City of Daytona Beach Shores

"Life is Better Here"
"A Premier, Friendly Place to Be"

AGENDA
CITY COUNCIL MEETING
OCTOBER 27, 2020
6:00 PM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118

Upon being recognized, a member of the public shall proceed to the podium and give his or her name and address and may, thereafter, speak for a maximum of three minutes on any matter relevant to a specific agenda item. During "Audience Comments," a member of the public may speak on any matter relevant to City business which is not on the agenda, for a maximum of three minutes in accordance with Section 2-1.1(d) and 2-2 of the City Code. In accordance with Section 2-2, during periods set aside for public discussion any person desiring to speak shall secure a form located at the agenda table, complete the form and present it to the City Clerk so the speaker can be recognized by the presiding officer. The use of profanity, obscene language, threats or any violent or abusive conduct by any person shall constitute a violation of this section. It shall be the duty of the Director of Public Safety, upon the order of the presiding officer at any such meeting, to forcibly, if necessary, evict any person violating the provisions of this section from the Council Meeting Hall. Any such violation shall subject the offender, upon conviction thereof, to a fine and/or imprisonment as prescribed by Section 1-8.

1. CALL TO ORDER BY MAYOR

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

6. APPROVAL OF MINUTES

A. City Council Minutes October 13, 2020

7. CONSENT AGENDA:

A. Public Safety September report

B. Community Services September, 2020 Report

C. Building Division September, 2020 Report

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report October 27, 2020

10. OLD BUSINESS:

A. Ordinance 2020-14 Relating to Trespass on City Property

11. NEW BUSINESS:

A. Ordinance 2020-13: Proposed Amendment to Atlantic Avenue Estates, LLC - Daytona Beach Shores Development Agreement 12020027

B. Ordinance 2020-15: Removal of Background Check Requirement For Fortune Tellers, Palmists, etc.

C. Ordinance 2020-16: Shared Off-street Parking Requirements

D. Resolution to open accounts with JPMorgan Chase

E. Economic Development Grant (New Business Lease Subsidy) Application: Tres Leches Restaurant, 2514 S. Atlantic Avenue

F. Economic Development Grant: Beach Bagel Cafe of Daytona, LLC (aka High Tide Kitchen), 3344 S. Atlantic Ave.

G. Beautification Improvement Grant 12020031: Angels X, LLC, 2006 S. Atlantic Avenue

H. Beautification Improvement Grant Application 12020030: Angels X, LLC - 2010 S. Atlantic Avenue

I. Beautification Improvement Grant 12020029: Kitty X, LLC - 2016 S. Atlantic Avenue

12. COUNCIL COMMENTS:

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

15. ADJOURNMENT:

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-7635364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 711 or 1 8009558771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

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MINUTES
CITY COUNCIL MEETING
October 13, 2020
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis
Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney John Cary, Community Services Director Fred Hiatt, City Planner Stewart Cruz, Finance Director Kurt Swartzlander, and Public Safety Director Stephan Dembinsky.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Employee Service Award - Officer Trevor Wyman 20 Years

Public Safety Director Stephan Dembinsky presented Officer Trevor Wyman with his 20-year service award.

B. Proclamation on Domestic Violence

Mayor Miller read the proclamation declaring October as Domestic Violence Awareness month.

6. APPROVAL OF MINUTES

A. City Council Minutes September 22, 2020

COUNCILMEMBER MEL LINDAUER moved, seconded by COUNCILMEMBER MICHAEL POLITIS to Approve the City Council Minutes September 22, 2020.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

B. City Council Special Minutes September 25, 2020

COUNCILMEMBER MEL LINDAUER moved, seconded by VICE MAYOR RICHARD BRYAN to Approve the City Council Special Minutes September 25, 2020.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

7. CONSENT AGENDA:

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

Attorney Cary briefly reviewed the report submitted to the City Council. Items included drafting proposed ordinances and attending Economic Development meetings.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report October 13, 2020

The City Manager reviewed his report that was submitted. He added that Cherise Wentz would like to sponsor a 5K run in November and will need assistance with traffic control. The proceeds will benefit Operation Changing Lives. **CMBR Lindauer moved, seconded by CMBR Politis to allow the run to take place. The motion passed unanimously by a voice vote.** Chase Bank plans to open next week and the city plans to open an account with them. He asked for council's approval to do so. **CMBR Lindauer moved, seconded by CMBR Bryan to open a checking account with Chase Bank. The motion passed unanimously by a voice vote.** City Manager Booker announced that the ribbon cutting for the 6th tennis court will be Friday morning at 9:00 am.

10. OLD BUSINESS:

A. Ordinance 2020-03: Comprehensive Plan Amendment to create a new Future Land Use Goal, Objective and Policy that would allow the limited expansion of nonconforming single-family residential uses and structures on properties with the High Intensity Future Land Use.

The City Attorney read the ordinance by title only. City Planner Stewart Cruz provided a brief overview. The process has taken a few months but both the state and the county have approved the proposed amendment. If adopted, it would allow non-conforming single-family residential properties to expand their structure within and up to the existing footprint. Staff recommend adoption of the ordinance.
Attorney Riggio stated that his client, the Banker family, very much appreciated the work that the council and staff did to allow him to expand his home.
VICE MAYOR RICHARD BRYAN moved, seconded by COUNCILMEMBER MEL LINDAUER to adopt Ordinance 2020-03 on second reading.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

B. Ordinance 2020-11: Temporary Promotional Activities

The City Attorney read the ordinance by title.
COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER MEL LINDAUER to adopt Ordinance 2020-11 on second reading.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

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

The City Attorney read the ordinance by title. City Planner Stewart Cruz stated that this ordinance would change the LDC to reflect the Comprehensive Plan amendment just approved.
VICE MAYOR RICHARD BRYAN moved, seconded by COUNCILMEMBER MEL LINDAUER to adopt Ordinance 2020-12 on second reading.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

11. NEW BUSINESS:

A. Ordinance 2020-14 Relating to Trespass on City Property

The City Attorney read the ordinance by title. It was explained that the purpose of the ordinance was to allow Public Safety Officers to issue trespass warnings on city property. There were no current provisions in the city's code and state law is directed to private property only.

COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER MEL LINDAUER to approve Ordinance 2020-14 on first reading.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

B. Discussion on number of Planning & Zoning Board members

Mayor Miller explained that the Planning & Zoning Board used to be a 5-member board, but last year when it was combined with the Board of Adjustments, it was increased to seven members. Since that time, it has been cumbersome to hold a meeting with everyone in attendance. The Chairman asked the Mayor to consider changing the board back to just five members. With the current state of affairs, it is much easier to obtain a quorum for five members. The Chairman would also like to mandate attendance for all alternate members. The council held a brief discussion and directed the City Attorney to draft an ordinance for the change.

C. Consideration to cancel the City Council Meetings for November 24 and December 22

Due to the winter holidays, it has been past practice to cancel the second council meeting in both November and December. There were no objections by the City Council.

12. COUNCIL COMMENTS:

Vice Mayor Bryan inquired if tile roofs were discussed regarding the project for 2900 S. Atlantic Avenue. City Planner Cruz indicated they were not discussed since they are not a requirement for the Development Agreement or the site plan. CMBR Lindauer thanked his fellow councilmembers, staff and friends for their support lately. Mayor Miller reminded the audience that Biketoberfest would begin this weekend. There is also a rumor that another truckfest will occur next weekend. There is Coffee With the Mayor tomorrow with guest speaker Finance Director Kurt Swartzlander.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Carol Christopher stated that she is happy to have Chase Bank in the city. She does have an issue with the fluorescent light that shines over the front door each night. She explained that the bright light prevents her from looking outside her window and asked if it could be dimmed or perhaps a shield put on it.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

City Planner Stewart Cruz indicated that three items recently seen at the Planning & Zoning Board would be coming to council . They are ordinances for shared parking, removing background checks for fortune tellers and an amendment to the Atlantic Estates DA. He also has an economic development grant for a Latin Restaurant opening soon.

15. ADJOURNMENT:

The meeting ended at 6:46 pm.

MAYOR
NANCY MILLER

CITY MANAGER
MICHAEL T. BOOKER

ATTEST:

CITY CLERK, CHERI SCHWAB

CITY OF DAYTONA BEACH SHORES
DEPARTMENT OF PUBLIC SAFETY
3050 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
Office of Director of Public Safety
Office 386-763-5333 Fax 386-763-5341

MONTHLY REPORT FOR SEPTEMBER 2020

	Sep-20	20/YTD	Sep-19	19/YTD
Police Related Calls	2,443	22,020	2,970	24,148
Fire Related Calls	63	451	48	311
Rescue Related Calls	89	766	83	759
Fire Related Alarms Sounding	10	118	10	97
Traffic Citations	356	1,964	375	3,509
Written Warnings	125	716	101	903
Building Inspections	38	269	43	453
Arrests: Adults	39	272	66	467
Juveniles	0	9	2	5
Civil Citations	0	0	0	89
City Ordinance Charges	0	0	1	2
Florida State Statute Charges	70	456	123	889
Accidents: Total	23	224	26	199
Street/Highway	9	116	13	105
Parking Lot	14	108	13	94

Stephan Dembinsky Public Safety Director

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2020-09-01 through 2020-09-30

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
EXTRA PATROL	EP	599	24.52 %	19.97
TRAFFIC STOP	TS	450	18.42 %	15.00
MISCELLANEOUS LE CALL	MISC	355	14.53 %	11.83
PROPERTY CHECK	PRC	189	7.74 %	6.30
SUSP PERSON	SPER	56	2.29 %	1.87
SUSP VEHICLE	SVEH	42	1.72 %	1.40
TELEPHONE HANDLE	THC	42	1.72 %	1.40
MEDICAL EMERGENCY	MED1	40	1.64 %	1.33
NOISE	NOISE	36	1.47 %	1.20
ILLEGAL PARKING	PARK	33	1.35 %	1.10
DIRECTED PATROL REQUEST	DPR	30	1.23 %	1.00
SUSPECT STOP	SS	30	1.23 %	1.00
SCHOOL ZONE	SZ	27	1.11 %	0.90
SPECIAL DETAIL	SDL	26	1.06 %	0.87
SUSP INCIDENT	SINC	23	0.94 %	0.77
DISTURBANCE	DIST	21	0.86 %	0.70
TOWED VEHICLE	TOW	19	0.78 %	0.63
CIVIL COMPLAINT	CIVIL	18	0.74 %	0.60
MVA	MV	17	0.70 %	0.57
RADAR	RADAR	17	0.70 %	0.57
TRESPASSERS	TRES	17	0.70 %	0.57
WALKUP	WALKUP	16	0.65 %	0.53
ASSAULT/BATTERY	ABAT	15	0.61 %	0.50
FLAG DOWN	FLAG	15	0.61 %	0.50
INVESTIGATION	INV	13	0.53 %	0.43
FIGHT	FIGHT	12	0.49 %	0.40
FOUND PROPERTY	PROPF	12	0.49 %	0.40
911 CK/OPEN LINE	911CK	11	0.45 %	0.37
FIRE ALARM	ALARMF	11	0.45 %	0.37
BUSINESS ALARM	ALARMB	9	0.37 %	0.30
INFORMATION GIVEN	INFO	9	0.37 %	0.30
ROAD OBSTRUCTION	RDOB	9	0.37 %	0.30
THEFT	THEFT	9	0.37 %	0.30
WELL BEING CHECK	WBC	9	0.37 %	0.30
MEDICAL NON-EMERG	MED2	8	0.33 %	0.27
RECKLESS DRIVER	RD	8	0.33 %	0.27
TRAFFIC CONTROL	TC	8	0.33 %	0.27
VANDALISM	VAND	8	0.33 %	0.27
WARRANT	WAR	8	0.33 %	0.27
FALL- NON EMERGENCY	TRAU3	7	0.29 %	0.23
TRAUMA EMERGENCY	TRAU1	7	0.29 %	0.23
ATT TO CONTACT	ATC	6	0.25 %	0.20
ESCORT	ESCORT	6	0.25 %	0.20
ANIMAL COMPLAINT	AC	5	0.20 %	0.17
DISABLED VEHICLE	DAV	5	0.20 %	0.17
DRUNK PERSON	IP	5	0.20 %	0.17

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2020-09-01 through 2020-09-30

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
ELEVATOR CALL	ELEV	5	0.20 %	0.17
NARCOTICS	NARC	5	0.20 %	0.17
UNCONSCIOUS	UNC	5	0.20 %	0.17
BURGLARY ALARM	ALARM	4	0.16 %	0.13
DRUNK DRIVER	DUI	4	0.16 %	0.13
LOST PROPERTY	PROPL	4	0.16 %	0.13
MENTALLY ILL PER	MIP	4	0.16 %	0.13
MVA W/ INJURIES	MVI	4	0.16 %	0.13
REPOSSESSED VEH	REPO	4	0.16 %	0.13
STROKE / CVA	CVA	4	0.16 %	0.13
WEAPONS COMPL	WC	4	0.16 %	0.13
ASSIST AGENCY	ASSIST	3	0.12 %	0.10
CARBREAK	CB	3	0.12 %	0.10
DOMESTIC DISTURBANCE	DV	3	0.12 %	0.10
FAILURE TO PAY	FTP1	3	0.12 %	0.10
FINGERPRINTS	PRINTS	3	0.12 %	0.10
FLEEING DRIVER	FLEE	3	0.12 %	0.10
FRAUD	FRAUD	3	0.12 %	0.10
MISC FIRE SERVICE CALL	MISCF	3	0.12 %	0.10
MISSING PERSON	MP	3	0.12 %	0.10
SEX OFFENSE	SO	3	0.12 %	0.10
TRAUMA CRITICAL	TRAUE	3	0.12 %	0.10
WALK & TALK	WT	3	0.12 %	0.10
CARDIAC ARREST	CPR	2	0.08 %	0.07
DROWNING	DROWN	2	0.08 %	0.07
HIT&RUN MVA	MVHR	2	0.08 %	0.07
POWER LINES HAZARD	PL	2	0.08 %	0.07
STOLEN VEHICLE	SV	2	0.08 %	0.07
TRAFFIC LITE OUT	TLO	2	0.08 %	0.07
ZONE ACCOUNTABILITY PATR	ZAP	2	0.08 %	0.07
911 CK/OPN LINE/MED HAZ	911MED	1	0.04 %	0.03
ABANDONED VEH	AV	1	0.04 %	0.03
ASSIST	ASST	1	0.04 %	0.03
BURG/IN PROG	BURGIP	1	0.04 %	0.03
BURG/RESD	BURGR	1	0.04 %	0.03
BURGLARY	BURG	1	0.04 %	0.03
CITY ORDINANCE VIOLATION	COV	1	0.04 %	0.03
DANGEROUS COND FD	DCFD	1	0.04 %	0.03
DEAD PERSON	DEAD	1	0.04 %	0.03
DEPOSITS	DEP	1	0.04 %	0.03
HARRASSING CALLS	HCALL	1	0.04 %	0.03
JUVENILE	JUV	1	0.04 %	0.03
MASK COMPLAINT	MASK	1	0.04 %	0.03
MEDICAL UNKNOWN	ALARMM	1	0.04 %	0.03
MISSING PERSON RECOVERED	MPR	1	0.04 %	0.03
MVA MAJOR	MVMI	1	0.04 %	0.03

POLICE CALLS TOTALS BY TYPE

DB SHORES POLICE

DATES: 2020-09-01 through 2020-09-30

LOCATION: ALL | ZONE: ALL | RD: ALL

DESCRIPTION	SIGNAL	TOTAL CALLS	% OF ALL CALLS	DAILY AVG
OPEN DOOR	OPD	1	0.04 %	0.0
P/U UNWANTED RX DRUGS	PURX	1	0.04 %	0.0
RECOVERED SIG 10	SVR	1	0.04 %	0.0
SEX OFFENSE HIGH PRI	SO1	1	0.04 %	0.0
SHOOTING	SHOOT	1	0.04 %	0.0
SHOPLIFTING	SHOP1	1	0.04 %	0.0
STEP ZONE	STP	1	0.04 %	0.0
STOLEN TAG	TAGS	1	0.04 %	0.0
STRUC FIRE COMM/HIGHRISE	SFCH	1	0.04 %	0.0
SUICIDAL PERSON	SP	1	0.04 %	0.0
THREATENING CALL	TCALL	1	0.04 %	0.0
VEH FIRE/STR ENDANG	VFSE	1	0.04 %	0.0
	TOTAL CALLS:	**2,443**	**100.00%**	**81.4**

NOTE: CAD-generated statistical reports are compiled from a live database of calls for service; this live database requires frequent call updating to ensure real time data is correct and maintained. When compiling and comparing statistics over time, minor discrepancies are inherent and should be expected. For final report information on crime, Uniformed Crime Reporting (UCR) statistics should be utilized.

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY

SEPTEMBER 2020 STATISTICS

FIRE CALLS	CURRENT MONTH			YEAR TO DATE			PRIOR YEAR		
ENGINE RESPONSE	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID
STRUCTURE FIRES	0	0	0	3	0	3	2	0	2
HAZARDOUS CONDITIONS	3	2	0	20	8	1	23	9	3
VEHICLE FIRES	0	0	0	0	0	0	0	0	0
BOAT FIRES	0	0	0	1	0	0	0	0	0
OTHER FIRES NOT LISTED	2	0	0	7	2	0	7	5	2
VEHICLE CRASHES W/ENGINE RESPONSE	2	0	0	5	2	0	11	1	0
SERVICE CALLS	24	6	2	240	38	12	165	42	3
FIRE ALARMS	10	0	0	111	2	3	106	5	3
CANCELLED EN ROUTE	6	4	2	64	28	31	58	18	15
TOTALS	47	12	4	451	80	50	372	80	28

CURRENT MONTH ESTIMATED FIRE DAMAGES

CITY: $0

COUNTY: $0

MUTUAL AID: $0

INSPECTIONS	CURRENT MONTH		YEAR TO DATE		PRIOR YEAR	
	INITIAL	FOLLOW-UP	INITIAL	FOLLOW-UP	INITIAL	FOLLOW-UP
HIGH RISE	9	11	59	91	41	65
HOTEL/MOTEL	3	3	22	22	50	43
ASSEMBLY	0	0	3	1	4	5
MERCANTILE	3	2	8	6	17	18
RESTAURANT	2	0	11	6	17	14
BUSINESS	1	0	27	7	51	21
OTHER	0	0	23	0	53	0
CONSTRUCTION	4	0	40	6	63	0
OCCUPATIONAL LICENSES	0	0	0	0	0	0
APARTMENTS/CONDO	0	0	7	2	10	8
TOTALS	22	16	200	141	306	174

PLANS EXAMINATION HOURS:1 HRS

DAYTONA BEACH SHORES DEPARTMENT OF PUBLIC SAFETY

SEPTEMBER 2020 STATISTICS

EMS CALLS	CURRENT MONTH			YEAR TO DATE			PRIOR YEAR		
	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID	CITY	COUNTY	MUTUAL AID
ALS CALLS	45	6	0	442	95	6	417	73	14
BLS CALLS	32	5	1	280	63	13	291	58	10
TOTALS	77	11	1	722	158	19	708	131	24

CITY OF DAYTONA BEACH SHORES
DEPARTMENT OF PUBLIC SAFETY
3050 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
Office of Director of Public Safety
Office 386-763-5333 Fax 386-763-5341

TRAINING SEMINARS ATTENDED

Month of September 2020

David Williams	*9/1*	*Glock Armorer* *Tiger Bay*
Jessica Long	*9/8-25*	*Line Supervision* *Eastern State College*
Vincent Castellano	*9/14-16*	*DWI Detection &* *Standardized Sobriety* *DSC*
Zach Rooney	*9/16-25*	*Instructor Techniques* *DSC*
Vincent Castellano	*9/17-18*	*Advanced Roadside* *Impaired Driving-DSC*
Trevor Wyman *Billie Phillips*	*9/21-23*	*DT Instructor Update* *DSC*
Darius DeBarros	*9/28-30*	*Ballistic Shield Course* *Gainesville*

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DEPARTMENT OF PUBLIC SAFETY
3050 South Atlantic Avenue
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MONTHLY REPORT FOR SEPTEMBER 2020

Vehicle Maintenance Division: 2 Positions Assigned: Conducted routine, scheduled maintenance checks and repairs on all city vehicles (includes oil changes and tire exchanges). Additional items were:

Brake repair	**veh #117**
Replace brake pads & rotors	**veh #156**
Replace air filter	**Toro**
Replace A/C actuator & pump assembly	**veh #127**
Replace ignition coil assembly	**veh #148**
Replace brake rotors and pads	**veh #121**

COMMUNITY SERVICES DEPARTMENT MONTHLY REPORT - SEPTEMBER 2020

FACILITIES MAINTENANCE DIVISION:

Currently two positions.

Normal monthly duties:

This division is responsible for setting up and cleaning rooms for all rentals and City activities for the community center containing the senior center, council chambers and racquet club, facility building, and city hall. One of the employees has janitorial type duties, like emptying the trash and cleaning the bathrooms, vacuuming, dusting and taking care of whatever else is needed regarding the city buildings' cleaning needs. One employee has the maintenance type duties. He assesses any problems reported with the buildings and handles the repair if it is within his ability. He now has an a/c certification so he can do a lot of the repairs inhouse. He replaces light bulbs, cleans the outside windows, paints and any other general maintenance needed with the city buildings.

Additionally, this month:

This division continued work on replacement lighting for the city buildings, assisted with some of the public safety evidence area rehab and has been overseeing the pending public safety roof replacement. One of the custodians is also one of our animal control officers and he had 1 call this month.

PARKS/STREETS DIVISION:

This division is normally eleven maintenance positions and one electrician position.

Normal monthly duties:

This division takes care of the maintenance, upkeep and general appearance of all the parks, streets, sidewalks and medians daily. They mow, change out lights, restock supplies, replace plants as needed,

replace or repair street signs, check and clear the storm drains, as well as any other issues that may arise in the city. Although there are two divisions, they now all share in the normal monthly duties.

Additionally, this month:

The division is very close to completing the new bocce ball courts, they are working on the shade structure roof currently, they have also started leveling dirt and creating concrete forms to pour the new shuffleboard area. They also repaired damage on a few beach walk overs from recent high tides and high winds. The electrician installed a new transfer switch to the public safety generator, installed fans at the community center outside bathrooms and handled 32 power line locates this month.

SEWER DIVISION:

Currently four positions.

Normal monthly duties:

This division maintains and checks all the sewer stations daily, they do all the general maintenance of the sewer stations, generators and the property the stations are located on. This includes mowing and general outside maintenance as well as cleaning the pump areas, wet wells and floats. The division also maintains the manholes in the city, delivers past due sewer bill notices for finance every month, does cooling tower readings quarterly and has two employees in the division that are animal control officers.

Additionally, this month:

The division had a lot of minor repairs at stations this month that they handled. They replaced a motor fan and some drywall at station 3, replaced a fan at station 2, repaired a power issue at station 9 and replaced a broken low-pressure sewer line at station 13. They also tv'd 6 sewer laterals, handled 6 animal control calls, 39 sewer line locates, and 1 pool meter read during this month.

City of Daytona Beach Shores
Planning & Building Division Statistics

Monthly Report – September, 2020

Planning Division

Site Plans - Submittals and Approvals:

Submitted this Month: 0

Submitted this Fiscal Year: 8

Approved by Staff this Month: 2

Approved by Staff this Fiscal Year: 10

Approved by City Council this Month: 1

Approved by City Council this Fiscal Year: 3

Amendments Approved by Staff this Fiscal Year: 1

Building Division

Specific Large Projects (Over $10,000) - Submitted This Month:

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
Jones Residence	3023 South Atlantic Avenue, Unit 305	9/1	Replace 3 windows and 3 sliding glass doors	$25,953.00	$215.55
Crandall Residence	2967 South Atlantic Avenue, Unit 1203	9/2	Install 5 motorized hurricane shutters	$19,310.00	$182.96
Miller Residence	3003 South Atlantic Avenue, Unit 8B3	9/4	Complete condo remodel, walk in showers, cabinets	$126,000.00	$726.40
Mitchell Residence	3145 South Atlantic Avenue, Unit 1102	9/8	Remodel kitchen and 3 bathrooms	$75,000.004	$494.31
Hamilton Residence	3831 South Atlantic Avenue, Unit 604	9/8	Replace kitchen cabinets and tops	$12,300.00	$137.65
Ibrahim Residence	3051 South Atlantic Avenue, Unit 1001	9/9	Replace impact window	$13,220.00	$146.20
Wise Residence	2937 South Atlantic Avenue, Unit 409	9/10	Remodel 2 bathrooms	$14,500.00	$154.75
St Croix Condo	3145 South Atlantic Avenue	9/10	Minor concrete repairs	$110,975.00	$680.50
Lam Residence	3855 South Atlantic Avenue, Unit 1205	9/11	New cabinets, tops, vanity tops and shower	$32,000.00	$249.69
Beuttenmuller Residence	3425 South Atlantic Avenue	9/11	Replace 15 windows	$10,850.00	$120.55
Zitnik Residence	3757 South Atlantic Avenue, Unit 503	9/11	Replace 1 sliding glass door	$14,600.00	$154.75

PROJECT	WORK ADDRESS	DATE	WORK DESCRIPTION	VALUE	REVENUE
Donohue Residence	3855 South Atlantic Avenue, Unit 1403	9/15	Remodel kitchen and 3 bathrooms	$52,000.00	$363.47
Towers Ten Condo	3425 South Atlantic Avenue	9/15	Fire panel upgrades	$17,000.00	$357.50
Beuttenmuller Residence	3425 South Atlantic Avenue, Unit 301	9/15	Install 9 motorized roll down hurricane shutters	$30,648.00	$243.90
MAX Daytona Condo	1903 South Atlantic Avenue	9/15	Install A/C units, exhaust fans, and duct work	$1,173,219.00	$5,553.29
Elsakr Residence	3014 S. Peninsula Dr.	9/17	Shingle and TPO re-roof	$31,820.00	$249.63
Shenk Residence	2967 South Atlantic Avenue, Unit 1403	9/17	Install 5 motorized hurricane shutters	$19,310.00	$182.96
Wheeler Residence	2967 South Atlantic Avenue, Unit 1501	9/17	Install 5 motorized hurricane shutters	$20,370.00	$188.34
Miller Residence	3051 South Atlantic Avenue, Unit 202	9/17	Remove and replace 3 windows	$10,880.00	$120.55
Ibrahim Residence	3051 South Atlantic Avenue, Unit 1802	9/17	Remove and replace 3 windows	$10,880.00	$120.55
Kohut Residence	3051 South Atlantic Avenue, Unit 302	9/17	Remove and replace 3 windows	$10,880.00	$120.55
Glaz Residence	3051 South Atlantic Avenue, Unit 2102	9/17	Remove and replace 3 windows	$10,880.00	$120.55
Seven Seas Resort	2433 South Atlantic Avenue	9/22	Place ground sign	$17,353.00	$69.25
Roggensack Residence	3815 South Atlantic Avenue, Unit 1103	9/22	Replace kitchen cabinets, install bathroom vanities	$11,000.00	$120.55
Dolphin Beach Club	3355 South Atlantic Avenue	9/23	Demo units in preparation for remodel	$47,600.00	$340.59
MacPhee Residence	3855 South Atlantic Avenue, Unit 403	9/23	Install 5 roll down hurricane shutters	$19,300.00	$182.96
Sea Scape	2601 South Atlantic Avenue	9/24	Replace railings at stairways and walkways	$48,500.00	$346.25
Chase Bank	2970 South Atlantic Avenue	9/24	Install monument sign	$19,865.00	$69.25
Greco Residence	3 Oceans West Boulevard, Unit 5A8	9/25	Interior remodel, new cabinets and shower	$38,000.00	$283.82
Dolphin Beach Club	3355 South Atlantic Avenue	9/29	Remodel kitchen and bathrooms	$855,582.00	$3,090.43
Murphy Residence	3023 South Atlantic Avenue, Unit 207	9/29	Replace 1 window and 4 sliding glass doors	$21,058.00	$193.73
Bowers Residence	3023 South Atlantic Avenue, Unit 1004	9/29	Replace 1 window and 4 sliding glass doors	$22,766.00	$199.21
Shine Residence	3023 South Atlantic Avenue, Unit 705	9/29	Replace 2 windows and 2 sliding glass doors	$18,098.00	$177.58
Lee Residence	3110 Brookfair Crescent	9/30	Install new inground pool	$37,000.00	$278.13
Grekoski Residence	3003 South Atlantic Avenue, Unit 9C5	9/30	Replace 4 sliding glass doors and 1 window	$19,052.00	$182.96
TOTALS	WORK ADDRESS	DATE	WORK DESCRIPTION	$3,017,769.00	$16,419.31

Building Division Revenue by Permit Category:

PERMIT TYPE	SEPTEMBER 2020	FISCAL YEAR-TO-DATE 2019 TO 2020	SEPTEMBER 2019	LAST FISCAL YEAR-TO-DATE 2018 TO 2019
BUILDING	$14,236.33	$207,006.47	$53,716.26	$185,381.85
ROOF	$353.88	$12,663.40	$1,658.10	$17,450.10
DEMOLITION	$0.00	$461.40	$0.00	$120.00
ELECTRICAL	$2,230.13	$35,869.19	$1,214.08	$25,744.00
MECHANICAL	$10,051.59	$35,869.19	$2,643.10	$32,943.04
PLUMBING	$2,101.00	$30,715.85	$1,411.01	$34,856.77
SIGN	$479.00	$2,775.29	$238.25	$2,491.84
POLITICAL SIGN BONDS	$220.00	$1,760.00	$0.00	$0.00
STORMWATER MANAGEMENT	$0.00	$0.00	$0.00	$0.00
MISCELLANEOUS	$65.25	$4,254.50	$0.00	$1,862.44
DEVELOPMENT FEES	$550.00	$4,222.90	$220.00	$5,306.92
PROMOTIONAL ACTIVITIES	$0.00	$0.00	$0.00	$0.00
TOTALS	$30,287.18	$334,983.94	$61,127.80	$306,156.96

Building Division Activities:

ACTIVITY	SEPTEMBER 2020	FISCAL YEAR-TO-DATE 2019 TO 2020	SEPTEMBER 2019	LAST FISCAL YEAR-TO-DATE 2018 TO 2019
INSPECTIONS	303	2867	216	2858
FINAL CERTIFICATES OF OCCUPANCY ISSUED	1	3	0	0
TEMPORARY CERTIFICATES OF OCCUPANCY ISSUED	0	0	1	2
FINAL INSPECTIONS	217	1673	135	1952
FAILED INSPECTIONS	23	175	24	248

Annual Totals, Large Projects (Over $10,000):

Projects Begun Current Fiscal Year-to-Date – 2019 to Present: $64,300,811.00

Projects Begun Last Fiscal Year – 2018 to 2019: $39,968,375.00

Projects Begun Two Fiscal Years Ago – 2017 to 2018: $24,944,320.00

Article II, Section 8, *Constitution of the State of Florida*: ***"Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse."***

"LIFE IS BETTER HERE."

