plan contains several elements that address a variety of issues. The revision of the future land use map typically involves the Future Land Use, Transportation, Utilities and Capital Improvements Elements. Other elements, such as Coastal Management, Conservation and Parks and Recreation, are not impacted by the proposed amendment.

Overall, the addition of a medium density residential development provides for a cohesive land use pattern. The proposed land use change & rezoning will facilitate the development of a vacant lot that is surrounded by existing residential and tourist land uses. The in-fill development will help in reducing the amount of vacant properties within Daytona Beach Shores. The final site plan will incorporate all any needed expansions of City facilities to meet the demand associated with the proposed development. The following lists specific goals, objectives or policies that show that the proposed Future Land Use

Map Amendment and Official Zoning Map Amendment are consistent with the adopted Comprehensive Plan:

Chapter 1. Future Land Use Element

GOAL 1-1: Effectively manage future development by designating appropriate areas for new growth that does not compromise environmental integrity, is responsive to market needs and is consistent with sound land planning practices.

Objective 1-1.1: Future growth will be managed through the preparation, adoption and implementation of a land development code that is compatible with the land use proposals set forth in this Element and coordinated with the availability of municipal facilities and services. Future land development in the City shall discourage urban sprawl through the designation of appropriate densities (see Policy 2 under this Objective) that will retain the compact development already in place. All future development in the City shall be required to maintain at least a 50-foot setback from the existing Coastal Construction Control Line (CCCL). With this, as well as adherence to the regulations being promulgated by the Department of Environmental Protection in the establishment of the new CCCL, new development shall be protected from any storm surge that occurs as a result of tropical storms that impact the area. This objective shall be measured through the implementation of the following policies.

Policy 1-1.1.2: Maintain and enforce land development regulations consistent with the following standards:

1. Residential

- a. Low Intensity: up to 4 units per gross acre
- b. Low Density: up to 12.0 units per gross acre
- c. Low Density-Riverside: between 12.1 and 15 units per gross acre. Properties shall be developed as a planned unit development (PUD) and meet the following designation criteria: (i) land shall abut the Halifax River, (ii) land shall have a minimum parcel size of three (3) acres, (iii) land must be served by public infrastructure including but not limited to potable water and wastewater lines, and (iv) land shall have direct access to a major thoroughfare.
- d. Medium Density: between 12.1 and 35.0 units per gross acre
- e. High Density: between 35.1 and 60 units per gross acre (site specific density to be controlled by Land Development Code)

Policy 1-1.1.3: Maintain and enforce land development regulations consistent with the location and extent of land uses as discussed within the Element and indicated on the Future Land Use Map. To this end, the map that accompanies the new Land Development Regulations shall reflect the Future Land Use Plan Map 2020, in terms of ensuring that zoning districts shall be consistent with the map. All new development and redevelopment activities shall be required to be consistent with the zoning district classifications.

Chapter 5. Coastal Management Element

Policy 5-1.5.5: The City shall require that all infrastructure is available to serve development or redevelopment in its coastal area at the densities proposed in the Future

Land Use Element, consistent with coastal resource protection and safe evacuation, by assuring funding for infrastructure that will be phased to coincide with the demands generated by development or redevelopment. The City recognizes that its entire land area falls within the Hurricane Vulnerability Zone. Therefore, it has a policy that it has already adopted through its building code that requires all new development to be built to withstand hurricane force winds. This policy shall remain in effect throughout the planning period.

Consistency with the Florida Administrative Code

The 2011 the Florida Community Planning Act repealed Rule 9J-5 F.A.C.

Consistency with the Volusia County Growth Management Consistency Rules

The proposed amendment is consistent with the requirements and will be submitted in accordance with the rules established by the VGMC for determination of consistency for small-scale amendments.

Zoning Review Criteria

The City of Daytona Beach Shores Land Development Code includes provisions in Chapter 82, Article V, Division 5, Sections 83-372 and 374 that require the Board of Planning and Appeals and City Commission to consider the following criteria in its review of each application. The following summarizes the criteria and applicant's response in support of the proposed change to the Official Zoning Map.

The following are the criteria established in the City of Daytona Beach Shores LDC pertaining to amendment to the Official Zoning Map. These are the standards to be used by the Planning and Zoning Board in the review of applications to amend the Official Zoning Map.

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The subject property is a .71 acre vacant lot that is surrounded by developed property. A review of geographical information system (GIS) data from Volusia County and St. Johns River Water Management District reveals no indicators of significant natural resources that require preservation or conservation of the land. There should be no impacts to the environmental and natural resources in the area.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

The subject property is vacant and is not being used for its highest and best use. The rezoning to RMF-2 will allow for the development of a medium density residential development that is compatible with the surrounding uses. This will increase the taxable value of the property.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

The proposed rezoning will allow development of the property with 16 units that will have minimal impact to the infrastructure and facilities of the City.

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

The development of the property with 16 units will have minimal impact on the road network in the area and will not result in the traffic to exceed the adopted levels of service.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

The development of the property with 16 units will provide additional housing that is primarily in-fill development that is in close proximity to non-residential areas that provide for employment opportunities.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

The rezoning of the property is consistent with the proposed amendment to the Future Land Use Map and the overall goals, objectives and policies contained in the adopted Comprehensive Plan.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

Properties adjacent to Atlantic Ave are no longer a desirable location for low density residential growth.

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

No mistakes were made with the original zoning of the property.

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

Future Land Use Map Amendment and rezoning will provide the opportunity to develop the vacant land for a residential development that is compatible and consistent with the character of the area. This will have a stabilizing effect on the surrounding area and support commercial activity.

10. Would the proposed changes constitute "spot zoning"?

No the proposed change will not constitute spot zoning since there are multiple zoning classifications assigned to all of the adjoining properties.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

The proposed rezoning will not allow for a "totally different" use and will not violate the integrity of the zoning classification. The proposed zoning is consistent with the surrounding residential development and provides for a reasonable use that is located immediately across from the multi-family tourist use developed on the east side of South Atlantic Avenue

12. Is the change solely for the benefit of the owner and to the detriment of the community?

While the property owner certainly hopes to benefit from the use of his property, it will not be at the expense of the community. The development of this vacant site as medium density residential will add to the tax base and provide increased customer base to support commercial activity in the City.

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

No, the proposed rezoning will not suit the applicant's special purpose and the proposed land use and zoning is consistent and compatible with the surrounding developed area. This is an in-fill project that will help the City in fostering redevelopment on the west side of A1A.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

The proposed development is consistent and compatible with the residential development in the area. It will not diminish the value of surrounding properties and it will not substantially alter the characteristics of the neighborhood

Summary

- The proposed amendment to the City's Future Land Use Map is consistent with the adopted Comprehensive Plan and is compatible with the surrounding land uses.
- The rezoning to RMF-2 is consistent with the proposed amendment to the Future Land Use Map and provides for a compatible use of the property.
- The analysis shows that the theoretical increases in the demand for urban services can be adequately addressed and there is no need for expansion of these facilities in order to serve the

proposed development of the site. A detailed concurrency evaluation will be performed prior to the City of Daytona Beach Shores issuing a development permit.

- The proposed rezoning is generally consistent with the goals, objectives and policies contained in the adopted City of Daytona Beach Shores Comprehensive Plan.
- The proposed rezoning to RMF-2 complies with the requirements contained in *City of Daytona Beach Shores Code of Ordinance, Appendix G, Land Development Code, Chapter 14, Article IX-Planning and Zoning Board, Section 14-66, Supplementing or Amending the Zoning Ordinance.*

Exhibits

Aerial Location

Existing Future Land Use Map

Proposed Future Land Use Map

Existing Zoning

Proposed Zoning

Photos of Site

LEGEND

City Limits



Subject Site (0.71 Acres)



CR 4075 (ATLANTIC AV S)

ATLANTIC SHORELINE

Port Orange

Daytona Beach Shores

VENETIAN WAY N

Subject Site

CARDINAL BLVD

VENETIAN WAY

Date Saved: 9/27/2019

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Path: Z:\PROJECTS\2015\15200\Aerial Map(2).mxd

100 50 0 100 Feet

Aerial Map
Atlantic Avenue Estates LLC
S. Atlantic Avenue



300 Interchange Blvd
Ormond Beach, FL 32174
ph 386-677-2482

LEGEND

-  City Limits
-  Subject Site (0.71 Acres)
- FLU - Daytona Beach Shores**
-  High Intensity Use
-  Low Density Residential
-  Medium Density Residential
- FLU - Volusia County**
-  Urban Low Intensity



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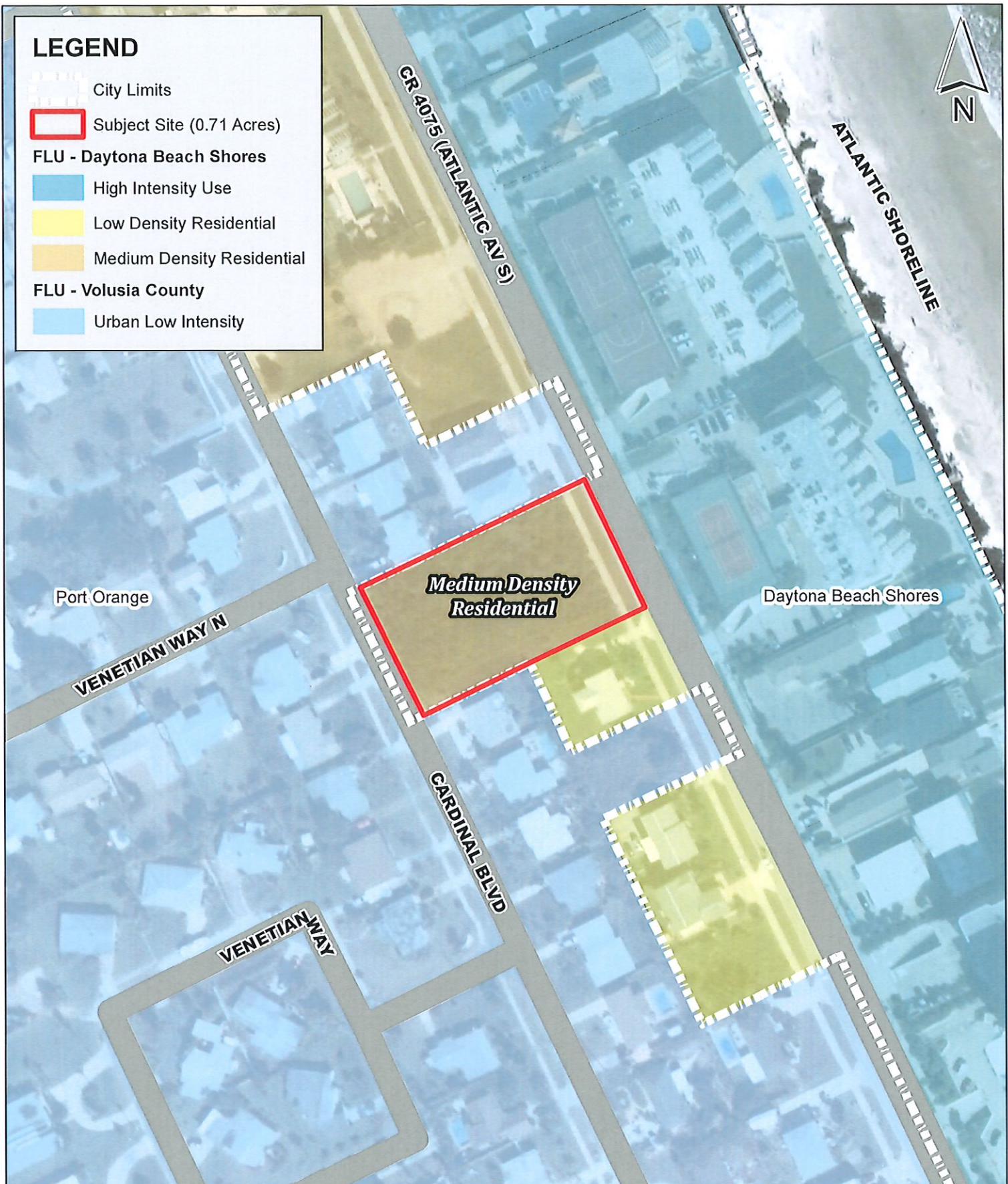
FLU Map - Existing
Atlantic Avenue Estates LLC
S. Atlantic Avenue



300 Interchange Blvd
Ormond Beach, FL 32174
ph 386-677-2482

LEGEND

-  City Limits
-  Subject Site (0.71 Acres)
- FLU - Daytona Beach Shores**
 -  High Intensity Use
 -  Low Density Residential
 -  Medium Density Residential
- FLU - Volusia County**
 -  Urban Low Intensity



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FLU Map - Proposed
Atlantic Avenue Estates LLC
S. Atlantic Avenue



300 Interchange Blvd
Ormond Beach, FL 32174
ph 386-677-2482

LEGEND

 City Limits

 Subject Site (0.71 Acres)

Zoning - Daytona Beach Shores

 Hotel/Motel - Multifamily Residential (High Density)

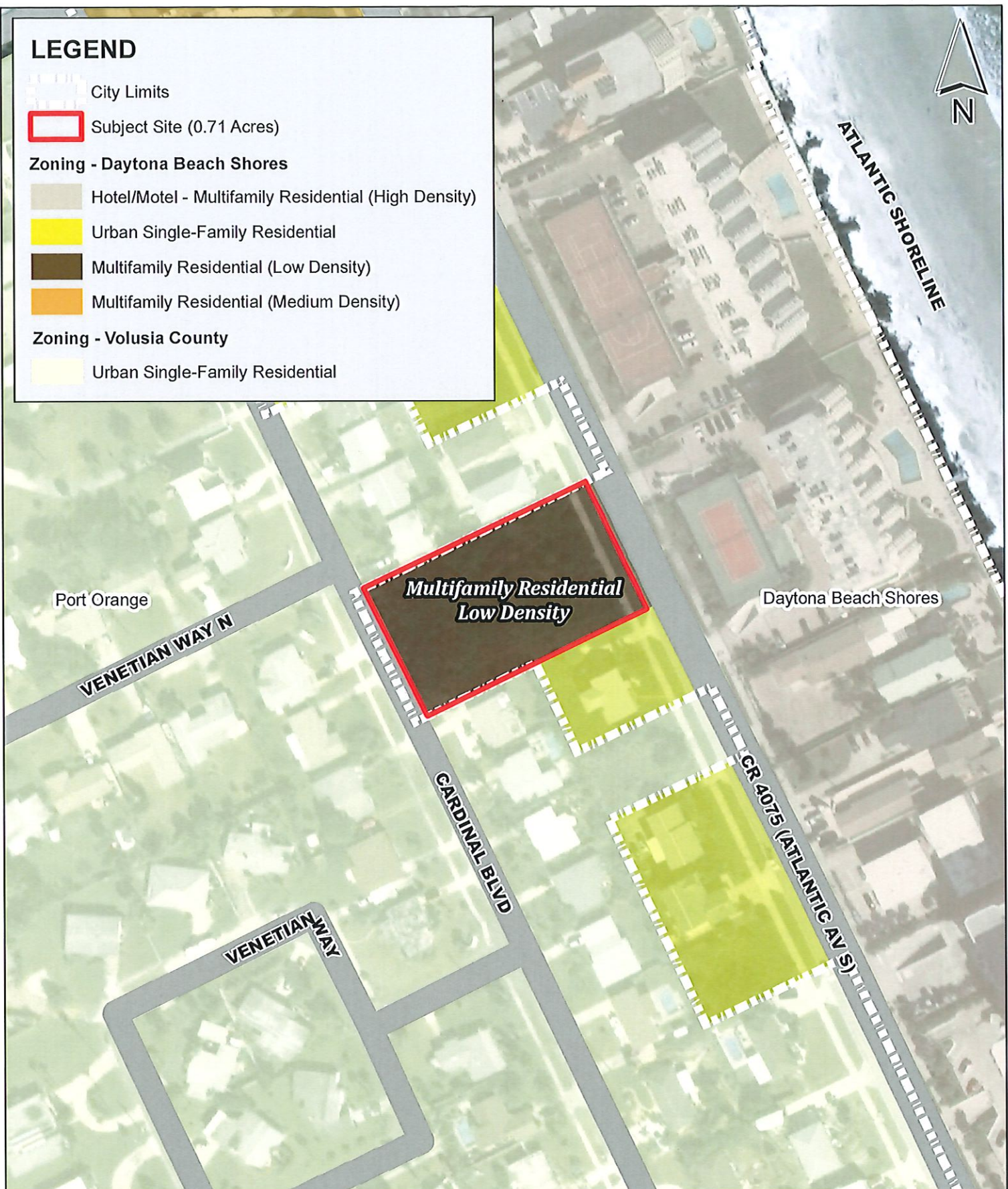
 Urban Single-Family Residential

 Multifamily Residential (Low Density)

 Multifamily Residential (Medium Density)

Zoning - Volusia County

 Urban Single-Family Residential



Date Saved: 10/17/2019

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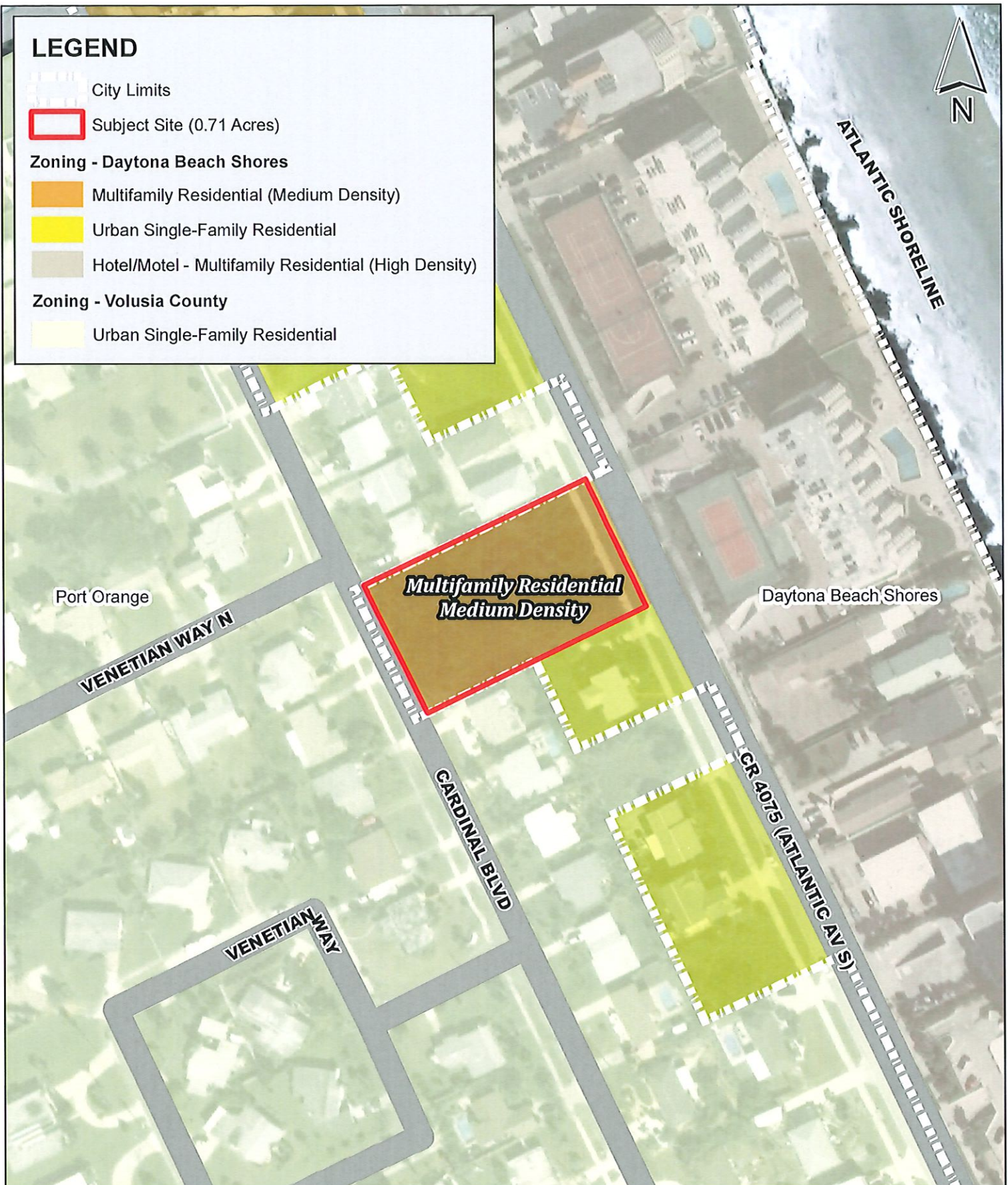
Zoning - Existing
Atlantic Avenue Estates LLC
S. Atlantic Avenue

