



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING SEPTEMBER 14, 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 August 10, 2020

3. QUASI-JUDICIAL HEARING

4. DISCUSSION ITEMS

A. Ordinance 2020-12: Land Development Code Amendment Relating to Expansion of Non Conforming Single-Family Residential Uses/Structures

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
August 10, 2020
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

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

Staff: City Clerk Cheri Schwab, Board Attorney John Cary, City Planner Stewart Cruz.

2. MINUTES

A. Planning & Zoning Minutes July 13, 2020

MEMBER CHUCK HORION moved, seconded by MEMBER JAMES LILLY to approve the Planning & Zoning Minutes of July 13, 2020.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

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

3. QUASI-JUDICIAL HEARING

4. DISCUSSION ITEMS

5. OTHER

A. Ordinance 2020-08: Amendment to Shores 109, LLC - City of Daytona Beach Shores Development Agreement

City Planner Stewart Cruz explained that the proposed ordinance was an amendment to the existing Development Agreement for Shores 109 LLC. After the original DA was approved, the developer began the bid process and costs came in higher than anticipated. On July 23, an amendment application was received to reduce the size and scope of the project. The substantive changes include:

- 1) elimination of the outdoor covered patio - the new design will now include an open patio area
- 2) elimination of the outdoor restroom - patrons will utilize the restrooms inside the building
- 3) elimination of the underground stormwater retention system - the replacement will be surface retention

4) reduction/shifting of parking closer to the building and corresponding realignment of the public cross access agreement - the number of parking spaces is scaled back from 24 to 18.

5) addition of a freestanding identification sign and ancillary features in east adjacent City alley.

Exhibits were shown of the proposed changes and included a new rendering of the project. It was noted that all due public notice had been met. City staff has reviewed and approved the project changes and recommends board approval. A new site plan has been submitted and staff is currently reviewing it.

A few board members were concerned with the reduction in parking spaces. They felt it had a limited number to begin with and now there are less. There was discussion on the possibility of speaking with adjacent business owners to have an agreement for after hours parking nearby. Brendan Galbreath, the applicant, explained that if the demand for parking was so great, he would speak with neighboring businesses. Another concern was the location of the monument sign. At times, it can be hard to see over the sign when pulling out into traffic. Mr. Galbreath stated he would try to move the sign as far east on the property as allowed.

Audience member Jennifer Johnson was concerned as she lives behind the building. Her family utilizes the alleyway to get to their home and her concern is that cars would be parking in the alleyway. Audience member Greg Cush also had concerns regarding the alleyway. He inquired if the city could install signs stating private drive and dead end. Mr. Galbreath did not have an issue with having signs installed.

MEMBER ROSE ANN TORNATORE moved, seconded by MEMBER CHUCK HORION to recommend approval of Ordinance 2020-08 with the additional recommendation of investigating areas for overflow parking and installing signs that state private drive and dead end in the alleyway.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5 No = 0).

Yes: Member Chuck Horion, Member James Lilly, Chairman John Schmitz, Member Rose Ann Tornatore, Member Van Alder

6. BOARD COMMENTS

7. ADJOURNMENT

The meeting ended at 9:18 am.

Cheri Schwab, Recording Secretary

John Schmitz, Chairman



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PLANNING & ZONING BOARD AGENDA MEMORANDUM SEPTEMBER 14, 2020 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2020-12: Land Development Code Amendment Relating to Expansion of Non Conforming Single-Family Residential Uses/Structures

SYNOPSIS:

In January of this year, the Planning and Zoning Board recommended approval of Comprehensive Plan Amendment CPA12020001, which would allow the expansion of nonconforming single-family residential structures on properties, designated as High Intensity on the City's Future Land Use Map, with certain restrictions. Subsequently, the City Council approved the comprehensive plan amendment on first reading. The comprehensive plan amendment is currently being reviewed by the various state review agencies and the Volusia Growth Management Commission. Final approval from these agencies will occur shortly, thereafter, the City will adopt on second reading the proposed comprehensive plan amendment. Ordinance 2020-12, if approved, will amend the City's Land Development Code to implement the comprehensive plan amendment, thereby allowing the expansion of nonconforming single-family residential structures with restrictions as outlined in the ordinance.

FISCAL IMPACT STATEMENT:

The budget has adequate funding to administer the implementation of this ordinance.

BACKGROUND:

Ordinance 2020-12 was drafted to amend the City's Land Development Code to implement the Comprehensive Plan Amendment CPA12020001 (**Exhibit A**) relating to the expansion of nonconforming single-family residential uses and structures on properties with a High Intensity Future Land Use Map designation. These properties are located beachside, east of S. Atlantic Avenue, with a T-RMF-1 (Hotel/Motel-Multifamily Residential-High Density) zoning district classification. Since single-family residential uses and structures are not listed as permitted uses in these zoning districts the single-family residential structures and uses, many of which predated the City's zoning regulations, are not allowed to expand. If adopted, Ordinance 2020-12 would permit the expansion of these structure and uses consistent with language below, which is articulated in the ordinance:

..."nonconforming single-family residential uses and structures on properties, which are designated a High Intensity Future Land Use Classification on the City's Future Land Use Map, shall be permitted 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."