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO:	Honorable Mayor and Members of the City Council
COPIES TO:	Mike Booker, City Manager
	Cheri Schwab, City Clerk
FROM:	John Cary, City Attorney
DATE	October 20, 2020
SUBJECT:	***City Attorney Report***

The following is intended as my written report to the City Council for matters arising subsequent to its last meeting of October 13, 2020. Please advise if you have any questions, comments or concerns relative to these matters.

(1) Commercial Lease Subsidy Grant Agreement

The City Attorney reviewed and modified the commercial lease subsidy grant agreement and modified and approved the grant agreement for Tres Leches.

(2) Economic Development Meeting

The City Attorney attended an economic development meeting and provided legal counsel at the meeting.

(3) Legal Counsel for Marriott Daytona project

The City Attorney provided legal counsel for the city for a meeting with the developers for the Marriott Daytona project.

(4) Legal Review of Closing Documents for Oceans 25

The City Attorney provided legal review of the closing documents for the Oceans 25 townhomes project.

(5) Legal Advice as to Oceans 25 Development Agreement

The City Attorney has conducted legal review of the Development Agreement for the Oceans 25 townhomes project and provided analysis to City Staff and negotiated with the developers.

(6) Legal Analysis of High Tide Grant Agreement

The City Attorney reviewed the Grant Agreement for High Tide (Daytona Beach Bagel) and advised City Staff as to the conditions of the Agreement.

Respectfully, submitted,

/s/ John Cary, City Attorney

CITY OF DAYTONA BEACH SHORES
"Life Is Better Here"
Office of the City Manager

Phone (386) 763-5373 Fax (386) 763-5360

MEMORANDUM

DATE: **October 21, 2020**

TO: City Council: Mayor Nancy Miller; Vice Mayor Richard Bryan, Council Member Rick Frizalone; Council Member Mel Lindauer, and Council Member Michael Politis

FROM: Michael T. Booker, City Manager

SUBJECT: City Manager's Report – October 27, 2020

Live Streaming Meetings:

- Congratulations to David Lockwood, our IT Manager, for his dedication and expertise that now enables the City to livestream all City Council and Board meetings.

Christmas Holiday:

- This year, December 25 falls on a Friday. I would like to request that City Council consider also establishing December 24 (Christmas Eve) as a holiday this year. I'm certain our City employees would greatly appreciate having the additional family time.

Christmas Parade:

- I will have an update at the City Council meeting regarding suggestions/options for the City's annual Christmas Parade.

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stephan Dembinsky, Director of Public Safety
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Ordinance 2020-14 Relating to Trespass on City Property

SYNOPSIS:

The Public Safety Director requested an ordinance to allow his officers and city directors to be able to trespass persons who violate laws or city rules or policies on city property.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The ordinance provides that a public safety officer or city director may provide a trespass warning to any person who violates a state law, city ordinance, or any other city rule or terms of use on city property. The first warning results in the person being prohibited from using the specific public space where the violation was committed for one year, while a second warning results in a two-year trespass. A person may be arrested for violating a trespass warning. A person who has been provided a warning may request a waiver for the purpose of exercising First Amendment activities. Additionally, the ordinance provides a process for an appeal to the Special Magistrate.

LEGAL REVIEW:

The ordinance is approved as to form and legality.

RECOMMENDATION:

Staff recommends adoption of the ordinance on seond reading.

SUGGESTED MOTION:

Move to adopt the ordinance on second reading.

ATTACHMENT: 1. ord 2020-14 trespass

ORDINANCE 2020-14

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO TRESPASS ON CITY PROPERTY; AMENDING THE *CODE OF ORDINANCES*, BY CREATING CHAPTER 16, ENTITLED "OFFENSES MISCELLANEOUS", SECTION 16-10, ENTITLED "TRESPASS"; PROVIDING CRITERIA FOR TRESPASS; PROVIDING FOR PROCEDURES; PROVIDING FOR AN APPEAL; PROVIDING FOR ENFORCEMENT AND PENALTIES, A SAVINGS PROVISION, CODIFICATION, CONFLICTING ORDINANCES, SEVERABILITY; AND 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 owns and operates certain buildings and structures for the benefit of the public; and

WHEREAS, the City of Daytona Beach Shores owns real property, including parking lots, plazas, and parks; and

WHEREAS, the City Council of the City of Daytona Beach Shores desires, for the safety and enjoyment of city employees, residents, and visitors, to keep the buildings and structures smoke free; and

WHEREAS, the City Council of the City of Daytona Beach Shores recognizes that certain public properties are not open to the public at all times; and

WHEREAS, the City Council of the City of Daytona Beach Shores has the legal right to prohibit people from being on public property when the public property is not open to the public or when rules or terms of use of the public property are violated; 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 to be necessary for the health, safety, and welfare of the community; 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*, Chapter 16, entitled "Offenses-Miscellaneous," by creating Section 16-10, now entitled "Trespass" as follows:

CHAPTER 16 – OFFENSES MISCELLANEOUS

***

Sec. 16-10. – Trespassing Prohibited.

(a) City sworn law enforcement officers, or city department heads, or their designees, having control over a City facility, building, or outdoor area, including municipal parks and the Community Center interior and exterior areas, are authorized to issue a trespass warning to any individual who violates any City ordinance, rule, regulation, or term of use, including the Community Center Facilities Use Operations Manual, or any State law or lawful directive of a City employee or official which violation was committed while on or within a City facility, building, or outdoor area, including municipal parks and the Community Center interior and exterior areas, (but excluding city rights-of-way), for the specific property where the violation occurred.

(b) For the purpose of this section, right-of-way shall include those sidewalks which are closest to a paved street, provided that the street side edge of the sidewalk is within 20 feet of the curbline closest to the property.

(c) Trespass warnings shall be issued as follows:

a. For the first violation, the individual may be issued a trespass warning for a period not to exceed one year.
b. For a second or subsequent violation, the individual may be issued a trespass warning for a period not to exceed two years.

(d) A copy of the trespass warning shall be provided by mail or hand delivery to the individual and to the City employee or official having control over the City park, facility, building, or outdoor area. The written trespass warning shall advise of the right to appeal and the location and telephone number for filing the appeal.

(e) Any person found on or within any City facility, building, or outdoor area, including municipal parks and the Community Center interior and exterior areas, in violation of a

trespass warning may be arrested for trespassing, except as otherwise provided in this section.

(f) The City employee or official having control over a City facility, building, or outdoor area, including municipal parks and the Community Center interior and exterior areas, may authorize an individual who has received a trespass warning to enter the property or premises to exercise his or her First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary municipal business. Such authorization must be in writing, shall specify the duration of the authorization and any conditions thereof, and shall not be unreasonably denied.

(g) This section shall not be construed to limit the authority of any City employee or official to issue a trespass warning to any person for any lawful reason for any City property, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the City employee or official.

(h) Appeal of trespass warning. A person to whom a trespass warning is issued under this section shall have the right to appeal as follows:

a. An appeal of the trespass warning must be filed, in writing, within ten days of the issuance of the warning, and shall include the appellant's name, address, and phone number, if any. No fee shall be charged for filing the appeal.
b. The appeal shall be filed at the Code Enforcement department on the second floor of City Hall.
c. Appeals shall be heard by the Special Magistrate.
d. Within five days following the filing of the appeal, a hearing date shall be established for the soonest regular hearing date that the hearing can reasonably be scheduled. Notice of the hearing shall be provided to the appellant in one of two ways:
    i. By leaving or posting the notice at the information desk of the Daytona Beach Shores Public Safety Department, or
    ii. By telephone if a telephone number has been provided. If appellant can not be reached by telephone, then notice at the information desk shall be sufficient.
e. The Special Magistrate shall hold the hearing as soon as possible within the regularly established parameters for hearings. In no event shall the hearing be held more than 40 days from the date of the filing of the appeal.
f. Copies of documents in the City's control which are intended to be used at the hearing, and which directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to the appellant at no cost.
g. The appellant and the City shall have the right to attend with an attorney, the right to testify, to call witnesses, to cross-examine witnesses, and to present evidence. The appellant shall have the right to bring a court reporter, at their own expense.

h. The Special Magistrate shall consider the testimony, reports, or other documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings.
i. The City shall bear the burden of proof by clear and convincing evidence that the trespass warning was properly issued pursuant to the criteria of this section.
j. If the appellant fails to attend a scheduled hearing, the Special Magistrate shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the criteria of this section.
k. Within five business days of the hearing, the Special Magistrate shall issue a written decision on the appeal which shall be mailed to the appellant at the address provided. If no address is provided, a copy of the decision shall be posted at the information desk of the Daytona Beach Shores Public Safety Department.
l. The decision of the Special Magistrate shall be final and the appellant shall be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in the manner provided by law by the appellant. The City may not appeal any decision of the Special Magistrate.
m. The trespass warning shall remain in effect during the appeal and review process, including any judicial review.

(i) *Prohibition.* It is prohibited and unlawful for any person to fail to comply with the requirements of this section.

(j) *Enforcement.* The City may enforce the provisions of this section by any lawful means available to the City under the controlling provisions of State law, through the through the procedures provided within this section, and through the issuance of fines or administrative citations under Sections 1-8 and 2-29.

(k) *Penalties.* As prescribed in Sections 1-8 and 2-29 of this Code, and any applicable state statute.

***

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

SECTION THREE: CODIFICATION. Section One of this ordinance shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and 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. The Code codifier is granted liberal authority to codify the provisions of this Ordinance to be consistent with the other sections of the *Code of Ordinances*.

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

SECTION FIVE: 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 SIX: 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:

_____
GRETCHEN R. H. "BECKY" VOSE, CITY ATTORNEY

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

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

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Ordinance 2020-13: Proposed Amendment to Atlantic Avenue Estates, LLC - Daytona Beach Shores Development Agreement 12020027

SYNOPSIS:

Ordinance 2020-13, if adopted, will amend the *Atlantic Avenue Estates, LLC - City of Daytona Beach Shores* Development Agreement, which was approved in 2016 by the City. The subject property, Volusia County Tax Parcel ID 6302-05-07-0150, is located on the west side of S. Atlantic Avenue in between 3824 and 3832 S. Atlantic Avenue. The current development agreement allows for the construction of four (4) residential duplex structures, or a total of eight (8) units, on the 0.7 acre vacant property. The proposed amendment would allow the option for single-family residential development, on some or all the property, in lieu of duplex construction but not to exceed a total eight (8) units combined. If single-family residential construction occurs it shall be consistent with the RSF-2 Urban Single-Family Residential Detached District standards, which is the prevalent City single-family zoning district in the area. The owner/applicant is making this request due to a change in market conditions and increased construction costs. The development agreement duration remains at thirty (30) years.

FISCAL IMPACT STATEMENT:

The City will receive a total of $10,000 for the complete development of this property. Per the development agreement, these funds will be used towards beach access maintenance, community/recreation center development and/or gateway signage.

BACKGROUND:

OVERVIEW OF PROPOSED AMENDMENT

On September 25, 2020 the City received an application to amend the Atlantic Avenue Estates, LLC - City of Daytona Beach Shores Development Agreement, which concerns a 0.7 acre vacant property located on the west side of S. Atlantic Avenue in between 3824 and 3832 S. Atlantic Avenue. The development agreement concerns the development of the subject property for residential duplex use. Four (4) residential duplex structures, or a total of eight (8) units, are permitted on site. Due to a change in the foreseeable market conditions and development pattern in the neighborhood along Cardinal Boulevard, the applicant/owner is proposing to amend the

development agreement to add the flexibility of developing some or all of the property for single-family residences, not to exceed eight (8) total units on site. If single-family residential construction occurs anywhere on the property, it shall be consistent with the RSF-2 Urban Single-Family Residential Detached District standards. All other components of the agreement remain unchanged. The proposed amendment language is underlined below and would be added to Section 3 of the agreement:

Section 3. SITE LAYOUT AND CONCEPTUAL PLANS FOR DEVELOPMENT.

***

(d). In the event that the Property Owner elects to construct a single-family residence on any of the 4 tracts depicted in Exhibit “B” he may do so at his sole discretion provided the minimum yards sizes, minimum floor area, maximum building height, and maximum lot coverage are consistent with the requirements contained in Section 14-17 of the City’s Land Development Code for the RSF-2 Urban Single-Family Residential Detached District.

***

OVERVIEW OF EXISTING DEVELOPMENT AGREEMENT

The current Development Agreement was executed by the City to foster the development of the subject vacant property. Highlights of the existing Development Agreement include: (a) seven (7) benefits to the public, including, but not limited to, development of a property that was formerly a county enclave; and (b) permitting of four (4) deviations from the City's Land Development Code, including but not limited to minimum lot sizes for duplex construction.

AUTHORIZATION OF DEVELOPMENT AGREEMENT

The City Council, in its sole and exclusive discretion, may enter into development agreements with the legal and equitable owners of real property within, or properties to be annexed to the City limits of the City of Daytona Beach Shores, as authorized in Sections 163.3220 through 163.3243, Florida Statutes, as it may be amended from time-to-time and Chapter 15 of the LDC. Deviations from the provisions of the City’s land development regulations may be granted as part of an approval of a development agreement when the City Council finds that such approval will result in creative planning strategies and the implementation of development approvals that enhance benefits to the public while ensuring that private property rights are protected. The City Council may also determine that vested rights have been established as to a parcel of property in the context of approving a development agreement.

DEVELOPMENT AGREEMENT CONTENT REQUIREMENTS

All applicable standards required in the development agreement are included accordingly pursuant to Sec. 15-4 of the LDC entitled "Development Agreement Content."

DEVELOPMENT AGREEMENT NOTICE REQUIREMENTS

The development agreement shall be noticed pursuant to Sec. 15-6 “Noticing Requirements” of the LDC. Evidence of the aforementioned has been provided to the City Clerk.

PLANING ANALYSIS

See attached.

PLANNING AND ZONING BOARD

The Planning and Zoning Board unanimously recommended approval of the subject ordinance on October 12, 2020.

LEGAL REVIEW:

This is approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2020-13 as presented.

SUGGESTED MOTION:

A City Council Member may motion as follows:

1. "I move to **approve** Ordinance 2020-13 as presented."

OR

2. "I move to approve Ordinance 2020-13, with the following amendments..."

OR

3. "I move to deny Ordinance 2020-13 on the basis of the following..."

ATTACHMENT:

1. Ordinance 2020-13-Amendment to Atlantic Avenue Estates-DA-SC-9-25-20
2. DRAFT2 ATLANTIC AVE ESTATES FIRST AMENDMENT 9_30_2020 - Underlined Format
3. atlantic ave estates recorded agreement
4. 15200LOT-Approved Duplex Layout
5. DA Application Signed Atlantic Ave Estates
6. Planning Analysis

ORDINANCE 2020-13

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO APPROVAL OF AN AMENDMENT TO THE ATLANTIC AVENUE ESTATES, LLC – CITY OF DAYTONA BEACH SHORES DEVELOPMENT AGREEMENT PERTAINING TO THE VACANT PROPERTY WITH VOLUSIA COUNTY SHORT TAX PARCEL ID 6302-05-07-0150, GENERALLY LOCATED BETWEEN 3824 S. ATLANTIC AVENUE AND 3832 S. ATLANTIC AVENUE, IN ACCORDANCE WITH THE PROVISIONS OF THE "FLORIDA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT" AS SET FORTH AT SECTIONS 163.3220 - 163.3243, *FLORIDA STATUTES*; ; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS, PROVIDING FOR A SAVINGS PROVISION AND THE EFFECT OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR NONCODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 22, 2016 the City Council of the City of Daytona Beach Shores approved the Atlantic Avenue Estates, LLC and the City of Daytona Beach Shores Development Agreement pertaining to the development of the vacant property with Volusia County Short Tax Parcel ID 6302-05-07-0150, generally located in between 3824 S. Atlantic Avenue and 3832 S. Atlantic Avenue; and

WHEREAS, Atlantic Avenue Estates, LLC has requested an amendment to the subject Development Agreement to provide for single-family construction flexibility consistent with changing market conditions, increased construction costs and reasonable investment return expectation; and

WHEREAS, Atlantic Avenue Estates, LLC and the City of Daytona Beach Shores have considered and processed and the City Council of the City of Daytona Beach Shores hereby approves and enacts the amended Development Agreement, as set forth in the Exhibit to this Ordinance (which Exhibit is incorporated herein by this reference thereto as if fully set forth herein

verbatim), all of said actions occurring pursuant to the *Florida Local Government Development Agreement Act* as set forth at Sections 163.3220 through 163.3243, *Florida Statutes*; and

WHEREAS, Mark Scharff is the manager of Atlantic Avenue Estates, LLC; 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*.

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

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

(a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the City staff report and City Council agenda memorandum relating to the application relating to the proposed land use approvals and authorization of zoning entitlements pertaining to the property referenced in the Development Agreement as well as the recitals (whereas clauses) to this Ordinance.

(b). The findings of the provisions of the subject Development Agreement between the City of Daytona Beach Shores and Atlantic Avenue Estates, LLC are hereby adopted, ratified and affirmed.

SECTION TWO: APPROVAL OF AMENDMENT AND ENACTMENT OF DEVELOPMENT AGREEMENT.

The amended Development Agreement between the City of Daytona Beach Shores and Atlantic Avenue Estates, LLC, as set forth in the Exhibit to this Ordinance is hereby approved and enacted. The said Exhibit attached to this Ordinance is hereby ratified and affirmed and incorporated into this Ordinance as a substantive part of this Ordinance

SECTION THREE: SAVINGS; EFFECT OF ORDINANCE.

The prior actions of the City of Daytona Beach Shores relating to the regulation of lands and development activities within the City including, but not limited to, the property which is the subject of the Development Agreement between the City of Daytona Beach Shores and Atlantic Avenue Estates, LLC, as set forth in the Exhibit to this Ordinance, and involving the subject property, are hereby ratified and affirmed.

SECTION FOUR: NONCODIFICATION AND IMPLEMENTATION; SCRIVENER'S ERRORS.

(a). The provisions of this Ordinance shall not be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.

(b). The City Manager, or designee(s), is hereby authorized to take any and all actions necessary to implement the provisions of this Ordinance.

(c). The City Attorney shall assist the City Manager in the implementation of this Ordinance as may be necessary and required.

(d). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

SECTION FIVE: CONFLICTS.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

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 J. MILLER, MAYOR

_____ _____
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.

Enacted on second reading this __ day of _____, 2020.

DEVELOPER SIGNATURE BLOCK FOLLOWS:

PLENARY CONCURRENCE OF DEVELOPER

The undersigned developer concurs in each and every respect to the provisions of the subject amendments to the subject Development Agreement and the provisions of this Ordinance.

ATLANTIC AVENUE ESTATES, LLC, a Florida limited liability company.

_____
Mark Scharff
Date:_____ __, 2020

WITNESSES:

_____
Signature of Witness

_____
Printed Name of Witness

_____
Signature of Witness

_____
Printed Name of Witness

STATE OF FLORIDA)

COUNTY OF VOLUSIA)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Mark Scharff, and he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily and they are personally known to me or provided _____ as identification.

Witness my hand and official seal in the County and State last aforesaid this ___ day of _____, 2020.

(Affix Notary Seal)

_____
Notary Public; State of Florida
Print Name: _____

Document prepared by:
Zev Cohen and Associates, Inc.
300 Interchange Blvd
Ormond Beach, FL 32174

Return recorded document to:
City of Daytona Beach Records Clerk
P.O. Box 2451
Daytona Beach, FL 32115-2451

FIRST AMENDMENT TO THE ATLANTIC AVENUE/CITY OF DAYTONA BEACH SHORES DEVELOPMENT AGREEMENT PERTAINING TO THE DEVELOPMENT OF THE ATLANTIC AVENUE ESTATES DUPLEX DEVELOPMENT

The **CITY OF DAYTONA BEACH SHORES, FLORIDA**, a Florida municipal corporation located in Volusia County, Florida ("City"), and **ATLANTIC AVENUE ESTATES, LLC**, a Florida Limited Liability Corporation, located at 133-15 Beach Channel Drive, Rockaway Park, New York, 11694 the record title property owner ("Property Owner"), make and enter into this **FIRST AMENDMENT TO THE ATLANTIC AVENUE/CITY OF DAYTONA BEACH SHORES DEVELOPMENT AGREEMENT PERTAINING TO THE DEVELOPMENT OF THE ATLANTIC AVENUE ESTATES DUPLEX DEVELOPMENT.**

Whereas, the City and Atlantic Avenue Estates, LLC, entered into the Atlantic Avenue/City of Daytona Beach Shores Development Agreement Pertaining To The Development Of The Atlantic Avenue Estates Duplex Development, recorded in the Official Records Book 7238, Page 3066, Public Records of Volusia County, Florida as Instrument Number 2016-062949 (the "Agreement"), and

Whereas, Atlantic Avenue Estates, LLC, proposes to amend the Agreement as set forth herein, and

Whereas, the City is willing to grant the Property Owner's request subject to the terms and conditions set forth herein, and

WHEREAS, for purposes of this instrument, 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 the City and the Property Owner hereby agree to amend the Agreement as follows:

1. Section 3, Site Layout and Conceptual Plans for Development, of the Agreement is amended to read, in its entirety as follows:

***

(a). The attached Lot Configuration Plan for development of the property into eight (8) individual lots for the development of residential duplex units (Exhibit "B") is hereby approved by the terms and conditions of this Development Agreement.

(b). The attached Site Development Plan for development of the property (Exhibit "C") is hereby approved by the terms and conditions of this Development Agreement.

(c). The dimensions, lots areas, setbacks and densities shown in the Lot Configuration Plan and Site Development Plan are consistent with the requirements contained in Section 14-20 of the City's Land Development Code for the RMF-3 Multi-Family Residential District (Low Density) zoning district.

(d). In the event that the Property Owner elects to construct a single family residence on any of the 4 tracts depicted in Exhibit "B" he may do so at his sole discretion provided the minimum yards sizes, minimum floor area, maximum building height, and maximum lot coverage are consistent with the requirements contained in Section 14-17 of the City's Land Development Code for the RSF-2 Urban Single-Family Residential Detached District.

***

2. Except as otherwise expressly provided for herein, the original Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto attached their hands and seals on the dates set forth below.

[Signature pages following]

Signed, sealed and delivered in the presence of:

THE CITY OF DAYTONA BEACH SHORES, FLORIDA, a Florida municipal corporation

_____
Signature of Witness

By: _____
Nancy Miller, Mayor

_____
Print Name of Witness

Attest:

_____
Signature of Witness

By: _____
Cheri Schwab, City Clerk

_____
Print Name of Witness

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by Nancy Miller and Cheri Schwab, Mayor and City Clerk, respectively, of The City of Daytona Beach Shores, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

_____
Notary Public
Commission No: _____

Signed, sealed and delivered in the presence of:

Atlantic Avenue Estates, LLC [OWNER]

_____
Signature of Witness

By: _____
Name: Mark Scharff
Title: Managing Member

_____
Print Name of Witness

Date: _____

[Corporate Seal]

STATE OF NEW YORK
COUNTY OF KINGS

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Mark Scharff as Managing Member of Atlantic Avenue Estates, LLC, referred to in this agreement as "Property Owner." He or she is [_] personally known to me or [_] produced identification and did not take an oath.

_____
Notary Public
Commission No. _____

Approved as to legal form:

By: _____
Gretchen R. H. Vose, City Attorney

04/08/2016 09:26 AM
Instrument# 2016-062949 # 1
Book: 7238
Page: 3066

This Instrument Prepared By:
Lonnie N. Groot, Esquire
Stenstrom, McIntosh, Colbert,
& Whigham, P.A.
1001 Heathrow Park Lane, Suite 4001
Lake Mary, Florida 32746

Return To:
Ms. Cheri Schwab
City Clerk
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32118

ATLANTIC AVENUE/CITY OF DAYTONA BEACH SHORES DEVELOPMENT AGREEMENT PERTAINING TO THE DEVELOPMENT OF THE ATLANTIC AVENUE ESTATES DUPLEX DEVELOPMENT

THIS DEVELOPMENT AGREEMENT is made and entered into on the Effective Date described below, between ATLANTIC AVENUE ESTATES, LLC, a Florida limited liability corporation, registered and authorized to conduct business in the State of Florida, whose address is 133-15 Beach Channel Drive, Rockaway Park, New York, 11694, the legal and equitable owner, hereinafter referred to as the "PROPERTY OWNER", and the City of Daytona Beach Shores, Florida, a municipal corporation of the State of Florida, (the "Landlord"), holding tax exempt status, whose mailing address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as "CITY".