 **ZEV COHEN**
& ASSOCIATES INC

300 Interchange Blvd
Ormond Beach, FL 32174
ph 386-677-2482

LEGEND

-  City Limits
-  Subject Site (0.71 Acres)
- Zoning - Daytona Beach Shores**
 -  Multifamily Residential (Medium Density)
 -  Urban Single-Family Residential
 -  Hotel/Motel - Multifamily Residential (High Density)
- Zoning - Volusia County**
 -  Urban Single-Family Residential



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Zoning - Proposed
Atlantic Avenue Estates LLC
S. Atlantic Avenue

ZEVC **COHEN**
& ASSOCIATES INC

300 Interchange Blvd
Ormond Beach, FL 32174
ph 386-677-2482



South Atlantic Avenue looking towards southwest



South Atlantic Avenue looking towards northwest



Cardinal Boulevard looking towards southeast



Cardinal Boulevard looking towards southwest

Cruz, Stewart

From: Cruz, Stewart
Sent: Tuesday, December 10, 2019 4:08 PM
To: Andy Anderson
Cc: Hiatt, Fred; Michael Booker
Subject: RE: Recommendation for Rezoning of Cardinal/Atlantic Property
Attachments: P&Z Staff Report.pdf; Exhibit B-Atlantic Avenue Estates-Application.pdf; P&Z Exhibits.pdf; EXHIBIT A.pdf

Dear Mr. Anderson,

Thank you for your inquiry. Please feel free to voice your concerns at any future public hearing you may attend. Please also find below in underline format responses to your inquiries. If you have further questions or would like to discuss in person please do not hesitate to contact me. Thank you.

Stewart Cruz, AICP
City Planner
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Tel. # 386.763.5361
Fax. # 386.763.5370

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From: Andy Anderson <andy@rere.com>
Sent: Monday, December 9, 2019 1:38 PM
To: Cruz, Stewart <scruz@cityofdbbs.org>
Subject: Recommendation for Rezoning of Cardinal/Atlantic Property

Dear Mr Cruz,

I attended the public hearing this morning regarding the rezoning of a property from low intensity to medium intensity. I am outraged that you as a staff member and the Board working in the best interests of the City of Daytona Beach Shores can reasonably decide that his rezoning can, to paraphrase the City slogan, make "Life Better Here"!

I would appreciate an email containing the information and recommendations that were proposed at this hearing. See attached.

My family and I have lived on Venetian Way since 2000. The subject property is five lots to the north of my access onto Cardinal. I was not aware of the progress on rezoning this lot. I am a Volusia County resident. This will directly affect my life and property.

I need clarification of some observations I believe were stated in your presentation;

There was a map of the area in which the subject property was in yellow and the surrounding area was in white showing that it is County control. How can the City of Daytona Beach Shores make a decision that has a larger effect on these surrounding county residents than it does any Daytona Beach Shores residents? Local governments in the state of Florida are authorized pursuant to Chapter 163 of the Florida Statutes to make decisions regarding land use changes

within its jurisdictions. However, Future Land Use (Comprehensive Plan) Amendments will also be evaluated by various state agencies and the Volusia Growth Management Commission (VGMC) for impacts on a large resource, community and infrastructure system basis. Under Florida Law and County Charter, the aforementioned amendment does not become effective/legal until such time that the state agencies and VGMC approval is obtained. This does not make Life Better in this neighborhood! The only people benefiting from this rezoning is the Developer and his Agent and Daytona Beach Shores tax coffers.

In your presentation, staff conclusion was that changes are "not consistent but compatible" to the surrounding area? Will you explain how changing the zoning to medium density on a property that is surrounded with low density can be "compatible". I agree that it is not consistent. Consistency generally means matching (exactness) land use whereas compatible refers to the ability in which dissimilar land uses can co-exist. Therefore, based on the residential land use categories that the City has, low density and medium density would be considered compatible whereas low density and high density would not. Because the number of units on this site would be restricted to 16 (vs the 25 which the change would ordinarily permit), and because of the mixture of residential uses in the immediate vicinity (condo, vacation rental, single family and duplexes) staff determined the proposed change with the restriction to 16 units was compatible. Of course, the City Council may wholeheartedly disagree.

There was also discussion between you and the Board regarding the fact that the developer is limiting the number of units to 16 when it will be approved for 25. "Things change over time" was expressed, and a Board member stated to the affect of "we certainly hope that this is built quickly". Will there be verbiage added in the amendment limiting the increase to 16 units IF this amendment is changed. If approved, yes. Expecting the Developer to limit himself is delusional.

The observation by one of those speaking in opposition that there will be significant negative visual impact to the neighborhood is valid. I drive Cardinal Cardinal everyday, the trash on the side of the road by apartments in the area is undeniable. If these apartments are in Shores please let me know and we will have Code Enforcement deal with the issue right away.

I look forward to your response and will speak with you in the future. I can either pick up materials from the Shores office or receive digitally

Sincerely,

Brian Anderson

114 Venetian Way

386-566-2760

Andy@ReRe.com

Cruz, Stewart

From: Fernando Castellanos <fcastellanos@diocesan.com>
Sent: Monday, December 9, 2019 3:15 PM
To: Cruz, Stewart
Subject: RE: 3824 and 3832 Atlantic Complaints

Dear Stewart, thank you for your quick response, I am surprise you answer my e-mail I thought I was writing to a computer I am so glad you answer me.
Thank you and God Bless

Fernando Castellanos

Sales Representative

FCastellanos@Diocesan.com

407.955.2815

DIOCESAN
Catholic Life

Do your parishioners have a favorite parish?

FIND OUT >>

From: Fernando Castellanos [<mailto:fcastellanos@diocesan.com>]
Sent: Monday, December 9, 2019 11:45 AM
To: 'scruz@cityofdb.org'
Subject: 3824 and 3832 Atlantic Complaints

To whom it may concern.

This is a beautiful area to live and if we keep building apartments for rent we are going to ruin this city and make it like Daytona with a lots of business.

There are apartments in the back of my house and I just place a nice pvc fence for \$4,500 and they broke my fence before the week was over I asked them they said they didn't do it and that her roommate that owns the other car was in jail so yes this is the people we are talking about.
NO TO APPARTMENTS FOR RENT FOR THIS AREA.

We love this area don't ruin it. Built Houses not apartments.

Thank you and God Bless you

Attention / Urgent!! ...

This letter was sent to just 3824 and 3832 S. Atlantic. We are hereby copying - in all the other surrounding neighbors to ask for your input and concerns over the city changing this from a single-family lot(s) to "multi-family" lots and proceeding to build a couple of 3-story rental apartments on each. The time to voice your/our complaints is now! Any complaint has to be about: Health, Safety, or Infrastructure in order to be considered. Please take a moment to think about this and write down your concern(s) or forever hold your peace. Thank you!

- The Spence's,
3832 S. Atlantic

P.S. - Please copy us in on your correspondence to the city planner. Thanks!

NOTICE TO ABUTTING PROPERTY OWNERS

November 6, 2019

The builder:

Zev Cohen & Associates, Inc.
300 Interchange Blvd., Suite C
Ormond Beach, Florida 32174

Dear Property Owner:

The owners of the vacant property between 3824 S. Atlantic Avenue and 3832 S. Atlantic Avenue, which abuts your property, have submitted applications to the City of Daytona Beach Shores to change the future land use classification and the zoning district on the property. The following table shows the requested future land use classification and zoning district.

Parcel ID	Proposed Future Land Use	Proposed Zoning
630205070150	<i>from low density</i> Medium Density Residential	RMF-2 (Residential Multi-Family)

... more cars, more people, more noise
The City of Daytona Beach Shores Planning and Zoning Board and City Council will hold Public Hearings on this application as follows:

Planning and Zoning Board: December 9, 2019 at 8:30am.
City Council (1st Reading): January 14, 2020 at 6:00pm.
City Council (2nd Reading/Adoption): February 25, 2020 at 6:00pm.

The public hearings will be held in the City Council Chambers in the Daytona Beach Shores Community Center located at 3000 Bellemead Drive, Daytona Beach Shores, Florida.

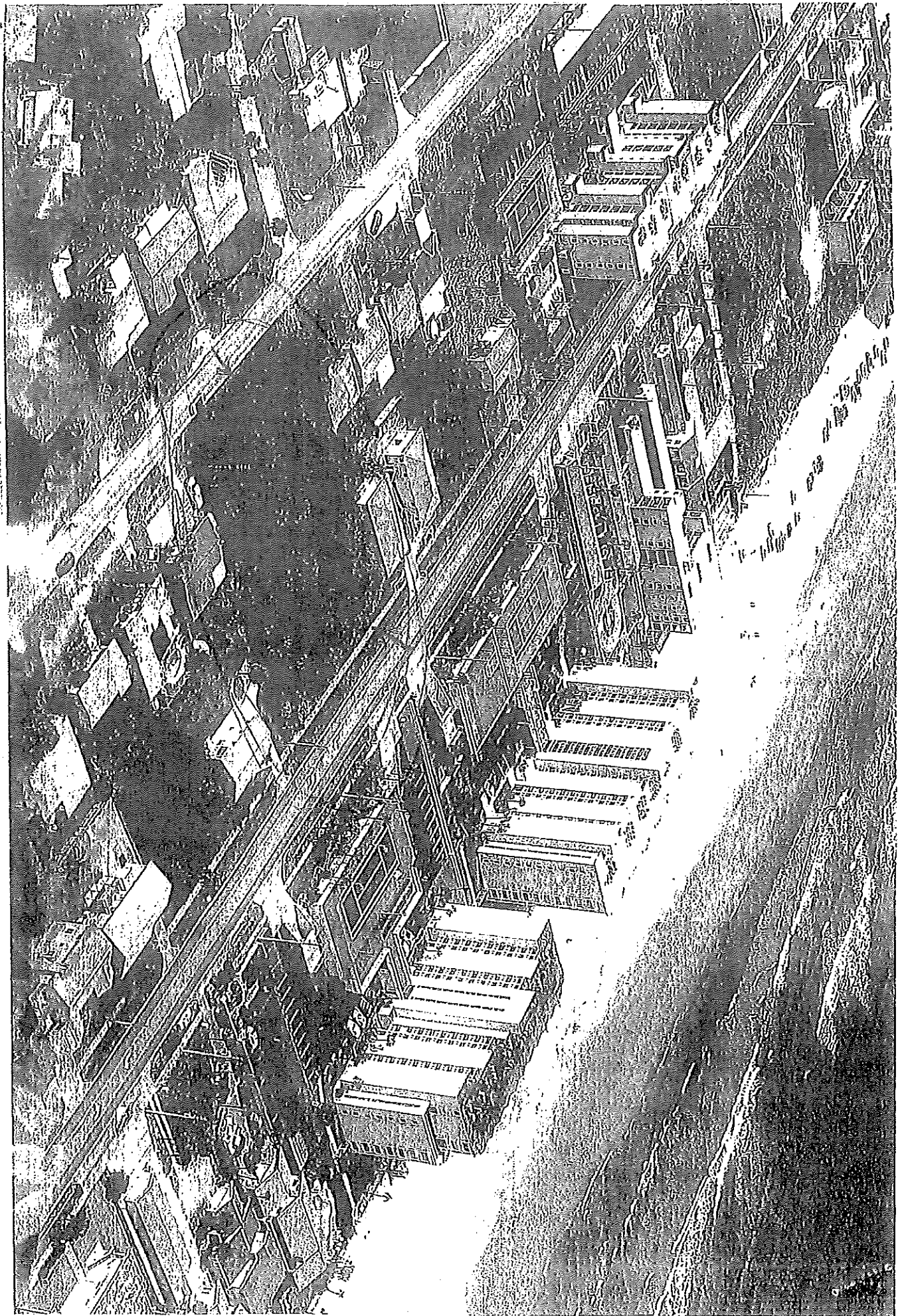
All interested parties may appear at the public hearings and will be given an opportunity to be heard. If it will be necessary to reschedule this public meeting to a later date, it will be your responsibility to obtain the time, date and place of the rescheduled meeting.

Information on the future land use and zoning applications are available for public inspection at the City of Daytona Beach Shores, Building & Codes Division, 2990 South Atlantic Avenue. If you have any questions, please contact Stewart Cruz at (386) 763-5361.

1. Comprehensive Plan Future Land Use Map Amendment Schedule:
 - P & Z Board: 8:30 AM, Monday, December 9th
 - City Council: 6:00 PM, Tuesday, January 14, 2020 (1st Reading)
 - City Council: 6:00 PM, Tuesday, February 25 (2nd Reading)

2. Rezoning Map Amendment Schedule:
 - P & Z Board: 8:30 AM, Monday, January 13
 - City Council: 6:00 PM, Tuesday, January 28 (1st Reading)
 - City Council: 6:00 PM, Tuesday, February 25 (2nd Reading/Adoption)

Stewart Cruz
City of PAB Shores
City Planner
2990 S Atlantic Ave.
DAB Shores FL 32118
W 386-763-5377
FAX 386-763-5370
email scruz@cityofdbs.org



Questions: (Please add to this list and send to Stewart (cz, city planner) before Monday, December 9th at 8:30 am / Thank you!)

- How many structures will there be?
- Will it (they) be three stories high?
- Will there be separate or integrated garages?
- How many access streets will go into and out of the tract?
- Can neighborhood residents be shown a layout of the proposed?
- Since we understand they will be rental units, can we expect that they will be as well cared for as condos whose owners would most likely take better care of them?
- How much more traffic & noise will there be?

Other questions/concerns?

I live next door and am very unhappy they want to build apartments. I have

apartment buildings in the back of my house and I just spend \$4,500 in placing a fence and

is less than a week the people from these apartments broke my

fence. They said it was not them and they roommate was in jail and she

didn't do it and the same night they broke bottles in the parking lot

They should not but have

apartment for rent.

Keep it Residential Only. Not Runners

Cruz, Stewart

From: Cruz, Stewart
Sent: Monday, December 9, 2019 2:10 PM
To: Keith@a1acm.com
Cc: Bob Brazeau
Subject: RE: Zoning Committee - 3824-3832 South Atlantic
Attachments: Atlantic Avenue Estates LLC - Concept Plan 12-2-19.pdf

Good afternoon Mr. Lennartson.

I provided the Planning and Zoning Board with your Board's letter. The vote was 3-2 in favor of the project. The letter will also be provided to the City Council for their consideration in January. Please also see attached concept plan of development. If approved, the proposed development would be two two-story 8-unit apartments (a total of 16 units). The current approval, despite being for only eight units, is for four 3-story duplex townhomes. Please also note traffic analyses conducted by both staff and the applicant's engineer have determined there is adequate capacity on both roadways. If the project is approved, the County of Volusia Traffic Engineering Department (which has jurisdiction over the adjacent roads) will review the plans and determine what safety measures shall be implemented by the developer, if deemed warranted by the department in question. If you have any further inquiries please contact me at your convenience. Thank you.

Stewart Cruz, AICP
City Planner
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Tel. # 386.763.5361
Fax. # 386.763.5370

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From: Keith@a1acm.com <keith@a1acm.com>
Sent: Saturday, December 7, 2019 11:33 AM
To: Cruz, Stewart <scruz@cityofdbbs.org>
Cc: Bob Brazeau <bobbrazeau0@gmail.com>
Subject: Zoning Committee - 3824-3832 South Atlantic

Good day, Mr. Cruz.

As discussed, please find correspondence regarding the upcoming Zoning Committee Meeting attached.

We hope to see you there!

Keith Lennartson, LCAM

Keith Lennartson, LCAM
Portfolio Manager
South Atlantic Communities

Office: 386.236.0474



2422 South Atlantic Avenue
Daytona Beach Shores, FL 32118
www.a1are.com



6 December 2019

Mr. Stewart Cruz
City of Daytona Beach Shores
Building and Codes Division
Daytona Beach Shores, FL 32118

Dear Mr. Cruz;

Thank you again for your continued commitment to communicating with our Blue Surf Condominium community regarding the potential changes that affect us all. You have been a very valuable and accessible resource for our team.

We are writing you in concern for the latest notice regarding the vacant properties across the street from us, 3824 and 3832 South Atlantic Avenue. While we fully intend on being represented at the meeting on Monday, 9 December, it doesn't hurt to back it up in writing.

We understand that these parcels are zoned for low to medium density residential usage. Further, the developers have some latitude in their approach that range from 16 to 35 units in the new structures.

Our concerns are twofold:

- A. The traffic on South Atlantic Avenue is already challenging particularly during peak seasons and events. 35 units at an average of 2 cars per unit could create safety issues in our stretch of South Atlantic Avenue.
- B. Additional, tall building structures alter the aesthetic that has drawn many to invest in homes in our condominium as well as in our surrounding neighborhoods. Blocked sightlines and a canyon effect can occur when both sides of a thoroughfare are burdened with tall building structures.

In the end, our largest concern is point B. We trust that the City of Daytona Beach Shores can creatively engineer traffic solutions that can carry the additional burden of more cars on the beachside. However, the loss of the aesthetic that residents and visitors alike have come to love requires the highest consideration.

Please keep the buildings limited to two stories.

All the best,

Robert Brazeau, President
Blue Surf Condominium Management Association, Inc.

Cruz, Stewart

From: Cruz, Stewart
Sent: Monday, December 9, 2019 1:58 PM
To: christydelaosa@gmail.com
Cc: Hiatt, Fred; Michael Booker; Dembinsky, Stephan
Subject: RE: Parcel 630205070150
Attachments: Atlantic Avenue Estates LLC - Concept Plan 12-2-19.pdf

Greetings Mr. and Mrs. de la Osa,

Please find below my responses to your inquiry in underline format. If you have any questions or need any clarification please feel free to contact me. Thank you.