The effect of this language is illustrated in **Exhibit B** attached. Essentially, structures that meet the criteria will be able to expand to "fill in" and or "square off" the the structure up to the current building foot print and no higher than the roof line. Additions or expansions beyond the afore-stated limitations are not permitted. Currently only a few properties would benefit from this provision, if adopted.

LEGAL REVIEW:

I have reviewed this ordinance and have no legal issue with this amendment.

RECOMMENDATION:

Staff recommends approval of Ordinance 2020-12 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board Member may motion as follows:

1. "I move to recommend **approval** of Ordinance 2020-12 as presented."

OR

2. "I move to recommend approval of Ordinance 2020-12 with the following amendments/conditions..."

OR

3. "I move to recommend denial of Ordinance 2020-12 on the basis of..."

ATTACHMENT:	1. Ordinance 2020-12-Nonconforming SF Residential Expansion-LDC-8-21-20-JC-8-31-20
	2. Exhibit B-Illustration Effect of Proposed Amendment

3. Exhibit A- Comprehensive Plan Amendment Language

ORDINANCE 2020-10

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO NONCONFORMING SINGLE FAMILY-RESIDENTIAL USES AND STRUCTURES; AMENDING THE *CODE OF ORDINANCES, APPENDIX G-LAND DEVELOPMENT CODE*; BY AMENDING SECTION 14-11 ENTITLED “TYPES OF NONCONFORMING STATUS”; TO ALLOW THE LIMITED EXPANSION OF NONCONFORMING SINGLE-FAMILY RESIDENTIAL USES AND STRUCTURES ON PROPERTIES WITH A HIGH INTENSITY FUTURE LAND USE CLASSIFICATION; 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, the City of Daytona Beach Shores is committed to planning and managing the future growth of the City; 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, on August 13, 2019, the City Council of the City of Daytona Beach Shores inquired as to a way in which the City could allow the reasonable expansion nonconforming single-family residential uses and structures in the High Intensity Future Land Use Classification; and

WHEREAS, the City Council of the City of Daytona Beach Shores declares that the purpose and intent of the proposed amendment to the City of Daytona Beach Shores Land Development Code is to guide future growth and development; encourage and maximize the most appropriate use of the land, water and other resources, consistent with the public interest; promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate facilities and services; conserve and protect natural resources within the City, while protecting private property rights; and

WHEREAS, the Planning and Zoning Board, which is the local planning agency of the City, and City Council of the City of Daytona Beach Shores have conducted public hearings and issued notices required by Florida law in the preparation and enactment of this Ordinance; 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 residents and citizens of the City of Daytona Beach Shores; 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 14-11, entitled "Types of Nonconforming status," by adding the following:

Sec. 14-11. - Types of nonconforming status.

Within the districts established by this ordinance or amendments that may later be adopted there may exist:

1. Lots;
2. Uses of land;
3. Structures;

which lawfully existed before this ordinance was passed or amended but which would be prohibited, regulated or restricted under the terms of this ordinance.

It is the intent of this ordinance to permit these nonconformities to continue in their present condition in accordance with subsection 14-11.3 but not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. There are three (3) types of nonconforming status, as follows:

14-11.1. Nonconforming Lots of Record.

In any district in which single-family dwellings are permitted, notwithstanding district dimensional requirements, a single-family dwelling and customary accessory buildings may be erected on any single lot of record as defined herein which existed at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to all other regulations for the district in which such lot is located.

14-11.2. Nonconforming Uses of Land and Uses of Structures.

Where at the effective date of adoption or amendment of this ordinance, a lawful use of land or use of structure exists which would not be permitted under the regulations imposed by this ordinance, the use may be continued provided:

2. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land or structure than was occupied at the effective date of adoption or amendment of this ordinance; provided however, nonconforming single-family residential uses and structures on properties, which are designated a High Intensity Future Land Use Classification on the City's Future Land Use Map, shall be permitted 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.
3. No other nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land or structure.