WITNESSETH:

WHEREAS, the PROPERTY OWNER is the owner of real property located on South Atlantic Avenue between 3824 S. Atlantic Avenue and 3832 S. Atlantic Avenue (Volusia County Tax Parcel Identification Number: 02-16-33-05-07-0150) in Daytona Beach Shores (Exhibit "A") (referred to from time to time as the "property" in this Development Agreement and which is the subject of the site plan referenced herein); and

WHEREAS, the PROPERTY OWNER and the CITY have a great interest in the annexation and development of the property in accordance with the CITY's comprehensive plan, official zoning map and *Land Development Code* to continue and maintain a sustainable mix of residential uses.; and

WHEREAS, the CITY desires to provide for the orderly development of land within the CITY in order to maintain a high quality of life for residents and businesses; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the CITY 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

implementing its comprehensive plan and protecting the public health, safety, and general welfare; and

WHEREAS, pursuant to the *Florida Local Government Development Agreement Act* as set forth at Sections 163.3220 through 163.3243, *Florida Statutes*, local governments are authorized to adopt, by ordinance, procedures and requirements whereby a local government may consider and enter into a development agreement with any person having a legal or equitable interest in real property located within the local government's jurisdiction and the CITY enacted Ordinance 2013-10, codified as Chapter 15, *Land Development Code,* to implement the provisions of the referenced statutory provisions; and

WHEREAS, the lack of certainty in the approval of development can result in a waste of economic and land resources; discourage sound capital improvement planning and financing; escalate the cost of housing and development; and discourage commitment to comprehensive planning and the CITY and the PROPERTY OWNER desire to engage in sound and long range planning with regard to the premises in a manner that protects the investment backed expectations and rights of the PROPERTY OWNER while providing for an array of benefits to the citizens of the CITY; and

WHEREAS, development agreements entered into pursuant to the *Florida Local Government Development Agreement Act*, strengthen the public planning process, encourage sound capital improvement, planning and financing; assist in assuring that there are adequate capital facilities to support development; encourage private participation in comprehensive planning; and reduce the economic cost of a development by providing assurances to a developer that, upon receipt of a development permit, the developer may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement; and

WHEREAS, development agreements are contracts negotiated between project proponents and public agencies that govern the land uses that may be allowed in a particular project and, although subject to negotiation, allowable land uses must be consistent with the local planning policies formulated by the legislative body (the CITY's City Council) through its general plan, and consistent with any applicable specific plan; and

WHEREAS, neither the PROPERTY OWNER nor the CITY, as the local government with land use regulatory authority over lands located within the CITY, is required to enter into a development agreement and, when entered, the allowable land uses and other terms and conditions of approval are negotiated between the parties, subject to the CITY's ultimate approval, but while a development agreement must advance the CITY's local planning policies, it may also contain provisions that vary from otherwise applicable zoning standards and land use requirements; and

WHEREAS, development agreements are, essentially, a planning tool that allows public agencies greater latitude to advance local planning policies, sometimes in new and creative ways and, as such, development agreements may be viewed as an alternative to the traditional development approval process which, in practice, it is commonly used in conjunction with; and

WHEREAS, the City Council of the CITY finds it is in the best interest and welfare of the citizens of the CITY to approve this Development Agreement with the terms and conditions set forth herein; and

WHEREAS, the City Council of the CITY has determined that the terms and conditions of this Development Agreement are in the best interests of the public health, safety and welfare of the citizens of the CITY and provide for specific public benefits; and

WHEREAS, the City Council of the CITY hereby finds and concludes that the provisions of this Development Agreement are consistent with the CITY's *Comprehensive Plan* and will result in the provision of enhanced economic development within the City and is consistent with the general purpose and intent of the land development regulations of the CITY and no amendments are required to the CITY's *Comprehensive Plan* or land development regulations in order to approve the development set forth in this Development Agreement; 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.*

NOW, THEREFORE, in consideration of the foregoing, and the premises and the promises, covenants and agreements herein contained, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties the PROPERTY OWNER and CITY agree as follows:

SECTION 1. RECITALS/FINDINGS.

(a). The recitals, set forth above, are true and correct and form a material part of this Development Agreement upon which the parties have relied.

(b). The findings, set forth above, are, and constitute, the administrative and quasi-judicial findings of the City Council of the CITY and form a material part of this Development Agreement upon which the parties have relied.

SECTION 2. PREMISES.

(a). The PROPERTY OWNER hereby designates, and the CITY hereby accepts, the following described tract of real property as the legal description for the premises for the purposes of this Development Agreement:

(LEGAL DESCRIPTION) – See attached "Exhibit A" to this Development Agreement.

(b). The legal entity having legal or equitable ownership of the premises is the PROPERTY OWNER.

SECTION 3. SITE LAYOUT AND CONCEPTUAL PLANS FOR DEVELOPMENT.

(a). The attached Lot Configuration Plan for development of the property into eight (8) individual lots for the development of residential duplex units (Exhibit "B") is hereby approved by the terms and conditions of this Development Agreement.

(b). The attached Site Development Plan for development of the property (Exhibit "C") is hereby approved by the terms and conditions of this Development Agreement.

(c). The dimensions, lot areas, setbacks and densities shown in the Lot Configuration Plan and Site Development Plan are consistent with the requirements contained in Section 14-20 of the CITY's *Land Development Code* for the RMF-3 Multi-Family Residential District (Low Density) zoning district.

SECTION 4. TERMS AND CONDITIONS RELATIVE TO THE PREMISES.

(a). In addition to all other covenants, obligations, duties and responsibilities set forth herein, the PROPERTY OWNER is approved for the following development on the premises:

(1). The development uses, including setbacks, population densities, and building heights, as set forth on the site plan approved in Section 3(a) of this Development Agreement.

(2). The development uses, including setbacks, population densities, building intensities and building heights, as set forth on the site plan approved in Section 3 of this Development Agreement comply with criteria for development approved in this Development Agreement and the applicable provisions cited in the land development regulations of the CITY applicable to the development project on the premises.

(3). The public facilities that will service the development of the premises shall continue as the premises are currently served although sewer service from the City of Daytona Beach may be provided in lieu of the services being provided by the City of Port Orange as determined by the CITY. All necessary public facilities shall be available concurrent with the impacts of the development.

(4). Numerous pubic benefits derive from the terms and conditions of this Development Agreement to include:

(a). Public purposes and benefits deriving from and provided by the development of the premises as set forth in this Development Agreement by means of payments made by the PROPERTY OWNER to the CITY in the sum of $2,500.00 each and every time a building permit is issued for the project approved under the terms and conditions of this Development Agreement until the sum of $ 10,000.00 is reached in the aggregate said sum to be expended and used in the CITY's discretion towards funding one or more of the following activities or projects of the CITY: the community/recreation center development, beach access maintenance, and/or gateway sign development.

(b). Additionally, the following normative development standards have been achieved in an innovative manner to infill the premises in a high quality manner while attaining planning goals and enhancing the ad valorem tax base of the CITY:

(i). The PROPERTY OWNER shall provide for the development of residential buildings and lots to maintain the low density development of the surrounding neighborhood.

(ii). The voluntary annexation of the property assists the CITY in reducing potential enclaves within the CITY and makes the CITY a logically configured community.

(iii). The PROPERTY OWNER shall provide and maintain landscaping in accordance with the CITY's *Land Development Code*.

(iv). The approved lot configuration provides for ownership of land and building that otherwise would not occur.

(v). The development of the premises for a duplex development that can be conveyed fee simple is consistent with various goals, objectives and policies established in the CITY's *Comprehensive Plan* for the establishment of a variety of owner-occupied housing opportunities.

(vi). The development of this in-fill property allows for a transition

between the higher density development along the east side of Atlantic Avenue and the single-family homes along the west side of Cardinal Drive.

(5). Impact fees and other funding requirements for the project on the premises are as established by controlling law and shall be met in the normative course and processes of development.

(6). All development permits normatively needed to be approved for the development of the premises shall be subject to the review and approval processes during the course of the development of the premises; provided, however, that, it is noted that no *Comprehensive Plan* amendments or changes in land use designations or changes in zoning classifications/districts assigned to property are necessitated by the development approved for the premises nor any required submissions to or approvals from Volusia County; the State of Florida, Departments of Economic Opportunity, Environmental Protection, Transportation, or such other department or agency of the State as may be applicable; the United States Army Corps of Engineers; the St. Johns River Water Management District; the United States Environmental Protection Agency or any other federal departments or agencies with competent jurisdiction over any aspect of the approved development, but such requirements are not precluded by this Development Agreement.

(7). The following deviations that have been granted by the CITY with regard to the provisions of the CITY's land development regulations:

(a). Section 14-20.4 of the CITY's *Land Development Code*, entitled "Dimensional Requirements" to allow minimum lot size as set forth relative to the project.

(b). Section 14-20.4 of the CITY's *Land Development Code*, entitled "Dimensional Requirements" to allow minimum lot width as set forth relative to the project.

(c). Section 14-20.4 of the CITY's *Land Development Code*, entitled "Dimensional Requirements" to allow the interior (side) yard setback as set forth relative to the project.

(d). Section 12-6.6 of the CITY's *Land Development Code*, entitled "Sidewalks" to allow the sidewalks to be constructed as set forth relative to the project.

(8). The failure of this Development Agreement to address a particular permit, condition, term or restriction shall not relieve the PROPERTY OWNER of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restrictions.

SECTION 5. REASONABLE APPROVAL.

In those instances in this Development Agreement in which a party's approval, consent or satisfaction is required, then it shall be implied that such action shall be exercised in a reasonable manner and within a reasonable time frame.

SECTION 6. REMEDIES.

Each party shall have any and all remedies as permitted by law; provided, however, that the parties agree to provide for positive dialogue and communications if disputes or disagreements arise as to the interpretation or implementation of this Development Agreement.

SECTION 7. TIME IS OF THE ESSENCE.

Time is of the essence of the lawful performance of the duties and obligations contained in this Development Agreement. The parties covenant and agree that they shall diligently and expeditiously pursue their respective obligations set forth in this Development Agreement.

SECTION 8. HEADINGS/CAPTIONS.

All sections and descriptive headings in this Development Agreement are inserted for convenience only, and shall not affect the construction or interpretation hereof.

SECTION 9. *FORCE MAJEURE.*

No party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by *Force Majeure*. *Force Majeure* shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, terrorism, hurricane, explosion, any law, proclamation, regulation, or ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Section is beyond the control and without the fault or negligence of the party seeking relief under this Section.

SECTION 10. DEVELOPMENT AGREEMENT BINDING; RUNS WITH THE LAND.

(a). This Development Agreement shall be binding upon and inure to the benefit and burden of the successors in interest, transferees and assigns of the parties. Each party hereto represents to the other that it has undertaken all necessary actions to execute this Development Agreement, and that it has the legal authority to enter into this Development Agreement and to undertake all obligations imposed on it. The signatories hereof represent that they have the requisite and legal authority to execute this Development Agreement and bind the respective parties herein.

(b). This Development Agreement touches and concerns the premises and shall run with the land and shall be binding upon and inure to the benefit and burden of the parties hereto and their respective successors and assigns.

SECTION 11. EXHIBITS.

All exhibits to this Development Agreement are hereby incorporated into this Development Agreement by this reference thereto.

SECTION 12. PUBLIC RECORDS.

The PROPERTY OWNER shall allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, *Florida Statutes*, and other controlling law and which have been made or received by the PROPERTY OWNER in conjunction with this Development Agreement and shall adhere to the controlling provisions of State law relating to public records.

SECTION 13. EQUAL OPPORTUNITY.

The PROPERTY OWNER agrees that it will not discriminate against any employee or applicant for employment for work relating to the services provided under this Development Agreement because of race, color, religion, sex, age, national origin or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demoting or transfer; recruitment advertising; layoff or termination; rates of pay or their forms of compensation; and selection for training, including apprenticeship.

SECTION 14. CONFLICT OF INTEREST.

The PROPERTY OWNER agrees that it will not commit any act that would

cause or create a conflict of interest as defined by Chapter 112, *Florida Statutes*, to exist or occur in the performance of its obligations pursuant to this Development Agreement with the CITY.

SECTION 15. COMPLIANCE WITH LAWS AND REGULATIONS.

In performing pursuant to this Development Agreement, the PROPERTY OWNER shall abide by all statutes, ordinances, rules, and regulations pertaining to, regulating the acts contemplated to be performed herein, including those now in effect and hereafter adopted. This provision shall include, but not be limited to, the provisions of the CITY's land development regulations and the codes and ordinances of the CITY. Any violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this Development Agreement.

SECTION 16. NOTICES.

(a). Whenever either party desires to give notice unto the other, notice may be sent to:

For the CITY:

Mr. Michael Booker
City Manager
City of Daytona Beach Shores
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32118

For the PROPERTY OWNER:

Mr. Mark Scharff
133-15 Beach Channel Drive
Rockaway Park, New York, 11694

(b). Either party may change the address for notification by providing notice of such change to the other party.

SECTION 17. INTERPRETATION/APPLICABLE LAW/VENUE.

The laws of the State of Florida shall govern this Development Agreement. Any legal action necessary arising out of the Development Agreement will have its venue in Volusia County and the Development Agreement will be interpreted according to the laws of Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other further exercise thereof. Waiver of a

default shall not be deemed a waiver of any subsequent defaults. In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees and court costs. The specific provisions of this Development Agreement shall prevail over the generality of the foregoing. In any action or proceeding required to enforce or interpret the terms of this Development Agreement, venue shall be in the Seventh Judicial Circuit Court in and for Volusia County, Florida.

SECTION 18. CONSTRUCTION OR INTERPRETATION OF THE DEVELOPMENT AGREEMENT.

This Development Agreement is the result of *bona fide* arms length negotiations between the parties and all parties have contributed substantially and materially to the preparation of the Development Agreement. Accordingly, this Development Agreement shall not be construed or interpreted more strictly against any one (1) party than against any other party both parties having participated in the drafting of this Development Agreement. Whenever a decision is provided for herein which is to be made by the CITY, such decision must be in writing in order to be binding upon the CITY.

SECTION 19. ENTIRE DEVELOPMENT AGREEMENT/MODIFICATION.

(a). This Development Agreement constitutes the complete, integrated and entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements, arrangements, contracts or understandings, whether oral or written, between the parties relating thereto, all of which have been integrated herein. This Development Agreement may not be amended, changed, or modified and material provisions hereunder may not be waived, except by a written document, of equal dignity herewith and signed by all parties to this Development Agreement.

(b). If the City Council of the CITY finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of this Development Agreement, this Development Agreement may be revoked or modified by the City Council upon affording the PROPERTY OWNER administrative due process rights in accordance with controlling law.

(c). A substantial modification of this Development Agreement shall, in the CITY's sole discretion, require approval by the City Council in accordance with the procedures set forth in Chapter 15, *Land Development Code* This Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest; provided, however, that a substantial modification of this Development Agreement shall, in the City's sole discretion, require approval by the City Council in accordance with the procedures set forth in Chapter 15, *Land Development Code*.

(d). If State or Federal laws are enacted after the execution of this Development Agreement, which are applicable to and preclude the parties' compliance with the terms of this Development Agreement, this Development Agreement shall be modified or revoked as is necessary to comply with the relevant State or Federal laws.

SECTION 20. THIRD PARTY BENEFICIARIES/TRANSFERABILITY.

(a). The CITY shall not be liable to any person, firm or corporation who contracts with or provides goods or services to the PROPERTY OWNER in connection with services provided by the PROPERTY OWNER to the CITY; and there is no contractual relationship, either expressed or implied, between the CITY and any other person, firm, or corporation supplying any work, labor, services, goods or materials to the PROPERTY OWNER as a result of its services to the CITY hereunder. This Development Agreement is solely for the benefit of the formal parties to this Development Agreement, and no right or cause of action shall accrue by reason hereof to or for the benefit of any other third party not a formal party hereto. Nothing in this Development Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Development Agreement or any provisions or conditions hereof, other than the parties hereto and their respective representatives, successors and assigns as set forth herein.

(b). This Development Agreement is transferable. However, so long as the land or structure or any portion thereof covered under the development agreement continues to be used for the purposes for which it was issued, then no person (including successors and assigns of the person(s) or entity(ies) who obtained the development agreement) may make use of the land except in accordance with the conditions and requirements of this Development Agreement. The provisions of this Development Agreement run with and burden the real property to which it relates until release or amended in accordance with formal action of the City.

SECTION 21. ATTORNEYS FEES AND COSTS.

In the event of any action to enforce the terms of this Development Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, paralegals' fees, and costs incurred, whether the same be incurred in pre-litigation negotiation, litigation at the trial level, or upon appeal.

SECTION 22. SEVERABILITY.

If any one or more of the covenants or provisions of this Development Agreement shall be held to be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against

public policy, or shall, for any reason whatsoever, be held invalid, then such covenants or provisions shall be null and void, shall be deemed separable form the remaining covenants or provisions of this Development Agreement, and shall, in no way, affect the validity of the remaining covenants or provisions of this Development Agreement.

SECTION 23. EFFECTIVE DATE/TERMINATION; PERIODIC REVIEW OF DEVELOPMENT AGREEMENT.

(a). This Development Agreement shall take effect on the date that this Development Agreement is fully executed by the parties and is recorded in the Official Records (Land Records) of Volusia County, Florida.

(b). This Development Agreement shall be in effect for a period of thirty (30) years, but may be extended by mutual consent of the CITY and the PROPERTY OWNER. Any request for an extension shall be subject to the public hearing process necessary for the initial approval of said Development Agreement; provided, however, that the City has concluded that the vested rights of the PROPERTY OWNER and the investment backed expectations of the PROPERTY OWNER warrant a renewal and continuation of the development approved for the premises herein.

(c). Prior to the completion of the project and at the issuance of a certificate of completion by the City, the City shall review this Development Agreement as well as at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the Development Agreement.

SECTION 24. COUNTERPARTS.

This Development Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGES FOLLOW:

IN WITNESS WHEREOF, the parties have executed this Development Agreement on the date stated below their signature.

Attest:

Cheri Schwab, City Clerk

CITY OF DAYTONA BEACH SHORES

Harry Jennings, Mayor
Date: March 22, 2016

Michael T. Booker, City Manager

Approved as to form and legality:

Lonnie Groot, City Attorney

ADDITIONAL SIGNATURE PAGE FOLLOWS:

Witnesses:

PROPERTY OWNER/
ATLANTIC AVENUE ESTATES, LLC

Mark Scharff
Printed Name

By: _____
Mark Scharff
Managing Member

Signature of Witness
Printed name of witness: ALEX Zeyebird

Acknowledgment

State of New York)

County of Kings)

I Hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Mark Scharff and he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily and they are personally known to me or provided NY Driver License. as identification.

Witness my hand and official seal in the County and State last aforesaid this 31 day of March, 2016.

(Affix Notary Seal)

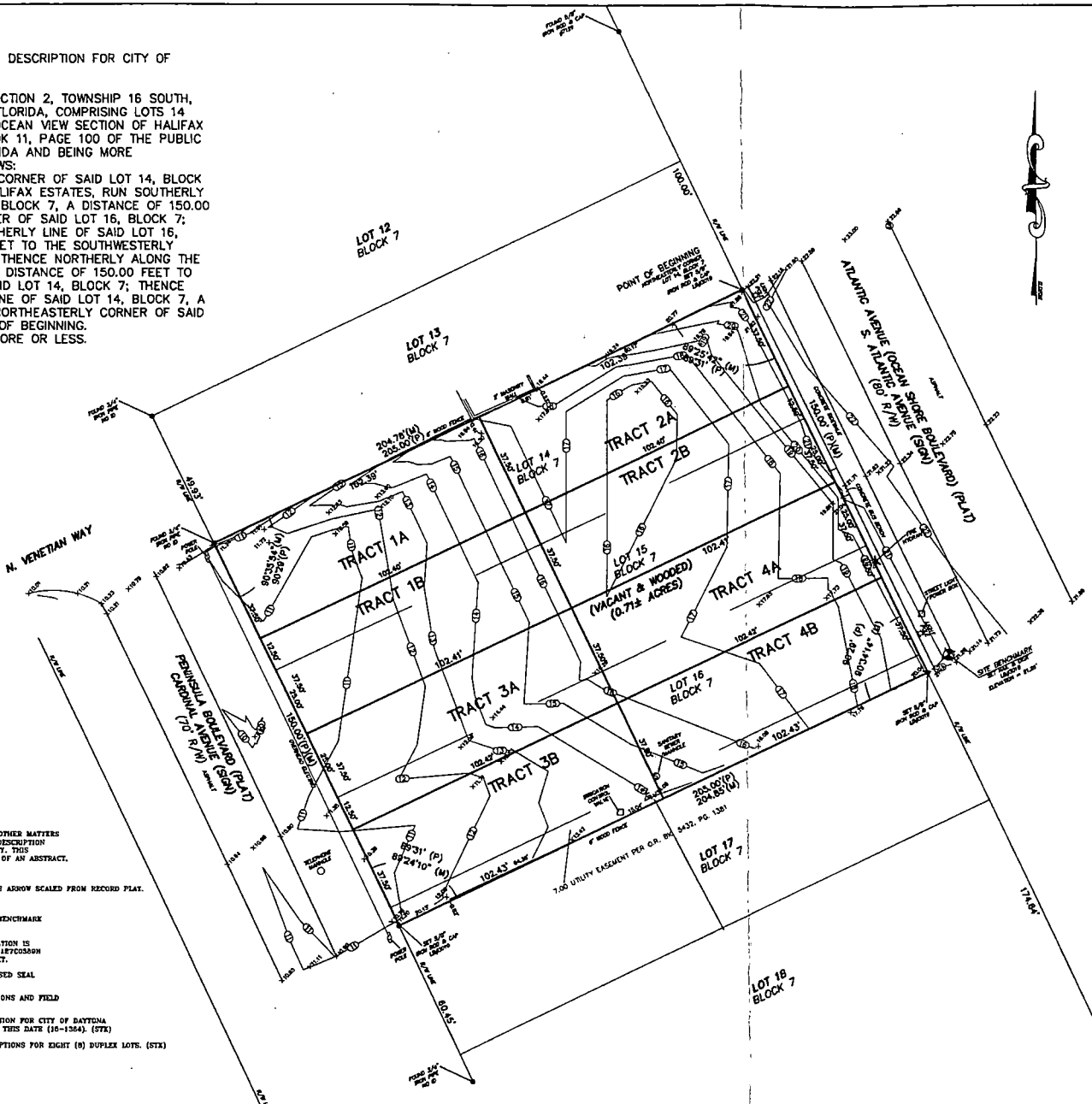
Notary Public; ~~State of Florida~~ State of New York
Print name: Michael Donohoe

MICHAEL DONOHOE
NOTARY PUBLIC, State of New York
No. 01-DO6128399
Qualified in Kings County
Commission Expires Jun. 13 2017

Exhibit A
Legal Description and Sketch

ARENT TRACT METES AND BOUNDS DESCRIPTION FOR CITY OF
AYTONA BEACH SHORES:

PARCEL OF LAND LYING WITHIN SECTION 2, TOWNSHIP 16 SOUTH,
ANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, COMPRISING LOTS 14
RROUGH 16, INCLUSIVE, BLOCK 7, OCEAN VIEW SECTION OF HALIFAX
STATES, AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC
ECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE
ARTICULARLY DESCRIBED AS FOLLOWS:
EGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 14, BLOCK
SAID OCEAN VIEW SECTION OF HALIFAX ESTATES, RUN SOUTHERLY
LONG THE EASTERLY LINE OF SAID BLOCK 7, A DISTANCE OF 150.00
EET TO THE SOUTHEASTERLY CORNER OF SAID LOT 16, BLOCK 7;
HENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 16,
LOCK 7, A DISTANCE OF 204.85 FEET TO THE SOUTHWESTERLY
ORNER OF SAID LOT 16, BLOCK 7; THENCE NORTHERLY ALONG THE
ESTERLY LINE OF SAID BLOCK 7, A DISTANCE OF 150.00 FEET TO
HE NORTHWESTERLY CORNER OF SAID LOT 14, BLOCK 7; THENCE
ASTERLY ALONG THE NORTHERLY LINE OF SAID LOT 14, BLOCK 7, A
STANCE OF 204.78 FEET TO THE NORTHEASTERLY CORNER OF SAID
OT 14, BLOCK 7 , AND THE POINT OF BEGINNING.
ONTAINING 0.71 ACRES OF LAND, MORE OR LESS.



YORS NOTES

TICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS
ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION
MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS
Y/SKETCH OF DESCRIPTION PREPARED WITHOUT BENEFIT OF AN ABSTRACT.

ENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.

CORD PLAT CONTAINS ANGLES ONLY, NO BEARINGS. NORTH ARROW SCALED FROM RECORD PLAT.

DERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.

VATIONS REFER TO N.G.V.D. OF 1929, PER U.S.C.& G.S. BENCHMARK
L 4' HAVING A PUBLISHED ELEVATION OF 20.702 FEET.

S PROPERTY IS LOCATED IN F.I.R.M. ZONE 'X', THIS LOCATION IS
RMINED BY SCALING FROM F.I.R.M. COMMUNITY PANEL 12127C0580H
EVISED FEB. 19, 2014, APPROXIMATE SCALE 1"= 500 FEET.

T VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL
FLORIDA LICENSED SURVEYOR AND MAPPER.

LESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD
VRED DISTANCES AND DIRECTIONS ARE THE SAME.

VISED NOV. 3, 2016: ADDED METES AND BOUNDS DESCRIPTION FOR CITY OF DAYTONA
SHORES ANNEXATION. NO ADDITIONAL FIELD WORK DONE THIS DATE (16-1364). (STK)

VISED JAN. 16, 2016 TO SHOW LOT LAYOUT WITH DESCRIPTIONS FOR EIGHT (8) DUPLEX LOTS. (STK)
DITIONAL FIELD WORK DONE THIS DATE.

DESCRIPTIONS

TRACT 1A: THE NORTHERLY 37.50 FEET OF THE WES 1/2 O
BLOCK 7, OCEAN VIEW SECTION OF HALIFAX ESTATES AS REC
BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA C

TRACT 1B: THE WEST 1/2 OF LOT 14, BLOCK 7, LESS AND
NORTHERLY 37.5 FEET THERE OF, OCEAN VIEW SECTION OF H
AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC R
VOLUSIA COUNTY, FLORIDA, TOGETHER WITH THE NORTHERLY
THE WEST 1/2 OF LOT 15, BLOCK 7, SAID OCEAN VIEW SECT
ESTATES AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE
RECORDS OF VOLUSIA COUNTY, FLORIDA.

TRACT 2A: THE NORTHERLY 37.50 FEET OF LOT 14 , BLOCK
SECTION OF HALIFAX ESTATES AS RECORDED IN MAP BOOK
THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS A
WEST 1/2 THEREOF.

TRACT 2B: LOT 14 , BLOCK 7, OCEAN VIEW SECTION OF HA
AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC R
VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE NORTHER
THEREOF AND LESS AND EXCEPT THE WEST 1/2 THEREOF, T
THE NORTHERLY 25.00 FEET OF LOT 15, BLOCK 7, LESS AND
WEST 1/2 THEREOF, SAID OCEAN VIEW SECTION OF HALIFAX
RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC REC
COUNTY, FLORIDA.

TRACT 3A: THE WEST 1/2 OF LOT 15, BLOCK 7, LESS AND
NORTHERLY 25.00 FEET THEREOF, OCEAN VIEW SECTION OF
AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC R
VOLUSIA COUNTY, FLORIDA, TOGETHER WITH THE WEST 1/2 O
NORTHERLY 12.50 FEET OT LOT 16, BLOCK 7, OCEAN VIEW S
HALIFAX ESTATES AS RECORDED IN MAP BOOK 11, PAGE 100
RECORDS OF VOLUSIA COUNTY, FLORIDA.

TRACT 3B: WEST 1/2 OF LOT 16, BLOCK 7, LESS AND EXC
NORTHERLY 12.50 FEET THEREOF, OCEAN VIEW SECTION OF
AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC R
VOLUSIA COUNTY, FLORIDA.

TRACT 4A: LOT 15, BLOCK 7, LESS AND EXCEPT THE NORTH
FEET THEREOF, AND LESS AND EXCEPT THE WEST 1/2 THER
SECTION OF HALIFAX ESTATES AS RECORDED IN MAP BOOK
THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, TOGETH
NORTHERLY 12.50 FEET OF LOT 16, BLOCK 7, LESS AND EXC
1/2 THEREOF, OCEAN VIEW SECTION OF HALIFAX ESTATES A
MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLU
FLORIDA.

TRACT 4B: LOT 16, BLOCK 7, LESS AND EXCEPT THE NORTH
THEREOF AND ALSO LESS AND EXCEPT THE WEST 1/2 THER
SECTION OF HALIFAX ESTATES AS RECORDED IN MAP BOOK
THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

DESCRIPTION OF PARENT T

LOTS 14, 15 AND 16, BLOCK 7, OCEAN VIEW S
HALIFAX ESTATES, ACCORDING TO THE MAP O
THEREOF, AS RECORDED IN PLAT BOOK 11, PA
THE PUBLIC RECORDS OF VOLUSIA COUNTY, FL

FOR: MARK SCHARFF

ADDRESS: S. ATLANTIC AVENUE

BOUNDARY SURVEY

SURVEYOR'S CERT

I HEREBY CERTIFY THAT THIS PLAT WE
MINIMUM TECHNICAL STANDARDS SET F
FLORIDA BOARD OF PROFESSIONAL SUR
MAPPERS IN CHAPTER 5J-17.05, FLORI
ADMINISTRATIVE CODE, PURSUANT TO S
FLORIDA STATUTES.