Stewart Cruz, AICP
City Planner
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Tel. # 386.763.5361
Fax. # 386.763.5370

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From: christydelaosa@gmail.com <christydelaosa@gmail.com>
Sent: Friday, December 6, 2019 6:11 PM
To: Cruz, Stewart <scruz@cityofdbbs.org>
Subject: Parcel 630205070150

Mr. Stewart Cruz

My husband and I are writing to request that you ask the potential builders of the above mentioned parcel some questions on our behalf.

We have been residents of Daytona Beach Shores for over 9 years now and have loved watching it grow and progress. When we first moved here we were the youngest family in the area, but as time went on and the economy grew more and more younger families moved to the area.

This has been amazing and we love it. Our concern is that with an apartment complex there will be increased traffic that can lead to dangers for the young children that ride their bikes, skateboard, and cross A1A with their surf boards.

Our questions are the following:

1. How many actual units are being proposed? Two two-story eight unit apartments are being proposed for a total of 16 units.
2. Will there be garage parking, below ground, or above? Surface parking is being proposed.

3. Will it be gated? Based on the plan proposed (attached), it does not appear to be a gated development.
4. What will be the minimum rental length and will they allow sub-rentals? I will forward your question to the developer.
5. Will any be sold as permanent residential units? It is my understanding these will all be rental units.
6. What impact will this have on our first responders (i.e.: additional police, fire, and rescue)? I will forward your question to the Public Safety Department. Please note however the Fire Division has reviewed the proposal and does not object.
7. Have any traffic studies been done (i.e.: entrance from cardinal and A1A)? Traffic analyses conducted by both staff and the applicant's engineer have determined there is adequate capacity on both roadways. If the project is approved, the County of Volusia Traffic Engineering Department will review the plans and determine what safety measures shall be implemented by the developer, if needed.
8. Will there be add crosswalks with lighting? I will forward your question to the developer. Please note however, the County of Volusia will determine this outcome based on their needs analysis.
9. How will they handle beach access? Beach access is not required however the nearest beach access is located at Emilia Avenue, which is 0.2 miles north of the property.
10. Can surrounding residents be shown the proposed layout? Yes, please see attached concept plan.
11. Will there be security for the property (i.e.: cameras, hired security)? I will forward your question to the developer.
12. What is the estimated time of completion? I will forward your question to the developer.
13. What impact will this have on our property values? I will forward your question to the developer.

We respect and encourage the growth of the city, but this end of the Shores has historically been residential. Our concern, again, is that this turns into an over populated and transient area. Many of the condos are only allowed to rent for 6 months plus and some yearly in our area. As it is there are issues with some property owners renting their homes.

Across the street from us is 3843 S. Atlantic, and I must say it has been insane. Recently they had a car club rent the home and there had to have been over 30 people there. They would pull out their cars and back up A1A as they all pulled out. Additionally, they were loud into the late hours and left trash everywhere. Please note the City has nuisance noise regulations. Therefore, should the need ever arise again in the future, please contact the Volusia County Dispatch at their non-emergency telephone number (Tel. 386-248-1777) and the DBS Public Safety Department will investigate and take appropriate actions. Please also contact the DBS Code Enforcement Division (Tel. 386-763-5377) to address the trash situation should it ever arise again in the future.

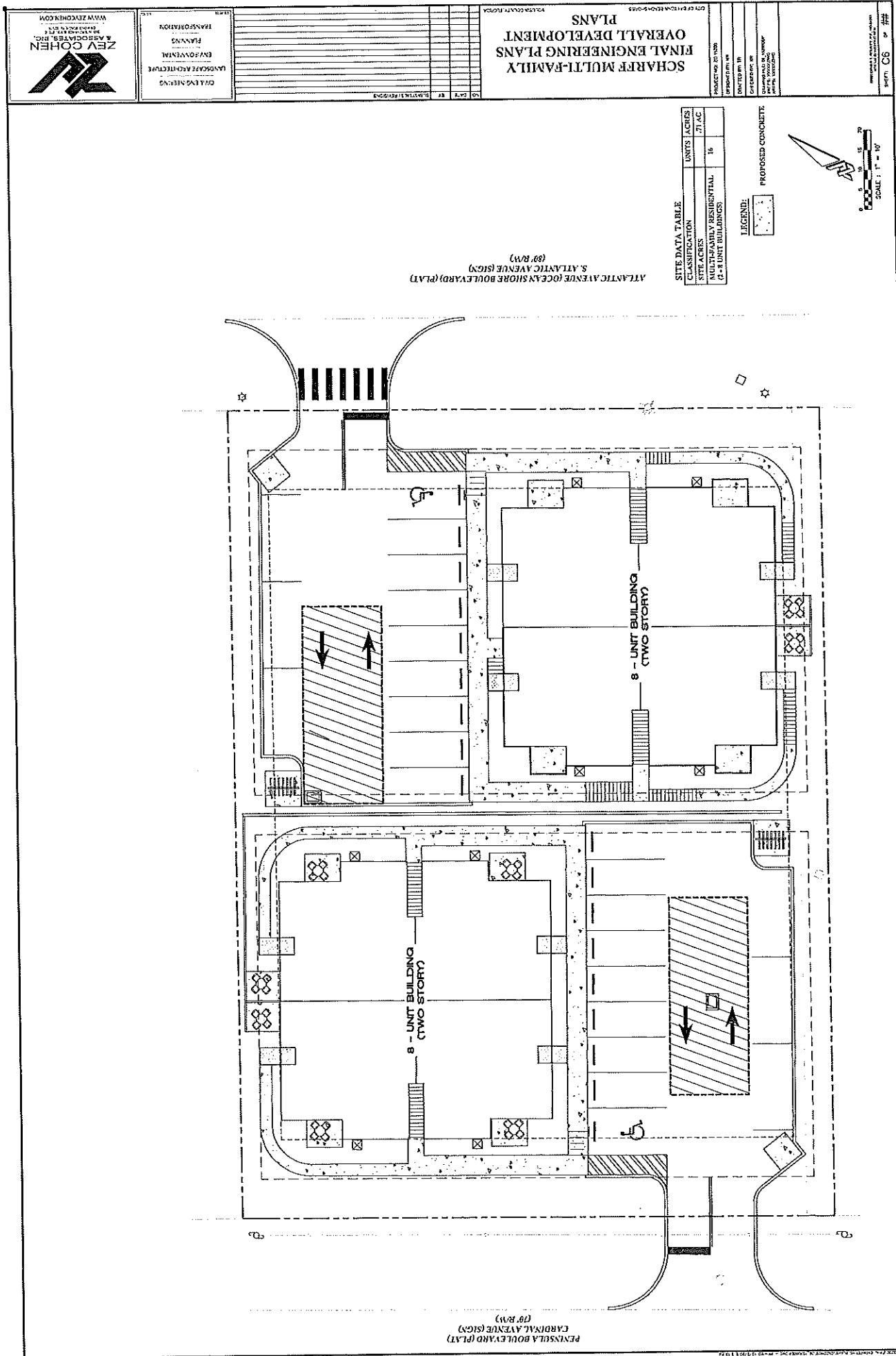
If we are to accept more rental we must be prepared to enforce codes and laws, and owners of the properties must be equally responsible. Growth is a wonderful thing, but it has a price. With the influx of young families comes more children, and we must consider this and how it will impact them. As it stands many of the bus stops are on Cardinal and there is no sidewalk on the east side. It is crazy dangerous!!!

Cardinal Boulevard is a County road under the jurisdiction of the County of Volusia and the vast majority of properties abutting Cardinal Boulevard are County properties. Please note however, except for single family homes, any new development in the Shores is required to construct sidewalks in front of the development if none exist. Therefore, if this property is ever developed, the Shores will require a sidewalk on the Cardinal side of the property.

Thank you in advance for considering our questions regarding this parcel.

Regards,
Michael and Christina de la Osa
3840 S. Atlantic Avenue
DBS, 32118

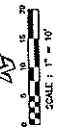
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LANDSCAPE ARCHITECTURE
PLANNING
ENVIRONMENTAL
TRANSPORTATION

**SCHARFF MULTI-FAMILY
OVERALL DEVELOPMENT
FINAL ENGINEERING PLANS**

PROJECT NO. 20-008
DATE: 10/1/2020
DRAWN BY: [blank]
CHECKED BY: [blank]
DATE: 10/1/2020
PROJECT NO. 20-008



Cruz, Stewart

From: Cruz, Stewart
Sent: Monday, December 9, 2019 1:28 PM
To: Charlie Van Derven
Cc: Hiatt, Fred; Michael Booker; Dembinsky, Stephan
Subject: RE: Questions and Safety Concerns Over Property Proposal of Vacant Lot Between 3824 S. Atlantic and 3832 S. Atlantic
Attachments: Atlantic Avenue Estates LLC - Concept Plan 12-2-19.pdf

Greetings Mr. Van Derven:

Thank you for your inquiry. Please find below responses to your questions in underline format. If you have any questions or need any clarification please advise. Thank you.

Stewart Cruz, AICP
City Planner
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Tel. # 386.763.5361
Fax. # 386.763.5370

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From: Charlie Van Derven <cvanderven@social-advisors.com>
Sent: Friday, December 6, 2019 4:44 PM
To: Cruz, Stewart <scruz@cityofdb.org>
Subject: Questions and Safety Concerns Over Property Proposal of Vacant Lot Between 3824 S. Atlantic and 3832 S. Atlantic

Hello Mr. Cruz,

I am writing with questions and to express concern over the proposed zoning change for parcel 630205070150 located between 3824 S. Atlantic and 3832 S. Atlantic. I own the single-family home at 3838 S. Atlantic, only three lots away from the proposed building site. We recently spoke about zoning for property improvement on my lot.

My questions include:

1. Is there a site plan that includes the number of structures planned for the lot? Yes, please see attached the proposed rezoning concept plan provided by the applicant.
2. Can the concerned neighbors be shown a proposed layout? Yes, it is public record. Please see attached.
3. How many residents are expected? The proposal is for 16 units. Considering the average DBS occupancy rate is 1.7 per household (US Census, 2010), it is expected that the number of new residents will be 27 (versus 14 new residents under current land use rights).

4. Has there been a study on potential traffic and noise impact? Noise impact studies are not required for land use changes, therefore none was conducted. Basic traffic analysis are required for land use changes unless the project is of major significance, then a full traffic study may be required. Both the applicant and staff's traffic impact analyses have determined that the two adjacent roadways have adequate capacity to accommodate the proposed change.
5. As these will be rental units, can we expect that they will be as well cared for as the condos that are owned units? The City has property maintenance standards and these will enforce as is currently being done throughout the City.
6. What is the planned street layout/access through the property? There is none at this time. Please see attached concept plan.
7. Will all the structures be three story? The existing plan is for three-story duplex townhomes. However, the proposed apartments are for two stories only (see attached concept plan).
8. What is the proposal for garages? Or, will it be surface parking? Issues such as these are typically not addressed during a land use or zoning change stages. However, according to the concept plan attached, surface parking is proposed.

Aside from some obvious concerns like increased traffic and increased noise, I have concerns related to the rentals in the neighborhood.

The property at 3843 S. Atlantic, across the street from my home, is used as a short term rental. During the car show weekend before Thanksgiving, there were a minimum of 30 people in that home. They partied for three days straight, including 50-75 people in front of the home and on the sidewalk on A1A. Not only were we kept awake until the early hours of the morning, I cleaned trash from my yard and my neighbors' yards both the morning of Sat 11/23 and Sun 11/24. The following morning, dozens of the renters were on the roof of the home taking photos. A clear safety issue. Please note the City has nuisance noise regulations. Therefore, should the need ever arise again in the future, please contact the Volusia County Dispatch at their non-emergency telephone number (Tel. 386-248-1777) and the DBS Public Safety Department will investigate and take appropriate actions. Please also contact the DBS Code Enforcement Division (Tel. 386-763-5377) to address the trash situation should it ever arise again in the future.

This past weekend, there was an arrest at Windward South Condo, 3845 S. Atlantic. That incident started with a fight on the beach that I witnessed with 2 of my neighbors. In three years of living at my current residence, I have never seen the two people that were in the fight and were subsequently arrested. I speculate that they were renters.

Both of these incidences brought inherent safety issues to me, my family and my neighbors. The last thing this neighborhood needs is more rental units.

If the plans go through to change the zoning, allowing for more rental units in this area, it will be a true indication that the City of Daytona Beach Shores has greater interest in their tax base than they do the safety and well-being of their residents.

Thank you for your consideration.

Charles T. Van Derven
3838 S. Atlantic Ave.
Daytona Beach Shores, FL 32118
386-846-5291

Charlie Van Derven, *Social Advisors*
Tel: 800-524-9451 | Cell: 386-846-5291
cvanderven@social-advisors.com | www.social-advisors.com

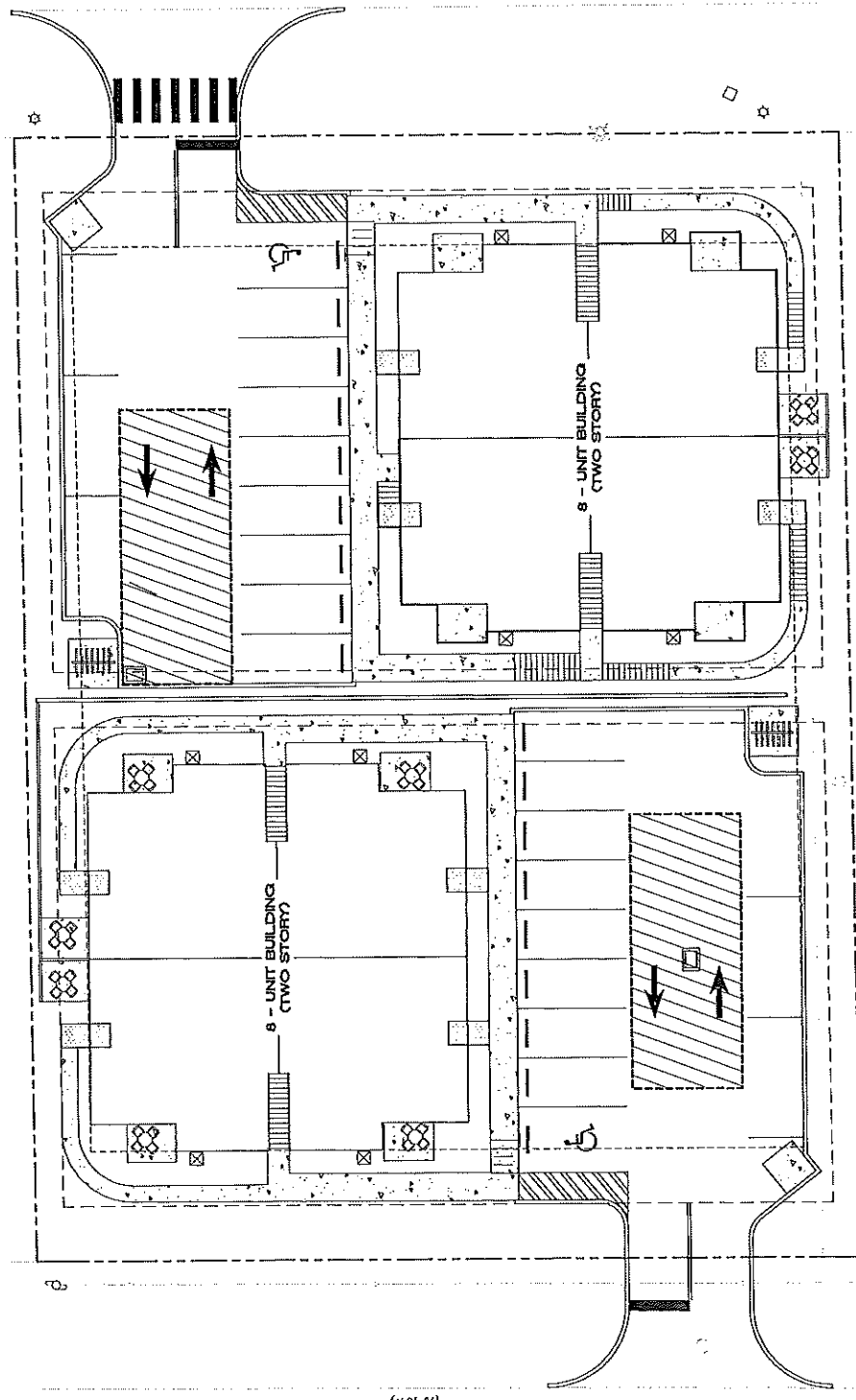
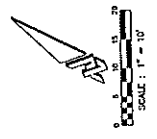
SCHARFF MULTI-FAMILY
 OVERALL DEVELOPMENT
 FINAL ENGINEERING PLANS

CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE
 PLANNING
 TRANSPORTATION
 ZEV COHEN & ASSOCIATES, INC.
 10000 WILLOW CREEK DRIVE
 NEWTON, MASSACHUSETTS 02459
 WWW.ZEVCOHEN.COM

SITE DATA TABLE

CLASSIFICATION	UNITS	ACRES
MULTI-FAMILY RESIDENTIAL	16	7.1 AC
12-8 UNIT BUILDINGS		

LEGEND:
 PROPOSED CONCRETE



ATLANTIC AVENUE (OCEAN SHORE BOULEVARD) (PLAT)
 S. ATLANTIC AVENUE (SIGN)
 (80' R/W)

PENINSULA BOULEVARD (PLAT)
 CARDINAL AVENUE (SIGN)
 (70' R/W)

Cruz, Stewart

From: Susan Spence <spencesusan9@gmail.com>
Sent: Sunday, December 8, 2019 4:54 PM
To: Cruz, Stewart
Cc: Timothy G. Spence, OD, FAAO
Subject: Presentation to Planning and Zoning Board 12-9-19
Attachments: 12-8-19 Slide presentation for Mom re Zoning and Future Land Use Maps.pdf; 12-8-19 zoning statement for Mom.pdf; LA Spence-talking pts for zoning mtg 12-14-15.pdf; SL Spence talking pts for Council mtg 1-11-16.pdf

Dear Stewart,

My mother, Louise Spence, 3832 S. Atlantic, plans to present her opposition to the proposed changes in zoning and future land use for 3830 S. Atlantic Avenue, the property to the north of her house, at the Planning and Zoning Board meeting tomorrow morning (Monday, Dec 9, 2019, 8:30 AM). I am also registering our objections to you by email in case she has any problem printing out the files and presenting them in person. Four files are attached, two of them relating to tomorrow's presentation and two from past presentations by our family on the same topic. My mother also received a letter from a neighbor that is relevant to this topic and hopefully she will be able to make copies of that, too, to submit tomorrow in case the neighbor himself does not appear.

Please let me and my brother Tim know if there are any further developments on this matter.

Thank you!

Susan Spence
H 240-242-3137; W 301-796-9122
spencesusan9@gmail.com; susan.spence@fda.hhs.gov

Tim Spence
cell 678-485-1415; timspace@bellsouth.net

Louise and Gary Spence
H 386-767-6020; cell 386-316-2510

491865
RECEIVED
DEC 10 2019
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

Dear Mr. Cruz,

My daughter asks that
you put this whole document
in the record.