14-11.3. Nonconforming Structures.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity; provided however, nonconforming single-family residential uses and structures on properties, which are designated a High Intensity Future Land Use Classification on the City's Future Land Use Map, shall be permitted 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.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its fair market value at the time of destruction, at the expense of the owner it shall not be reconstructed, except in conformity with the provisions of this ordinance. This provision shall not apply to structures that have become nonconforming as a result of the maximum building height Ordinance No. 98-22.
3. Should any such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

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 nonconforming single-family residential structures 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

ATTEST:

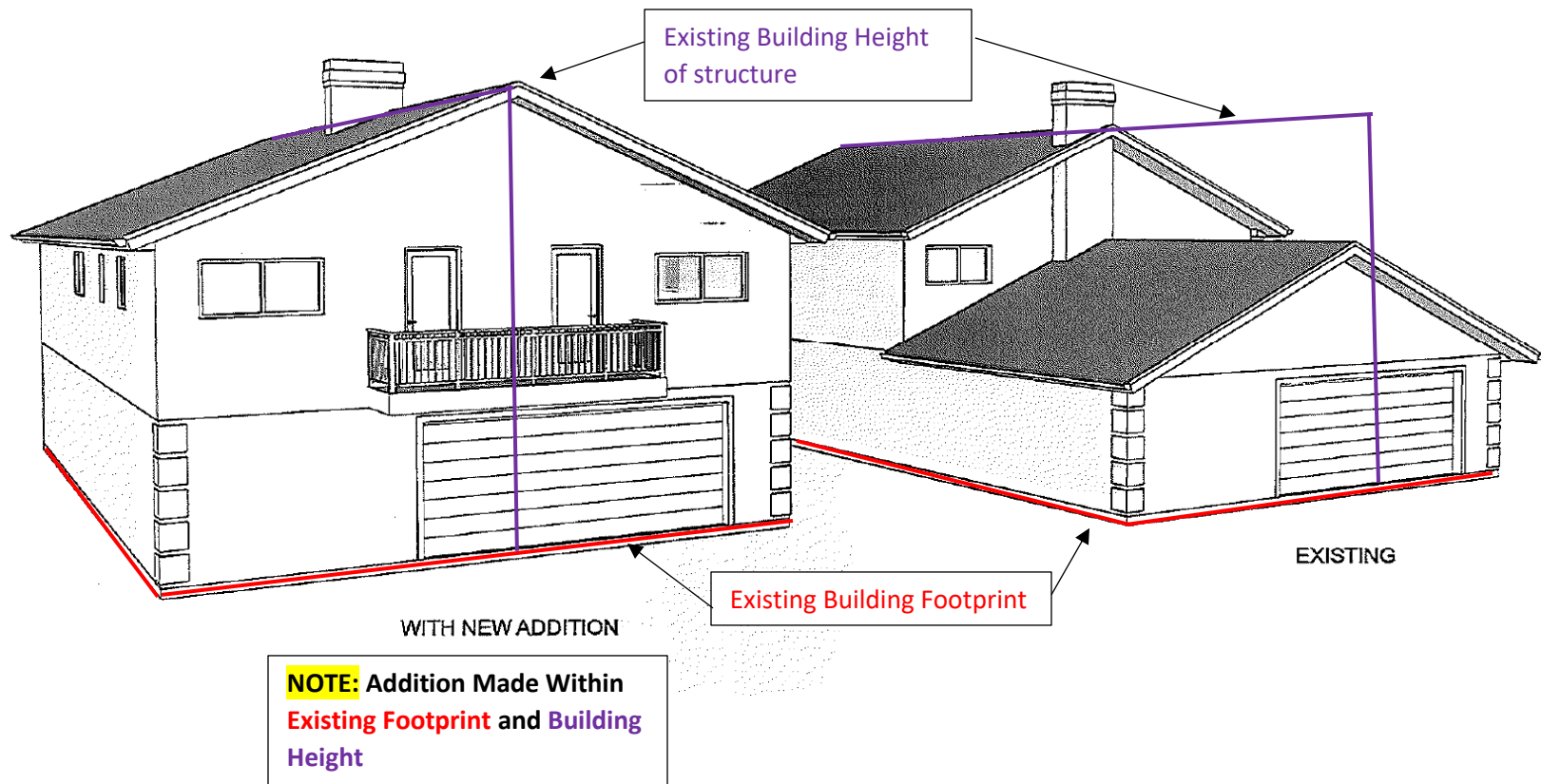
**_____
MICHAEL T. BOOKER, CITY MANAGER CHERI SCHWAB, CITY CLERK**

APPROVED AS TO FORM AND LEGALITY:

**_____
GRETCHEN R. H. “BECKY” VOSE, CITY ATTORNEY**

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

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



Policy 1-3.1.1: By December 31, 2020 the City shall amend the Land Development Code to allow the expansion of single-family residential structures subject to Objective 1-3.1 to expand **within and up to the existing building footprint** but in no case shall expansion **extend beyond the current building height of the structure.**

Comprehensive Plan Amendment CPA12020001
Nonconforming Single-Family Residential Expansion

Goal 1-3: To protect private property rights by allowing certain limited changes to nonconforming uses that are fair and reasonable.

Objective 1-3.1: The City shall allow limited expansion of single-family residential uses and structures, even when non-conforming, with regard to properties which are designated a High Intensity Future Land Use Classification.

Policy 1-3.1.1: By December 31, 2020 the City shall amend the Land Development Code to allow the expansion of single-family residential structures pursuant to Objective 1-3.1 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.