STEPHEN B. SLIGER, P.L.S. NO. 3794
J.E. ZAPERT, P.L.S. NO. 4046
STEVEN T. KRUGER, P.L.S. NO. 4722

VALID WITH SIGNATURE & EMBO

SLIGER & ASSOCIAT

PROFESSIONAL LAND SURVEY

3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5365
LICENSED BUSINESS CERTIFICATION N

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WWW.SLIGERASSOCIATES.COM

ABBREVIATIONS	
A/C	AIR CONDITIONER
R/W	RIGHT OF WAY
℄	CENTERLINE
Δ	CENTRAL ANGLE
ø	DIAMETER
L	ARC LENGTH
CB	CHORD BEARING
FP&L CO.	FLORIDA POWER & LIGHT COMPANY
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
U.S.C. & G.S.	UNITED STATES COAST AND GEODETIC SURVEY

LEGEND	
●	IRON ROD WITH CAP
○	IRON PIPE
□	CONCRETE MONUMENT
■	PERMANENT REFERENCE MONUMENT
△	PERMANENT CONTROL POINT
(R)	RADIAL LINE
(NR)	NON-RADIAL LINE
×0.00	EXISTING ELEVATION
▭	PROPOSED ELEVATION

FOR: MARK SCHARFF

SCALE: 1"=20' FIELD BOOK: 1299 PAGE(S): 55 SHEET OF

TYPE OF SURVEY	DATE	JOB NUMBER	PARTY CHIEF	DRAWN BY	CHECKED BY
SKETCH OF DESCRIPTION	JUNE 22, 2015	15-0662	J. LAMB	M. BLUM	S. KRUGER
BOUNDARY SURVEY	JUNE 22, 2015	15-0662	J. LAMB	M. BLUM	S. KRUGER
TOPOGRAPHIC SURVEY					
FOUNDATION LOCATION					
FINAL IMPROVEMENTS					
RECERTIFICATION					

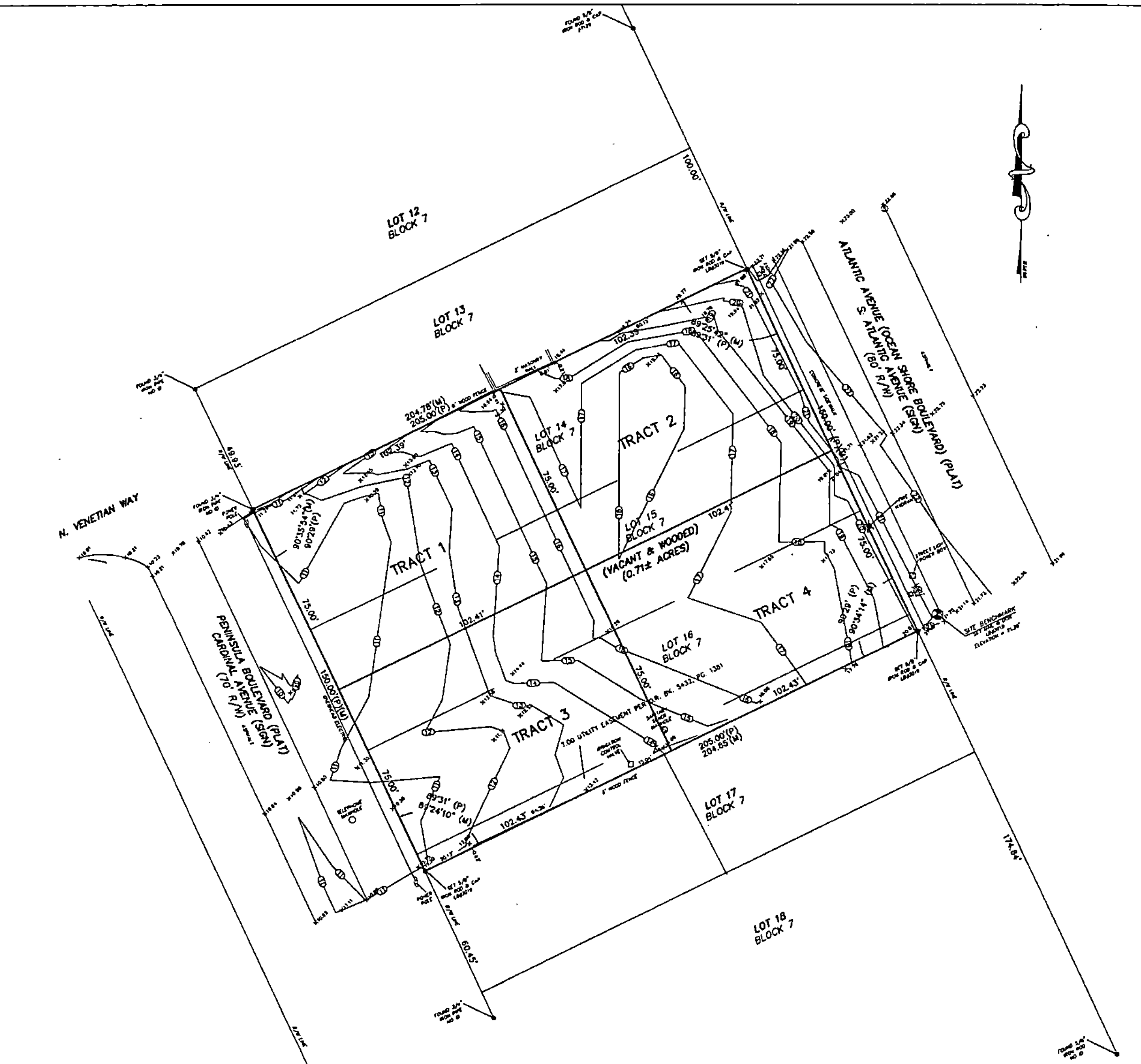
PLAT PREPARED FOR THE FOLLOWING: (ONLY THE LAST DATE IS CERTIFIED ON SEALED COPY)

THIS PLAT OF SURVEY IS CERTIFIED TO AND PREPARED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND/OR INDIVIDUALS LISTED BELOW, ON THE MOST CURRENT DATE, AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.

TYPE OF SURVEY	CERTIFIED TO	DATE	JOB NUMBER
	MARK SCHARFF		
	NOT CERTIFIED TO ANY ENTITIES AND/OR INDIVIDUALS OTHER THAN THOSE LISTED ABOVE		

Exhibit B
Lot Configuration

Instrument# 2016-062949 # 18
Book : 7238
Page : 3083



SURVEYORS NOTES

1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS SURVEY/SKETCH OF DESCRIPTION PREPARED WITHOUT BENEFIT OF AN ABSTRACT.

2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.

3. RECORD PLAT CONTAINS ANGLES ONLY, NO BEARINGS. NORTH ARROW SCALED FROM RECORD PLAT.

4. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.

5. ELEVATIONS REFER TO N.G.V.D. OF 1929, PER U.S.C.& G.S. BENCHMARK "TIDAL 4" HAVING A PUBLISHED ELEVATION OF 20.702 FEET.

6. THIS PROPERTY IS LOCATED IN F.I.R.M. ZONE "X", THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M. COMMUNITY PANEL 12127C0389H MAP REVISED FEB. 19, 2014, APPROXIMATE SCALE 1"= 500 FEET.

7. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

8. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME.

LEGAL DESCRIPTION

TRACT 1: THE NORTHERLY 75 FEET OF THE WEST 1/2 OF LOTS 14 AND 15, BLOCK 7, OCEAN VIEW SECTION OF HALIFAX SHORES AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TRACT 2: THE NORTHERLY 75 FEET OF LOTS 14 AND 15, BLOCK 7, OCEAN VIEW SECTION OF HALIFAX SHORES AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE WEST 1/2.

TRACT 3: THE WEST 1/2 OF LOTS 14, 15 AND 16, BLOCK 7, OCEAN VIEW SECTION OF HALIFAX SHORES AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE THE NORTHERLY 75 FEET THEREOF.

TRACT 4: LOTS 14, 15 AND 16, BLOCK 7, OCEAN VIEW SECTION OF HALIFAX SHORES AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE THE NORTHERLY 75 FEET THEREOF AND LESS AND EXCEPT THE WEST 1/2.

DESCRIPTION OF PARENT TRACT:

LOTS 14–16 INCLUSIVE, BLOCK 7, OCEAN VIEW SECTION OF HALIFAX SHORES AS RECORDED IN MAP BOOK 11, PAGE 100 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

FOR: MARK SCHARFF
ADDRESS: S. ATLANTIC AVENUE

JOB NO. 15–0662

BOUNDARY SURVEY

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

STEPHEN B. SLIGER, P.L.S. NO. 3794
J.E. ZAPERT, P.L.S. NO. 4046
STEVEN T. KRUGER, P.L.S. NO. 4722

VALID WITH SIGNATURE & EMBOSSED SEAL ONLY

SLIGER & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385
LICENSED BUSINESS CERTIFICATION NUMBER 3019
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WWW.SLIGERASSOCIATES.COM

ABBREVIATIONS

R/W	RIGHT OF WAY

LEGEND

●	IRON ROD WITH CAP
○	IRON PIPE
□	CONCRETE MONUMENT
■	PERMANENT REFERENCE MONUMENT
△	PERMANENT CONTROL POINT
(R)	RADIAL LINE
(NR)	NON-RADIAL LINE
X0.00	EXISTING ELEVATION
▭	PROPOSED ELEVATION

FOR: MARK SCHARFF
SCALE: 1"=20' FIELD BOOK: 1299 PAGE(S): 55 SHEET OF

TYPE OF SURVEY	DATE	JOB NUMBER	PARTY CHIEF	DRAWN BY	CHECKED BY
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BOUNDARY SURVEY	JUNE 22, 2015	15-0662	J. LAMB	M. BLUM	S. KRUGER
TOPOGRAPHIC SURVEY					
FOUNDATION LOCATION					
FINAL IMPROVEMENTS					
RECERTIFICATION					

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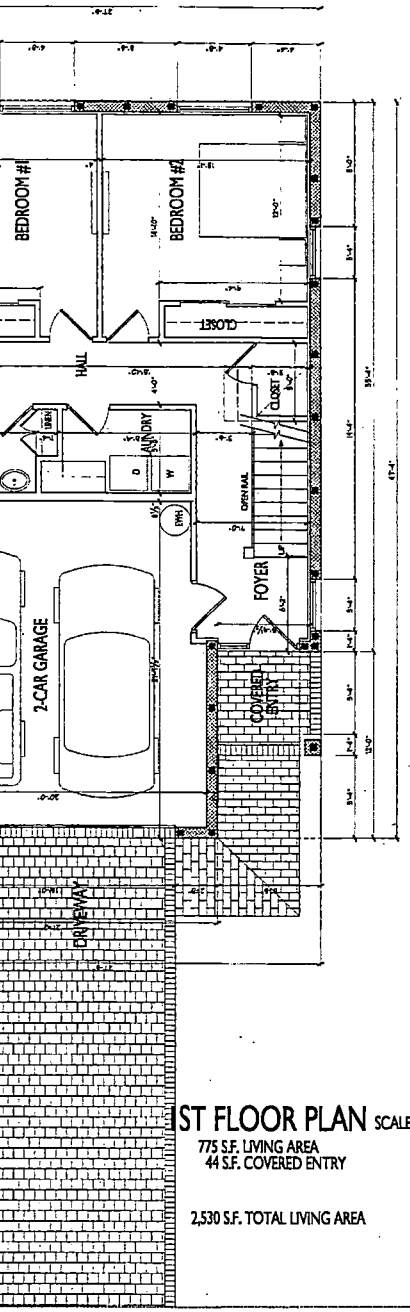
TYPE OF SURVEY	CERTIFIED TO	DATE	JOB NUMBER
	MARK SCHARFF		
	NOT CERTIFIED TO ANY ENTITIES AND/OR INDIVIDUALS		
	OTHER THAN THOSE LISTED ABOVE.		

Exhibit C
Site Development Plan

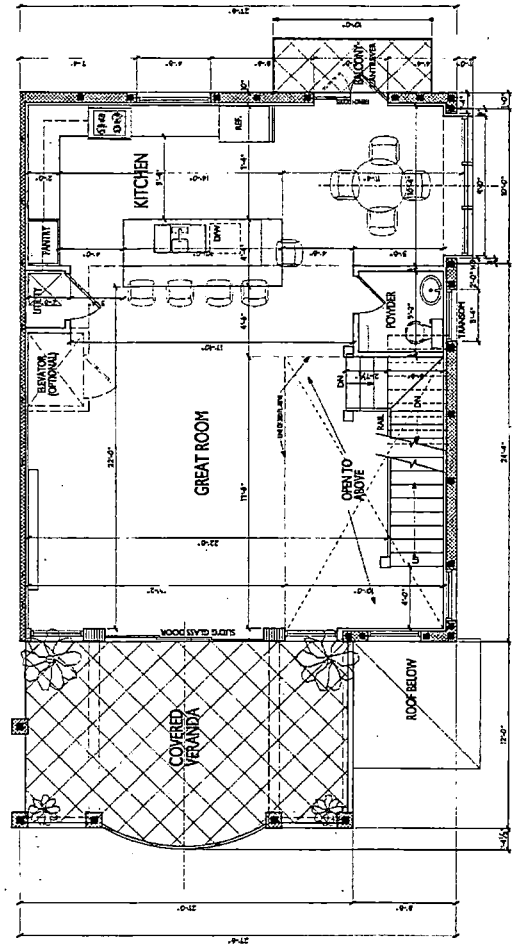
COPYRIGHT © - BFY ASSOCIATES INC. 2016



1ST FLOOR PLAN SCALE; 1/4"=1'-0"

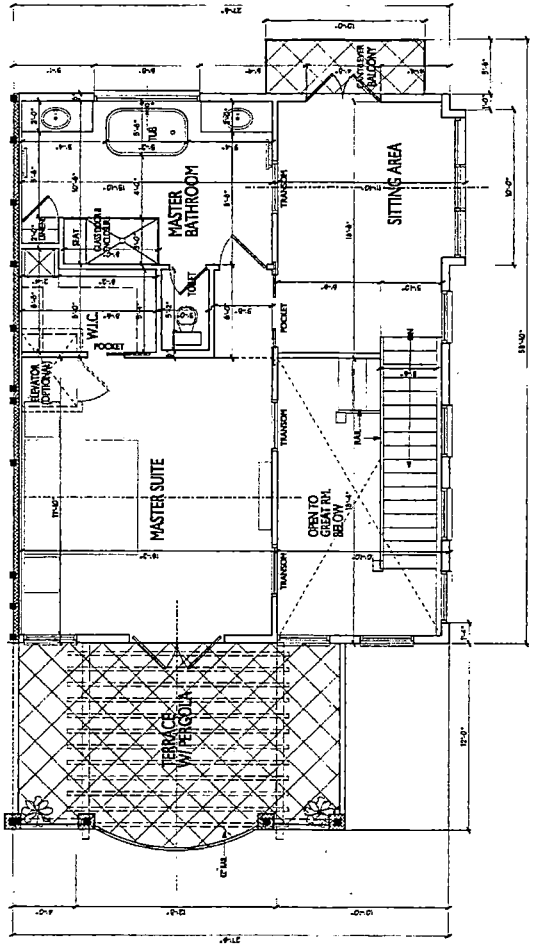
775 S.F. LIVING AREA
44 S.F. COVERED ENTRY

2,530 S.F. TOTAL LIVING AREA



2ND FLOOR PLAN SCALE; 1/4"=1'-0"

982 S.F. LIVING AREA
290 S.F. COVERED VERANDA BALCONY



3RD FLOOR PLAN

SCALE; 1/4"=1'-0"

775 S.F. LIVING AREA
290 S.F. VERANDA & BALCONY

-BFY-
Associates Inc.
AA 26001107

ARCHITECT;

-BFY Associates Inc.
Roman Yurkiewicz, FL. Reg. No. AR 0015612
203 Glenview Blvd, Daytona Beach, FL 32118
Ph: 386/258-2261 Email: bfy4@aol.com

CONSULTANTS;

REVISIONS;

DUPLEX
ATLANTIC AVENUE ESTATES LLC

PROJECT LOCATION:
DAYTONA BCH SHORES, VOLUSIA COUNTY, FL

DATE: FEBRUARY 5, 2016

FLOOR PLANS

SHEET #

Roman Yurkiewicz
FL. Reg. No. AR 0015612
Registered Architect

RECEIVED
FEB 12 2016
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

7 1 1 6 7 8 A

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FRONT ELEVATION
SCALE; 3/16"=1'-0

SIDE ELEVATION (TYP.)
SCALE; 3/16"=1'-0

BACK ELEVATION
SCALE; 3/16"=1'-0

NOTES:

1. THESE CONCEPTUAL DRAWINGS MAY CHANGE DUE TO MARKETING CONDITIONS & CHANGE OF CONCEPTUAL ARTISTIC REPRESENTATIONS OF THE BUILDING COMPONENTS AND MATERIALS
2. THE CHOICE OF EXTERIOR COLORS WILL BE IN ACCORDANCE W/ THE CURRENT REQUIREMENTS OF DAYTONA BCH SHORES LDC & PROJECT PERTINENT GOVERNING ORDINANCES

-BFY-
Associates Inc.
AA 26001107

ARCHITECT;

-BFY Associates Inc.
Roman Yurkiewicz, FL. Reg. No. AR 0015612
203 Glenview Blvd, Daytona Beach, FL 32119
Ph: 386/258-2261 Email: bfy4@aol.com

CONSULTANTS;

REVISIONS;

DUPLEX
ATLANTIC AVENUE ESTATES LLC

PROJECT LOCATION:
DAYTONA BCH SHORES, VOLUSIA COUNTY, FL

DATE: FEBRUARY 5, 2016

ELEVATIONS

SHEET #

RECEIVED
FEB 12
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

Roman Yurkiewicz
FL Reg. No. AR 0015612
Registered Architect

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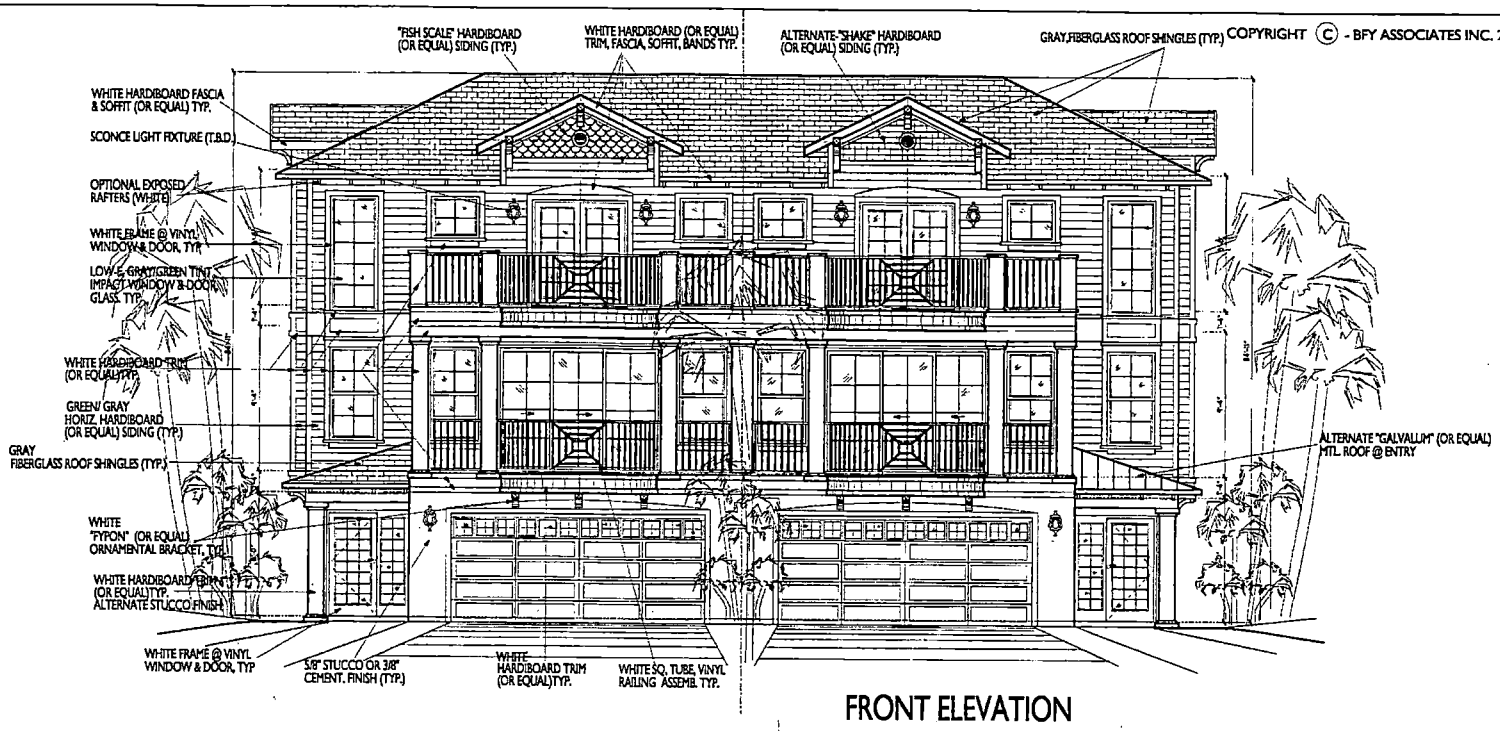
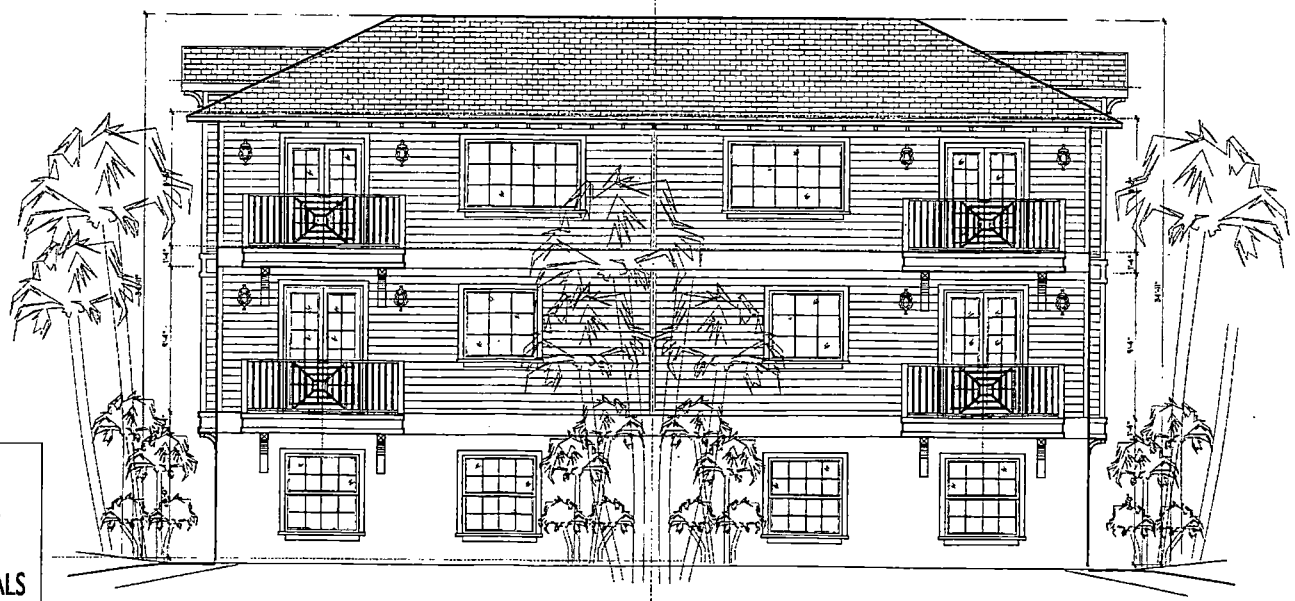


FRONT ELEVATION

SCALE; 1/4"=1'-0



BACK ELEVATION

SCALE; 1/4"=1'-0

CONCEPTUAL DRAWINGS MAY CHANGE
D MARKETING CONDITIONS & CHANGE
NCEPTUAL ARTISTIC REPRESENTATIONS
E BUILDING COMPONENTS AND MATERIALS

RECEIVED
FEB 7 1 2016
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

-BFY-
Associates Inc.
AA 26001107

ARCHITECT;

-BFY Associates Inc.
Roman Yurkiewicz, FL. Reg. No. AR 0015612
203 Glenview Blvd, Daytona Beach, FL 32119
Ph: 386/258-2261 Email: bfy4@aol.com

CONSULTANTS;

REVISIONS;

DUPLEX
ATLANTIC AVENUE ESTATES LLC

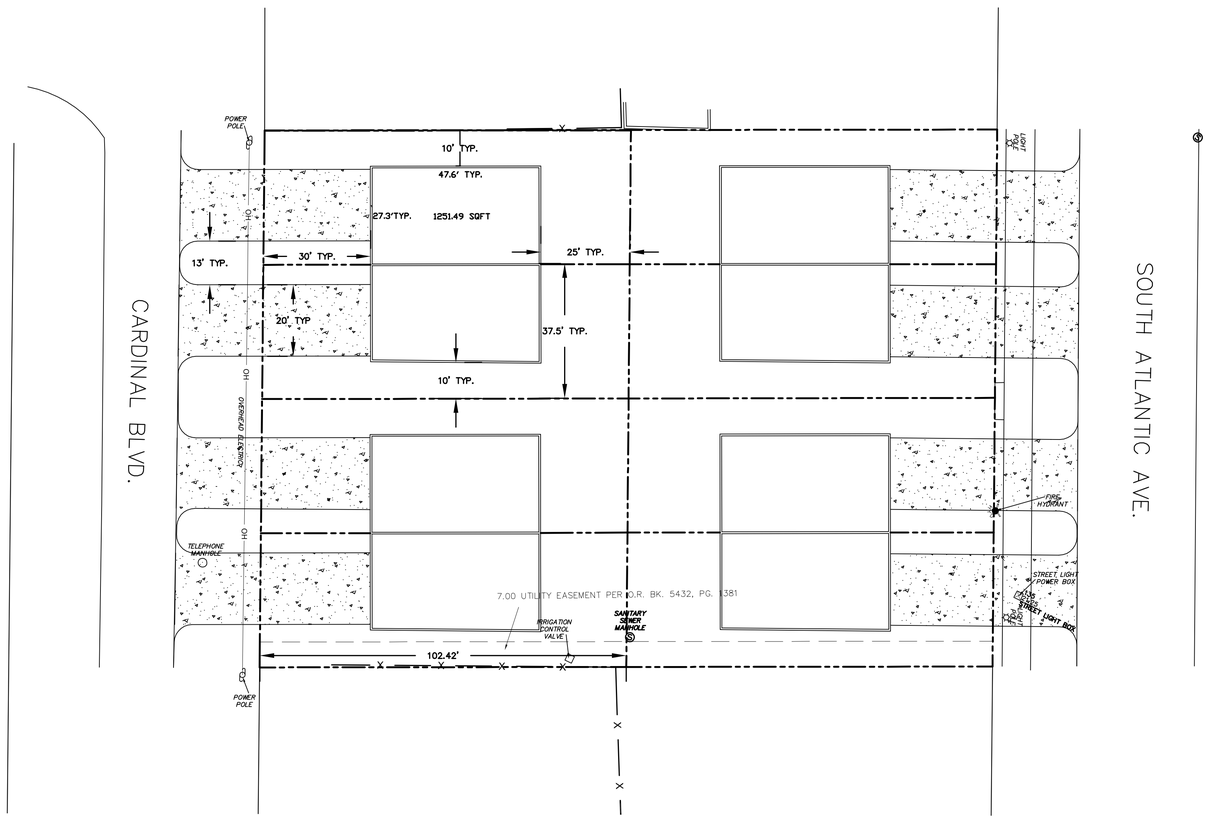
PROJECT LOCATION:
DAYTONA BCH SHORES, VOLUSIA COUNTY, FL

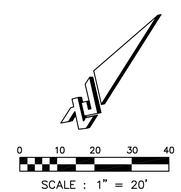
DATE: FEBRUARY 5, 2016

ELEVATIONS

SHEET #
A2.1

Roman Yurkiewicz
FL Reg. No. AR 0015612
Registered Architect





Site Data Table	
Number of Buildings	4
Number of Dwellings	8
Required Lot Area	7,260 sq. ft.
Requried Lot Width	75 feet
Proposed Lot Area	3,750 sq. ft.
Proposed Lot Width	37.5 feet
Setbacks:	
Front	30
Street Side	20
Side	10
Rear	25
Other Dimensional Requirements	
Maximum Building Height	35 feet
Maximum Building Coverage	35%
Minimum Floor Area per Unit	
1 Bedroom	750 sq. ft.
2 Bedrooms	900 sq. ft.
3+ Bedrooms	1,000 sq. ft.
Each Add'l Bedroom	120 sq. ft.

NOTES:

1. BUILDING FOOTPRINTS REFLECT MAXIMUM BUILDING AREA BASED ON REQUIRED SETBACKS. ACTUAL DEVELOPMENT MAY OCCUR ANYWHERE WITHIN THIS BUILDING ENVELOPE, SUBJECT TO MAXIMUM BUILDING COVERAGE REQUIREMENTS.
2. ADDITIONAL EASEMENTS MAY BE REQUIRED. FINAL SITE PLANS SHALL REFLECT LOCATION, SIZE, AND PURPOSE.
3. EXISTING UTILITIES MAY NEED RELOCATION IN ORDER TO ACCOMMODATE PROPOSED DEVELOPMENT AND PURPOSE. DEVELOPER SHALL BE RESPONSIBLE FOR COORDINATION WITH UTILITY PROVIDERS AND COST OF RELOCATION.