Thank you,

Louise Spence

Hello,

I am Louise Spence, the owner of 3832 S. Atlantic Avenue, a single family home just south of the lot that New York City land speculator Mark Scharff has requested a change in future land use and rezoning for – a **SECOND** time now--- requesting that it be changed from County low intensity (allowing 4 units) to City low-density multi-family (allowing what was portrayed as 8 units), now to medium-density multi-family (allowing what is portrayed as 16 units, but could be as much as 25 units)-- and even from owner-occupied to rental! My family **strongly** opposes these plans.

Unlike this NY land speculator my family has owned and occupied property in this area for more than 60 years now. My father, the late Leonard Anderson of Oakmont, Pennsylvania, first bought property on this block in the late 1950s. He owned Westwood Cottages on the oceanfront, which served as a vacation and retirement property for his family and his Oakmont friends until their deaths. It may be hard for you to imagine the Daytona Beach Shores of that time. Westwood Cottages, the adjacent Day Star Motel and a few houses were the only developed properties on the block. We had a postcard made of the place in 1962 [show first picture, then second, and point to things]. These were my parents, this was a much younger me, and this was my 2-year old daughter. She's now 59 years old. In the early 1980s, my husband and I built our own retirement home on a lot our family owned on the other side of S. Atlantic Ave. My son and I still live there, and my son wants to continue to live there. This is to say that we have had some real roots in this community, and as such, we think that we should deserve more respect.

I spoke before this board on December 14, 2015 and my daughter spoke to City Council on Jan 11, 2016 to oppose the first rezoning request when Mr. Scharff, who had just acquired his property and annexed it into Daytona Beach Shores, requested low-density multi-family zoning for it. Mr. Scharff's stated plans at the time were to build 4 duplexes to house 8 families on this lot. We opposed Mr. Scharff's stated goal even then because it represented a substantial increase in population density for the neighborhood, a substantial loss of green space, and a

potential loss in property values for adjacent property owners. I pointed out that ALL properties on the non-ocean side of this block, with the exception of the condos at its far north end, the intersection of Emilia and S. Atlantic, are either single family homes or duplexes---but mostly single family homes, with only a few duplexes. Furthermore, nearly all of them are single-story structures; some, on sloping lots, have two stories in the back. The population is very low density. Our house, on a 100-foot lot about one third the size of Mr. Scharff's lot, housed-- and still houses-- just two people. The duplexes to the north of this property did and do not appear to house more than 2 couples each. The adjacent single family homes on Cardinal also have very few occupants. It's a very quiet neighborhood, and we wanted to keep it that way, as we still do.

Mr. Scharff's current request to push for even higher density on that lot is outrageous and a grave threat to others in the neighborhood. As we understand it, he now says that he wants to build two 8-unit apartment buildings, totaling 16 apartments, on his lot. As we understand it, his request to rezone from low density residential (RMF-3) to medium-density residential (RMF-2) would allow him to build up to 25 residential units on this site. This change would enable a huge increase in population density to the local area, from a current total of 0 people on this property to stated projections of 16 people then to stated projections of 44 people, but the possibility of many more people given the high housing density allowed by the zoning category sought. Such an increased density would inevitably lead to more noise, more traffic, and more disturbances in the local area, and to decreased property values to neighboring property owners particularly, we think, if the properties are to be occupied by renters without a vested interest in keeping up the neighborhood.

My daughter and my other son have looked over Mr. Scharff's zoning and land use proposal and have found much of that presentation to be misleading. First, the maps presented in the proposal are misleading in that they do not show the whole neighborhood: they omit the southern end of the block and the omit Volusia county properties, which comprise most of the non-oceanfront land on this part of the peninsula [show slide]. To ameliorate your understanding, we here show the Future Land Use and Zoning Maps from the Daytona Beach Shores

website [briefly show 2 slides]. Using the City's zoning map for the entire block plus other information retrieved from Zillow, we were able to generate a map that shows you the area more completely [Show "Map of Current Land Use including Volusia Beach Properties"]. Empty lots are indicated by green boxes, single family houses by blue boxes, and duplexes by red boxes. As you can see, pretty much this entire block--- that is, all except for one older condo at the intersection of Emilia and S. Atlantic--- consists of single family homes, with only a few duplexes. The same is true for all properties to the west of this block. Thus, a property zoned as "medium-density" would be an anomaly for this block, out of keeping with current development and the City's own current future land use plans. In addition, the developer has provided some maps on pp 35-36 of his proposal which are just plain wrong and seem meant to be misleading [Show slide "Blatant misrepresentation of the neighborhood"]. Two properties, 3816 and 3820 S. Atlantic, are depicted in orange as if they were medium-density properties, whereas on the City map, they appear as Volusia County properties with low-intensity zoning. A single family home has already been built on one of these lots.

We believe that there are also potential underestimates in the impact analysis prepared by the City [Show "Potential underestimates in staff impact analysis"]. Estimates are based on 1.75 people/housing unit and, in the traffic analysis, fewer trips made by apartment dwellers than by single family residents. We think that these may be underestimates. Either way, 183 additional peak hour trips is a BIG increase over 0 trips from this lot. It's already hard for pedestrians to find an opening in traffic to cross the street to get to the beach. Our house already sometimes shakes from the current traffic on S. Atlantic. In addition, the more people, the more potential problems. Renters have no vested interest in upkeep, and we and our neighbors have had problems with noise and thrown beer cans from area renters in the past.

The application for zoning and land use changes makes a lot of misleading statements. Some of the important ones are in the responses to the Zoning Review Criteria which appear on pp 28-29. First, we believe that the changes will have an unfavorable effect on the environment and a negligible effect on the

54.

economy, except for a decrease in surrounding property values [show slide re 1,2]. Contrary to the answers given, we believe that the proposed zoning is NOT consistent with the future land use plan. That is why the developer is asking that the future land use plan be changed [slide re 6,7]. We have come to believe that there were mistakes made in the illegal incorporation of a lot of properties on this block into the City of Daytona Beach Shores; furthermore, that the proposed change will not benefit local businesses, but will have negative impacts on traffic, noise, and litter problems for local residents [slide re 8,9]. We believe that the proposed changes do constitute "spot zoning" in that they would allow land use that is totally different from that of adjacent and surrounding properties [slide 10-11].

And we believe that this change is sought solely for the financial benefit of the owner, to the detriment of the community. We believe that the owner may just be seeking rezoning to increase his own property value for potential resale to developers (as we have seen others do in the past!). The owner currently has the property listed for resale and has used the potential rezoning of the property as a selling point. His listing price seems to be twice market value and rising. (Page 33 says that the land value is \$231K, but he's trying to sell it for \$485K.) [slide 12-13]. Here's where the owner has advertised online in a sales ad that the property can be rezoned for 21 units [show "Owner's interest in rezoning to enhance resale value of his property"]. This is not the first time that we have seen less than honest sales practices by this owner. In 2015, he was selling condos in an imaginary building at 3780 S. Atlantic, pictured here, claiming that the City had already approved the site plan. No such approval had been given [show "previous practices by this owner"].

We also believe that the proposed change will materially diminish the value of surrounding properties by bringing in short-term occupants who will make noise, add to traffic, and cause problems [show slide with misleading statement 14]. We are attaching the letter from a neighbor at 3838 S. Atlantic to exemplify the problems that occur when the City allows property owners to lie to them and then proceed to break all the rules. The owner of 3865 S Atlantic, who applied for a permit to expand his property, has recently used his house for a wild party. Just

before Thanksgiving, a wild party there attracted about 70 people and generated a lot of noise and garbage over a 3 day period. We do not want this kind of behavior to continue nor to proliferate.

We are also attaching this statement, with slides, and our previous statements to the zoning board and Council when we were concerned even about lesser changes to zoning for the property in question.

To summarize [last slide], this site is nestled among single family residences and a few duplexes, so changing future land use and rezoning to medium density is NOT in keeping with the neighborhood. We foresee problems. We also don't trust Mr. Scharff, who has already proven to be ^{less than} dishonest. The City should not change the rules to put the self-interests of a New York City land speculator ahead of the interests of its long-time residents. We ask that you deny this proposal.

Presentation of Louise Spence,
3832 S. Atlantic Ave,
Daytona Beach Shores,

to
the Planning and Zoning Board
Monday, December 9, 2019

3800 block, S. Atlantic, ca. 1962



3800 block, S. Atlantic, ca. 1962



3832 S. Atlantic, since early 1980s



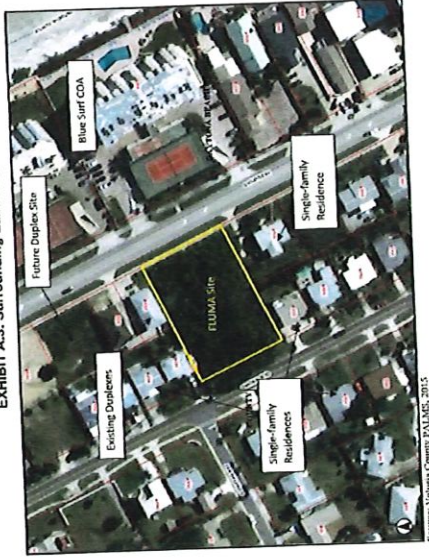
Misleading Features of the Zoning and Land Use Proposal

ف.

Adjacent land uses p 10-11



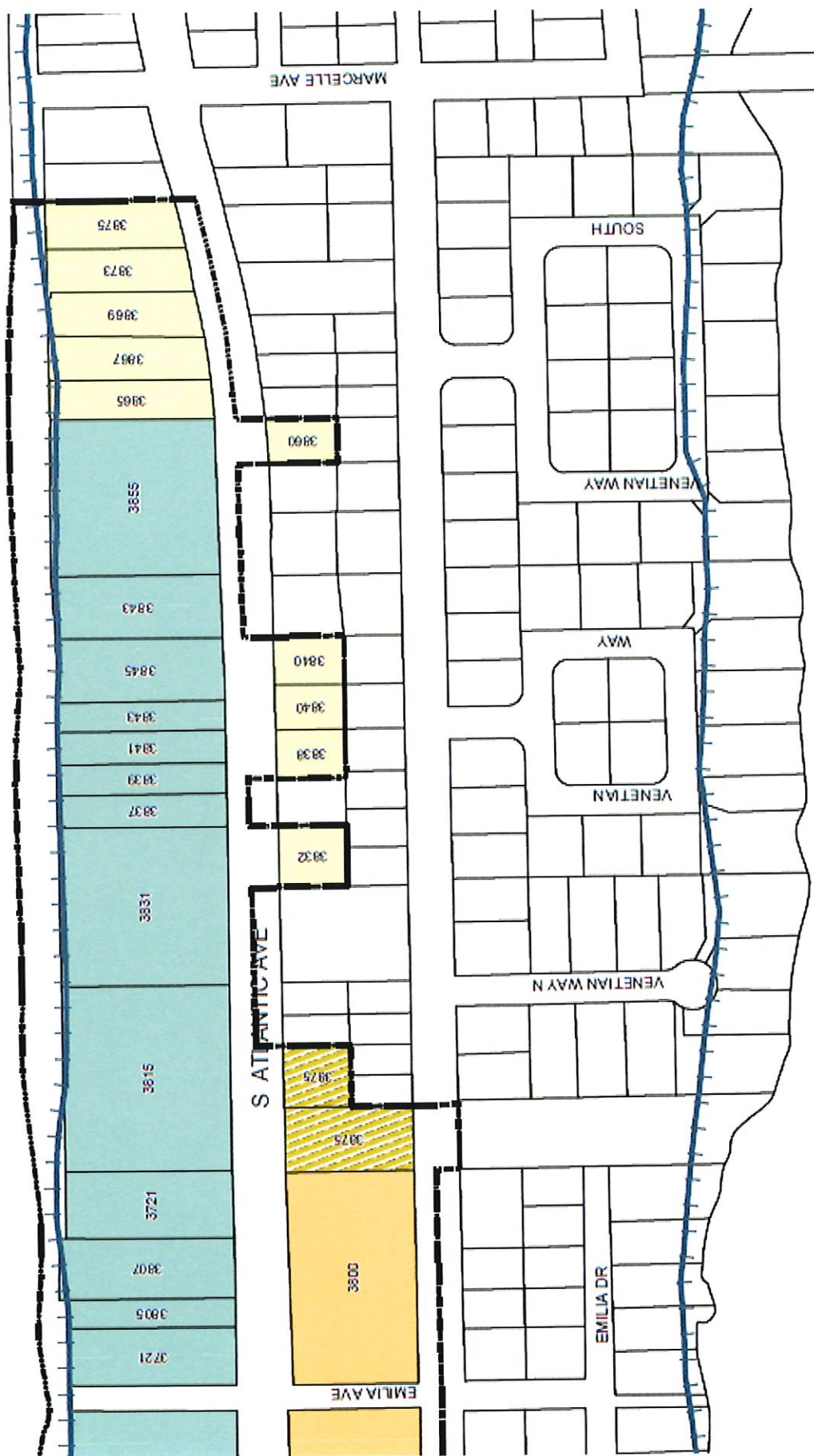
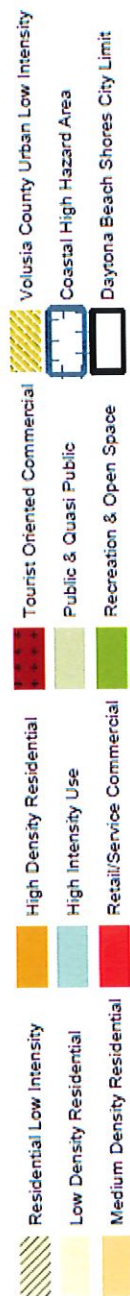
EXHIBIT A.3: Surrounding Land Uses



- The segment of the Future Land Use Map (2030) provided does not give a complete picture of the neighborhood. The aerial view is dated and does not show a new single family home at 3820 S. Atlantic (here mislabeled 3875 S. Atlantic.)
- **Only a portion of the block is shown, which does not give the full picture.**
- Daytona Beach Shores properties on this block are finger-like projections from Volusia County land, and probably, as such, their annexation should not have been permitted in the first place.
- **Volusia County properties are part of the neighborhood, but are not represented.**

Future Land Use Map

From DBS website 12-7-19



Zoning Map

From DBS website 12-7-19

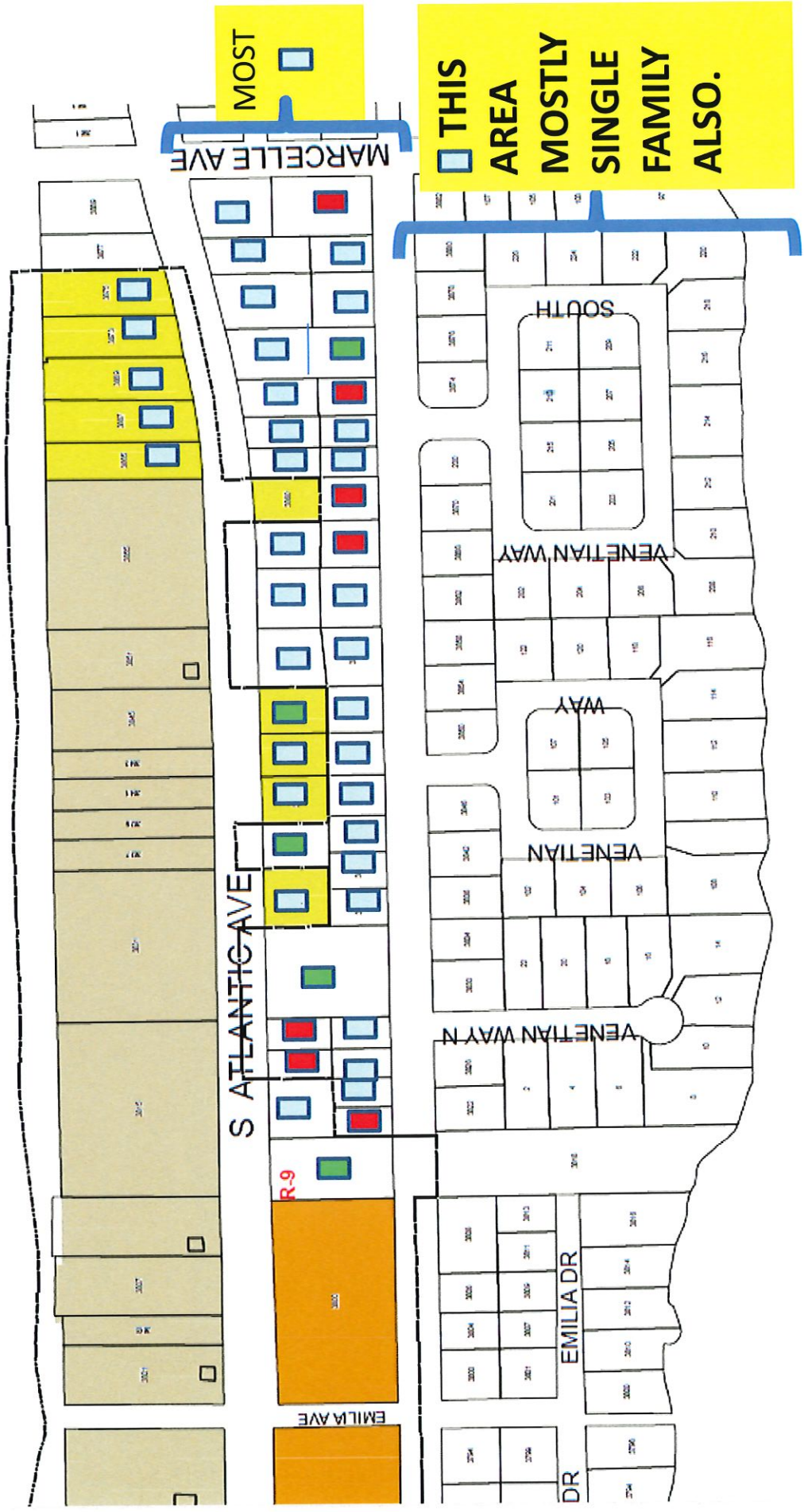
	Daytona Beach Shores	Zoning Category		RMF-1		T-RMF-1		GC-1		P
1825	Address Numbers		RSF-1		RMF-2		MXD		GC-2	
R-9	County Zoning		RSF-2		RMF-3		PUD		GC-RD	



Map of Current Land Use including Volusia County Properties

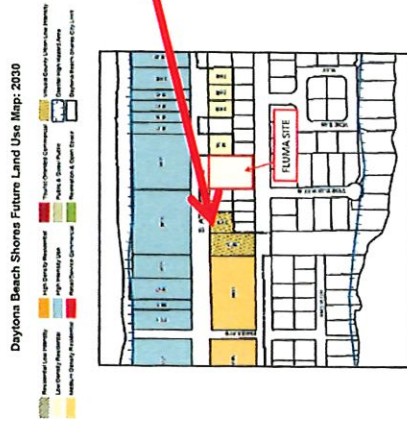
(data extracted from Zillow)

Key:  single family house  duplex  empty lot



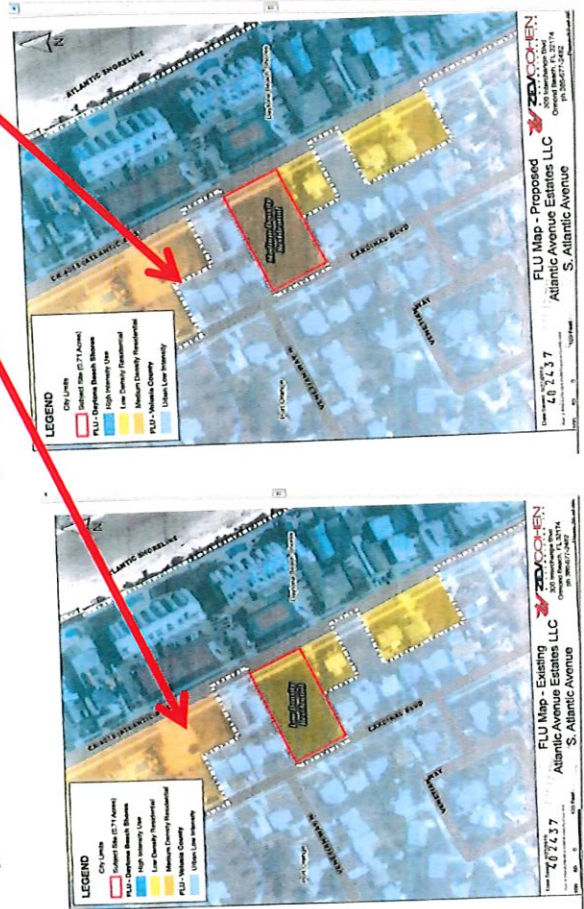
Blatant Misrepresentation of the Neighborhood

Adjacent land uses from City Map p 10-11



- The City's map indicates that 3816 S. Atlantic and 3820 are Volusia County properties with low-intensity zoning.
- **In their zoning and land use applications, the developers misrepresent these as medium-density properties.**

Adjacent land uses from the Developer, pp 35-36



- The property at 3816 is currently an empty lot. A large single family home with mother-in-law apartment has recently been built at 3820 S. Atlantic.