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ORMOND BEACH
300 INTERCHANGE BLVD., ORMOND BEACH, FL 32174
(386) 677-2482 FAX (386) 677-2505
ST. AUGUSTINE
4475 U.S. 1 S. STE # 801 ST. AUGUSTINE, FL 32086
(904) 797-1610 FAX (904) 797-4159
AMELIA ISLAND
914 ATLANTIC AVE., STE 2-D FERNANDINA BEACH, FL 32034
(904) 491-5436 FAX (904) 491-4159

NO.	DATE	DESCRIPTION	BY

REVISIONS:

SCHARFF CONCEPTUAL SITE LAYOUT

CITY OF DAYTONA SHORES VOLUSIA COUNTY, FLORIDA

ZEV COHEN & ASSOCIATES, INC.
CIVIL ENGINEERS • LANDSCAPE ARCHITECTS
SURVEYORS • MAPPERS
PLANNERS • TRANSPORTATION • ENVIRONMENTAL
WWW.ZEVCOHEN.COM

PROJECT NO: 15200 DRAFTED BY: JES
ISSUE DATE: 10/23/15 CHECKED BY: SB
DESIGNED BY: CE DRAWING FILE: 15200LA XREFS: XBSNAP

FILE LOCATION -

SUBMITTAL DATE

SEAL

NOT VALID WITHOUT EMBOSSED SEAL

SCALE: 1" = 10'

SHEET PL1 OF 1

City of Daytona Beach Shores
Community Services Department
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118

APPLICATION TO ENTER INTO OR AMEND A NON-PUD DEVELOPMENT AGREEMENT

Application for New Development Agreement: ☐
Application to Amend Existing Development Agreement: ☑

The Undersigned Applicant requests the City Council to decide upon this application in accordance with Daytona Beach Shores Ordinance 2013-10.

FEES MUST BE PAID AT THE TIME THE APPLICATION IS SUBMITTED

Date Submitted: 9 /24 /2020 Current Zoning: RMF - 3

Applicant's Name: Atlantic Avenue Estates, LLC. - Mark Scharff

Address: 133-15 Beach Channel Dr. Rockaway Park, NY 11694 Phone #: 718-236-6065

Representative: Zev Cohen & Associates, Inc.

Address: 300 Interchange Blvd. Ste C Ormond Beach, FL 32174 Phone #: 386-677-2482

Email: mkaret@zevcohen.com

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

Property Owner: Atlantic Avenue Estates, LLC.

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

9.24.2020
Date

DA12020027 PLANNING ANALYSIS

(1) DEVELOPMENT PROPOSAL

The development site is located in the west side of the 3800 block of S. Atlantic Avenue (**Figure 1)** and has dimensions of 150' x 206' with an acreage of 0.7.

Figure 1: Aerial View Development Site

Source: Volusia County PALMS, 2020

The property is currently vacant (**Figure 2**) and approved for four (4) residential duplexes resulting in a total of eight (8) dwelling units on the property. Each duplex would be three (3) stories, not to exceed 35 feet in height as prescribed by the underlying RMF-3 Multifamily Residential (Low Density) zoning district standards. The proposed amendment, if approved, would allow the developer/owner to build a single-family residential structure on any or all of the property, with total units not to exceed eight (8), consistent with the RSF-2 Urban Single-Family Residential Detached District standards (**Exhibit A**), which is the prevalent City single-family zoning district in the area.

Source: GoogleMaps, 2020

(2) VARIANCES

No variances were granted or are anticipated to be associated with this project.

(3) STAFF AND BOARD REVIEW

COMMUNITY SERVICES – Fred Hiatt, Director / Building Official

The Director has reviewed the development agreement and he has no comments.

PUBLIC WORKS – Brian Edwards, Deputy Director / Facilities Superintendent

N/A.

PUBLIC SAFETY – Lt. Karen Howard, Support Services Commander

The Commander has reviewed the development agreement and she has no objections.

ENGINEERING

Engineering review is not required at this time but will be conducted during the site plan process.

(4) FINDINGS

(1) CONSISTENCY WITH THE COMPREHENSIVE PLAN UPDATE 2020

According to the City's Adopted Comprehensive Plan (2030) Future Land Use Map, the future land use (FLU) classification of the subject property is Low Density Residential. Said FLU classification allows low density development such as the proposed duplex and single-

family residences at the density of 0-12 units per acre. The proposed development meets the aforementioned, therefore, the proposed development is consistent with the City's Adopted Comprehensive Plan (2030) and the designated FLU classification.

(2) CONSISTENCY WITH THE LAND DEVELOPMENT CODE

The subject property is zoned "RMF-3 Multifamily Residential (Low Density) District". Residential duplexes are permitted as a principal use in the district and within the permitted prescribed density established by the City's LDC (Sec. 14-20). The proposed single-family residential use, while not permitted in the RMF-3 District, would be permitted pursuant to the amended development agreement, if approved. In addition, the proposed development and the proposed amendment are consistent with the general purpose and intent of the City's LDC (Sec. 1-3).

(3) REQUIRED AMENDMENTS TO THE COMPREHENSIVE PLAN AND/OR LAND DEVELOPMENT CODE

There are no required amendments to the City's adopted Comprehensive Plan and/or the City's Land Development Code necessary for the amendment to be approved.

EXHIBIT A

Sec. 14-17. - RSF-2 Urban Single-Family Residential Detached District.
14-17.1. Purpose and Intent.
The purpose and intent of the RSF-2 Urban Single-Family Residential Detached District is to provide medium residential density for the purpose of preserving the character of existing residential neighborhoods and generally implementing the city's land use plan within, but not necessarily limited to, those areas shown for single-family use.
14-17.2. Permitted Principal Uses and Structures.
Single-family dwelling.
Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq.
14-17.3. Permitted Accessory Uses and Structures.
Home occupations regulated by section 14-45 and other accessory uses or structures customarily incidental to the permitted principal use or structure.
14-17.4. Dimensional Requirements.
Minimum lot size:
Area: Seven thousand five hundred (7,500) square feet.
Width: Fifty (50) feet.
Minimum yard size:
Front yard: Thirty (30) feet.
Rear yard: Twenty-five (25) feet.
Side yard:
Interior lot: Ten (10) feet
Abutting any street right-of-way: Twenty-five (25) feet.
Waterfront: Twenty-five (25) feet (river); fifty (50) feet (ocean).
Minimum floor area: One thousand (1,000) square feet.
Maximum building height: Thirty-five (35) feet.
Maximum lot coverage: The total area covered with principal and accessory buildings shall not exceed thirty-five (35) percent of the total lot area.

VOLUSIA COUNTY R-9 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION (For Comparison Only)

Purpose and intent: The purpose and intent of the R-9 Urban Single-Family Residential classification, is to provide for continued medium-density single-family dwelling residential development on existing platted lots.

***

Dimensional requirements:
Minimum lot size:
Area: 7,500 square feet.
Width: 75 feet.
Minimum yard size:
Front yard: 25 feet, except on a corner lot, one front yard may be reduced to 15 feet.

Rear yard: 20 feet.
Side yard: Seven feet.
Waterfront yard: 25 feet.
Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 1,000 square feet.
Off-street parking and loading requirements: Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed.

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Ordinance 2020-15: Removal of Background Check Requirement For Fortune Tellers, Palmists, etc.

SYNOPSIS:

Ordinance 2020-15, if approved, would amend Sec. 14-61.1(m) of the Daytona Beach Shores Land Development Code (LDC) to remove the background check requirement for fortunetellers, palmist and similar occupations in conjunction with the issuance of a certificate of use. A certificate of use review, which analyzes zoning and parking standards relative to a land use, is required prior to the opening of a new business or a business transfer in Daytona Beach Shores. In the case of fortunetelling and similar businesses a background check is also required. However, there is no legal requirement for a background check regarding these occupations and the LDC itself does not contain an administrative or enforcement process subsequent to receiving the results of the background check. Hence, the proposed amendment to remove the background check requirement for the subject occupations is purely an administrative housing cleaning effort.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The Courts have deemed fortune telling and similar occupations as protected under the "free speech" provisions of the US Constitution. There is also no Florida Statute requiring background checks on these occupations and the City does not have an established process for addressing the results of background checks relative to the occupations in question. Hence the proposed amendment is merely an administrative housecleaning effort.

PLANNING AND ZONING BOARD

On October 12, 2020 the Daytona Beach Shores Planning and Zoning Board unanimously recommended approval of the subject ordinance.

LEGAL REVIEW:

This ordinance amendment is approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2020-15 as presented.

SUGGESTED MOTION:

A City Council Member may move as follows:

(1) "I move to **approve** Ordinance 2020-15 as presented."

OR

(2) "I move to approve Ordinance 2020-15, with the following amendment(s)."

OR

(3) "I move to deny Ordinance 2020-15 on the basis of the following."

ATTACHMENT: 1. Ordinance 2020-15-Background Check Fortune Tellers-Certificate of Use

ORDINANCE 2020-15

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO FORTUNE TELLING, ASTROLOGY, SPIRITUALISTS AND SIMILAR OCCUPATIONS; AMENDING THE *CODE OF ORDINANCES*, *APPENDIX G-LAND DEVELOPMENT CODE*; BY AMENDING SECTION 14-61.1 ENTITLED "ZONING CONFIRMATION; CERTIFICATE OF USE OR HABITABILITY"; 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 finds that this Ordinance is in the best interest of its citizens and the appropriate regulation of Fortunetelling business within the City; 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 14-61.1, entitled "Zoning confirmation; certificate of use or habitability," by adding the following:

Sec. 14-61.1. - Zoning confirmation; certificate of use or habitability.
modified

(a) A zoning confirmation and certificate of use process shall be completed for all commercial and industrial properties to include, but not be limited to, all retail, sales, services and other non-residential uses regardless of the zoning district assigned to the property, prior to a certificate of use being issued by the City and a certificate of use is required for all new occupancies or changes in occupancies relative to all commercial and industrial uses within the City. It is prohibited and unlawful to place commercial or industrial property in use without first obtaining a zoning confirmation and certificate of use from the City.

(b) A certificate of habitability process shall be completed for all commercial and industrial properties to include, but not be limited to, all retail, sales, services and other non-residential uses regardless of the zoning district assigned to the property, upon a building or structure located on such property being vacant for a period exceeding sixty (60) calendar days. It is prohibited and unlawful to allow a building or structure located on a commercial or industrial property to be vacant without timely receiving a certificate of habitability from the City with an associated plan of maintenance while the building or structure is vacant to ensure that the building or structure is and remains habitable and safe to the public while vacant. A certificate of habitability shall be applied for every 6 months after the initial certificate of habitability application is due and it is prohibited and unlawful to maintain a vacant building or structure without being granted a timely certificate of habitability and appropriately displaying the certificate of habitability on the vacant building or structure. A certificate of habitability is required for each building or structure located on a parcel of property.

(c) An application for a zoning confirmation and certificate of use or a certificate of habitability for a building or structure shall be submitted to the City in such form as the City Manager, or designee, shall prescribe.

(d) The owner or lessee or agent of either shall make application for zoning confirmation and certificate of use prior to commencing the use of property or for a certificate of habitability within five (5) calendar days after a building or structure has been vacant for a period of sixty (60) calendar days.

(e) Zoning confirmation and certificate of use or a certificate of habitability shall only be issued by the City when the use on the property is found to be in compliance with all applicable land development regulations of the City or the use is a legal non-conforming use.

(f) Prior to the change in occupancy relative to a parcel of real property, and as part of the zoning confirmation and certificate of use application process, a site plan shall be submitted to the City for review and approval which site plan shall include, but not be limited to, a parking plan depicting the parking lot that will serve the applicant business. Within five (5) days after a building or structure has been vacant for a period of sixty (60) calendar days, the property owner shall file an application with the City requesting a certificate of habitability which shall contain a statement identifying a plan of maintenance while the building or structure is vacant.

(g) Upon acceptance of a completed application, the application shall be forwarded to the City's pertinent staff for approval of proper zoning, compliance with the pertinent land development regulations and building regulations of the City. The Public Safety Department shall evaluate the property and inspect the property, as necessary, to ensure compliance with the fire codes and applicable safety codes.

(h) The City may engage in inspections by City inspectors as determined to be necessary and desirable with regard to the property under consideration. If it is determined that the applicant's business location does not comply with the requirements of the City's land development regulations, building codes, fire codes, or safety codes, such application shall be denied by the City and the applicant shall not be permitted to engage in the business at such location or, in the case of a vacant building or structure, administratively ordered to remedy all identified issues.

(i) Upon approval of the zoning confirmation and other matters set forth in this section by the City a certificate of use shall be issued to the applicant and the applicant shall prominently display the certificate of use at the property for which the certificate of use was issued or, in the case of a certificate of habitability, upon approval of the vacant building or structure maintenance plan, a certificate of habitability shall be issued.

(j) The Building Official/Community Services Director may revoke a permit or approval issued under the provisions of this section in cases where there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based or, in the case of a certificate of habitability, the vacant building or structure maintenance plan has not been adhered to.

(k) Right of appeal.

(1) If the designee of the City Manager denies a certificate of use or certificate of habitability, or the Building Official/Community Services Director revokes a certificate of use or certificate of habitability the applicant therefore shall have the right to appeal such action to the City Manager by filing a notice of appeal with the City Manager within ten (10) days after such action. The City Manager, within fifteen (15) days of such appeal, shall hold an informal hearing to determine if the business location complies with the requirements of all applicable ordinances, codes and regulations. Written notice of the hearing shall be provided by the City Manager to the applicant, which notice shall set a date for the hearing giving the applicant an opportunity to be heard on the action. The City Manager, after hearing from all interested parties, shall either sustain or reverse the action. The City Manager shall issue a written decision.

(2) If the applicant desires to appeal the decision of the City Manager, the applicant shall have the right to appeal the decision of the City Manager to the City's special magistrate by filing a notice of appeal with the City Clerk within ten (10) days after such action. The City's special magistrate shall, as soon as practicable, hold a hearing to determine if the business location complies with the requirements of all applicable ordinances, codes and regulations or if the certificate of habitability should have been granted or not revoked. Written notice of the hearing shall be provided by the City Clerk to the applicant, which notice shall set a date for the hearing giving the applicant an opportunity to be heard on the action. The City's special magistrate, after hearing from all interested parties, shall either sustain or reverse the action of the City Manager and shall issue a written decision which shall be final City action on the matter.

(l) Applicant for a zoning confirmation and certificate of use or certificate of habitability shall pay a fee for applying as well as a fee for each appeal as established in the schedule of fees adopted by the City Council.

(m) ~~Fortunetellers, astrologers,~~ pain management clinics and similar enterprises.

(1) No certificate of use will be issued to any person engaged or operating ~~in the business of fortunetelling, astrology, palmistry, spiritualists or mediums or other occupation professing to foresee or predict the future or recall past events by any physical or spiritual means, or involving~~ a pain

management clinic or similar enterprises until such person shall furnish the following information to the City:

a. The place or places of residence of the applicant for the five (5) years immediately preceding application.

b. The address and nature of business engaged in for five (5) years immediately preceding the date of application.

c. The names and present addresses of all persons, whether adults or minors, connected with or associated with the proposed business or occupation.

(2) The City shall direct an inquiry to the Volusia County Sheriff and the City's Chief of Police in order that they can accomplish such investigation(s) and issue such report(s) as they deem appropriate in order to evaluate the moral and law abiding character of the applicant.

(3) The applicant for a pain management clinic certificate of use shall provide to the City proof of registration with the Florida Department of Health, pursuant to F.S. § 458.3265 or 459.0137, as amended, prior to the issuance of a certificate of use for the business. If the registration of a pain management clinic is revoked or suspended by the Florida Department of Health, the certificate of use shall be revoked automatically and shall not be appealable.

(4) The application for a certificate of use for a pain management clinic shall include an affidavit by the owner or the physician of record pursuant to F.S. § 458.3265 or 459.0137, as amended, attesting to the fact that no employee, full-time, part-time, contract, independent or volunteer has been convicted of or has pled guilty or nolo contendere at any time to an offense constituting a felony in this State or in any other state involving the prescribing, dispensing, supplying, selling or possession of any controlled substance within a five-year period prior to the date of employment at the pain management clinic.

(5) If at any time the City determines that a pain management clinic is operating in any manner that is inconsistent with, or contrary to, the provisions of this section or any other applicable code or law, the City may revoke the certificate of use through the process outlined in this Code.

(6) The application for a certificate of use for a pain management clinic shall disclose, in detail, the names and addresses of the owners and operators of the pain management clinic and shall be updated by the owner/operator annually at the time of renewal of the business tax receipt for the business, or at any time that there is a change of owner or the physician of record pursuant to F.S. § 458.3265 or 459.0137, as amended.

(7) A copy of each ~~fortuneteller, astrologer,~~ pain management clinic and similar enterprise's certificate of use shall be posted in a conspicuous location at or near the entrance to the business in order that it may be easily observed and read at any time.

***

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 temporary promotional activities 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:

_____

GRETCHEN R. H. "BECKY" VOSE, CITY ATTORNEY

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

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Ordinance 2020-16: Shared Off-street Parking Requirements

SYNOPSIS:

Ordinance 2020-16, if approved, will amend the Daytona Beach Shores Land Development Code (LDC) off-street parking requirements relative to shared parking and provide an additional method and more standardized method of calculating required off-street parking for shopping centers. Off-street parking has been one of the limiting factors to physical and economic development in Daytona Beach Shores due to the nonconforming nature of commercial properties. Properties become nonconforming because the dimensional and or built out state of the property preexisted the City's LDC, which was adopted in 1990. Initially, land development parking regulations were established for worse case scenarios, eg. extreme holiday shopping periods, and resulted in very restrictive parking standards. Today however, parking regulations contemplate mixed use internal capture and alternative modes of transportation such as transit, ride hailing (Uber, Lyft, etc.), carpooling, etc. Considering the City's economic development goals, staff has drafted Ordinance 2020-16 to provide a more modern set of off-street parking requirements for shopping centers in order to encourage economic development and in particular, reuse of vacant shopping center spaces within the City.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. Context

Parking in Daytona Beach Shores is a limiting factor for economic and physical development due to the difficulty in satisfying the City's off-street parking requirements, which is related to the nonconforming nature of properties in the City. In addition to demographic, economic and social conditions, new businesses attempting to establish themselves in the City have to contend with nonconforming sites and parking regulations that do not contemplate changes in user behavior. Moreover, existing businesses desiring to expand often time cannot due to the additional off-street parking requirement. Currently, there are at least two new businesses that are yet to open in the City that will have parking challenges at their proposed intensities and in one case a business may not be able to open its doors due to the current parking standards in a shopping center.

B. Planning Analysis

See attached.

C. Proposed Amendments

Below is a summary of the substantive changes contained in Ordinance 2020-16:

1. Amend the general definition of a "shopping center" (Sec. 2-2 LDC), by defining community center as having four (4) or more units to, among other things, provide consistency with the number of shopping center units contained in Chapter 6 "Signs and Advertising." Comment: This amendment will not negatively impact shopping centers less than four (4) units by expanding or creating nonconforming properties.
2. Amend the "Combination Off-street Parking" regulations (Sec. 14-48.3 LDC) to, among other things, combine and improve the City's combined off-street parking requirements for uses with varying peak hours of operation. Comment: This is a housecleaning and streamlining amendment that will not negatively impact properties by expanding or creating nonconforming properties.
3. Amend the "Combination Off-street Parking" regulations (Sec. 14-48.3 LDC) to, among other things, provide shopping centers with the option to calculate overall off-street parking required by utilizing the current method or new standardized method of one (1) required parking space for every 250 square feet of gross floor area of the entire shopping center, provided certain conditions exist. Comment: This amendment will not negatively impact properties by expanding or creating nonconforming properties and offers flexibility between the two parking methods to encourage economic development and filling of vacant spaces in shopping centers.

D. Planning and Zoning Board

On October 12, 2020 the Daytona Beach Shores Planning and Zoning Board unanimously recommended approval of the subject ordinance.

LEGAL REVIEW:

This is approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2020-16 as presented.

SUGGESTED MOTION:

A City Council Member may move as follows:

(1) "I move to **approve** Ordinance 2020-16 as presented."

OR

(2) "I move to approve Ordinance 2020-16, with the following amendment(s)..."

OR

(3) "I move to deny Ordinance 2020-16 on the basis of the following..."

ATTACHMENT:

1. Ordinance 2020-16-Shopping Center Shared Parking-10-02-20
2. Planning Analysis

ORDINANCE 2020-16

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO REQUIRED OFF-STREET PARKING IN SHOPPING CENTERS; AMENDING THE *CODE OF ORDINANCES*, *APPENDIX G-LAND DEVELOPMENT CODE*; BY AMENDING SECTION 2-2 ENTITLED "GENERAL DEFINTIONS"; BY AMENDING SECTION 14-48, ENTITLED "OFF-STREET PARKING AND LOADING"; 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 parking on beachside is a limiting factor for economic development; and

WHEREAS, the City Council of the City of Daytona Beach Shores recognizes that commercial shopping center sites in Daytona Beach Shores are built out on properties that were platted, designed, approved and developed prior to the adoption of the Daytona Beach Shores Land Development Code and therefore nonconforming in several aspects, including parking; and

WHEREAS, the City Council of the City of Daytona Beach Shores recognizes that the nonconforming nature of parking lots in commercial shopping centers may inhibit economic development and the attraction of new businesses to the City; and

WHEREAS, removing obstacles to bringing new businesses to the City is consistent with the Daytona Beach Shores Strategic Plan; and

WHEREAS, the Institute of Transportation Engineers Parking Generation Manual (4th Edition) was used as a guide in the drafting 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 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:

Sec. 2-2. - General definitions.

***

Shopping center: A group of four (4) or more retail stores, service establishments or any other businesses, each located in a separate, distinct and independent leasable space of at least 800 square feet, not necessarily owned by one (1) party nor by a single land ownership which are adjacent to and utilize a common off-street parking area or areas.

***

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*, Section 14-48, entitled "Off-street parking and loading," as follows:

Sec. 14-48. - Off-street parking and loading.

Off-street parking areas are required in all zoning districts in order that every use or structure will have an adequate number of off-street parking spaces for the use of occupants, employees, visitors, customers or patrons. Off-street loading areas are required in all zoning districts except single-family residential zoning districts in order to provide adequate space for temporary parking of motor vehicles while loading or unloading. All off-street parking and loading areas shall be designed in accordance with the following requirements:

14-48.1. Surfacing, Drainage, Lighting and Access.

Required off-street parking and loading areas except in conjunction with single-family homes shall be surfaced with brick, asphalt, bituminous or concrete material and maintained in a smooth, well-graded condition, drained so as not to cause any runoff problems onto adjacent properties, so lighted to

prevent flare [glare] or excessive light onto adjacent property and arranged for convenient access and safety of pedestrians and vehicles.

14-48.2. Location.

The required off-street parking or loading areas shall be located on the same lot or parcel of land they are intended to serve. However, if the required off-street parking spaces cannot reasonably be provided on the same lot on which the principal building or use is located, such required off-street parking spaces may be located on another lot or parcel of land within two hundred (200) feet of the premises to be served provided:
1. The owner of such parking area enters into a written agreement with the city council providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required, and
2. The owner agrees to bear the expense of recording the agreement and agrees that the agreement shall bind his heirs, successors and assigns.

14-48.3. ~~Combined~~ Shared Off-Street Parking.

1. ~~Combined off-street parking~~ Separate Peak Usage-General. ~~The required off-street parking spaces for one-half [one use] shall not be assigned to another except that one-half (½)~~ One half (1/2) of the required off-street parking spaces for churches, theaters, restaurants or other ~~places of assembly~~ businesses whose peak attendance or usage will be at night, weekends or a particular time of the day ~~or on Sundays~~ may be assigned to a use which peak hour of attendance or usage vary from a church, theater, restaurant or other business on the same property or within 200 feet of the subject use. ~~is closed at night or on Sundays~~. The property and or business owners shall provide the Community Services Director with competent evidence demonstrating consistency with this provision. Approval under this subsection shall be memorialized in a development order.
2. Overlapping Peak Usage-Shopping Centers. Shopping centers may utilize either of the following methodology to determine the total shopping center off-street parking requirement:
    a. One (1) parking space for every 250 square feet of gross floor area of the entire shopping center. Providing however, (i) total restaurant gross floor area shall not exceed more than 50% of the total shopping center gross floor area; and (ii) total shopping center off-street parking requirement calculated using this methodology shall not be less than one-half (1/2) the off-street parking requirement total when method "b" of this subsection is applied to the shopping center.
    b. The sum of the total required off-street parking for each individual use pursuant to Sec. 14-48.6 of this code.

***

14-48.11. Specialized Off-Street Parking Requirements.

***

~~14-48.11.6.~~

~~*Combined Parking*. One-half the required off-street parking may be permitted for principal uses within a shopping plaza when the Building Official determines that competent evidence exists demonstrating that the principal uses on the property are not in use within the same time period during which the other use or uses for which the parking will be required. Such approval shall be memorialized in a development order.~~

***

SECTION THREE: 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 FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to required off-street parking are hereby ratified and affirmed.

SECTION FIVE: 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 Three, Four, Five, Six, Seven and Eight shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

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

SECTION SEVEN: 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 EIGHT: 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:

_____
GRETCHEN R. H. "BECKY" VOSE, CITY ATTORNEY

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

ORDINANCE 2020-16: PLANNING ANALYSIS

A. PROPOSED AMENDMENTS

The proposed ordinance, if approved, would make the below substantive changes,

1. Amend the general definition of a "shopping center" (Sec. 2-2 LDC), by defining a shopping center as having four (4) or more units. This proposal ensures consistency with Chapter 6 (Signs and Advertising) of the City's LDC, which provides that a shopping center sign is permitted on a lot or parcel with four (4) or more businesses.

2. Amend the "Combination Off-street Parking" regulations (Sec. 14-48.3 LDC) to combine and improve the City's combined off-street parking requirements for uses with varying peak hours of operation. This proposal is a housecleaning and streamlining amendment relocating and combining said provision in a more efficient section of the parking regulations.

3. Amend the "Combination Off-street Parking" regulations (Sec. 14-48.3 LDC) to, among other things, provide shopping centers (with uses that have peak hour overlap) with the option to calculate overall off-street parking required by utilizing the current method or a universal method of one (1) parking space for every 250 square feet of gross floor area of the entire shopping center, provided certain conditions exist.

B. AMENDMENT A.3 METHODOLOGY

Overview

This proposal is the most substantive amendment proposed in the ordinance. The methodology used to select the 250 square footage was based on (i) an analysis of the Institute of Transportation Engineer's (ITE) Parking Generation Manual (4th Edition) and (ii) an analysis of shopping center parking regulations in all Volusia County beachside communities.

Observations/Results

1. Amendment A.3(i): The ITE Parking Generation Manual revealed the typical strip plaza parking supply ratio is 4.1/1000sf, or 1/243sf, per gross leasable area in strip shopping centers. Strip shopping centers are characterized as having less than 30,000sf of gross leasable area and with small businesses as tenant type and anchor type. This characterization fits the description of all shopping centers in Daytona Beach Shores, apart from the Winn Dixie Plaza, which is classified as a neighborhood shopping center. More importantly however, the ITE Parking Generation Manual notes average peak parking demand in shopping centers on a Friday (December) and Saturday (December) per 1,000 gross leasable area (GLA)

was 3.96 and 4.67, respectively. This translates to a parking ratio 1/253sf and 1/214sf on the typical busiest shopping days of the year. In generating these results, the ITE surveyed over 197 shopping centers across the country, including several from Florida. The ITE manuals are the most trusted and widely used vehicular trip and parking generation manuals used in the United States.

2. Amendment A.3(ii): Volusia County communities researched included Ormond Beach, Daytona Beach, Volusia County, Ponce Inlet and New Smyrna Beach. Observations included:

    a. No two community had the same off-street parking standard for shopping centers.
    b. Every community provided a credit, i.e. reduced parking requirement, for off-street parking in shopping centers. This is probably because of the trip generation and land use concept of internal capture, which assumes a reduction in total parking demand in a mixed use center due to the customer practice of shopping at multiple onsite businesses.
    c. The City of Port Orange, which has a larger population and average daily trip generation than Daytona Beach Shores on its major thoroughfares, off-street parking requirements for shopping center is a standard 1/250sf. This standard comes the closest to those of the ITE.