Potential Underestimates in Staff Impact Analysis

Impact analysis p 12

Table 1: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0-12 units/acre)	Proposed Future Land Use (0-12 units/acre)	Comparison Impact
Residential Units Allowed	9	25	16
Population ¹	16	44	28
AM / PM Peak Hour Trips ²	86/9.09	183/14	97/4
Sanitary Sewer (gallons/day) ³	2,250	6,250	4,000
Potable Water (gallons/day) ⁴	1,760	4,840	3,080
Solid Waste (lbs./day) ⁵	160	440	280
Stormwater Drainage ⁶	n/a	n/a	n/a
Public School Student(s) ⁷	2.5	3.2	0.7

Notes:

1. Population:
1.75 persons per single-family dwelling
2. Transportation:
Rates are for peak hour of adjacent street traffic: Single-family residential unit = 9.57 Daily trips, 1.01 PM Peak Hour Trips / Multifamily Low Rise = 7.32 Daily trips, 0.56 PM Peak Hour Trips
3. Sanitary Sewer:
250 gallons per dwelling unit per day
4. Potable Water:
110 gallons per capita per day
5. Solid Waste:
10 pounds per capita per day
6. Stormwater Drainage:
LOS standard = 25 year, 24 hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School:
Generation rates = single family 0.273, multifamily 0.127.

Sources:

2010 US Census; ITE Trip Generation Manual, 9th Edition; Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030); Volusia County School District 2017 Impact Fee Study.

- There may be many more than 1.75 people/unit. May be entire lower-income families renting and/ or short-term stays by hordes of partying vacationers.

Unlikely that people in these units will travel less than people in single family homes. They may make MORE trips, in which case this would be an underestimate.

- **Either way , 183 additional peak hour trips is a BIG increase over 0!**

TRAFFIC:

- It's already hard for pedestrians to find an opening in traffic to cross the street to get to the beach.
- Our house already sometimes shakes from traffic on S. Atlantic.

NOISE/LITTERING/DISTURBANCES:

- The more people, the more potential problems. Renters have no vested interest in upkeep.

Misleading Statements re Zoning Review Criteria

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

Contrary to the answer given, we believe that the impact will be unfavorable. Any development decreases green space and increases run-off, including potentially of hazardous substances, into the river and the ocean.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the areas affected.

The respondents seem to think that the proposed development will be favorable in that it increases the tax base. We think that the negative impact on adjacent property values should also be considered.

Misleading Statements re Zoning

Review Criteria

6. The proposed zoning is basically consistent with the comprehensive land use plan.

Contrary to the answer given, the proposed zoning is **NOT** consistent with the future land use plan. That is why the developer is asking that the future land use plan be changed..

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect the new conditions.

The given answer is "Properties adjacent to Atlantic Ave. are no longer a desirable location for low density residential growth." But the residents of this area prefer low density growth and we have witnessed no problem with the sale of local single family homes and duplexes at reasonable prices.

Misleading Statements re Zoning

Review Criteria

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

It appears to us that many properties on this side of S. Atlantic were annexed into Daytona Beach Shores illegally, as they are finger-like projections not contiguous with the boundaries and largely interspersed with Volusia County properties. We are considering encouraging our neighbors to secede from the City of Daytona Beach Shores..

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding area?

The given answer is that changes to the land use plan and zoning will provide a stabilizing effect by “supporting commercial activity”. We would like to point out that if local businesses are suffering, it is because the City has allowed developers to replace what used to be a thriving hotel/motel industry with high-rise condominiums bought by persons who rarely live in them. If the City wants increased commercial business, it should be looking to encourage hotel development to attract thousands of free-spending visitors. Building 16 apartments for renters will do little to increase local business but much to decrease the desirability of the area to local homeowners.

Misleading Statements re Zoning

Review Criteria

10-11. Would the proposed changes constitute “spot zoning”? Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

It appears to us that the proposed changes DO constitute “spot zoning”. None of the 8 lots immediately north of the lot in question, nor any of the 33 lots immediately south of the lot in question (and on the same block), nor any of the lots to the west of the lot in question are zoned for medium-density development.

Misleading Statements re Zoning

Review Criteria

12-13. Is the change solely for the benefit of the owner and to the detriment of the community? Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

We believe that the change would solely benefit the owner and by increasing traffic, noise, potential littering of adjacent properties, and other problems, would be a detriment to the community. In fact, we believe that the owner may just be seeking rezoning to increase his own property value for potential resale to developers (as we have seen others do in the past!). The owner currently has the property listed for resale and has used the potential rezoning of the property as a selling point. His listing price seems to be twice market value and rising. (Page 33 says that the land value is \$231K, but he's trying to sell it for \$485K.)

Owner's Interest in Rezoning to Enhance Resale Value of His Property

https://www.zillow.com/homedetails/3830-S-Atlantic-Ave-Daytona-Beach-Shores-FL-32118/2091462774_zpid/

https://www.realtor.com/realestateandhomes-detail/3830-S-Atlantic-Ave-Daytona-Beach-Shores-FL-32118_M57885-25672

<https://www.redfin.com/FL/Daytona-Beach-Shores/3830-S-Atlantic-Ave-32118/home/101666502>

<https://www.loopnet.com/Listing/14707288/3830-S-ATLANTIC-AV-Daytona-Beach-Shores-FL/>

"BIG PRICE REDUCTION!!! LARGE BUILDING LOT WITH OCEANVIEW. UP TO 21 UNITS POSSIBLE WITH REZONING. 30,900 SF! LOCATED IN DAYTONA BEACH SHORES, SOUTH OF DUNLAWTON, BETWEEN RESIDENTIAL LOTS 3824 AND 3832 S. ATLANTIC AVE.

**HIGHLIGHTS
REZONE FOR 21 UNITS!
GREAT OCEANVIEW PROPERTY!
ACROSS FROM THE ATLANTIC OCEAN!
WALK TO THE BEACH"**

\$485,000 0.71 acres
3830 S Atlantic Ave, Daytona Beach Shores, FL 32118
Lot/Land Estimate: None

55 Views
687 days on Zillow
0 Saves

GREAT LOCATION Across street from Ocean with views with approved 4 beach side lots ZONED MF-3 total 150 x 205 with complete approved as 4 separate lots 75 x 103 each, 2 Atlantic Ave & 2 Cardinal Ave. Currently has approved for 3 story duplex units on each lot for a total of 8 Luxury Homes 2530 living with oversize garage, decks & more, parcels are now zoned MF-3 so could also build 4 homes with legal guestin law apt or other options. Will sell each lot separately.

Listing Agent
RE/MAX
P. Warner

Previous Practices by this Owner

- Last time we spoke before the P&Z board and Council, in Dec 2015, this developer was advertising that he already had approval to build and sell condos at 3870 S. Atlantic. The City Planner at the time said that no such approval existed.

<http://www.loopnet.com/Listing/19455409/3780-S-Atlantic-Ave-Daytona-Beach-Shores-FL/>

Atlantic Avenue Estates

**3780 S Atlantic Ave, Daytona Beach Shores, FL
32118**

\$1,100,000

Description

34 Unit Development site with River views from each apartment .Amenities include swimming pool, community room etc .

The City has approved the apartment count site plan & foot print. All that is needed is your final plan

The last entrance to the Daytona Drive on Beach is directly across the street.The owners can enjoy the close proximity of the beach along with outstanding views of the river in all directions



Misleading Statements re Zoning

Review Criteria

14. Would the proposed change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

We attach the letter from a neighbor at 3838 S. Atlantic to exemplify the problems that occur when the City allows property owners to lie to them and then proceed to break all the rules— and also the problems possible with renters and other short-term occupants. The owner of 3865 S. Atlantic recently applied for plans to put a second story above his garages, supposedly to house visiting family members. It appears that he is in the practice of short-term rentals to party goers. A recent party attracted about 70 people, made a lot of noise, generated a lot of garbage including some thrown into the yards of neighbors, and lasted three days straight.

Conclusion

The interests of long-term residents should count more than the financial gain of out-of-town land speculators.

PLEASE DENY THIS PROPOSAL!

From: **Charlie Van Derven** cvanderven@social-advisors.com
Subject: **Questions and Safety Concerns Over Property Proposal of Vacant Lot Between 3824 S. Atlantic and 3832 S. Atlantic**
Date: **December 6, 2019 at 4:43 PM**
To: scruz@cityofdbb.org
Bcc: mikeosa74@gmail.com, ajmiller909@gmail.com



Hello Mr. Cruz,

I am writing with questions and to express concern over the proposed zoning change for parcel 630205070150 located between 3824 S. Atlantic and 3832 S. Atlantic. I own the single-family home at 3838 S. Atlantic, only three lots away from the proposed building site. We recently spoke about zoning for property improvement on my lot.

My questions include:

1. Is there a site plan that includes the number of structures planned for the lot?
2. Can the concerned neighbors be shown a proposed layout?
3. How many residents are expected?
4. Has there been a study on potential traffic and noise impact?
5. As these will be rental units, can we expect that they will be as well cared for as the condos that are owned units?
6. What is the planned street layout/access through the property?
7. Will all the structures be three story?
8. What is the proposal for garages? Or, will it be surface parking?

Aside from some obvious concerns like increased traffic and increased noise, I have concerns related to the rentals in the neighborhood.

The property at 3843 S. Atlantic, across the street from my home, is used as a short term rental. During the car show weekend before Thanksgiving, there were a minimum of 30 people in that home. They partied for three days straight, including 50-75 people in front of the home and on the sidewalk on A1A. Not only were we kept awake until the early hours of the morning, I cleaned trash from my yard and my neighbors' yards both the morning of Sat 11/23 and Sun 11/24. The following morning, dozens of the renters were on the roof of the home taking photos. A clear safety issue.

This past weekend, there was an arrest at Windward South Condo, 3845 S. Atlantic. That incident started with a fight on the beach that I witnessed with 2 of my neighbors. In three years of living at my current residence, I have never seen the two people that were in the fight and were subsequently arrested. I speculate that they were renters.

Both of these incidences brought inherent safety issues to me, my family and my neighbors. The last thing this neighborhood needs is more rental units.

If the plans go through to change the zoning, allowing for more rental units in this area, it will be a true indication that the City of Daytona Beach Shores has greater interest in their tax base than they do the safety and well-being of their residents.

Thank you for your consideration.

Charles T. Van Derven
3838 S. Atlantic Ave.
Daytona Beach Shores, FL 32118
386-846-5291

Charlie Van Derven, Social Advisors
Tel: 800-524-9451 | Cell: 386-846-5291
cvanderven@social-advisors.com | www.social-advisors.com
SOCIAL  ADVISORS

Dec. 8, 2019

Dear Mr. Cury:

Our questions are basically the same as Charlie Van Dervan's:

1. How many structures will there be on the plot?
2. Can neighborhood residents be shown a layout of the proposed structures?
3. How high will the structures be?
4. How many residents will be anticipated?
5. About how much more traffic and noise will there be?
6. How many ^{and egress} access streets will go in and out of the tract?
7. Will there be separate or integral garages?
8. Since we understand they will be rental units, can we expect they will be as well cared for as condos whose owners would most likely take better care of them?

Members of our family have lived in this area since the late 50's. My father once owned "Westwood Cottages" where the Blue Surf Condominium now stands. I feel we should have some stake in what goes on here. (We have lived in our present location, 3832 S. Atlantic, since 1984.)

Yours very truly,

Louise A. Spence

(and son, Gary Spence)

P.S.

I have one important addition:

9. Won't safety be a real consideration, with Amelia Street crossing so close to the plot's entrances and exits?

Presented previously at Zoning Planning Meeting, December 14, 2015:

I am Louise Spence, owner of the property immediately to the south of the 150-foot frontage lot that you are considering rezoning today. My family has owned property on and/or lived on this block for more than 50 years. We are concerned that these development plans would devalue our property and change the character of our neighborhood.

I request that any building on the lot in question be required to be in keeping with the architectural style and value (that is, \$256K to \$540K range) of other homes in the area. Also, I am requesting that more thought be given to the density factor. The new owner/developer (Mark Scharff) apparently wants to put 8 or maybe even 16 families on that 150-foot frontage lot, compared to our single family home on a 100-foot frontage lot—with a household of two at present. The developer reportedly has already inquired about subdividing the lot, which would definitely not be in keeping with other properties in the area.

Furthermore, I request that the deliberations regarding the lot in question will not be used as a preamble to attempts to apply for even greater densities, such as a multi-level condominium. On the internet, this developer claims to already have city approval for building a 7-story condominium on the northwest corner of Emilia at South Atlantic. A spokesman for Daytona Beach Shores assured me that this is not true, which casts some doubt on the truthfulness of the developer.

Of further concern is the information that I heard from a neighbor, that the owner of the property at 3820 S. Atlantic (now a vacant lot) wanted to have a single family home built on this lot but was told by Daytona Beach Shores authorities that they did not want him to build a single family home there—it would have to be a duplex or more! We and other neighbors in the area want some assurance that the character of our neighborhood is not threatened and want to know why he was told that.

We would like the zoning of to remain single family, in keeping with properties south of that point, and for any structures to be approximately the same square footage and sale price as the single family residential structures south of that point. We would also like to point out that the sewer company has an easement of 20 feet or so on the south side of the lot in question.

Previously presented to DBS City Council, January 11, 2016:

I'm Susan Spence, the daughter of Louise Spence, who owns the property immediately to the south of the lot that you are considering rezoning today. My family has owned property on and/or lived on this block for more than 50 years—in fact, I made my first trip down here when I was only 2 years old, in 1962, so more than most folks, we have had a long-term interest in and commitment to this area. There have been many changes since 1962, and not all of them for the better.

I would like to start by a general comment on development. We are seeing far too many high-rises go up, particularly on the ocean side of S. Atlantic, and although this may be profitable for a bunch of New York and Chicago-based developers, in many ways it is not a good thing for the local population and the town as a whole. Unlike the developers, most of us do NOT come from New York or Chicago and do NOT want our Florida to look and feel like New York or Chicago. Some Daytona residents were attracted to sunshine and the beach. But the more that you allow the developers to build tall structures, the more that they shade the beach and other areas. Some Daytona residents were attracted by Florida's flowers, nature, and wildlife. But the more that undeveloped land is built on, the fewer green spaces remain for wildlife to flourish and for people to enjoy. Most of us came because we wanted a low-density suburban community, but Daytona Beach Shores is starting to feel more like Manhattan. It is becoming harder for anyone driving along S Atlantic to even see the ocean, which is becoming enshrouded by a tall wall of concrete.

There are NO natural beach areas, with natural sand dunes, sea oats, and saw palmetto, left in all of Daytona Beach Shores. I was very upset when you allowed development on the last one, the current location of the Sanibel Condo at South Atlantic and Emilia, and my stomach still churns every time I walk past. It would have made a fine location for a real city park, perhaps with a boardwalk winding through what was a really beautiful natural area, combined perhaps with a small building with restrooms and changing rooms to accommodate area residents not lucky enough to own beachside property.

Instead we got another tall building for wealthy people, 95% of whom, from the look of the number of lights on at night, don't even live here most of the time. The proliferation of high-rise condos has meant that there are now fewer hotels, fewer tourists, and fewer 'residents' who actually live here long enough to patronize local businesses. The only people who profit are the developers, who really don't care at all about the community—only about the profits that they can take home to New York and Chicago by exploiting its resources. I think that none of you would be very happy if China or Russia or Mexico or Syria would dictate US domestic policy, and so I ask you not to let New York and Chicago developers ruin Daytona Beach Shores. **We need more public parks and green spaces---- and NOT like the current so-called "parks"**

along the beach, which are nothing but glorified parking lots, composed primarily of more concrete.

Getting to the point of the lot in question, there is an inaccuracy in today's documents. They state that the proposed development will have no effect on recreation and open space. The truth is that, aside from undeveloped lots, there is very little green space in this city, so nearly every development has a substantial effect on recreation and open space. The photos provided to you of that lot show blackened images that are described as weeds. I would like to show you what that lot looks like to me. Almost the entire year, even in the coldest months of winter, there has been a proliferation of red flowers all over that lot, which doesn't mean much to the developers, but does mean a lot to people like me. We regularly see osprey bring their catches to the perches on that lot, we have seen sizeable tortoises, many birds, and even a bald eagle. Where are they to go when you develop?

We are also concerned that the developer who has bought the lot in question wants to increase density and that that would have the potential to negatively affect nearby property values. We strongly favor keeping this lot classified as single family in the future land use plan and keeping it zoned for single family residences, in keeping with the properties to the south and the west of it. Optimally, we would like the city to come up with some mechanism to buy up undeveloped land to preserve green space and limit development. But at very least, we would like reassurance from council that there will be no attempt to build anything on this lot that is not in keeping with style, density, and value of the adjacent properties (that is, those on the NON-ocean side of S Atlantic and Cardinal).

491865
CITY OF DAYTONA BEACH SHORES
BUILDING AND CODES DIVISION
DEC 10 2019
RECEIVED
491865

Dec. 8, 2019

491860

Dear Mr. Cury:

Our questions are basically the same as Charlie Van Dervan's:

1. How many structures will there be on the plot?
2. Can neighborhood residents be shown a layout of the proposed structures?
3. How high will the structures be?
4. How many residents will be anticipated?
5. About how much more traffic and noise will there be?
6. How many ^{and egress} access streets will go in and out of the tract?
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8. Since we understand they will be rental units, can we expect they will be as well cared for as condos whose owners would most likely take better care of them?

RECEIVED
DEC 09 2019
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

Members of our family have lived in this area since the late 50's. My father once owned "Westwood Cottages" where the Blue Surf Condominium now stands. I feel we should have some stake in what goes on here. (We have lived in our present location, 3832 S. Atlantic, since 1984.)

Yours very truly,

Louise A. Spence

(and son, Gary Spence)

P.S.

I have one important addition:

9. Won't safety be a real consideration, with Amelia Street crossing so close to the plots' entrances and exits?

EXHIBIT A: PLANNING ANALYSIS

A. EXISTING ZONING AND CURRENT LAND USE

Table 1 below provides a narrative description of the zoning district classifications and current land uses (i.e., existing development) for the subject property and surrounding area while **Figure 1** provides an aerial view of the subject property and surrounding land uses.

Table 1: Zoning and Land Use Area Description

Location	Zoning	Current Land Use
Subject Property	RMF-3	Vacant Lot
North	R-9	(NE) Volusia County Duplex & (NW) Volusia County Single Family Residence
South	RSF-2	(SE) Single Family Residence & (SW Volusia County Single Family Residence
East	T-RMF-1	Blue Surf Multifamily Residential Condominium
West	R-9	Volusia County Single Family Residences

Notes: RMF-3 = Multifamily Residential District (Low Density), R-9 = Volusia County *Urban Single-Family Residential District*; RSF-2 = *Urban Single-Family Residential Detached District*; T-RMF-1 = *Hotel/Motel District – Multifamily Residential (High Density) District*.

Figure 1: Aerial View of Zoning Site Surrounding Neighborhood



Source: Volusia County PALMS, 2015

As noted in **Table 1** above, the subject property is currently zoned “RMF-3 Multi-Family Residential District (Low Density)” According to the Daytona Beach Shores Land Development Code, the purpose, intent and permitted uses of the existing zoning district is as follows:

“RMF-3 Multi-Family Residential District (Low Density)”:

Purpose and Intent. 14-20.1.

The purpose and intent of the RMF-3 Multifamily Residential District is to provide for multifamily residential living and certain properties abutting single-family residential districts providing to the needs of the citizens of the city by providing a well maintained and natural on-site environment for multifamily living.

Permitted Principal Uses and Structures. 14-20.2.

Multifamily dwellings, duplexes and townhouses.

Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq.

B. PROPOSED ZONING

The proposed zoning for the subject property is RMF-2 Multi-Family Residential District (Medium Density). According to the City’s Land Development Code, the purpose, intent and permitted uses of the proposed zoning district is as follows:

“RMF-2 Multi-Family Residential District (Medium Density)”:

Sec. 14-19. - RMF-2 Multi-Family Residential District (Medium Density).

14-19.1. Purpose and Intent.

The purpose and intent of the RMF-2 Multi-Family Residential District is to provide for multifamily residential living, catering to the needs of the citizens of the city desiring a well-maintained and natural on-site environment for multifamily living.

14-19.2. Permitted Principal Uses and Structures.

Townhouses, multifamily dwellings and adult congregate living units.

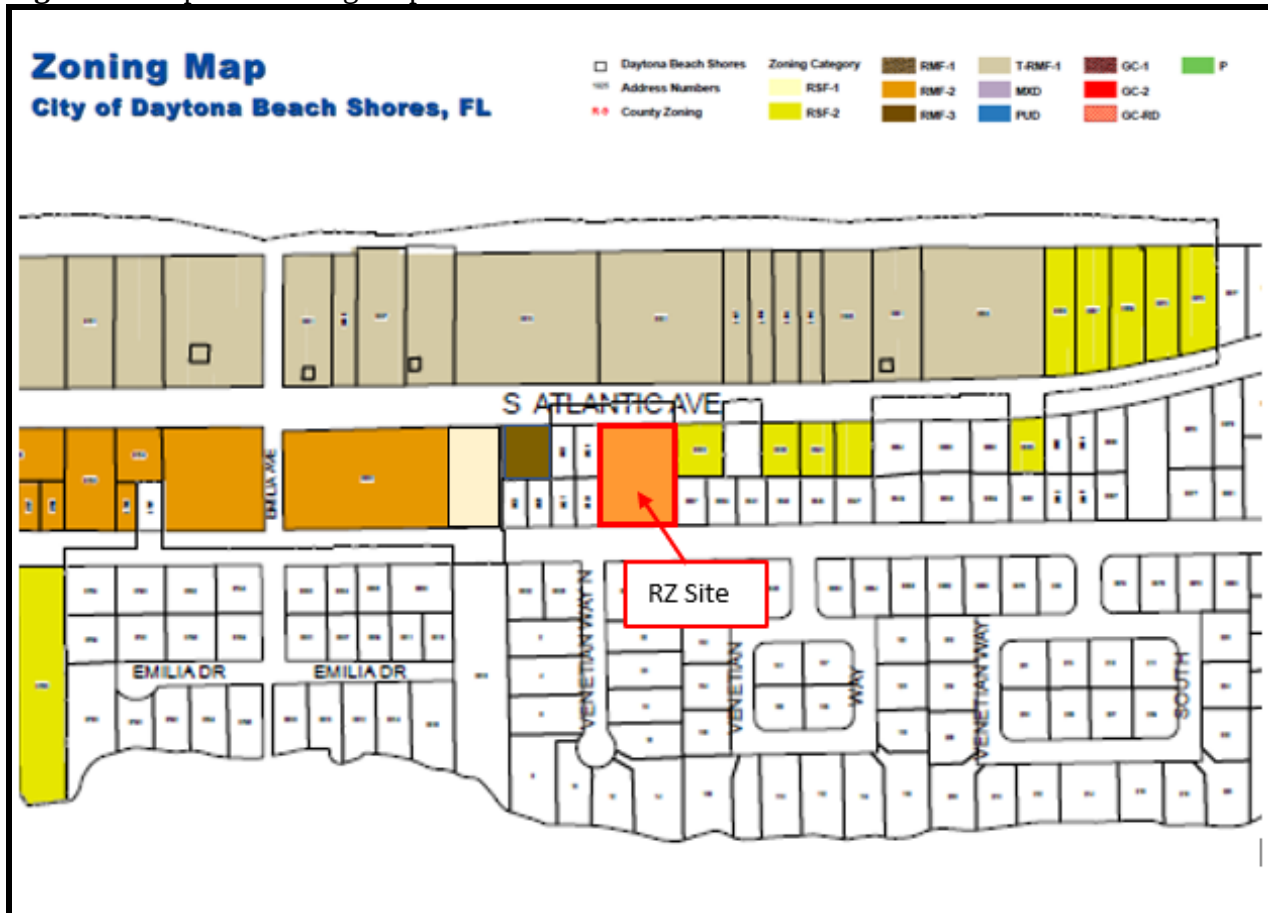
Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq.

14-19.3. Permitted Accessory Uses and Structures.

Accessory uses or structures customarily incidental to the permitted principal use or structure.

The proposed request, if approved, would result in the below (**Figure 2**) amendment to the City’s Official Zoning Map.

Figure 2: Proposed Zoning Map Amendment



C. COMPREHENSIVE PLAN

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Medium Density Residential* future land use (FLU) classification to the subject property. This FLU classification allows up to 12.1-35 residential units per acre. Ordinarily with an acreage of 0.71, the maximum theoretical number of units that would be permitted on this site, providing all regulations are met, would be 25 units. However, the applicant has also submitted a concurrent Comprehensive Plan Text amendment that would limit the number of units on the site to 16. The applicant has noted his intention is to construct a total of 16 residential apartments on site in two separate 8-unit buildings if the application is approved.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The proposed future land use and proposed zoning for a residential use, with a restriction of 16 total units, are not objectionable or inconsistent with the aforementioned policy. In addition, development as proposed is not incompatible with future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is not inconsistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

D. REVIEW AND COMMENTS

CITY PLANNER – Stewart Cruz

The subject application was received on October 17, 2019 and was initiated by the property owner Atlantic Avenue Estates, LLC. The subject vacant property is located on the west side of the 3800 S. Atlantic Avenue block between Emelia and Marcelle avenues. The property has a frontage of 105' and a depth of 205' resulting in an acreage of 0.71. The site has vehicular and pedestrian access to the abutting S. Atlantic Avenue and Cardinal Boulevard (see **Figure 1** above), both of which connect to S.R. A1A (Dunlawton Boulevard).

As seen **Table 1** above, the proposed zoning change will be compatible with adjacent land uses and the surrounding zoning and future land use classifications. The future development of the site will require compliance with the City's Land Development Code (LDC) development standards, relating to setbacks, building height, stormwater discharge, etc.

A thorough site plan review will be conducted prior to development to determine consistency with the City's Concurrency Standards and Land Development Code. Currently there is adequate potable water, sewer, solid waste, recreation, public school and transportation facility capacity and access available to the subject property.

COMMUNITY SERVICES – Fred Hiatt, Director / Building Official

The subject property was previously rezoned to RMF-3. Per 14-20.1 of the City's Land Development Code, the purpose and intent of the RMF-3 zoning is to provide some low density multifamily that can abut single-family zoning districts. In my opinion the previous rezoning was consistent with the city's zoning. However, the requested zoning (RMF-2) is not intended to directly abut single-family districts. Hence, the reason this language is omitted from the RMF-2 Purpose and Intent (14-19.1).

Further, I'm not convinced the application meets the city's zoning criteria and minimum standards. Specifically, I'm concerned with Item #'s 12 and 13 found in the staff report. I don't see evidence in the application demonstrating how this change benefits anyone other than the property owner. The RMF-2 zoning would triple the allowable density from 8 units to 25 units. Even if the property owner agrees to limit the number of units to 16, it is still twice as many. Because the majority of this property directly abuts single-family (on three sides), I cannot support this request. In the future, if rezonings continue southward from the Ocean Terrace Club, it may be more appropriate, then, but not now.

PUBLIC WORKS – Brian Edwards, Deputy Director / Facilities Superintendent

The Facilities Superintendent has reviewed the application and he has no comments.

PUBLIC SAFETY – Terry Griffiths, Fire Commander / Fire Marshal

The Fire Commander/Fire Marshal has reviewed the application and he has no objections.

ENGINEERING – Tetra Tech HAI

This application does not require engineering review.

E. FINDING OF FACTS

When considering a request to amend the zoning map, the City shall consider the following criteria pursuant to Section 14-66 of the Land Development Code. Below are staff's findings considering each criterion outlined in the aforementioned section of the Code. The applicant's analysis and responses to the criteria are attached as **Exhibit B**.

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The proposed zoning change will not provide an unfavorable impact on the environment or natural resources of the area. The property in question, though overgrown with wild flora (**Figure 3** below), is currently surrounded by urban development (see **Figure 1** above). As such, it is believed the flora contains no significant environmental value. Further, the proposed zoning change would not permit hazardous uses such as industry, which could have an unfavorable impact on the environment/natural resources of the area. Instead, the zoning would permit low to medium density development compatible with the neighborhood land uses.

Figure 3: Street View of Subject Site



Source: Google Maps 2015.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

The proposed zoning will generally have a favorable impact on the economy of the area as it will lead to the development of a site, provide job opportunities and create an increase in residential population and an increase in the housing stock.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

The subject property is currently vacant but when developed, it will not unduly burden public facilities. The subject property currently has access to transportation, public schools, water, sewer, recreation and solid waste disposal services. With the exception of school capacity, which will be

determined by the school district, all existing public facilities have adequate capacities. In addition, the difference in impact between what is currently permitted and what is proposed is negligible relative to available capacity (see **Table 2** below).

Table 2: Impact Analysis (Based on 16 unit restriction)

Development Variable	Current Future Land Use (0-12 units/acre)	Proposed Future Land Use (16 units)	Comparison Impact
Residential Units Allowed	9	16	+7
Population ¹	16	28	+12
Daily Trips/PM Peak Hour Trips ²	86/9	117/9	+31/0
Sanitary Sewer (gallons/day) ³	2,250	4,000	+1,750
Potable Water (gallons/day) ⁴	1,760	3,080	+1,320
Solid Waste (lbs./day) ⁵	160	280	+120
Stormwater Drainage ⁶	n/a	n/a	n/a
Public School Student(s) ⁷	2.5	2	-0.5

Notes:

1. Population: 1.75 persons per single-family dwelling
2. Transportation: Rates are for adjacent street traffic: *Single-family residential unit* = 9.57 Daily trips, 1.01 PM Peak Hour Trips / *Multifamily Low Rise* = 7.32 Daily trips, 0.56 PM Peak Hour Trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25 year, 24 hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = single family 0.273, multifamily 0.127.

Sources:

2010 US Census; ITE Trip Generation Manual, 9th Edition; Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030); Volusia County School District 2017 Impact Fee Study.

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

The proposed zoning will not unduly burden transportation facilities. There is already adequate vehicular access from the abutting S. Atlantic Avenue and Cardinal Boulevard roadways and the existing system of local, collector and arterial road network. The adjacent transportation network currently operates above the City, County and State adopted level of services with substantial capacities remaining. Further, the proposed concept plans indicate the east and west buildings will each have separate driveways to S. Atlantic Avenue and Cardinal Boulevard, respectively. There will be no cross vehicular access between the apartments.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

The proposed zoning change involves a vacant low density multi-family residential property being rezoned to a medium density multi-family residential zoning district restricted to 16 units. Hence, the rezoning will not impact the ability of people to find adequate housing since the change will actually create new housing units and increase the existing housing stock.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Medium Density Residential* future land use (FLU) classification to the subject property. This FLU classification allows 12.1 to 35 residential units per acre, however the applicant has also submitted a concurrent text amendment that would restrict the total number of units on the site to 16.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The proposed future land use and proposed zoning for a residential use, with a restriction of 16 total units, are not objectionable or inconsistent with the aforementioned policy. In addition, development as proposed is not incompatible with future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is not inconsistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

Staff is not aware of any physical, economic or environmental conditions relative to the property in question and the surrounding area have changed so as to require a zoning map amendment. However, the subject property is currently undergoing a comprehensive plan future land use amendment that if approved, would require the proposed subject zoning map amendment.

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

There was no mistake made in the original zoning of the property. The subject property is currently undergoing a comprehensive plan future land use amendment that if approved, would require the proposed subject zoning map amendment.

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

The proposed zoning change is compatible with the mixture of single-family, duplex and multifamily land uses in the vicinity. Therefore, the proposed change should maintain a stabilizing effect on the surrounding areas.

10. Would the proposed changes constitute "spot zoning"?

Spot zoning generally occurs when an individual parcel is assigned a zoning classification that is incompatible with the surrounding area and future land use plan. However, as noted above, the proposed residential zoning change is compatible with the diverse mixture of residential land uses in the vicinity. The change would also be consistent with the concurrent comprehensive plan future land use map and text amendment, if approved. Therefore, the proposed change does not constitute spot zoning.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

The proposed zoning classification is compatible with the existing diverse mixture of the residential neighborhood uses, future land use and zoning classifications as seen in Table 1, Figure 1 and Figure 2 of this staff report. The proposed use is residential, which is the prevailing land use in the area. Therefore, the proposed change is not the singling out of a small parcel of land allowing a use (eg commercial, industrial, etc.) that is totally different from that of the surrounding area.

12. Is the change solely for the benefit of the owner and to the detriment of the community?

The proposed zoning classification is compatible with the existing diverse mixture of the residential neighborhood use, future land use and zoning classifications as seen in Table 1, Figure 1 and Figure 2 of this staff report. In addition, the change would not negatively impact the community's natural or physical environment. Therefore, the proposed change would not be to the detriment of the community but instead the change would increase the City's housing stock and foster westside development.

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

The proposed change would increase the City's housing stock by providing low to medium density residential infill westside development.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

The rezoning is compatible with the surrounding neighborhood and therefore should not materially diminish the value of the surrounding properties or substantially alter the characteristics of the neighborhood since the proposed rezoning will ensure the residential nature of the community is maintained.

ORDINANCE NO. 2020-ZZ

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RECLASSIFYING THE REAL PROPERTY GENERALLY LOCATED AT 3828 S. ATLANTIC AVENUE, SHORT TAX PARCEL ID 6302-05-07-0150, FROM RMF-3 MULTIFAMILY RESIDENTIAL DISTRICT (LOW DENSITY) TO RMF-2 MULTI-FAMILY RESIDENTIAL DISTRICT (MEDIUM DENSITY); PROVIDING FOR MODIFICATION OF THE OFFICIAL ZONING MAP; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR NON-CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores is committed to planning and managing the future growth of the City; and

WHEREAS, Atlantic Avenue Estates, LLC, owner of the real property with short tax parcel ID 6302-05-07-0150 and generally located at 3828 S. Atlantic Avenue, submitted an owner initiated zoning map amendment application to the City of Daytona Beach Shores on October 17, 2019; and

WHEREAS, Atlantic Avenue Estates, LLC is requesting the City of Daytona Beach Shores amends the official zoning map of the subject real property from RMF-3 Multifamily Residential District (Low Density) to RMF-2 Multifamily Residential District (Medium Density); and

WHEREAS, the development of vacant westside properties is important to the economic development and tax base of the City of Daytona Beach Shores; and

WHEREAS, the City Council of the City of Daytona Beach Shores has received recommendation from staff and the Planning and Zoning Board for the assignment of zoning classification to the subject real property and has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds such rezoning consistent with the *City of Daytona Beach Shores Comprehensive Plan* and deems it in the best interest of the inhabitants of said City to amend the Official Zoning Map as hereinafter set forth,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, as follows:

SECTION ONE: REZONING OF REAL PROPERTY. The real property described hereinafter which was annexed into the City of Daytona Beach Shores pursuant to Ordinance No. 2015-07 is hereby rezoned and assigned the zoning classification as follows:

Short Tax Parcel ID #6302-05-07-0150, as described in Exhibit “A” as attached, is assigned the RMF-2, Multifamily Residential District (Medium Density) Zoning Classification.

SECTION TWO: AMENDMENT OF OFFICIAL ZONING MAP. The Official City Zoning Map is hereby amended to conform with the rezoning assigned herein.

SECTION THREE. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designee, is authorized to take any and all required administrative actions to implement the provisions of this Ordinance including, but not limited to, providing notice of this rezoning to the Volusia County Council in accordance with applicable law.

SECTION FOUR. NON-CODIFICATION. This Ordinance shall not be codified in the *City Code of the City of Daytona Beach Shores* or the *Land Development Code of the City of Daytona Beach Shores*; provided, however, that the actions taken herein shall be depicted on the Official Zoning Map of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION FIVE: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

RAYMOND J. BRANCH, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2020.

Adopted on second reading this _____ day of _____, 2020.

EXHIBIT A

LOTS 14 15 & 16 BLK 7 OCEAN VIEW SEC HALIFAX ESTATES MB 11 PG 100 PER
OR 1612 PG 0174 PER OR 4705 PGS 2478-2479 PER OR 5532 PG 4310 PER OR 7177 PG
0575 PER OR 7183 PG 2271.



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING FEBRUARY 10, 2020

**8:30 AM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Notice is hereby given to all interested parties that if any person should decide to appeal any decision made at the aforementioned meeting of the P&Z Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City Clerk, City of Daytona Beach Shores, at least five working days prior to the meeting.

PLANNING & ZONING BOARD AGENDA MEMORANDUM FEBRUARY 10, 2020 AGENDA

TO: The Members of the Planning & Zoning Board

FROM:

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2020-Tree Removal: Amending the Daytona Beach Shores Land Development Code tree removal exemption provisions consistent with Sec. 163.045, Florida Statutes.