METHOD SELECTED

Considering the ITE and Port Orange standards, staff elected to utilize the 1/250sf off-street parking requirement with additional safeguards, which provides that this methodology shall only be utilized in shopping centers under the following conditions:

a. The total restaurant gross floor area in the shopping center shall not exceed 50% of the total shopping center gross floor area. Comment: The purpose behind installing this threshold is to ensure a shopping center remains a shopping center and not a restaurant hub. If the latter occurs then internal capture is less likely to occur and hence, off-street parking demand would be higher than what the proposed standard requires. This would lead to potential parking conflicts and failure of one or more restaurants through the land use attrition process.

b. The total shopping center off-street parking requirement calculated using the 1/250sf methodology shall not be less than one-half (1/2) the off-street parking requirement total when calculated the conventional methodology. Comment: The purpose of installing this threshold is to provide an off-street parking failsafe mechanism that would preclude potential parking conflicts and the failure of shopping center businesses.

NOTE: Required off-street parking for shopping centers may still be calculated utilizing the existing or conventional method. This may be useful should the nature and intensity of businesses in the shopping center result in a less restrictive requirement.

C. NONCONFORMITY

The subject ordinance will not create or expand any parking nonconformity but instead it will make some shopping center properties more conforming in relation to parking due to the additional method of calculating required off-street parking. The proposed amendments will not increase off-street parking requirements and in fact, shopping centers will still be able to utilize the existing standards currently in place.

D. DRIVER DECISION OPTIONS

While there are always concerns regarding relaxing parking standards, a typical driver contemplates the following when faced with a full parking lot:

1. Seek alternative destination
2. Return at an alternative time or date
3. Return via ride hailing service (Uber, Lyft, etc.)
4. Return via transit
5. Stand vehicle on site until space becomes available
6. Park illegally elsewhere on site
7. Park illegally on nearby property
8. Park illegally on roadway

As seen in the Public Safety Director's comments below, the City of Daytona Beach Shores does not experience noticeable illegal parking related to commercial or on-street parking. If a problem arises the Director has indicated the Department will address immediately. However, most residents and visitors to City are law abiding and therefore, staff does not anticipate decisions 6, 7 and 8 to materialize significantly, if any at all.

E. BUSINESS/PROPERTY OWNER DECISION OPTIONS

In the unlikely event that options 6, 7 and 8 noted in Section D above becomes a reality, business and property owners will need to act accordingly due to their desire to be successful. Decisions contemplated include:

1. Entering a parking arrangement with a nearby property.
2. Require employees to utilize alternative means of transport, e.g. carpool, transit, scooters, etc.
3. Reduce intensity of restaurants, i.e. reduce number of seats in a restaurant, etc.
4. Focus on alternative services, i.e. delivery, take out, online sales, etc.

While inadequate parking can be problematic for businesses, shopping center owner and a community, Local decisions and market corrections typically stabilize this issue. The business/property owner, sometimes at the encouragement of the City or tenants, will act on one or more of the above decision-making options while the customer/driver will select one or more of the options noted in Section D above.

F. STAFF AND BOARD REVIEW

COMMUNITY SERVICES – Fred Hiatt, Director / Building Official

The Director has reviewed the ordinance and his comments have been addressed.

PUBLIC WORKS – Brian Edwards, Deputy Director / Facilities Superintendent

N/A.

PUBLIC SAFETY – Chief Stephan Dembinsky

The Chief has indicated illegal parking related to commercial use is generally not an issue in the City, however, if it becomes a problem the Public Safety Department will address immediately.

ENGINEERING

N/A

PLANNING AND ZONING BOARD

Pending.

G. FINDINGS

(1) CONSISTENCY WITH THE COMPREHENSIVE PLAN UPDATE 2030

The proposed ordinance is consistent with the City's Adopted Comprehensive Plan (2030) and the following policies:

1. Future Land Use (FLU) Policy 1-1.1.1.c: Provide for adequate off-street parking spaces. Comment- This ordinance does not amend parking design and will not impact parking space configuration and dimensions. In addition, the proposed parking standards closely resemble the ITE recommendations for shopping centers.
2. FLU Policy 1-1.4.1: Provide for adequate off-street parking spaces. Comment- This ordinance does not amend parking design and will not impact parking space configuration and dimensions. In addition, the proposed parking standards closely resemble the ITE recommendations for shopping centers.

3. Transportation Policy 2-1.1.7: Safe and convenient onsite transportation traffic flow. Comment- This ordinance does not amend parking design or internal circulation and should not negatively impact onsite transportation traffic flow.
4. Transportation Policy 2-1.1.8: Accommodate emergency services. Comment- This ordinance does not amend parking design or internal circulation standards and should not negatively impact emergency service equipment.
5. Transportation Policy 2-1.1.10: Prohibition of parking on S.R. A1A. Comment- The ordinance does not propose parking on S.R. A1A or any public roads. Per sections D and E of this report, a user and tenant/landlord have various decision options to address potential parking shortages while the Public Safety Department will address any and all illegal parking if needed.
6. Transportation Policy 2-1.2.2: Site plan review criteria. Comment-Site plan review will continue for all new and redeveloped shopping center properties consistent with the ordinance.

(2) CONSISTENCY WITH THE LAND DEVELOPMENT CODE

The subject Ordinance will provide housecleaning, streamlining and another method of calculating required off-street parking for shopping centers. The ordinance will not increase or expand nonconformities but in fact will provide an opportunity for shopping centers to become in conformity with the proposed LDC off-street parking standards.

(3) ECONOMIC DEVELOPMENT

The proposed ordinance, if approved, will remove one barrier inhibiting the reuse of some vacant shopping center spaces. If this barrier is removed the changes will facilitate new businesses coming into the City. Since business spur business, this ordinance has clear economic development implications for business growth on the west side of S. Atlantic Avenue, which is a goal of the City's Strategic Plan.

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Kurt Swartzlander, Finance Director
PREPARED BY: Kurt Swartzlander, Finance Director
SUBJECT: Resolution to open accounts with JPMorgan Chase

SYNOPSIS:

JPMorgan Chase requires a resolution from the City authorizing the City Manager or his designee to open bank accounts.

FISCAL IMPACT STATEMENT:

N/A

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: 1. Chase Banking Resolution

RESOLUTION 2020-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA APPROVING THE OPENING OF BANK ACCOUNTS WITH JPMORGAN CHASE BANK, N.A. AND APPROVING SIGNATORIES TO THE ACCOUNT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores (the "City"), Florida has an operating account at Bank of America, N.A. at 3046 South Atlantic Avenue, Daytona Beach Shores, and this branch has been closed since March 2020, and

WHEREAS, the City desires to establish accounts with JPMorgan Chase Bank, N.A. as they have established a branch at 2970 South Atlantic Avenue, Daytona Beach Shores to conduct business transactions and make vendor payments with; and,

WHEREAS, City Ordinance 96-12 governs the investment of municipal funds; and, Resolution 2008-02 details the City of Daytona Beach Shores Investment Policy, and

WHEREAS, the City desires to authorize the City Manager or his designee to execute the necessary documents to establish new accounts with JPMorgan Chase, N.A.; and

WHEREAS, the City must maintain a minimum $100,000 balance in the accounts to mitigate monthly service fees, and

WHEREAS, the Florida Division of Treasury has designated JPMorgan Chase, N.A. as an qualified public depository pursuant to Section 280.17 F.S.:

NOW THEREFORE, the City Council of the City of Daytona Beach Shores finds and resolves that:

1. The City shall open accounts with JPMorgan Chase Bank, N.A. at 2970 South Atlantic Avenue, Daytona Beach Shores, FL.

2. The following individuals shall be signatories on the accounts with JPMorgan Chase Bank, N.A.:

    a. Michael T. Booker, City Manager

b. Kurt Swartzlander, Finance Director

c. Cheri Schwab, City Clerk

3. The City hereby authorizes the City Manager or his designee to execute the necessary documents to establish new accounts with JPMorgan Chase, N.A

4. The following shall be listed as authorized representatives on the accounts:

   a. Michael T. Booker – City Manager

   b. Kurt Swartzlander – Finance Director

5. This resolution shall be effective upon adoption.

DULY ADOPTED at a city council meeting this 27th Day of October, 2020

Time Adopted _____ PM

CITY OF DAYTONA BEACH SHORES, FL

_____

MAYOR NANCY MILLER

Attest:

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

Approved as to form and legality:

_____

CITY ATTORNEY, GRETCHEN "BECKY" VOSE

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Economic Development Grant (New Business Lease Subsidy) Application: Tres Leches Restaurant, 2514 S. Atlantic Avenue

SYNOPSIS:

The applicant, Tres Leches Cafe, LLC, submitted Economic Development Grant Application 12020028 on September 28, 2020 requesting a new business lease subsidy grant totaling the amount of $13,573.80 over the course of three (3) years. The applicant will be opening "Tres Leches Cafe" at 2514 S. Atlantic Avenue (Pappas Plaza). "Tres Leches Cafe" is a Latin restaurant with a focus on Cuban, Mexican and Puerto Rican cuisines. The restaurant concept is a casual setting with the food made to order. Orders will be made at the counter and picked up by the customer when ready. The restaurant hours will be from 6am to 11pm and targeted groups will include locals, tourists and working professionals. The applicants have signed a five (5) year lease with the landlord and according to the applicant, at the time of opening, the applicant would have spend close to $30,000 on furniture, equipment and improvement of the space.

FISCAL IMPACT STATEMENT:

This is a budgeted expenditure.

BACKGROUND:

In July 2019, the Daytona Beach Shores City Council approved Ordinance 2019-06, which relates to Economic Development within City limits. The ordinance, among other things, created an "Economic Development Commercial Lease Subsidy Program," which provides grants to subsidize leases for new businesses over a three (3) year period. The lease subsidy is capped at 30%, 20% and 10% of the lease rent for the first, second and third year, respectively, providing the total amount disbursed by the City does not exceed $20,000.

Attached is a proposed grant agreement between the City and applicant, the grant application and staff analysis of the grant application.

LEGAL REVIEW:

This is approved as to form and legality.

RECOMMENDATION:

On October 13, 2020 the Economic Development Committee recommended approval of the subject grant application.

SUGGESTED MOTION:

A City Council member may motion as follows:

1. "I move to **approve** the subject grant application and agreement as presented."

OR

2. "I move to approve the subject grant application and agreement with the following conditions/amendments..."

OR

3. "I move to deny the subject grant application and agreement on the basis of..."

ATTACHMENT:

1. Tres Leches EDP Lease Subsidy Grant Application-10-9-20
2. EDP Lease Subsidy Evaluation COMPLETE Worksheet
3. Tres Leches-Lease Subsidy Grant Agreement-10-14-20-SC-10-16-20-JC

122005
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SEP 28 2020
BUILDING AND CODES DIVISION
OF DAYTONA BEACH SHORES

DAYTONA BEACH SHORES ECONOMIC DEVELOPMENT PROGRAM

GRANT APPLICATION

(There is no entitlement to any reward, but the City encourages applications and the opportunity to work with applicants.)

DATE RECEIVED: **REFERENCE:**

(Please Print)

APPLICANT NAME: Tres Leches Cafe, LLC
CONTACT PERSON (if an entity): Norman A Castañeda
ADDRESS: 5251 Bear Corn Run
CITY: Port Orange STATE: FL ZIP: 32128
TELEPHONE: 305-849-3381 FAX:
EMAIL ADDRESS: esquivel68@hotmail.com

APPLICANT BUSINESS STRUCTURE:
(Please check all that apply)

- ☐ Sole proprietorship/individual
- ☒ Limited Liability Company
- ☐ Corporation
- ☐ Other

GRANT TYPE:

(Check one only)

Lease Subsidy

- ☒ New Business (Buildout or Lease Subsidy)
- ☐ Existing Business Expansion
- ☐ Existing Business Relocation
- ☐ Existing Business Lease Extension

Other

- ☐ Land Purchase
- ☐ Façade/Beautification
- ☐ Alternative Grant Request

PROJECT SITE INFORMATION:

Address: 2514 S. Atlantic Ave
City: DBS State: FL Zip:
~~Tax Parcel ID:~~

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SEP 28 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

1220-05

BASE REAL PROPERTY VALUE:

Most recent City Taxable Value $ Year:

Maximum New Investment Value $

Certified by a licensed Florida Engineer or Architect $

PROJECT DESCRIPTION:

PROJECT BENEFITS TO THE CITY:

REQUIRED PROJECT CHECKLIST:

☐ Certification by Applicant

☐ Application Authorization or Affidavit of Ownership Mr. Popper - 2 page

☐ Site plan, building plans, elevations and a detailed scope of work

☐ Business Plan, Menu, # of employees, types of service, targeted clients, non American breakfast

☐ Estimate by a Licensed Engineer or Architect certifying amount of new investment

☐ Most recent property tax bill and truth in millage statement

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CITY OF DAYTONA BEACH SHORES
12005

CERTIFICATION BY APPLICANT

The applicant certifies that all information in this application, and all information furnished in support of this application, is given for obtaining funds from the City of Daytona Beach Shores Economic Development Program and is true and complete to the best of the applicant's knowledge and belief.

If the applicant is not the owner of the property, or if the applicant is an organization rather than an individual, the applicant certifies that he/she has the authority to sign and enter into an agreement to perform the improvements on the property. **Evidence of this authority must be attached.**

Verification of any of the information contained in this application may be obtained from any source named herein.

It is further understood that all information obtained will be held in strict confidence and used for no other purposes by the City of Daytona Beach Shores inconsistent with controlling law. I have received and reviewed the program guidelines prior to submitting this application.

SIGNATURE: Norma A Castañeda DATE: 9/28/2020

PRINTED NAME: Norma A Castañeda

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 28th day of September 20 20 by Norma Alicia Castañeda, who is personally known to me, OR who has produced Florida Driver License as identification and did (did not) take an oath.

My commission expires:

GWYNEDD D. HERSTEIN
MY COMMISSION EXPIRES
JANUARY 30, 2023
#GG 277138
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

Printed Name:
NOTARY PUBLIC

Mr. Pappas

AFFIDAVIT OF OWNERSHIP*

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BUILDING AND CODE ENFORCEMENT
CITY OF DAYTONA BEACH SHORES

PROPERTY ADDRESS:
TAX PARCEL ID:

Signed and sealed
in the presence of:

CHRIS PAPPAS

WITNESS #1 (Signature) **OWNER** (Printed Name)

NAME PRINTED

WITNESS #2 (Signature) **OWNER** (Signature)

NAME PRINTED

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 21 day of Sept, 2020 by Chris Pappas, who is personally known to me, OR who has produced as identification and did (did not) take an oath.

CHERYL LEE THIBAULT
MY COMMISSION EXPIRES
APRIL 24, 2022
#GG 205439
Bonded thru
Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

My commission expires:

Cheryl Lee Thibault

Printed Name: Cheryl Lee Thibault
NOTARY PUBLIC

***NOTE: If more than one owner please provide additional affidavit of ownership for each owner.**

122005

RECEIVED

SEP 28 2020

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

Mr. Pappas

AUTHORIZATION TO APPLY

I, , am the owner of the following described property:

PROPERTY ADDRESS:

I do hereby authorize the following named individual or entity to apply for an Economic Development grant and enter into an agreement with the City of Daytona Beach Shores.

AUTHORIZED REPRESENTATIVE:
(IF APPLICABLE)

CHRIS PAPPAS

PROPERTY OWNER (1) (Print Name)

PROPERTY **OWNER (2)** (Printed Name)

PROPERTY OWNER (1) (Signature)

PROPERTY OWNER (2) (Signature)

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 24 day of September, 2020 by Chris Pappas, who is personally known to me, OR who has produced as identification and did (did not) take an oath.

My commission expires:

CHERYL LEE THIBAULT
MY COMMISSION EXPIRES
APRIL 24, 2022
#GG 205439
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

Printed Name: Cheryl Lee Thibault
NOTARY PUBLIC Cheryl Lee Thibault

122005
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SEP 28 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

PROGRAM APPLICATION PROCESS

1. Applicant meets with staff to discuss economic development program and potential project eligibility.
2. Applicant submits a complete application for staff eligibility review.
3. Staff conducts eligibility review and prepares City Council report.
4. City Attorney drafts agreement for City Council consideration.
5. City Council evaluates application, staff report and draft agreement and makes a final determination in approval of the grant and associated terms.

GRANT PAYMENTS ELIGIBILITY AND PROCESS

1. The applicant shall provide make a request in writing and provide firm evidence to the Finance Director that all terms and conditions of the agreement approved by the City Council have been satisfied.

2. Upon review of the evidence provided and legal review, the Finance Director shall provide a recommendation to the City Manager who shall determine whether the applicant has met all terms and conditions of the agreement to the satisfaction of the City.

Detail by Entity Name

Florida Limited Liability Company
TRES LECHES CAFE, LLC

Filing Information

Document Number	L20000205283
FEI/EIN Number	NONE
Date Filed	07/15/2020
Effective Date	07/18/2020
State	FL
Status	ACTIVE

Principal Address

2514 S ATLANTIC AVE
UNITS E AND F
DAYTONA BEACH SHORES, FL 32118

Mailing Address

5251 BEAR CORN RUN
PORT ORANGE, FL 32128

Registered Agent Name & Address

CASTANEDA, NORMA A
5251 BEAR CORN RUN
PORT ORANGE, FL 32128

Authorized Person(s) Detail

Name & Address

Title MGR

CASTANEDA, NORMA A
5251 BEAR CORN RUN
PORT ORANGE, FL 32128

Title MGR

CIFUENTES, SAUL
5251 BEAR CORN RUN
PORT ORANGE, FL 32128

Annual Reports

No Annual Reports Filed

Document Images

07/15/2020 -- Florida Limited Liability View image in PDF format

Cruz, Stewart

From: norma castaneda <esquivel68@hotmail.com>
Sent: Friday, October 9, 2020 12:01 AM
To: Cruz, Stewart
Subject: RE: Tres Leches Economic Development Grant Questions

Hi this is Norma from Cafe Con Leche we want to say thank you for your help
1 about the operation hours 6 am to 11pm
2 to start we going to create 4 new jobs we hope to grow more in the future
3 to buy all the equipment included labor for cleaning and all the necessary supplies probably $ 30.000 dollars
4 open date we think like the 17 of October but can be changed Friday the nine of October we have scheduled for the health department inspection
5 about the estimated sales for the first year around $ 50.00 dollars
6 we tried to target everyone but local people like office and construction landscape workers and residents
7 about the food we cook to order and we use local farmers for vegetables and fruits and we buy from Sisco gfs food supplies
8 about competition we don't think we always try to make different from other competition but if we have the way we think it's space for everyone special in USA
9 we choose the shores there is good place for business and we been waiting for space to serve tacos burritos cuban food
Sorry for the spelling if is not right thank you for your support and God bless you all the time ty
Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
From: "Cruz, Stewart" <SCruz@cityofdbs.org>
Date: 10/8/20 1:26 PM (GMT-05:00)
To: norma castaneda <esquivel68@hotmail.com>
Subject: FW: Tres Leches Economic Development Grant Questions

From: Cruz, Stewart
Sent: Friday, October 2, 2020 2:33 PM
To: norma castaneda <esquivel68@hotmail.com>
Cc: Maddox, Nancy <nmaddox@cityofdbs.org>
Subject: Tres Leches Economic Development Grant Questions

Hello Norma and Saul, it was a pleasure seeing you again today. Per our conversation, please be advised of the following approval dates:

1. Economic Development Committee: October 13, 2pm – Third Floor Conference Room, City Hall
2. City Council: October 27, 6pm – City Council Chambers, Community Center, 2990 Bellemead Drive, Daytona Beach Shores

In addition, please confirm the following below:

1. Hours of operation?

2. Number of new jobs?
3. Targeted open date?
4. Amount of capital investment/money spent on physical improvements and equipment needed to open?
5. Estimated projected sales for first year
6. Who will be your key customers targeted (eg, workforce, hotels, residents, etc.)
7. Will food be made to order?
8. Do you anticipate competition from other restaurants already in the City?
9. Why did you choose the Daytona Beach Shores?

Lastly, please remember to contact Nancy Maddox at least two weeks prior to your grand opening so that the City may assist in promoting your business.

If you have any questions about any of this please advise. Thanks again for choosing the Shores!

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

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the City of Daytona Beach Shores officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure. The views expressed in this message may not necessarily reflect those of the City of Daytona Beach Shores. If you received this message in error, please notify us immediately by replying to this message, and please delete it from your computer. Thank you.

BUSINESS PLAN

Norma A. Castaneda and Saul Cifuentes

TRES LECHES CAFE 2514 S Atlantic Ave E-F Daytona Beach Shores, Fl. 32118.

Business Description:

Tres Leches Café is visioned to be located on 2514 S Atlantic E-F Ave Daytona Beach Shores, Fl. 32118. Our Café's specialty will be the Original Cuban Coffee, Authentic Latin Food Dishes and Desserts. The services our establishment will be providing include but are not limited to: Dine in, take out, Delivery and occasional catering service. Tres Leches Café is a family owned small business managed by individuals who have worked in the Restaurant Industry for years.

Our Mission:

Our mission will always be to serve all our customers in a fast manner. Providing top quality, beverages and desserts. We will strive to acknowledge and accommodate to all the needs of our customers to provide excellent service for all our customers.

Objective:

I. Fast service- Although at our establishment we will not be having wait staff we will have a designated counter for customers to place their orders, pay and receive their food and or beverages. This counter is at an easy access to ensure smooth process.
II. Quality products- Over the years we have had times of trial and error from where we have learned a lot for the better of our business. To ensure quality, freshness and authenticity of our dishes, we only serve high-quality products that we would use at home and eat ourselves. Our recipes are authentic and always made from scratch and using only the freshest ingredients.
III. Excellent service- Although fast service and quality products play a huge role is what is needed for excellent service all our interactions with customers will be in a nice friendly matter. Our employees are to always be positive and helpful to all. Communication is the key to excellent service, and we will make sure our customers receive what they are asking for.

Marketing:

Attached on page (3) please find a full and complete version of our proposed menu. Our Café will be serving all kinds of traditional Mexican, Cuban and Puerto Rican dishes. Aiming to market and attract all food lovers looking for an exquisite meal. Aside from serving our customers in a traditional dine-in and take-out, we will be adding online ordering with options for delivery or pick up. Many of our dishes, products and consumer rating will be at easy access for all online via platforms such as Google, Yelp, Facebook etc.

Summary:

Tres Leches Café will be providing a friendly environment where our community, neighbors and residents can come and feel at home. We will strive to provide quality service and food at a reasonable price. As a family owned business, we take pride in what we do, and we will make sure that all who comes to have a meal with us, or a single cup of coffee have the same and excellent experience.

BREAKFAST SANDWICHES

SANDWICHES COME WITH NO SIDES

Egg and Cheese Sandwich	$4
Cheese, Egg and ham or bacon	$7
Bread and Butter Toast	$2
Bread and Cheese Toast	$2.50
Choripan/Chorizo Sandwich	$7

BREAKFAST PLATTERS

SERVED WITH ONE SIDE

2 Egg Omelette CHEESE AND CHOICE OF BACON, HAM OR CHORIZO	$5
Huevos con Chorizo	$6
Huevos Rancheros	$7
Burrito de Chorizo NO SIDES	$5
Chicharron EACH FRIED PORK BELLY	$5

SPECIAL BREAKFAST

INCLUDES CUBAN TOAST AND ONE SIDE

2 Eggs with a Side of Bacon or Ham $5

BREAKFAST SIDES

Beans• Home Fries
White Rice • Yellow Rice

COFFEE

CAFE CON LECHE

Medium	$2.50
Large	$3.50
Cortadito	$2.50
Colada	$2.50
Ice Coffee	$3.50
Hot Chocolate	$3.50

ANTOJITOS

Empanadas - Chicken or Beef $5
SERVING OF 2
Croquetas $1
SERVING OF 2
Papa Rellena $3
SERVING OF 2
Yuca Frita $3

SIDES

Rice and Beans	$5
French Fries	$2
Guacamole with Chips	$7
Pico de Gallo with Chips	$6
Salsa with Chips	$5
Chori Dip with Chips	$7

EXTRAS

1oz Cheese	50¢
1oz Sour Cream	50¢
2oz Spicy Salsa	$1
Fried Plantains or tostones	$2
Small Guacamole	$2

DESERTS

Churros	$1.50
Flan	$5
Tres Leches	$6
Cheese Flan	$5
Bread Pudding	$5

JUICE

FRESH ORANGE AND CARROT JUICE

Small	$4
Medium - 16oz	$6
Large - 32oz	$12

DRINKS

Can Sodas	$1.50
Bottled Water	$2
Jarritos	$2.50
Iced Tea - Free Refills	$2
Aguas Naturales Mexican Juices	$3

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Latin Food

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2514 S. ATLANTIC AVE

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DOORDASH GRUBHUB bite squad

CUBAN FOOD

SERVED WITH RICE, BEANS PLANTAINS AND BREAD

Ropa Vieja SHREDDED BEEF, GREEN OLIVES, BELL PEPPERS ONIONS AND CUBAN SOFRITO	$11
Picadillo GROUND BEEF, RAISINS, GREEN OLIVES, POTATO ONIONS, CUMIN, TOMATO SAUCE	$10
Pollo a la Plancha GRILLED CHICKEN BREAST, ONIONS, MOJO	$12
Palomilla Steak GRILLED STEAK, ONIONS, MOJO	$12
Chuletas a la Plancha PORK CHOPS, ONIONS, MOJO	$10
Shrimp Enchilados and Sofrito	$14
Shredded Beef or Pork	$10

SANDWICHES COMES WITH NO SIDES

Traditional Cuban	$8
Media Noche	$8
Cuban Mix	$9
Fish Sandwich	$9
Chicken Sandwich	$8
Steak Sandwich	$9
Croqueta Sandwich	$4

MEXICAN COMBOS

ALL SERVED WITH RICE AND BEANS
AVAILABLE WITH THE FOLLOWING MEAT OPTIONS: SHREDDED CHICKEN, PASTOR, GROUND BEEF, SHREDDED BEEF, CARNITAS OR CHORIZO
ADD $1 FOR STEAK, SHRIMP OR FISH

	MEDIUM	LARGE
Burrito or Chimichanga	$10	$13
Quesadilla	$10	$13
Whole Fried Fish	Market Value	

FAJITAS

Chicken or Steak	$14
Vegetable	$13

DINNERS

	TWO	THREE
Enchiladas	$10	$13
Flautas	$10	$13
Mexican Tacos	$10	$13
Supreme Tacos	$10	$13
Tostadas or Sopes	$10	$13

SEAFOOD DISHES

Coctel de Camaron $12
LATIN COCKTAIL - TOMATOES, ONIONS, CILANTRO AND TOMATO JUICE

Ceviche del Dia $10
LIME, TOMATOES, ONIONS, CILANTRO

MEXICAN TAQUIZA

COMES WITH NO SIDES

4 Traditional Mexican Tacos TOPPED WITH CILANTRO, ONIONS AND A SLICE OF LIME	$10
Tacos of the Day SERVING OF 5	$10

TAQUIZA A LO AMERICANO

3 Supreme Tacos HARD OR SOFT TOPPED WITH LETTUCE, TOMATOES, ONIONS AND CHEESE	$12

NACHOS

COMES WITH NO SIDES

Beef Nachos	$10
Chicken Nachos	$10
Cheese Nachos	$9

SOUPS

Chicken Tortilla Soup	$8
Menudo or Caldo De Res	$13

SALADS

COMES WITH NO SIDES

Simple Side Salad LETTUCE, TOMATO AND ONIONS	$4
Taco Salad with Beef	$11
Taco Salad with Chicken	$11

A little bit about us:

My name is Norma Castaneda and my husband is Saul Cifuentes. Our family consists of us as well as our 3 adult kids and teen aged daughter. We moved to the City of Port Orange in the year 2017 and at the same time we had our business Café con Leche up and running by April of this same year. We have been in the Restaurant Business Industry since the year 2007 we started in Port Charlotte Fl with an establishment by the name of Lupita's Mexican Restaurant. This establishment was closed in the year 2010 due to the decline of consumers caused by the oil spill in the Gulf of Mexico. After this in the year 2011 we decided to move in efforts of reaching better opportunities for our family to the City of Key West Fl. In the Year 2012 Lupita's Mexican Restaurant was reopened in the City of Key West Fl and we maintained there until the opportunity to purchase a home was presented and in efforts to give our teenaged daughter a better living situation and better education opportunities we decided to make the big move about 8 hours away from the town that had seen us grow experience wise. Lupita's Mexican Restaurant came to an end in 2019. Currently we have our running business Café con Leche. In the beginning when we started our business, we had the vision to create employment opportunities for other people. Currently we employ a total of 6 employees not counting ourselves. We thank you for your time and consideration and hope to be up and running to continue serving and creating more opportunities for all..

Pappas
Stahl
8/1/20

STANDARD LEASE AGREEMENT

CHRIS PAPPAS REVOCABLE LIVING TRUST

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COMMERCIAL LEASE

Triple Net Lease

THIS LEASE AGREEMENT ("Lease") is made and entered into this 15 day of July, by and between Landlord and Tenant as Specified in Items 1 and 2 of the Definitions appearing in Section 1.1 hereof. Landlord hereby demises and rents unto Tenant, and Tenant hereby leases from Landlord, certain Premises now existing in Landlord' s Plaza as described in Item 3 of the Definitions appearing in Section 1.1 hereof, and upon the terms, covenants, and conditions contained herein, together with the nonexclusive license to use the Common Areas subject to such rules and regulations as Landlord shall adopt.

ARTICLE 1
EXHIBITS, PREMISES, USE OF PREMISES, AND TERM

1.1 DEFINITIONS:
The following Items shall be defined or be referred to as indicated below for the purposes of this Lease and the Exhibits attached hereto:

Item 1 - Landlord: PAPPAS DAUGHTERS, LLC
Chris Pappas, Manager
PO Box 1946
New Smyrna Beach, FL 32170

Item 2 - Tenant: Norma A Castaneda and Saul Cifuentes (Individually)
Tres Leches Café, LLC
5251 Bear Corn Run
Port Orange, FL 32128
Federal ID Number #: _____

Item 3 - Restaurant:
The term " Restaurant " means all that certain land and all buildings, improvements, equipment, and facilities now or hereafter erected thereon, located in the city New Smyrna Beach, County of Volusia, State of Florida.

Item 4 - Common Areas:
The term "Common Areas" means those areas, facilities, utilities, improvements, equipment, and installations in the Restaurant which are from time to time designated by Landlord for the nonexclusive benefit of Landlord and Tenants of the Restaurant, their employees, agents, customers, licensees, and other invitees.

Item 5 - Premises Physical Address:
2514 S Atlantic Avenue, Units E&F
Daytona Beach Shores, FL 32118

Item 6 - Use of the Premises: Restaurant

Item 7 - Lease Term: 5 years

Item 8 -	Lease Commencement: Lease Expiration Date:	August 1, 2020 August 31, 2025
Item 9 -	Rent Commencement Date:	October 1, 2020
Item 10-	Net Monthly Rent (Section 2.1): Common Area Maintenance: Additional Rent (Refuse/Waste): Applicable Sales Tax 6 %: **Total Monthly Rent ("BASE RENT") due the first day of each month:**	$1,600.00 $ 333.33 $ 75.00 $ 120.50 **$2,128.83**

Item 11- Rent Increases:

1. August 1, 2021, Net Rent increases to $2,000.00 Net Monthly Rent plus CAM, plus Refuse/Waste, plus Tenant's proportionate share of Real Property Taxes & Insurance and plus 6% Sales Tax.
2. January 1 of each year for the remainder of the Lease term and any options at the cumulative percent increase of 3% per year, plus CAM, Refuse/Waste, Tenant's proportionate share of Real Property Taxes & Insurance and 6% Sales Tax.

Item 12-	Money Paid Lease at execution: First Month's Rent: Security Deposit Total	 $2,128.83 $5,000.00 ~~$7,810.83~~ C.P. N.C 7,128.83
Item 13-	Tenant's Participation in Common Area:	12.64%
Item 14-	Tenant's Participation in Real Property Taxes:	12.64%

Item 15- Notices:

Tenant (address as described in item 2)
Landlord:(address as described in item 1)

Item 16- Rental or Other Payments Via US Mail: (address as described in item 1)

Item 17: Additional Terms: Provided Lessee is not in default hereunder; Lessee is granted one consecutive 5-year option to extend said Triple Net Lease. The option shall be exercised by notice from Lessee in writing to Lessor not less than 3 months (90 days) prior to the expiration of the then current Lease term. The rental amount shall increase from the current amount to a new negotiated amount that will also include Tenant's proportionate share of CAM, Property Taxes, and Insurance as stated in Items 10 & 11.

Item 18: Guarantor: Norma A Castaneda and Saul Cifuentes (Individually and jointly)

1.2 PREMISES LEASED BY TENANT:
The Premises Leased by Tenant are located in the Plaza set forth in item 3 of the definitions, which Premises are more particularly described in Item 5 and 6 of the Definitions.

1.3 LEASE TERM:
The term of this Lease shall be for the period specified in Item 7 of the Definitions, commencing and expiring as provided in Item 8 of the Definitions, unless sooner terminated or extended as hereafter provided. Tenant hereby agrees that if it fails to surrender the Premises at the end of the Term, or any renewal thereof, Tenant will be liable to Landlord for any and all damages which Landlord shall suffer by reason thereof, in addition to all increased rental payments as specified in this Lease and Tenant will indemnify Landlord against all claims and demands made by any succeeding Tenants against Landlord in delivering possession of the Premises to each succeeding Tenant. If the commencement date or the Expiration date falls on any day other than the first of the month, Rent for the month of the commencement date or the month of the expiration date or both, as the case may require, shall be prorated such that Tenant shall pay rent for each said month in an amount bearing the same ratio to a full Monthly Base Rent payment as the number of days during the month that Tenant is in occupancy of the Premises bears to the total number of days in such month

1.4 ACCEPTANCE OF PREMISES:
Tenant acknowledges that it has fully inspected and accepted the Premises in "as is" condition. Any changes and/or improvements to the Premises will be made by the Tenant, at Tenant's expense, with express, written approval by Landlord.

1.5 RENEWAL OPTION:
Tenant shall not be entitled to exercise the Option stated Item 17 unless each of the following conditions shall be fully satisfied at the time of its exercise: (1) the Lease shall be in full force and effect; (2) the Tenant originally named in this Lease shall be in possession of the entire Premises; and (3) Tenant shall not then be in default under any of the material terms, provisions, covenants, or conditions of the Lease. In order to exercise the Option, Tenant must notify Landlord in writing, not less than ninety (90) days prior to the Expiration Date of the Lease Term that it intends to exercise the renewal option. If Tenant fails to timely exercise the Option as provided, Tenant shall be deemed to have waived its right to exercise the Option and to occupy the Premises beyond the original Term of the Lease.

1.6 TENANT'S WORK:
Upon delivery of possession of the Premises by Landlord, Tenant will proceed with due diligence, at its own expense, to perform all work and supply all installations and to fully equip the Premises with all trade fixtures, lighting fixtures, furniture, furnishings, floor and wall coverings, exterior signs and special equipment and other items of construction and personal property necessary for the completion of the Premises and the proper operation of the Tenant's business therein. Tenant accepts the premises "as-is".

Prior to commencing any interior improvements within the Premises, Tenant must submit to Landlord leasehold and improvement plans detailing the build out to be performed within the Premises and such requested improvements shall be subject to Landlord's written approval. Tenant's work shall be performed with materials of good quality and in a proper workmanlike manner and all items installed by Tenant shall be new or of excellent used condition. The approval by Landlord of such plans and

specifications shall not constitute the assumption of any liability on the part of the Landlord for their accuracy or their conformity with requirements of any building code or other municipal governmental regulation or ordinance and Tenant shall be solely responsible for such plans and specifications and compliance of Tenant's Work with all governmental requirements prior to commencement for any work upon the Premises by Tenant, Tenant shall deliver to Landlord a certificate of public liability insurance and property damage insurance meeting the Requirements of Article 6 hereof, naming Landlord as additional insured and evidence of Workman's Compensation and Builder's Risk coverage in such amounts as are required by law and are acceptable to Landlord. From and after the date of delivery of possession of the Premises, Tenant shall observe and perform all its obligations under this Lease, including without limitation, payment of all utility charges, but excluding its obligations to pay Base Rent and Additional Rent, which are payable from and after the Rent Commencement Date.

1.7 TENANT ESTOPPEL CERTIFICATE:

From time to time and within ten (10) days after written request by Landlord, Tenant will execute, acknowledge and deliver to Landlord or to such other party as may be designated by Landlord a certificate in a form as acceptable to the Landlord, stating that this Lease is in full force and effect and has not been modified, supplemented or amended in any way, except as indicate in such certificate; that all conditions and agreements hereunder to be performed by Landlord have been satisfied or performed; that Tenant is not in default in the payment of rent or any of the other obligations required of Tenant hereunder; and that Tenant has paid Base Rent, Additional Rent and any other amounts to be paid by Tenant as set forth hereunder as of the date set forth in the certificate.

ARTICLE 2
RENT

2.1 BASE RENT

a. Commencing on the Rent Commencement Date and continuing through the full Term of this Lease, Tenant shall pay to Landlord, without notice, demand, reduction, setoff or any defense, a Total Monthly Rent ("Base Rent") as specified in Item 10 of the Definitions. No monthly installments, however, will be paid more than one month in advance. In addition, Tenant covenants and agrees to pay Landlord all applicable sales tax, proportionate share of property tax, and any other taxes that may be imposed on the above specified rents, payments, or property.

b. As used herein, "Rent" shall include Monthly Rental, Additional Rent, Advance Rent, all applicable sales tax, Tenant's Share of Operating Costs, Tenant's proportionate share of property tax and any other taxes that may be imposed on the Plaza, and other additional charges or sums payable to Landlord hereunder.

c. "Additional Rent" means all sums of money to be paid by Tenant under the terms of this Lease with the exception of Monthly Rent including without limitation Tenant's proportionate share of Operating Costs, Real Property Taxes, and any other taxes that may be imposed on the Plaza.

2.2 RENT ADJUSTMENTS

The amount of monthly rental installments under Paragraph 2.1 shall be increased January 1 of each year including, if applicable, and 'extension terms', by an amount equal to three percent (3%) of the fixed monthly rent for the preceding year.

2.3 OPERATING COSTS FOR COMMON AREA MAINTENANCE:

a. Tenant shall pay to Landlord, as Additional Rent, Tenant's proportionate share of all costs incurred by Landlord in maintaining, repairing, operating, and insuring the portions of the Plaza which are the responsibility of the Landlord hereunder, hereinafter called "Operating Costs," including, without limitation, the total costs of operating, repairing, lighting, cleaning (including without limitation dumpster rental or purchase and trash removal), maintaining or replacing awnings, painting, resurfacing, striping, sweeping, janitorial services; maintenance and repair of sidewalks curbs and shopping center signs and other markers and bumpers; lawn care, maintenance and pesticide costs; maintenance and repair of lighting systems, storm drainage systems and water retention; maintenance and repair of sprinkler and irrigation systems; securing, managing and insuring the Plaza (including without limitation, liability insurance for personal injury, wrongful arrest or detained, death and property damage; insurance and extended coverage against fire, theft, flood or other casualty; rent insurance; Workman's Compensation; and fidelity bonds for personnel) and all increases in real estate and other taxes, public charges, and assessments of whatsoever nature directly or indirectly assessed or imposed upon the land, buildings, equipment and improvements constituting the Plaza and the rents there from, including but not limited to all real property taxes, rates, duties and assessments, local improvement taxes, import charges or levies, whether general or special, that are levied, charged, or assessed against the Plaza by any lawful taxing authority whether federal, state, county, municipal, school, or otherwise (other than income, inheritance, and franchise taxes thereon); and the cost of seeking a reduction in any utility charges, governmental levies, charges or assessments, or other components of Operating Costs, including but not limited to attorney fees or consultant fees. Landlord agrees to use good faith and due diligence to keep Operating Costs of the Plaza competitive with similar Plazas in the locality of the Plaza.

b. Tenant's proportionate share of Operating Costs shall be charged and prorated to the Tenant based upon the square footage of this Lease proportioned to the total square footage in the Plaza in the Percentage set forth in Item 13 of the Definitions. Tenant shall pay its proportionate share of Operating Costs, together with all applicable sales taxes thereon, in monthly installments, without demand, deduction, or setoff along with monthly payments of Rent in such amounts as are, from time to time, estimated by Landlord. Estimates shall be revised not less than annually on the basis of actual Operating Costs for the preceding year of operations. Should Operating Costs be underestimated, Tenant shall pay any deficiency along with the payment of Monthly Rent next due and thereafter pay its adjusted proportionate share of Operating Costs in equal monthly installments as herein provided

2.4 MONEY DUE AT LEASE EXECUTION:

Upon the Execution of this Lease, the Tenant shall pay Landlord the first month's rent, inclusive of applicable sales tax and Operating Costs, and the Security Deposit, the same to be held as security for the performance by Tenant of all obligations imposed under this Lease that Tenant is required to perform prior to commencement of the term. If Tenant shall fail to perform such obligations for a period of five (5) days after written notice from Landlord, Landlord shall be entitled to apply this Advance Rent against any damages which it may sustain by reason of Tenant's failure to perform such obligations, but such application shall not preclude Landlord from recovering greater damages if the same can be established. Otherwise, if Tenant shall faithfully perform all such obligations and leave no damage at termination of the lease, then the Advance Rent shall be applied by Landlord against the Base Rent and Additional Rent first becoming due hereunder. No right or remedy available to Landlord as

provided in this paragraph shall preclude or extinguish any other right or remedy to which Landlord may be entitled.

2.5 PENALTY FOR LATE PAYMENTS:

Rent is due on the first day of each month before close of business, or 5:00 p.m. If Tenant fails to pay rent for the month by 5:00 PM on the fifth day of that month, then Tenant shall pay as penalty, in addition to the rent, a sum equal to ten (10%) percent of the monthly installment of rent. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to such nonpayment by Tenant nor prevent Landlord from exercising any other rights or remedies available to Landlord under this Lease. Late charges are deemed Additional Rent. Tenant will also pay to Landlord on demand, interest at the rate of eighteen percent (18%) on all overdue installments of Rent and on overdue amounts of any other monetary obligations of Tenant, in each case from the due date thereof until paid in full.

ARTICLE 3
SECURITY DEPOSIT

3.1 PURPOSE OF DEPOSIT

The Security Deposit in the amount as provided for in Item 12 of the Definitions shall be held by Landlord as security for the payment of rent agreed to hereunder, for the reimbursement of and expenses or damages caused by Tenant and as security for the full performance of every provision of this Lease by Tenant. Security deposit shall not be deemed advance rent and the payment of the Security Deposit shall not relieve Tenant of its obligation to pay all Rent and other sums required by this Lease.

3.2 HOLDING DEPOSIT

The Tenant waives irrevocably the benefit of any provision of law that requires the security to be held in escrow or by a third party. The Landlord will hold the security in a non-interest-bearing account.

3.3 APPLICATION OR RETENTION OF DEPOSIT

If the Tenant defaults on any of the terms, conditions or provisions of this Lease, including but not limited to the payment of rent and additional payments, the Landlord may apply or the extent required to pay the delinquent rent or retain all or part of the security deposited to the extent required to pay the delinquent rent or additional payments or to reimburse the Landlord for all sums incurred to expended because of the Tenant's default. Reimbursable sums include but are not limited to any damages or deficiencies that result from re-letting the Leased Premises. Such damages or deficiencies are reimbursable to the Landlord regardless of whether they occur before or after the Landlord' s summary proceedings or to other reentry. If the Landlord applies or retains any part of the security deposited, the Tenant shall deposit with the Landlord an equal amount to replace that which has been applied or retained so that the Landlord has a full deposit at all times during the terms of this Lease. The replacement amount is payable on the Landlord's demand.

3.4 RETURN OF DEPOSIT.

If the Tenant complies fully with all the terms, provisions, covenants, and conditions of this Lease, the Landlord must return the security deposit to the Tenant after the date on which the Lease terminates. Tenant must first deliver possession of the Leased Premises and all keys to the Landlord and Landlord must conduct an inspection of the Lease Premises and find that no damage, less reasonable wear and

tear, has been done to the premises. Upon the vacating of the Lease Premises for termination of the lease, if the Landlord does not intend to impose a claim on the security deposit, the Landlord shall have fifteen (15) days to return the security deposit together with interest if otherwise required, or the Landlord shall have thirty (30) days to give the tenant written notice by certified mail to the Tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim.

ARTICLE 4
TENANT AGREEMENTS AND COVENANTS

4.1 USE OF PREMISES:

a. Tenant shall use, occupy and operate the Premises solely for the purpose as specified in Item 6 of the Definitions and for no other purpose or purposes without the Landlord's prior written consent and under the above Trade Name and no other. Tenant covenants to occupy the premises without delay upon the Commencement Date and shall continuously operate during the entire term of this Lease. Tenant shall operate 100% of the Premises and cause its business to be conducted and operated in good faith, in a lawful manner, and in such as shall assure the transaction of the maximum volume of business in and at the Premises. Tenant shall conduct its business in the Premises during regular customary days and hours for such type of business in the Plaza and will keep the Premises open for business during the same days, nights and hours agreed upon. If Tenant fails to any of the above, Tenant shall be in default of this Lease.

b. If Tenant receives notice that the Premise are ready for occupancy and thereafter fails to take possession and to open the Premises for business fully fixtured, stocked and staffed within the time herein provided, then Tenant shall be in default of this Lease.

c. Tenant, at its sole cost and expense, shall comply with and shall cause the Premises to comply with (i) all federal, state, county, municipal and other governmental statutes, laws, rules, orders, or regulations affecting the Premises or any party thereof, or the use thereof, including but not limited to, those which require the making of any structural, unforeseen or extraordinary changes; and (ii) all rules, orders and regulations of the Landlord's fire insurance rating organization or other bodies exercising similar functions in connection with the prevention of fire or the correction of hazardous conditions which apply to the Premises.

d. NO PETS are allowed to live or stay on the Premises at any time. Tenants and/or Tenant's employees and/or customers shall not bring pets to keep inside units during or before/after business hours or on any part of the Plaza Premises at any time. Only Service Animals, as specifically defined by the Americans with Disabilities Act, are exempt from this rule.

4.2 PAYMENT OF RENT:

Tenant hereby covenants and agrees to pay each installment of Total Monthly Rent as it shall become due without notice or demand by Landlord.

4.3 MAINTENANCE OF PREMISES:

a. Tenant will maintain at its own expense the Premises and every part thereof in as good repair as at the time of the execution of this Lease Agreement, reasonable wear and tear excepted including

all interior and exterior signs, equipment listed on a Schedule attached to this lease, windows, doors, locks, water pipes, plumbing fixtures, electrical lines and fixtures, interior painting and other such items; to flatten all boxes and other containers before placing them in the common rubbish bin; the sidewalk and parking area adjacent to Tenant's space to be kept clean and free of Tenant's rubbish and debris and in such condition as may be required by the regulations of any municipal, state, or governmental authority without any abatement of rental.

b. Tenant shall, upon written request from Landlord, provide maintenance information, logs and/or receipts for maintenance performed upon equipment and sign within three (3) days. Should Tenant fail to produce the requested maintenance information, Landlord may schedule an inspection of the equipment and/or sign. Any charges associated with such maintenance inspection and any necessary repairs shall be paid by the Tenant.

c. Tenant will at its own expense: (a) keep the inside and outside of all glass in the doors and windows of the Premises clean; (b) keep all exterior surfaces of the Premises clean; (c) replace promptly any cracked or broken glass of the Premises with glass of like or better grade and quality; (d) maintain the Premises in a clean, orderly, and sanitary condition and free of insects, rodents, vermin, and other pests; (e) keep any garbage, trash, rubbish or other refuse in tamper and rodent-proof containers within the interior of the Premises until removed; (f) have such garbage, trash, rubbish, and refuse removed from the Plaza on a daily basis; (g) keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the Premises or to adjacent units; (h) comply with all laws, ordinances, rules, and regulations of governmental authorities and all recommendations of Landlord's fire insurance rating organization; (i) light the show windows of the Premises and exterior signs and turn the same off to the extent required by Landlord; G) keep Premises sufficiently heated to prevent freezing in the water pipes; (k) comply with and observe all rules and regulations established by the Landlord from time to time which apply generally to all Tenants in the Plaza; (I) conduct business in all respects in a dignified manner in accordance with high standards of operation.

d. Tenant will not: (i) place or maintain any merchandise, trash, refuse, or other articles in any vestibule or entry of the Premises, on sidewalks or corridors adjacent thereto or elsewhere on the exterior of the Premises so as to obstruct any driveway, corridor, sidewalk, parking area or any other Common Areas; (ii) use or permit the use of objectionable advertising medium such as, without limitation, flashing lights, speakers, or phonographs; (iii) permit undue accumulations or burn garbage trash or refuse within or outside of the Premises; (iv) solicit business in the parking or common areas; (v) permit the parking of vehicles so as to interfere with the driveway, sidewalk, parking area or other Common Areas; (vi) use the Common Area or sidewalk for the sale or display of merchandise or for any other business occupation, or undertaking; (vii) affix, display or inscribe signs, placards, pictures, advertisements, names, or notices to the outside of the Plaza; (viii) allow animals to enter or remain within the Premises or any part of the Plaza.

4.4 PARKING AND OTHER OUTSIDE AND COMMON AREAS:

a. The space leased by the Tenant is part of a larger property containing a common parking area. The Tenant shall have the non-exclusive right to the use of the parking area in common with all other Tenants, said use to be subject to the general rules and regulations as may be established by the Landlord from time to time governing the use of the parking and other outside areas. Landlord will operate and maintain or cause to be operated and maintained the parking lot and common areas in a manner deemed by Landlord to be reasonable and appropriate. Landlord will have the right to (a)

establish, modify, and enforce reasonable rules and regulations with respect to the Parking and Other Outside and Common Areas; (b) enter into, modify and terminate easements and other agreements pertaining to the use and maintenance of the Parking and Other Outside and Common Areas; (c) enforce parking charges; (d) close any portion or all areas of said Parking and Other Outside and Common Areas; (e) to do and perform such improvement or other acts in and to said areas as Landlord determines to be advisable.

b. No other than permitted size of vehicles may be parked in the Common Area without the written permission of the Landlord. Lessee shall not service or store any vehicles in the common area. The common areas are not to be utilized for promotional events without the permission of the Landlord.

c. Tenant and its employees shall park their cars only in such areas designated for that purpose by Landlord. If Tenant or its employees shall fail to park their cars in the designated parking areas, then without limiting any other remedy which Landlord may pursue in the event of Tenant's default, Landlord, after giving notice to Tenant, shall have the right to charge Tenant, as Additional Rent, the sum of Ten Dollars ($10) per day per car parked in violation of the provisions of this paragraph.

4.5 UTILITIES

a. Payment: Tenant hereby agrees and covenants to pay all charges for water, electricity and gas furnished to the Premises. Tenant also agrees to pay his proportionate share of the trash, sewer, and water service according to Tenants percentage of the entire leasable property. This amount shall be considered Additional Rent and is due with the Total Monthly Rental payments on the first of each month. Tenant shall reimburse Landlord for the cost of repairing any damage caused to any water line, sewer line, electrical or telephone line, conduits or pipes, whether such constitute a part of the Premises or are situated elsewhere within or outside the building which damage is caused by Tenant or Tenant's employees, agents, servants, invitee or contractors.

b. Landlord shall not be liable for any interruptions or the curtailment in utility services due to causes beyond the reasonable control of Landlord or due to Landlord's alteration, repair or improvement of the Premises or the Plaza.

c. Landlord shall have the right to run utility lines, pipes, roof drainage pipes, conduit, wire, duct work or sprinkler systems where necessary, though, in or beneath the Premises and to maintain the same in a manner which does not unduly interfere with the Tenant's use thereof.

4.6 INSPECTION BY LANDLORD:

Tenant hereby covenants and agrees to permit Landlord or his authorized agent to inspect the Premises at any time, to accompany or send prospective Tenants or purchasers through the Premises, to make improvements and during the last month of the term to post and maintain "For Rent" notices thereon. If upon Landlord' s written request Tenant does not within two (2) business days make the Premises available for inspection by Landlord during normal business hours, then Landlord may at Tenant's expense have a key made and enter the demised Premises for such purpose.

4.7 POSSESSION

Tenant hereby covenants and agrees to vacate the Premises and to return all keys directly to Landlord upon the expiration of the term without notice, leaving the Premises clean and without leaving furniture, furnishings, or equipment behind. Tenant acknowledges that failure to remove any such

items or to return the keys when Tenant is in default under any clause of this lease may cause Landlord to be uncertain as to whether Tenant has abandoned
the same or not. In that event, unless Tenant supplies Landlord with a written statement of his intentions.

Landlord may in his sole discretion and without liability to Tenant determine if there has been an abandonment of the Premises by the Tenant. Tenant understands this is a non- smoking Facility and that smoking of any tobacco or non-tobacco product within any area of the Building, including Tenant's Premises is strictly prohibited.

ARTICLE 5
ALTERATIONS, REPAIRS AND MAINTENANCE

5.1 ALTERATIONS BY TENANT

Tenant shall not make any alterations to the Premises (including but not limited to alterations to the exterior, the storefront, signs, and/or utility lines or systems within or serving the Premises) nor secure any fixture or apparatus without Landlord's prior written approval and at Tenant's own expense. Tenant shall promptly remove upon order from Landlord any decoration or alteration made or installed upon the Premises without Landlord's prior written approval. All alterations, fixtures, betterments and improvements made to or installed upon the Premises shall remain upon the Premises and shall become Landlord's property upon the expiration or earlier termination of this Lease unless Landlord shall require Tenant to restore the Premises to its original condition. Tenant agrees to pay 100% of any increases in real estate taxes resulting from such improvements. Landlord is to approve the weight size, and location of safes or heavy equipment, furniture, or other articles which may be moved in, about, or out of the Building or premises only at such times and in such manner as Landlord shall direct and, in all events, however, at Tenants sole risk and responsibility.

Tenant shall deliver to Landlord a copy of the plans and specifications for all alterations, physical additions or improvements that Tenant proposes to make in or to the Premises. All such improvements or alterations shall be made at Tenant's expense, by a licensed contractor approved by Landlord and in conformity with plans and specifications approved by Landlord. Tenant agrees to make full and prompt payment of all sums necessary to pay for the costs of all repairs and permitted alterations,, improvements, changes, and other work done by Tenant in or to the Premises and further agrees to indemnify, save harmless and defend Landlord from and against any and all expenses incurred by Landlord as a result of any mechanic's, material man's, laborer's or other statutory or common law liens that may be asserted, claimed or charge against all or any part of the Property, arising out of work performed at the direction of the Tenant.

5.2 REPAIRS AND MAINTENANCE BY TENANT:

Landlord shall be responsible for the roof of the Premises and the parking lot, replacement of the exterior walls, water and sewer lines to the Premises and the foundation of the Premise and the Plaza, provided that Tenant shall give Landlord written notice of the necessity for such repair as same affects the Premises.

Tenant shall be responsible for all other janitorial service, repairs and maintenance, including without limitation, to keep the interior of the Premises, together with the storefront and all windows, signs,

equipment, plate glass and doors of the Premises, and all electrical, plumbing; water lines; toilets, sinks and drains; sprinkler systems and any other mechanical installations serving the Premises, whether or not in or under the floor slab or on the roof of the Premises, in good working order and repair, at Tenant' s expense. Tenant shall promptly repair, at its expense, any damage to the Premises caused by bringing into the Premises any property for Tenant's use, or by the installation or removal of such property regardless of fault or by whom such damage may be caused. In the event Tenant fails to make such repairs, Landlord may, at its option, but need not, make same and Tenant agrees to pay Landlord as Additional Rent the cost thereof promptly upon demand by Landlord. Tenant shall not overload the floor slab, electric wiring or utilities serving the Premises and shall install at Tenant's sole expense, after first obtaining Landlord' s written approval, any additional electric wiring that may be requires in connection with Tenant's apparatus, equipment or fixtures. Tenant shall obtain insurance on property. If Tenant is unable to obtain insurance due to the federal pacific electrical panel, Landlord and Tenant must split the cost of replacing the panel equally

5.3 LIENS:

Tenant herby indemnifies Landlord against and shall keep the Premises and the Plaza free from liens for any work performed, material furnished, or obligations incurred by the Tenant. Should liens or claims be filed against the Premises or the Plaza by reason of Tenant's acts or omissions, Tenant shall cause same to be discharged by bond or otherwise within ten (10) days after filing. In the event such lien is not removed within the time set forth herein, the Landlord, at its sole option, may immediately take all action necessary to release and remove such lien. All sums, costs and expenses, including reasonable attorney's fees and costs incurred by the Landlord in connection with such lien shall be deemed Additional Rent and shall be immediately due and payable. In accordance with the applicable provisions of the Florida Construction Lien Tax and specifically Florida Statutes, Section 713.10, no interest of Landlord whether personally or in the Premises, or in the underlying land or Plaza of which the Premises is a part, or the leasehold interest of aforesaid shall be subject to liens for improvements made by Tenant or caused to be made by Tenant hereunder. Further, Tenant shall have no power or authority to create any lien or permit any lien to attach to the present estate, reversion, or other estate of Landlord in the Premises or in the Plaza, and all mechanics, material men, contractors, artisans and other parties contracting with Tenant or its representatives or privies as to the Premises or any part of the Premises are hereby charged with notice that they must look to the Tenant to secure payment of any bill for work done or material furnished or for any other purpose during this Lease term. The forgoing provisions are made with express reference to Section 713.10 of the Florida Statutes. The Tenant agrees to execute a short form lease embodying this provision for recording in the public records of the county in which the Premises is located.