SYNOPSIS:

Removing a tree within the City of Daytona Beach Shores generally requires a tree removal City permit with a few exceptions, including, but not limited to, single-family residential lots. Last year the State of Florida enacted Section 163.045, Florida Statutes (**Exhibit A**). This statute exempts all residential lots, including multifamily and planned unit development (PUD) properties, from needing a permit for tree removal, providing documentation from a certified arborist or landscape architect is obtained by the property owner. In addition, the statute exempts the property owner from having to replant the removed tree.

FISCAL IMPACT STATEMENT:

The anticipated fiscal impact will be minimal.

BACKGROUND:

A. BACKGROUND

All local government law is required to be consistent with Florida and Federal Law. The recently enacted Florida Statute, Sec. 163.045, requires the City to amend its Land Development Code accordingly. The proposed amendment language is below and contained in the draft ordinance attached (**Exhibit B**). Please note underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and strikethrough shall constitute deletions to the original text.

CHAPTER 14. – Zoning Regulations

Sec. 14-46. - Landscaping standards.

14-46.10. Exemptions.

Notwithstanding any other provision of this article to the contrary, any person may cut down, destroy or replace or authorize removal of one (1) or more trees, whose trunks lie wholly within the boundaries of property owned by said person without obtaining a tree removal permit from the City of Daytona Beach Shores in accordance with the following:

1. Said property is zoned by the City of Daytona Beach Shores for single-family use and a single-family dwelling is located on said property and it is owner occupied, providing the minimum landscaping and tree requirement standards of this Land Development Code are met, or
2. Said property contains trees which may have been determined by the City of Daytona Beach Shores to be deteriorated as a result of age, hurricane, storms, fire, freeze, disease, lightning or other Acts of God, or
3. Said property is within an existing public or private right-of-way or maintenance easement and contains trees which must be removed or thinned to insure the safety of the motoring public and to maintain visibility of oncoming traffic at intersecting public streets or such other trees which may disrupt public utilities, such as powerlines, drainage ways or similar public needs. Provided, however, as may be determined by the local government, specimen trees in public or private rights-of-way or utility easements may only be removed upon the issuance of a tree removal permit. Said tree so removed shall be replaced with a replacement tree and the location of said replacement tree shall be as determined by the City of Daytona Beach Shores, or
4. Said property contains trees which are planted and grown for sale to the general public or some public purposes. All licensed plant or tree nurseries and botanical gardens are included in this exemption., or
5. Historic trees shall only be removed upon approval of a tree permit granted by the city council., or
6. On residential properties wherein the property owner obtains documentation from an arborist

certified by the International Society of Arboriculture or a Florida licensed landscape architect that a tree or palm, eight (8) feet or taller in height, presents a danger to persons or property. Evidence of said documentation shall be presented to the City upon request by the City. In the absence of the requisite documentation the City's Land Development Code regulations shall apply. Pursuant to Sec. 163.045(2), F.S., properties qualifying for this exemption are not required to replant the removed tree or palm.

B. ANALYSIS/IMPACTS

The exemption granted under the statute may have had the opportunity for widespread and acute abuse because the statute does not require presenting proof of the requisite documentation to the City. However, the proposed ordinance ensures that the City can request the requisite documentation and in the absence of such, the City's Land Development Code and legal remedies apply.

It should be noted the conversation surrounding the passage of the statute in question focused on risky or unsafe trees that posed a threat to person or property. However, not all certified arborist and landscape architects are trained and certified in tree removal risk management. Therefore, there is still a potential for abuse by unscrupulous professionals.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of the proposed ordinance.

SUGGESTED MOTION:

A Planning and Zoning Board Member may recommend one of the following:

1. "I move to recommend approval of the proposed ordinance as presented"

OR

2. "I move to recommend denial of the proposed ordinance on the basis of..."

OR

3. "I move to recommend approval of the proposed ordinance with the following conditions."

ATTACHMENT:

1. Exhibit A-Sec163.045-FS
2. Exhibit B-Draft Ordinance 2020-Tree Removal-RJB-2-5-20

Select Year: 2019

The 2019 Florida Statutes

Title XI	Chapter 163	View Entire Chapter
COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	INTERGOVERNMENTAL PROGRAMS	

163.045 Tree pruning, trimming, or removal on residential property.—

(1) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.

(2) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.

(3) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. [403.9321-403.9333](#).

History.—s. 1, ch. 2019-155.

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ORDINANCE 2020-Tree Removal

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING THE *MUNICIPAL CODE OF ORDINANCES, APPENDIX G-LAND DEVELOPMENT CODE*; BY AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-46 ENTITLED “LANDSCAPING STANDARDS,” AMENDING THE CITY’S TREE REMOVAL EXEMPTION PROVISIONS CONSISTENT WITH SECTION 163.045, *FLORIDA STATUTES*; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Daytona Beach Shores to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the City of Daytona Beach Shores shall adopt and enforce land development regulations for the purpose of implementing its comprehensive plan and protecting the public health, safety, and general welfare; and

WHEREAS, among other things, the purpose and intent of the Daytona Beach Shores Landscaping Standards is to “promote innovative and cost-conscious approaches to the design, installation and maintenance of landscaping, and encourage water and energy conservation;” and

WHEREAS, Sec. 163.045(1), *Florida Statutes*, reads as follows: “A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property”; and

WHEREAS, the City Council of the City of Daytona Beach Shores recognizes it is preempted by the State of Florida regarding the subject matter of this ordinance; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City Daytona Beach Shores*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and strikethrough shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: The City Council of the City of Daytona Beach Shores hereby amends *the Code of Ordinances of the City of Daytona Beach Shores, Appendix G-Land Development Code*, Chapter 14, entitled "Zoning Regulations," as follows:

CHAPTER 14. – Zoning Regulations

Sec. 14-46. - Landscaping standards.

14-46.8. Permit Requirements for Tree Removal.

It is hereby unlawful for any person to cut down, move, remove or destroy through damaging or to authorize the same, of any tree or palm eight (8) feet or taller in height as defined in this article (Article II) without first obtaining a tree removal permit from the City of Daytona Beach Shores, in accordance with the provisions of this article except as otherwise provided below.

An inspection of related property by authorized building department personnel shall be required to determine compliance with said section 14-46.11, Tree Protection/Minimum Requirements, section 14-46.12, Specimen Tree Protection Survey Requirements and related standards through section 14-46.17, Stop Work Order of said Ordinance 89-7. The tree removal permit fee shall be specified in the current "Daytona Beach Shores Land Development Schedule of Fees," which is available at the office of the city clerk.

14-46.9. Applications, Variances, Appeals and Standards of Review.

The City of Daytona Beach Shores shall provide for applications, variances and appeals procedures in connection with the issuance of said permit in conformity with this article and shall cause the appropriate variance or appeals board to be aware of the standards of review as contained herein. The standards of review of said applications include but are not limited to:

- a. The extent to which the actual intended use of the property requires cutting down or destruction of trees.
- b. The desirability of preserving any tree by reason of its size, age, or some other outstanding quality, such as uniqueness, rarity or status as an historic or specimen tree.
- c. The extent to which the area would be subject to increased water runoff and other environmental degradation due to removal of the trees.
- d. The heightened desirability of preserving or enhancing tree cover in densely developed or densely populated areas.
- e. The need for visual screening in transitional areas, or relief from glare, blight, commercial or industrial unsightliness or any other affront to the visual or aesthetic sense on the area.
- f. The effect that changes in the natural grade will have on the trees to be protected and preserved.

14-46.10. Exemptions.

Notwithstanding any other provision of this article to the contrary, any person may cut down, destroy or replace or authorize removal of one (1) or more trees, whose trunks lie wholly within the boundaries of property owned by said person without obtaining a tree removal permit from the City of Daytona Beach Shores in accordance with the following:

1. Said property is zoned by the City of Daytona Beach Shores for single-family use and a single-family dwelling is located on said property and it is owner occupied, providing the minimum landscaping and tree requirement standards of this Land Development Code are met, or
2. Said property contains trees which may have been determined by the City of Daytona Beach Shores to be deteriorated as a result of age, hurricane, storms, fire, freeze, disease, lightning or other Acts of God, or
3. Said property is within an existing public or private right-of-way or maintenance easement and contains trees which must be removed or thinned to insure the safety of the motoring public and to maintain visibility of oncoming traffic at intersecting public streets or such other trees which may disrupt public utilities, such as powerlines, drainage ways or similar public needs. Provided, however, as may be determined by the local government, specimen trees in public or private rights-of-way or utility easements may only be removed upon the issuance of a tree removal permit. Said tree so removed shall be replaced with a replacement tree and the location of said replacement tree shall be as determined by the City of Daytona Beach Shores, or
4. Said property contains trees which are planted and grown for sale to the general public or some public purposes. All licensed plant or tree nurseries and botanical gardens are included in this exemption, or
5. Historic trees shall only be removed upon approval of a tree permit granted by the city council, or
6. On residential properties wherein the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that a palm eight (8) feet or taller in height, or tree presents a danger to persons or property. Evidence of said documentation shall be presented to the City upon request by the City. In the absence of the requisite documentation the City's Land Development Code regulations shall apply. Pursuant to Sec. 163.045(2), F.S., properties qualifying for this exemption are not required to replant the removed tree or palm.

SECTION TWO: ENFORCEMENT AND PENALTIES.

- (a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.
- (b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law and Section 1.8 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.
- (c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

SECTION THREE: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to landscaping and related standards are hereby ratified and affirmed.

SECTION FOUR: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Two, Three, Four, Five, Six and Seven shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION FIVE: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION SIX: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION SEVEN: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

RAYMOND BRANCH, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2020.

Adopted on second reading this _____ day of _____, 2020.



PLANNING & ZONING BOARD AGENDA MEMORANDUM FEBRUARY 10, 2020 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2020-03: An ordinance relating to temporary promotional outdoor activities within City limits.

SYNOPSIS:

Ordinance 2020-03, if adopted, would amend several sections of the Daytona Beach Shores Land Development Code to permit outdoor promotional activities on commercial and hotel properties within City limits. The current promotional activity regulations are restrictive such that they preempt viable outdoor promotional activities within the City. If approved, business owners would be allowed to have viable promotional activities that could help sustain and grow their businesses.

FISCAL IMPACT STATEMENT:

BACKGROUND:

Ordinance 2020-03 (attached) was drafted at the request of a business owner seeking to have outdoor promotional activities, including a tent, during this upcoming Bike Week.

The ordinance was drafted in a way that attempts to provide economic opportunities for businesses while being cognizant on the City's public, health safety and welfare.

LEGAL REVIEW:

RECOMMENDATION:

Staff will be providing the Planning and Zoning Board recommendation at the scheduled hearing.

SUGGESTED MOTION:

A Board Member member may move as follow:

"I move to recommend approval of Ordinance 2020-03 as presented."

OR

"I move to recommend approval of Ordinance 2020-03 with the following conditions or amendments..."

OR

"I move to recommend denial of Ordinance 2020-03 on the basis of..."

- ATTACHMENT:**
1. Ordinance 2020-03-Temporary Promotional Activity.with RJB comments-SC-2-5-20
 2. Ordinance 2020-03A-Temporary Promotional Activity.with RJB comments-SC-2-5-20

ORDINANCE 2020-03

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO TEMPORARY PROMOTIONAL ACTIVITIES; AMENDING THE *CODE OF ORDINANCES, APPENDIX G-LAND DEVELOPMENT CODE*; BY AMENDING SECTION 2-2 ENTITLED “GENERAL DEFINITIONS”; BY AMENDING CHAPTER 6, ENTITLED “SIGNS AND ADVERTISING”; BY AMENDING SECTION 14-31.1, ENTITLED “GC-RD GENERAL COMMERCIAL-REDEVELOPMENT DISTRICT”; BY AMENDING SECTION 14-60.2 ENTITLED “TEMPORARY PROMOTIONAL ACTIVITY PERMITS, STANDARDS IN THE GC-1 AND GC-2 COMMERCIAL DISTRICTS AND T HOTEL/MOTEL DISTRICT”; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Daytona Beach Shores to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the City of Daytona Beach Shores shall adopt and enforce land development regulations for the purpose of implementing its comprehensive plan and protecting the public health, safety, and general welfare; and

WHEREAS, the City Council of the City of Daytona Beach Shores desires that the economy of the City of Daytona Beach Shores be one that is vibrant, creative, flexible and dynamic; and

WHEREAS, the City Council of the City of Daytona Beach Shores recognizes that outdoor temporary promotional activities can help to retain and enhance existing business operations and success; and

WHEREAS, the City Council of the City of Daytona Beach Shores recognizes that outdoor temporary promotional activities can be regulated so as to not adversely impact the appearance of the community and its public image; and

WHEREAS, the City Council of the City of Daytona Beach Shores recognizes that outdoor temporary promotional activities can be regulated so as to not adversely impact the public health, safety and welfare; and

WHEREAS, the City Council of the City of Daytona Beach Shores has deemed approval of this Ordinance to be in the best interest of the businesses, visitors, residents and citizens of the City of Daytona Beach Shores; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City Daytona Beach Shores*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and strikethrough shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores*, Appendix G-Land Development Code, Section 2-2, entitled “General Definitions,” by adding the following:

Temporary promotional accessory: A ground-based attention getting device used to attract public attention to a temporary promotional event including, but not limited to, air dancer, inflatable, statue, carving, art display, promotional or fluttering flag, and other similar device. Accessories shall not exceed 12 feet in height and shall not be larger than 150 cubic feet.

Temporary promotional activity: A temporary indoor or outdoor event on a commercial or hotel property, parcel or lot including but not limited to grand openings, product displays, sales and promotion of a new or existing bona fide business and its products or services.

SECTION TWO: The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores*, Appendix G-Land Development Code, Chapter 6, entitled “Signs and Advertising,” as follows:

Sec. 6-8. - Permitted signs.

18. *Banner Signs* . Banner signs may be employed for special events within the city by a permit issued through the building and codes division of the department of community services. Only one (1) banner sign shall be placed at any location, lot or parcel at any given time. Size, location, time limitation, and type of event shall be permitted under the following conditions:

Banner signs may be permitted for promotional events within the city upon receipt of any approved banner permit issued by the city through the building and codes division of the department of community services. For banner sign purposes, promotional events are defined as follows: Speed

Week, Bike Week, Biketoberfest, Spring Break, grand openings, going-out-of-business sales and similar city-preapproved occasions sanctioned by the city manager. Written proof will be required with application for local events with which the city desires to identify and with which the city is satisfied the banner sign will reflect highly upon the city and promote economic or tourism development. Except for temporary promotional activity banners permitted pursuant to Sec. 14-60.2 of this Land Development Code, Only only one (1) banner sign shall be placed at any location, lot or parcel at any given time. Size, location, time limitation, and type of event shall be permitted under the following conditions:

- (1) Banner signs shall be permitted only in GC1, GC2, T, GC-RD and TC-MUPUD districts.
- (2) Maximum sign area shall be thirty-two (32) square feet.
- (3) Banners shall not be located at ground level in any right-of-way. One (1) banner sign may be permitted to be displayed during promotional events. Such signs may carry business or product logos and generic messages commemorating the event and/or welcoming visitors. The sign shall not convey specific sales information, such as prices or "specials" or any other related information of this type or nature.
- (4) All banners shall be preapproved by the building and codes division. All temporary banners allowed under this subsection may be installed up to one (1) week prior to the event, and must be removed no later than forty-eight (48) hours following the event with a maximum time limit of thirty (30) days. Banner signs shall not be permitted for more than one hundred twenty (120) days (or four (4) events) in any twelve-month period. Only one (1) thirty-day period allowed in any sixty (60) consecutive days.
- (5) The banner sign permit fee shall be specified in the current "Daytona Beach Shores Land Development Code Schedule of Fees" which is available at the office of the city clerk. In the event the city installs the banner, an additional fee for installation and removal shall be assessed as specified in the current "Daytona Beach Shores Land Development Code Schedule of Fees" which schedule is available at the office of the city clerk. Requests for banner signs spanning any right-of-way, or of a size larger than allowed above, or for a duration longer than that stated above shall require approval of the city manager. Such approval shall be predicated upon the banner sign request being of such nature that it would be advertising a city-wide function approved by the city council. Banner signs erected prior to a permit being obtained or not in accordance with the sketch or the criteria specified in this ordinance shall be a violation of this ordinance.
- ~~(6) Condition L in section 6-9 shall also apply to banners located in the GC-RD and TC-MUPUD districts.~~

Two (2) banner signs approved in conjunction with a bona fide temporary promotional activity shall be permitted for the duration of the event pursuant to Sec. 14-60.2 of this Land Development Code.

Sec. 6-11. - Prohibited signs.

1. No persons shall erect a sign on or over any public property or public right-of-way, including the Atlantic Ocean beach except for legal franchises of the city and subsection 6-8(11.1), Public Information Off-Site Directional Signs.
2. No persons shall operate or park any vehicle for the purpose of display, sale or advertising on any public right-of-way.
3. Roof signs, except as expressly permitted by section 6-8, Permitted Signs, within Chapter 6, Signs and Advertising, of the Land Development Code of Ordinances, snipe signs, pennants, inflatables and wind operated devices, sandwich signs, revolving signs, flashing signs and signs with moving or alternating lights, outdoor advertising signs, off-site signs, animated signs, and spectacular signs are prohibited and unlawful, except when approved in conjunction with a bona fide temporary promotional activity. However, nothing contained herein shall prohibit a time and temperature sign with dimensions not exceeding twenty-five (25) square feet in area.

SECTION THREE: The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores, Appendix G-Land Development Code*, Section 14-31.1, entitled “GC-RD General Commercial-Redevelopment District,” as follows:

Sec. 14-31.1 GC-RD General Commercial-Redevelopment District.

Sec. 14-31.1.11 Permitted Temporary Use.

Promotional activities shall comply with section 14-60.2.

SECTION FOUR: The City Council of the City of Daytona Beach Shores hereby amends the *Code of Ordinances of the City of Daytona Beach Shores, Appendix G-Land Development Code*, Section 14-60.2, entitled “Temporary promotional activity permits, standards in the GC-1 and GC-2 Commercial Districts and T Hotel/Motel District,” as follows:

Sec. 14-60.2. Temporary promotional activity permits, standards in the GC-RD, GC-1 and GC-2 Commercial Districts and T Hotel/Motel District.

1. General: A temporary promotional activity, also known as a TPA, shall be limited to promotional activities, exhibits, displays and sales directly and customarily associated with the principal and accessory uses of a business, as determined by the City Manager or his designee.

TPA permits shall only be issued to one (1) tenant space per primary address. Outdoor promotional activities are permitted between the hours of 7am and 10pm subject to the City's noise regulations. A TPA permit shall not authorize itinerant vending.

2. Application: (i) An application shall be submitted to the City Manager, or designee, on the approved form provided by the City. (ii) Applications shall be submitted at least ten (10) days prior to the start of the requested TPA. (iii) Fees established by the City Council shall be paid in full at the time of application submission. (iv) Applications shall contain a site sketch exhibit indicating dimensions, tent capacity, egress and location and placement of all TPA components relative to all buildings and structures, parking and property lines. (v) TPA permits may only be obtained by the business owner. (vi) TPA shall be authorized by the property owner.
3. Transfers: TPA permits shall not be transferable.
4. Duration: Temporary promotional activities shall not exceed 21 days per calendar year for any business tenant space with a primary address. A TPA permit shall be issued for a minimum of three (3) days.
5. Hazards and Public Nuisances: Temporary promotional activities shall not create public nuisances or hazards jeopardizing the public health, safety or welfare.
6. Tents and removal of outdoor components: Temporary promotional activities may occur within temporary outdoor structures such as tents, as approved by the City Manager, or designee, not to exceed 500 square feet per business. All components associated with the TPA shall be removed immediately after event closing.
7. Area restrictions: A TPA shall not occupy more than 500 square feet PLUS an additional square footage two times the lineal footage of the business' frontage. TPA areas shall not exceed 25% of the business' required off-street parking area. In no case shall the total TPA areas permitted on a multi-business property, lot or parcel exceed 25% of the property's total required off-street parking area. All merchandise shall be displayed under a temporary outdoor structure, as approved by the Building Official.
8. Access and setbacks: Temporary promotional activities shall not impede or obstruct pedestrian or vehicular traffic, building egress, occupy or block driveways, drive aisles, fire lanes, sidewalks and sight triangles, as determined by the Building Official. All TPA components shall set back at least five (5) feet from rights-of-way and side lot lines and at least 50 feet from residential properties.
9. Location: Promotional activities may occur inside or outside. However, outdoor temporary promotional activities shall only be permitted in front of or in an area adjacent to the business subject to the terms and conditions of this section. TPA components and activities shall not occur inside required landscape islands or planter boxes.

10. Prohibitions: (i) Amusements (ii) Outdoor adult entertainment activities, sales and displays. (iii) Outdoor body art services. (iv) Vehicular washing events. (v) Outdoor alcohol sales and consumption, except as approved by an active outdoor dining conditional use permit. (vi) Tethered airborne accessories. (vii) Trampolines, jump houses and other similar recreation equipment and devices.

11. Signage and temporary promotional accessories: Each TPA shall be permitted two (2) banner signs, not to exceed 32 square feet each and one (1) temporary promotional accessory. All other signage, including but not limited to mobile and portable signage on trailers, is prohibited.

12. Security and Safety: All TPA components shall be safely secured overnight and when not in use against vandalism and theft. TPA components, including, but not limited to, tents and accessories, shall be installed, maintained and removed pursuant to manufacturer's instructions.

13. Enforcement and Violations:

~~1. Application shall be on an appropriate form provided by the City and submitted at least sixty (60) days prior to the initiation of the requested temporary promotional activity. The City Council may determine appropriate fees for this permit by resolution.~~

~~2. The temporary promotional activities shall be in accordance with the existing licensed business activity(s) for each site; temporary promotional activities shall not consist of outside sales.~~

~~3. Outdoor displays shall not impede pedestrian or vehicular traffic, occupy or block driveways, drive aisles, fire lanes and shall not be placed in any required parking area nor within one hundred (100) feet of any right-of-way.~~

~~4. No temporary promotional activities may occur within temporary structures such as tents or trailers.~~

~~5. Site plans shall be attached to the application for any temporary promotional activity permit.~~

~~6. Temporary signs, including banners, shall comply with the Land Development Code regarding temporary signage, including but, not limited to section 6-8(18), Banner Signs.~~

~~7. The enforcement official, or his or her designated representative, shall make an inspection of the properties involved. If the enforcement official denies the permit, the applicant may appeal the ruling to the City Council within ten (10) days of the enforcement official's ruling.~~

~~8. Temporary promotional activity permits shall be personal to the permittee and shall not be transferable.~~

~~9. Temporary promotional activities shall not authorize itinerant vending.~~

~~10-~~It shall be a violation of the Land Development Code to violate the terms of any temporary promotional activity permit. In addition to other remedies such as Code Enforcement Board Special Magistrate action, the City Manager is authorized to immediately suspend or revoke a temporary promotional activity permit, without prior warning, if the City Manager determines that the temporary promotional activity is being conducted in a manner that violates any portion of this [section 14-60.2](#), or in a manner that poses an imminent threat to public health, safety or welfare. Upon revocation of a temporary promotional activity permit, the permittee shall immediately cease the temporary promotional activity authorized by the permit. The permittee shall be required to obtain a new permit and pay new permit fees before the permit activity may be resumed. Upon suspension of a temporary promotional activity permit, the temporary promotional activity permittee must close down the temporary promotional activities authorized by the permit until the suspension order is lifted. Suspension or revocation shall be effective immediately upon notice to the permittee. Notice to the permittee shall be deemed to be given when delivered to the permittee or to any person listed in the permit application as managing or supervising the temporary promotional activity or, if no such person appears to be on the site of the temporary promotional activity at the time of the issuance, to any other person who appears to be in control of the temporary promotional activity or who appears to be acting on the temporary promotional activity permittee's behalf.

SECTION FIVE: ENFORCEMENT AND PENALTIES.

- (a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.
- (b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law and Section 1.8 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.
- (c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

SECTION SIX: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to temporary promotional activities are hereby ratified and affirmed.

SECTION SEVEN: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Five, Six, Seven, Eight, Nine and Ten shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION EIGHT: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION NINE: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION TEN: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

RAYMOND BRANCH, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2020.

Adopted on second reading this _____ day of _____, 2020.



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING FEBRUARY 10, 2020

**8:30 AM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Notice is hereby given to all interested parties that if any person should decide to appeal any decision made at the aforementioned meeting of the P&Z Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City Clerk, City of Daytona Beach Shores, at least five working days prior to the meeting.

PLANNING & ZONING BOARD AGENDA MEMORANDUM FEBRUARY 10, 2020 AGENDA

TO: The Members of the Planning & Zoning Board

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Board duties and procedures

SYNOPSIS:

The board requested to discuss policies and procedures.

FISCAL IMPACT STATEMENT:

There is no fiscal impact.

BACKGROUND:

The rules and procedures were incorporated in Ordinance 2019-05 and adopted by the City Council.

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

A motion is not needed as this was adopted by the City Council.

ATTACHMENT: 1. 2020 board and procedures

Sec. 2-8. - General provisions relating to City appointed boards, and committees and appointments.

(a). *Applicability.* This section applies to all boards, commissions or committees, except to the extent otherwise specified in Federal or State law or otherwise provided in this Code. This Section shall not apply to any City canvassing board, as may be established from time-to-time, or any ad hoc City staff committee or ad hoc group of citizens accomplishing a specific purpose, but not acting in a governmental collegial nature; provided, however, that the provisions of State law relative to public records, public meetings, public notices, participation by the public, the creation and approval of minutes and similar procedural requirements shall be applicable as to all City activities involving collegial decision making or recommendations.

(b). *Positions; qualifications; residency.* Each member shall be appointed to a specific numbered position by the City Council. No member may be a paid or elected official or employee of the City. Absent a controlling provision in Federal, State, County or City law, ordinance, rule or regulation, every appointee must, at the time of appointment, be a resident of the City and an elector of Volusia County; provided, however, that this requirement may be waived by a fourth-fifths vote of the City Council if it is found in the best interests of the City to do so. A member who ceases to meet a requirement for qualification, shall be deemed to have resigned upon the failure to maintain the qualification for office and shall be replaced at any time thereafter by the City Council, but may continue to serve on an interim basis until a successor is qualified and appointed if the member's interim service is approved by a fourth-fifths vote of the City Council.

(c). *Terms.* Each position shall have a 3-year term of office with each beginning on October 1 of a calendar year. Each member appointed shall serve for the specific term, or the unexpired portion thereof, of the specific position to which the member is appointed. A qualified member shall also serve after the expiration of a term of office until a successor is appointed.

(d). *Vacancies.* In the event of death, resignation, removal from office or any other vacancy, a successor shall be appointed to serve the remaining unexpired portion of the specific term of office of the vacant position.

(e). *Removal.* The City Council may, by majority vote, remove a member for cause upon written charges after notice and public hearing by reason of (i) 3 unexcused absences within a 12-month period as determined by the City Council or (ii) misfeasance, malfeasance or dereliction of duty or such other conduct that provides for removal under a controlling provision of law.

(f). *Officers.* The City Council may, from time-to-time, designate one member as the presiding officer who shall serve until another presiding officer is designated. A chairperson and vice-chairperson shall be elected from the members at the first meeting of each calendar year and may serve in that capacity for no more than 2 consecutive terms unless service of more consecutive terms are approved by a fourth-fifths vote of the City Council.

(g). *No compensation.* Members shall receive no compensation for their services, but may be reimbursed for travel and other expenses associated with their duties.

(h). *Quorum.* A quorum is half the number of the voting membership, including alternate members who are participating as voting members, of the board, commission or committee. The only appropriate action in the event of a non-quorum is to continue the meeting; provided, however, that the attending members of the body may discuss matters of a non-quasi-judicial nature and matters that are not, and will not be, the subject of a noticed public hearing. Continuances of meetings and hearings may be accomplished administratively without the vote of a quorum due to inclement weather conditions, emergency circumstances and administrative necessity when the Chairperson of the body concurs in such action proposed by City staff and, in

such circumstances, a designated member of City staff shall attend the meeting, if possible, and announce a continuance of the meeting or hearing to a date that is approved by the Chairperson. In the event of the unavailability of the Chairperson to make decisions as set forth in this Subsection, the Vice-Chairperson or, if no Vice-Chairperson is in office, the member with the longest service on the body shall make such determinations. In the event of a continuance under the provisions of this Subsection, City staff shall take all reasonable and appropriate actions to notice the meeting or hearing and to ensure that all affected parties are advised of the new date of the meeting or hearing.

(i). *Term limits.* No member shall serve more than 3 consecutive terms on the same board, commission, or committee unless service of more consecutive terms are approved by a fourth-fifths vote of the City Council.

(j). *Absences.* Each regular member and each alternate member shall notify the designated City staff liaison when it is anticipated that the member will be absent from a meeting. At the meeting, the body may vote to excuse the absence provided that the staff liaison was notified at least 24 hours prior to the scheduled meeting; provided, however, that less notice will be acceptable in the event of exigent circumstances facing the member and causing the absence.

(k). *Alternate members.* In addition to appointing regular members, the City Council may also appoint alternate members in such numbers as it deems appropriate to serve in the event of absences by regular members. Alternate members shall have all of the rights and privileges of regular members and shall be subject to the same requirements as regular members. Alternate members may attend all meetings of the body to which appointed, but may only vote when filling the position of an absent member either for an entire meeting or a particular vote or set of votes at a meeting depending upon the duration of the absence of a member; provided, however, that once

a member is absent from a meeting, that member shall not regain his or her seat on the body unless a quorum is lacking in the meeting subsequent to his or her absence. Alternate members shall not participate in the debate on matters that are quasi-judicial in nature when not sitting as a voting member, but the chairperson, in his or her discretion, may permit participation of alternate members when matters are advisory in nature. Alternate members may serve in the absence of a member of the body whether for an entire meeting or for a particular vote or set of votes at a meeting. If more than one alternate is appointed to a body, they shall serve in a rotational method or by means of the order of appointment if no rotation has been established with the first appointed alternate member serving first. It is the duty of members to advise the staff liaison of their expected absence from a meeting as early as possible.

(l). *Method of creation.* Advisory bodies shall be created by resolution as opposed to ordinance except in unusual circumstances or in the event that controlling law requires otherwise.

(m). *Rules of procedure.* All proceedings shall be guided by the latest edition of Roberts Rules of Order in a manner which allows the body to function in an organized manner, but without technical adherence thereto. Motions for reconsideration may only be heard at the next session of a body occurring after the meeting at which the vote desired to be reconsidered occurred. Any member of the body, regardless of whether he or she voted at the prior meeting, may move for reconsideration provided that such moving member did not vote on the non-prevailing side at the prior meeting with regard to such vote. If a matter that was determined at an advertised public hearing is later determined to be reconsidered, public notice shall be published consistent with the requirements that were applicable when the vote that is to reconsidered was taken and an explanation of the reconsideration process shall be incorporated into the public notices relating to the matter.

(n). *Bylaws; applicable laws.* Unless otherwise empowered by Federal, State, County or City law, ordinance, rule or regulation, no bylaws shall be adopted by the body and matters within the jurisdiction of the body shall be implemented in accordance with the provisions of the creating *City Code* provision, ordinance or resolution. The provisions of Florida law relating to public records, public notices, participation by the public, the creation and approval of minutes and public meetings shall apply to all City board, commissions and committees except to the extent explicitly provided otherwise in state law. If Federal law requires certain processes and procedures, then the board, commission or committee subject to such requirement, shall ensure that full compliance is maintained. All actions and activities of each body shall be accomplished in full compliance with the requirements of open and transparent government under the guidance of the City Attorney who shall also guide and direct adherence to the requirements of law relative to quasi-judicial proceedings of all bodies. The City Clerk shall endeavor to maximize public notice of meetings and hearings of the City as well and public information relative to the actions taken at such meetings and hearings to include, but not be limited to, the use of technology for the provision of notices and records relating to the boards, commissions or committees of the City insofar as practicable.

(o). *Staff support; compliance with controlling law.* The City Manager shall provide staff support and other operational support to a board, committee or commission consistent with a determination as to the needs of the body and the availability of staff and other resources. The City Attorney shall provide legal guidance to all boards, committees, and commissions to ensure that each body, in accordance with the processes and procedures promulgated by the City Clerk, provides approved and executed minutes for each meeting, that all agendas and minutes comport with controlling law, that public participation is allowed in all appropriate circumstances and that

the controlling provisions of law relating to open government are honored and respected. The City Manager shall be responsible for appointing a City staff liaison for each board, commission or committee. Designated staff liaisons are authorized to provide support and assistance for each board, commission or committee, including expenditures budgeted for that purpose. The City Council may require a report of the activities of a body at any time.

Sec. 14-63. -Planning and zoning board functions, powers and duties.

The functions, powers and duties of the planning and zoning board shall be as follows:

1. Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions. Such information and material may include maps and photographs of manmade and natural physical features of the area concerned, statistics on past trends and present conditions with respect to the population, property values, economic base, land use, environmental impact and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the area and its various parts and necessary protection therefor.

2. Recommend principles and policies for guiding action in the development and protection of Daytona Beach Shores.

3. Hear requests, whether initiated by the commission or otherwise, for creation of new zoning classifications or changes or amendments in the zoning regulations or zoning classifications, or for new or different uses in any zoning classification, and to make recommendations to the City Council concerning the same.

4. Serve as the City's Local Planning Agency pursuant to Section 163.3174, *Florida Statutes*, and have all powers set forth therein.

5. Hear and decide such special exceptions as specifically authorized under the terms of the zoning regulations; to decide such questions as are involved in the determination of when special exceptions should be granted; and to grant special exceptions with appropriate condition and safeguards or to deny special exceptions when not in harmony with the purpose and intent of this ordinance or any regulation enacted under the authority of the *Land Development Code*.

6. To act as the Fire Code Board of Adjustment and Appeals having the power to hear appeals of decisions and interpretations of the Fire Marshal and to consider alternatives to the *Florida Fire Prevention Code*. Such decisions shall be based on whether the alternatives or interpretations being appealed provide for relates to special situations arising from historic, geographic or unusual conditions; or if the alternative requirements result in a level of protection to life, safety or property equal to or greater than the applicable minimum fire safety standards. Decisions shall be rendered at the hearing and shall include the reasons for the decision. Such decisions shall be final, but subject to such remedy as may be available at law or in equity. All appeals granted must be exercised within six (6) months of the order or they shall be automatically deemed null and void. One (1) six (6) month extension may be granted by the Board if a written request for an extension has been submitted to the City in writing prior to the expiration of the six (6) month period.

7. In terms of exercising its authority under the provisions of the *Land Development Code*, the Planning and Zoning Board shall adhere to the following:

a. In granting any special exceptions the Board shall find that such grant will not adversely affect the public interest.

b. In granting any special exception, appropriate conditions and safeguards may be imposed which are consistent with the protection of the public health, safety, morals or general welfare. Violation of such conditions and safeguards when made a part of the development order under which a special exception is granted shall be deemed a violation of the *Land Development Code*.

c. The Board may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both.

d. The following standards shall be applicable in determining whether the Board shall grant or deny a special exception:

i. The grant of a special exception shall be in harmony with the purpose and intent of the *Land Development Code*, particularly those applicable to the zoning classification in which the special exception is located.

ii. The Board may not grant a special exception unless the applicant has demonstrated his compliance, or ability to comply with, the conditions imposed.

iii. The Board must find that the applicant has submitted sufficient evidence to assure that he, she, they or it is or will be able to comply with all requirements of the.

iv. The Board shall find that the proposed use will not generate an undue amount of traffic congestion which would tend to create a hazard or

danger to the public or to persons in the vicinity from such use, or create a public nuisance.

v. The Board shall find that the special exception will not materially alter the character of the surrounding neighborhood or adversely affect the value of surrounding lands, buildings or natural resources.

vi. The Board shall find that the special exception will not adversely affect the natural environment, natural resources or scenic beauty, or give rise of any pollution of the air, land or water, or cause unnecessarily injurious heat, noise or odor.

8. The Planning and Zoning Board may authorize, after due public notice, the time and place of the meeting, and application upon a form prescribed by the Building Official, such variance or variances from the terms of the *Land Development Code* as will not be contrary to the public interest when, owing to special conditions, the literal enforcement of the provisions of the *Land Development Code* would result in unnecessary hardship or practical difficulty. Such variance application shall be heard only if it is presented by a person owning fifty-one (51) percent or more of the specific area of land involved or upon administrative application by the City; provided, however, that no lot coverage or maximum north-south width variance or variances may be granted from the terms of the T or RMF-1 zoning regulations:

a. To justify any variance, the applicant must demonstrate all of the following:

i. Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable

generally to other lands, structures or buildings in the same zoning classification.

ii. The special conditions or circumstances do not result from the actions of the applicant and are not primarily economic or financial in nature.

iii. Literal interpretation or enforcement of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification under the terms of the *Land Development Code*.

iv. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

v. The variance sought will not authorize or extend any nonconforming use or other nonconformity with respect to the land or structures in question.

vi. The granting of the variance will be in harmony with the general intent and purpose of the *Land Development Code*, will not be injurious to the area involved or surrounding properties and will not authorize a use of the property not permitted by its zoning classification.

vii. The variance sought will be consistent with the City's Comprehensive Plan.

b. In granting any variance, the Planning and Zoning Board may prescribe appropriate conditions and safeguards in conformity with of the *Land Development Code*. Violation of such conditions and safeguards, when made a part

of the terms under which the variance is granted shall be deemed a violation of the *Land Development Code*.

c. The Planning and Zoning Board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed, or both.

d. No nonconforming use of neighboring lands, structures or buildings in the same zoning classification and no permitted use of lands, structures or buildings in other zoning classifications shall be considered grounds for the authorization of a variance.

9. The Planning and Zoning Board may hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the *Land Development Code*.

10. Appeals of final decisions of the Planning and Zoning Board may be made to the City Council upon the filing of a written appeal detailing the asserted errors of the decision within thirty (30) days of the date of the rendering of the decision. Appeals shall be heard de novo.

Sec. 14-64. - General rules of procedure.

1. The board shall meet at regular intervals to be determined by it in order to carry out its responsibilities, and at such other times as the board shall determine.

2. The affirmative vote of three (3) members shall be required to take any action as to make any recommendation to the City Council.