5.4 SIGNS AND DISPLAYS:

Except for the sign provided by Landlord on the front facade of the building, Tenant shall not place or have placed or maintained on the exterior of or within the Premises, the Common Areas, or at any other location within the boundaries of the Plaza any sign, awning or advertising without the prior written consent of the Landlord. Landlord shall have the exclusive right to use the roof and Tenant shall not affix any sign to the roof of the Premises. Tenant will install and maintain at all times, subject to other provisions of this Section, displays of merchandise in the show windows, (if any) of the Premises. All articles, displays, signs or other similar promotion materials and the arrangement, style, color and general appearance thereof in the interior of the Premises including, without limitation, window displays, advertising matter, signs, merchandise and store fixtures, shall be in keeping with the

character and standards of the improvements within the Plaza, as determined by Landlord. Landlord reserves the right to require Tenant to correct any nonconformity.

5.5 SIDEWALKS:
Tenant agrees that it shall keep the sidewalks immediately abutting the Premises free from obstructions of all nature, properly swept, and debris removed therefrom.

ARTICLE 6
INSURANCE AND INDEMNITY

6.1 LIABILITY INSURANCE:
Tenant shall maintain at its sole expense during the term hereof, commercial liability insurance with broad form contractual liability coverage and with coverage limits of not less than One Million Dollars ($1,000,000.00) combined single limit, per occurrence, specifically including liquor liability insurance covering the consumption of alcoholic beverages purchased or received from Tenant, if the sale or distribution of alcoholic beverages is permitted in the Premises. Such policy shall ensure Tenant's performance of the indemnity provisions of this Lease, but the amount of such insurance shall not limit Tenant's liability nor relieve Tenant of any obligations hereunder. Tenant shall also keep in force insurance against loss or damage to plate glass in or on the Premises and fire and extended coverage insurance for the full replacement value of Tenant's improvements and Tenant's property, including, but not limited to, inventory, trade fixtures furnishings and other personal property. The Landlord shall be named as an additional insured on any such policy. All such policies shall be written by companies reasonably satisfactory to the Landlord, and Tenant will cause such insurance policies to name Landlord as additional insured and to be written so as to provide that the insurer waives all right of recovery by way of subrogation against Landlord in connection with any loss or damage covered by the policy. In addition, Tenant shall keep in force Workman' s Compensation or similar insurance to the extent require by law. Tenant shall deliver said policies or certificates thereof to Landlord within ten (10) days of commencement of the term. Should Tenant fail to affect the insurance called for herein, Landlord may, at its sole option, procure said insurance and pay the requisite premiums, in which event Tenant shall pay all sums so expended to Landlord as Additional Rent promptly upon demand. Each insurer under the policies required hereunder shall agree by endorsement on the policy issued by it or by independent instrument furnished to Landlord that it shall provide to Landlord at least thirty (30) days' prior written notice before the policy or policies in question shall be altered or canceled.

6.2 INCREASE IN INSURANCE PREMIUM:
Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's policies of hazard or liability insurance or otherwise violate any other insurance policy(ies) carried by Landlord on the Premises or on the Plaza or which will prevent Landlord from procuring such policies in companies acceptable to Landlord.

If anything done, permitted to be done, or suffered by Tenant to be kept in, upon or about the Premises shall cause the premium or rate of fire or other insurance on the Premises or on other property of Landlord or of others within the Plaza to be increased beyond the Base rate from time to time applicable to the Premises or to any such other property for the use or uses made thereof, Tenant will pay, as Additional Rent, the amount of any such increase promptly upon Landlord's demand.

6.3 INDEMNIFICATION:

Tenant hereby agrees to indemnify and hold Landlord, its partners, trustees, officers, directors, shareholder, beneficiaries, agents, and employees harmless from any and all claims, damages, liabilities or expenses arising out of (a) Tenant's use of the Premises; (b) any and all claims arising from any breach or default in the performance of any obligation of Tenant; and (c) any act, omission or negligence of Tenant, its agents, contractors, licensees, invitees or employees. Tenant further releases Landlord from liability for any damages sustained by Tenant or any other person claiming by, through, or under Tenant due to the Premises, or any part thereof or any appurtenances thereto becoming out of repair, or due to the happening of any accident, including but not limited to any damage caused by water, snow, windstorm, tornado, gas, steam, electrical wiring, sprinkler system, plumbing, from any acts or omission of co-Tenants or other occupants of the Plaza. To the maximum extent permitted by law, Tenant agrees to use and occupy the Premises and to use such other portions of the Plaza as Tenant is herein given the right to use, at Tenants own risk. Landlord shall not be liable for any damage to or loss of Tenant's personal property, inventory, fixtures or improvements, from any cause whatsoever except the willful misconduct or gross negligence of Landlord, and then only to the extent not covered by insurance to be obtained by Tenant in accordance with Section 5.1 hereof.

ARTICLE 7
DAMAGE DESTRUCTION OR CONDEMNATION

7.1 CASUALTY

Except as otherwise provided herein, if the Premises are damaged by fire or other insured casualty and such damage does not equal or exceed forty percent (40%) of the replacement cost thereof, the damages shall be repaired by Landlord within a reasonable amount of time, to the extent of the insurance proceeds available therefore, to the condition of the Premises as originally delivered to Tenant. Tenant at its sole expense shall restore thereto all work and improvements originally installed or performed by Tenant immediately upon the completion of Landlord's work or simultaneously with such work to the extent practicable. If the damage is due to the fault or neglect of Tenant or its employees, agents or invitees, there shall be no abatement of rent. If; (a) Premises is damaged to the extent of more than forty percent (40%)of the replacement cost thereof; or (b) the Plaza is damaged by fire or other insured casualty to the extent of twenty-five percent (25%) or more of the replacement cost thereof; or (c) any damage to the Premises cannot, in Landlord's sole discretion, be repaired within ninety days (90) of the date of such damage; or (d) the Premises is damaged or destroyed during the last thirty percent (30%) of the term of this Lease, then Landlord may at its sole option terminate this Lease by written notice to the Tenant. Landlord shall notify the Tenant of its election to terminate within thirty (30) days following its receipt of notification of the availability of insurance proceeds for such repairs or restoration. If Landlord does not elect to terminate this Lease, it will commence repairs or restoration to completion with due diligence

If Landlord should elect or be obligated pursuant to this Paragraph 6.1 to repair or rebuilt because of damage or destruction, Landlord's obligation shall be limited to the basic building and any other work or improvements which may have been originally performed or installed at Landlord's expense. If the cost of performing Landlord' s obligation exceeds the actual proceeds of insurance paid or payable to Landlord on account of such casualty, Landlord may terminate this lease unless Tenant, within fifteen (15) days after demand therefore, deposits with Landlord a sum of money sufficient to pay the difference between the cost of repair and the proceeds of insurance available for such purpose.

Upon the termination of this Lease pursuant to the provisions of this Paragraph 6.1, the parties shall be released thereby without further obligations to the other party coincident with the surrender of possession of the Premise to Landlord, except for items that have theretofore accrued and are unpaid. In the event of such termination, all of Tenant's insurance proceeds covering Tenants leasehold improvements, but excluding proceeds for trade fixtures, merchandise, signs and other personal property, shall be disbursed and paid to Landlord.

ARTICLE 8
DEFAULT

8.1 DEFAULT BY TENANT:

Tenant shall be in default under this lease if any of the following events shall occur:

(a) Tenant fails to pay all rent when due or without notice within (5) days

(b) Tenant fails to pay any additional rent due;

(c) Tenant defaults in fulfilling any of the covenants or obligations of this Lease and such default has not been cured within five (5) days after written notice from Landlord. If the default so specified shall be of a nature that the same cannot be reasonably cured or remedied within said five (5) day period, and if Tenant shall not in good faith have commenced the curing or remedying of such default within the five day period and shall not thereafter diligently proceed therewith to completion, which completion shall in no event be more than thirty (30) days after notice from Landlord;

(d) Tenant fails to properly maintain or provide proof of regular maintenance of any/all equipment listed on the Schedule attached to this Lease and incorporated herein.

(e) Tenant refuses and/or fails to cooperate with Landlord's request to inspect the premises.

(f) Tenant fails to cease all conduct prohibited hereby immediately upon receipt of written notice from Landlord;

(g) Tenant commits an act in violation of this Lease which Landlord has previously notified

(h) Tenant to cease more than once in a year;

(i) Tenant becomes bankrupt, insolvent, or files any debtor proceeding, takes or has taken against Tenant any petition of bankruptcy; takes action or has taken action against Tenant for the appointment of a receiver for all or a substantial portion of Tenant's assets; files a petition for a corporate reorganization makes an assignment for the benefit of creditors, or if in any other manner Tenant' s interest hereunder shall pass to another by operation of law (any or all occurrences in this paragraph shall be deemed a default on account of bankruptcy for purposes hereof and such default on account of bankruptcy shall apply to and include any Guarantor of this Lease);

G) Pre mises; Tenant does, or permits to be done, any act which creates a mechanic's lien or claim therefore against the Premises or Plaza;

(k) The appointment of a trustee or a receiver to take possession of all or substantially all of Tenant's property, or the attachment, execution or other judicial seizure of all or substantially all, of Tenant' s located at the premises.

8.2 ACCELERATION OF RENTAL OR TERMINATION OF LEASE:

Upon such default as stated in, but not limited to, Paragraph 8.1, Landlord may elect to declare the entire rent for the balance of the term, or any part thereof, due and payable, or at the option of the Landlord, the Landlord may elect to terminate this lease by written notice to Tenant on the date specified in such written notice, whereupon Tenant shall quit and surrender the Premises to Landlord as if the term herein ended by expiration of the time fixed herein but Tenant will remain fully liable as hereinafter provided. Further, upon such default, whether or not Landlord shall elect to terminate this

lease. Landlord shall have the immediate right to re-entry and may remove all persons and property from the Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost to or for the account of Tenant, all without service of notice or resort to legal process, all of which Tenant expressly waives, and Landlord shall not be deemed guilty of trespass, or become liable for any loss or damage which may be occasioned thereby. Landlord shall have a lien for the payment of all sums agreed to be paid by Tenant herein upon all Tenant's property, which is to be in addition to Landlord's lien now or that may hereafter be provided by law.

8.3 LANDLORD'S RIGHTS ON DEFAULT:

If Tenant is in default of this Lease as provided in Paragraph 8.1, and if Landlord does not terminate this Lease as provided in Paragraph 8.2, then Landlord may give Tenant notice of that default. If Tenant fails to cure a default in the payment of rent or additional rent within three (3) days or fails to cure any other default within five (5) days after notice is given, the Landlord may:

(a) Landlord may retake possession of the Premises for the account of Tenant and may reenter the Premises, by summary proceedings or otherwise, and attempt to re-let the Premises, or any part thereof, as Tenant's agent, in the name of Landlord, or otherwise to any Tenant and upon such terms and conditions and for any use or purpose and for a term shorter or longer than the balance of the term of this Lease, all as Landlord may deem appropriate.

(b) Landlord may retake possession of the Premises, or any part thereof, on its own behalf, without thereby relieving Tenant from liability for damages accruing prior to or after such retaking.

(c) Landlord may elect not to seek to re-enter any portion of the Premises, without waiving its right to do so at any future time or its right to collect the rent due hereunder as and when the same shall become due, together with all other expenses incurred by Landlord in regaining possession and to continue to hold Tenant fully liable for all of its. obligations hereunder until such time, if any, as Landlord re-lets same and the Premises are occupied by such successor, it being understood that Landlord shall have no obligation to mitigate Tenant's damages by re-letting the Premises. Upon reletting, sums received by Landlord from such new lessee shall first be applied to payment of costs incident to reletting. Any excess or residue shall belong to the Landlord solely, and in no event shall Tenant be entitled to a credit on its indebtedness to Landlord in excess of the aggregate sum owing by Tenant. Landlord may, at any time and from time to time sue for any deficiencies from time to time remaining after the application from the proceeds of any reletting under this paragraph.

(d) Landlord may treat the default as an anticipatory breach of the Lease and, in addition to retaking possession, may bring an action immediately for all damages resulting there from.

(e) In the event of a breach by Tenant of any of the covenants or provisions hereof, Landlord shall have, in addition to any other remedies which it may have, the right to invoke any remedy allowed at law or in equity including injunction relief, to enforce Landlord' s rights or any of them, as ifr e-entry and other remedies were not herein provided for.

Notwithstanding anything in the Lease to the contrary, Landlord reserves all rights which any state or local laws, rules, regulations or ordinance confer upon a Landlord against a Tenant in default. This article shall apply to any renewals or extensions of this Lease. If the default is of such a nature that it cannot be completely cured within ten days, the Landlord may terminate this Lease only if the Tenant fails to proceed with reasonable diligence and in good faith to cure the default.

8.4 EXPENSES:

If Tenant shall default in the performance of any provision of this Lease on its part to be performed or observed or if Landlord takes any action or institutes any legal proceeding to enforce the terms of this

Lease, to recover possession of the Premises, or to recover any sum due under this Lease, then Landlord shall be entitled to recover all forms of damages, fees, costs and expenses incurred hereby, including without limitation, attorney's fees and expenses incurred including pretrial, trial, and appellate proceedings. Such damages, fees, costs and expenses shall be deemed to be Additional Rent hereunder and shall be paid by Tenant to Landlord upon demand.

8.5 NON-WAIVER PROVISIONS:

The failure of Landlord to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed to be a waiver of any rights or remedies that Landlord may have and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions, covenants herein contained except as may be expressly waived in writing.

8.6 ACCORD AND SATISFACTION

If the Tenant pays or the Landlord received any amount that is less than the amount stipulated to be paid under any Lease provision, that payment is considered to be made only on account of an earlier payment of that stipulated amount. No endorsement or statement on any check or letter may be deemed an accord and satisfaction. The Landlord may accept any check or payment without prejudice to the Landlord's right to recover the balance due or to pursue any other available remedy.

ARTICLE 9
TRANSFERS, ASSIGNMENTS AND SUBLETTING

9.1 ASSIGNMENT AND SUBLETTING:

Tenant shall not, either voluntarily or by operation of law, sell assign., hypothecate or otherwise transfer, mortgage, pledge, encumber, or permit any lien to attach to this Lease, or sublet the Premises or any part therefore (all the forgoing collectively referred to as "Transfer") without the prior written consent of Landlord, which consent Landlord or withhold in its sole and absolute discretion. Any requests by Tenant to transfer this Lease must be presented in writing to Landlord and must include all terms of the agreement and any payments that the agreement may involve and a financial check of the prospective applicant. Landlord and Tenant acknowledge and agree that the foregoing restriction on Transfer has been freely negotiated by the parties hereto and that Landlord would not have entered into this Lease without Tenant's consent to the terms of this paragraph. Any attempted Transfer shall be void ab initio and Tenant shall remain primarily liable upon this Lease and shall not be release from performing any of the terms, covenants and conditions of this Lease.

9.2 LANDLORD'S RIGHT TO COLLECT RENT FROM ANY OCCUPANT

If the Tenant is in default on any payments under this Lease and any other person is subletting or occupying the Leased Premises, or if the Tenant assigns this Lease, the Landlord may collect rent from the assignee, subtenant, or occupant. The Landlord may apply the net amount collected to the rent required under this Lease. The Landlords' collection of the rent does not waive the covenant against assignment and subletting under Paragraph 9.1. Nor does it constitute the Landlord' s acceptance of the assignee, subtenant, or occupant as a tenant, nor the Landlord' s waiver of the Tenant's further performance of the covenants contained in this Lease.

ARTICLE 10
SUCCESSION TO LANDLORD'S INTEREST

10.1 ATTORNMENT:
Tenant shall attorn and be bound to any of Landlord's successors under all terms, covenants and conditions of this Lease for the balance of the remaining term.

10.2 SUBORDINATION:
This Lease shall be subordinate to the lien of any mortgages, deeds of trust or security agreements ("Mortgages") or the lien resulting from any other method of financing or refinancing now or hereafter in force against the Plaza, any portion thereof, or upon any buildings hereafter placed upon the land upon which the Premises are a part, and to any and all advances to be made under such mortgages, and all renewals, modifications, extensions, consolidations and replacements thereof.

10.3 INSTRUMENT EVIDENCING SUBORDINATION AND ATTORNMENT:
The aforesaid provisions of Paragraphs 10.1 and 10.2 shall be self-operative and no further instruments evidencing them shall be required. Tenant covenants and agrees, however, to execute and deliver, upon demand, such further instrument or instruments subordinating this Lease on the foregoing basis to the lien of any such mortgages or other such financing as shall be desired by Landlord and any mortgages or proposed mortgagees, and/or attorning to a subsequent Landlord, and hereby irrevocably appoints Landlord the attorney-in-fact of Tenant to execute and deliver such instrument(s) within ten (10) days after written notice to Tenant to do so.

10.4 MORTGAGEE'S APPROVAL:
If any mortgagee or beneficiary under a deed of trust or security agreement ("Mortgagee") of the Plaza requires any modification of the terms and provisions of this Lease as a condition to such financing as Landlord may desire, then Landlord shall have the right to cancel this Lease if Tenant fails or refuses to approve and execute such modification(s) within ten (10) days after Landlord' s request therefore, provided said request is made at least ten (10) days prior to delivery of possession. Upon cancellation by Landlord, this Lease shall be null and void and Landlord shall not be liable to Tenant for damages or otherwise by reason of such cancellation.

ARTICLE 11
SURRENDER OF PREMISES

11.1 SURRENDER:
At the expiration or earlier termination of this Lease, Tenant shall surrender the Premises to Landlord in "broom clean" condition and in the same condition as when tendered by Landlord, reasonable wear and tear and insured casualty alone excepted. Tenant shall promptly repair any damage to the Premises caused by the removal of any furniture, trade fixtures, walls or other personal property placed in the Premises. All original equipment and fixtures and any other items that were there originally are to be in good repair and clean upon termination of the premises.

11.2 WRITTEN ACCEPTANCE:
No act or thing done by the Landlord, agent or employee of the Landlord, during the Lease term shall be deemed to constitute an acceptance by the Landlord of a surrender of Premises unless such intent is specifically acknowledged in writing signed by Landlord.

11.3 HOLDING OVER:
Tenant shall not occupy the Premises after the Expiration Date without the Landlord' s written consent. If, after the Expiration Date, Tenant remains in possession of the Premises with the Landlord' s permission (express or implied), Tenant shall become a Tenant from month to month only upon all the provisions of this Lease (except as to term and Base Rent). Monthly installments of Base Rent payable by the Tenant during this period shall increase to One Hundred Twenty Five Percent (125%) of the monthly Base Rent payable by the Tenant in the final month of the Term. Such monthly rent shall be payable as set forth herein.

ARTICLE 12
MISCELLANEOUS

12.1 ATTORNEY FEES:
If at any time, by reason of the failure of Tenant to keep and perform any covenant or agreement which under the terms of this lease said Tenant is bound and obligated to keep and perform, it becomes necessary for Landlord to employ an attorney at law to protect Landlord's rights and interests in the property demised or to enforce the Lease or proceed under it in any particular, then in any such event Tenant shall owe and shall pay unto the Landlord within ten (10) days after written notice thereof, any reasonable fees for attorneys incurred or expended by Landlord in the protection of Landlord's rights and interests and if costs of court are also incurred then Tenant shall also in the same manner pay such costs.

12.2 ENTIRE AGREEMENT OF THE PARTIES:
This Lease Agreement constitutes the entire agreement between the parties hereto and there are no agreements, understandings, restrictions, warranties or representation between the parties other than those as herein provided for.

12.3 OBLIGATIONS OF PERSONS OR PARTIES UNDER THIS LEASE
If more than one person or party signs this Lease, each person is fully and personally obligated to keep all of the promises made in this Lease, including the promise to pay the full amount owed. Any person or party who is a guarantor, surety or endorser of this Lease is also obligated to do these things. Any person or party who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Lease, is also obligated to keep all of the promises made in this Lease. The Landlord may enforce its rights under this Lease against each person individually or against all of us together. This means that any one of the Lease signers may be required to pay all of the amounts owed under this Lease.

12.4 SEVERABILITY
In the event any provision of this Lease to any extent is found to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and the Lease and its provisions shall be valid and enforceable to the full extent permitted by law.

12.5 WAIVER
No waiver by Landlord of any provision on this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Tenant of the same provision. Landlord's consent to or approval of any act by Tenant shall not be deemed to render unnecessary the obtaining of Landlord's

consent to or approval of any subsequent act. No agreements by Landlord to accept Tenants surrender of the Premises shall be valid unless in writing.

12.6 RIGHT OF ENTRY

Landlord shall have free access to the Premises at all reasonable times to inspect same and to make such repairs, additions, improvements, changes or alterations to the Premises or the Plaza as Landlord may elect to make. Tenant agrees that on and after ninety (90) days preceding the expiration date of the term hereof, Landlord or its agent shall have the right to show the Premises to potential Tenants and to place notices offering the Premises for Lease on any part of the Premises.

12.7 SUCCESSORS AND ASSIGNS

Except as otherwise proved herein, this Lease shall be binding and inure to the benefit of the parties hereto and their respective heirs, personal representative, executors, successors and assigns.

12.8 SURVIVAL OF OBLIGATIONS

The provisions of this Lease with respect to any obligation of Tenant to pay any sum owing in order to perform any act after the expiration or other termination of this Lease and any indemnification obligations of Tenant shall survive the expiration or other termination of this Lease.

12.9 LIMITATION ON RIGHT OF RECOVERY AGAINST LANDLORD

Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to its interest in the Plaza and any judgments rendered against Landlord shall be satisfied solely out of the proceeds of sale of its interest in the Plaza. No personal judgment shall lie against Landlord upon extinguishment of its rights in the Plaza and any judgment so rendered shall not give rise to any right of execution or levy against Landlord' s assets. For the purposes of this paragraph, the term " Landlord" shall mean and include all partners of Landlord (if Landlord is a partnership) and all members and managers of Landlord (if Landlord is a limited liability company). The provisions hereof shall inure to Landlord' s successors and assigns, including any Mortgagee. The foregoing provisions are not intended to relieve Landlord from performance of any obligations under this Lease, but only to limit the personal liability of Landlord in case of recovery of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant' s rights to obtain injunctive relief or specific performance or to avail itself of any other right or remedy which may be awarded to Tenant by law or under this Lease.

12.10 JOINT AND SEVERAL LIABILITY

If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) shall sign this Lease as a Tenant or in the capacity of Guarantor, the liability of each such individual, corporation, partnership or other business association to pay rent and perform all other obligations hereunder shall be deemed to be joint and several with the other signatories and all notices, payments, and agreements given or made by, with or to all of them. In like manner, if Tenant shall be a partnership or other business association, the members of which are, by virtue or statute or federal law, subject to personal liability, such liability of each such member shall be joint and several. All Guarantors hereby agree to payment and performance of all of the Tenant's obligations hereunder.

12.11 CORPORATE TENANTS

In the event that Tenant is a corporation, that person executing this Lease on behalf of Tenant herby covenant and warrant that: (a) Tenant is a duly constituted corporation qualified to do business in the

State of Florida; (b) all Tenants franchise and corporate taxes have been paid to date; (c) all future forms, reports, fees, and other documents necessary for Tenant to comply with applicable laws will be file by Tenants when due; (d) such persons are duly authorized by the board of directors of such corporation to execute and deliver this Lease on behalf of the corporation.

12.12 PERSONAL GUARANTEE

In the event that Tenant is a corporation, a limited liability company, or a partnership, a personal guarantee has been executed and attached to this Lease.

12.13 FORCE MAJEURE

In the event either Landlord or Tenant shall be delayed, hindered or prevented from the performance of any act required hereunder, by reason of way, governmental restrictions, civil commotion, shortage of labor materials, strikes, fire, or any other reason beyond their control, the performance of such act shall be excused for the period of delay, and the period for performance of any such act shall be extended as necessary to complete performance after the delayed period. However, the provisions of this paragraph shall in no way be applicable to Tenant's obligations to pay rental or any other sums, monies, costs, charges or expenses require by this Lease.

12.14 JURISDICTION

The laws of the State of Florida shall govern the interpretation, validity, performance, and enforcement of this Lease.

12.15 HAZARDOUS MATERIALS

Tenant shall not cause or permit the use, generation, storage, or disposal in or about the Premises of any substances, materials or wastes subject to regulation under any federal, state, or local law from time to time in effect concerning hazardous, toxic, or radioactive materials unless Tenant shall have received Landlord's express prior written consent, which consent Landlord may withhold or at any time revoke at its sole discretion. If Tenant uses, generates, stores, or disposes of any hazardous materials in or about the Premises, Tenant shall obtain all necessary permits and strictly comply with all statutes, regulations, and rule applicable to such activity. Landlord shall have the right to require that Tenant deliver periodic environmental audits of the Premises evidencing that no violations have occurred. Tenant shall indemnify and hold Landlord harmless from and against all liability, cost, claim, penalty, expense and fees (including court costs and attorney's fees) arising from Tenants use, generation, storage or disposal of hazardous material in or about the Premises. This section shall survive the expiration of earlier termination of this Lease.

12.16 AMERICAS WITH DISABILITY ACT

Landlord and Tenant acknowledge that the Americans With Disabilities Act of 1990 (42 U.S.C 12101 et seq.) and regulations and guidelines promulgated thereunder, as all of the same may be amended and supplemented from time to time (collectively referred to herein as the ADA) establish requirements for business operations, accessibility and barrier removal, and that such requirements may or may not apply to the Premises and the Building depending on, among other things: (1) whether Tenants business is deemed a public accommodation or commercial facility, (2) whether such requirements are readily achievable, and (3) whether a given alteration affects a primary function area or triggers path of travel requirements. The parties hereby agree that: (a) Landlord shall be responsible for ADA Title III compliance in the Common Areas, except as provided below, (b) Tenant shall be responsible for ADA Title III compliance in the Premises, including any leasehold improvements or other work to be

performed in the Premises under or in connection with this Lease, and (c) Landlord may perform, or require that Tenant perform, and Tenant shall be responsible for the cost of, ADA Title III path of travel requirements triggered by Tenant Alterations in the Premises.

This lease constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior understandings between them concerning the same. This Lease may not be altered, changed, or amended, except by an instrument in writing executed by all parties hereto. The terms and provisions of this lease shall not be construed against or in favor of a party hereto merely because such party is the "landlord" or "tenant" hereunder or such party or its counsel is the draftsman of this lease.

In the event of a breach of the forgoing representations and warranties, the person or persons signing this lease on behalf of the tenant shall be personally responsible for the tenant's obligations under this Lease.

In addition, if the individual(s) executing this Lease in a representative capacity also execute the Lease in an individual capacity, said execution shall render the individual personally responsible for the tenant's obligations hereunder.

IN WITNESS WHEREOF, Landlord and Tenant above duly executed this Lease as of the day and year first above written, each acknowledging receipt of an executed copy hereof.

THREE WITNESSES:

Laura Lewis
Witness Signature

Laura Lewis
Print Witness Name

Witness Signature

Jose Juan
Print Witness Name

Witness Signature

Juan Miguel Lopez
Print Witness Name

LANDLORD:

Chris Pappas, Manager
Pappas Daughters, LLC

TENANT:

Norma A Castaneda
Norma A Castaneda, Individually and as Guarantor for Tres Leches Café, LLC

TENANT: Saul Cifuentes

Saul Cifuentes, Individually and as Guarantor for Tres Leches Café, LLC

RULES AND REGULATIONS

1. The sidewalks, roadways, and other public portions in the Plaza shall be used by each tenant for the purpose solely of ingress and egress to and from the Premises so demised to the tenants.

2. All waste paper, refuse, and garbage shall be kept be disposed of in the dumpster and not left in the Premises or anywhere on the Property.

3. Each tenant shall keep the exterior and interior portions of its store, all windows, doors, and all other glass or plate fixtures in a clean condition and free of pests.

4. Each tenant shall conduct its business in an orderly manner in the best interest of the Plaza.

5. No tenant shall burn any trash or garbage of any kind in or about the building or grounds of the Plaza.

6. The plumbing facilities shall be used for the purposes for which they have been constructed, and no foreign substance of any kind shall be thrown therein. The expense of any breakage, stoppage, or damage resulting from a violation of this provision caused by any tenant, its employees, agents, or invitees shall be borne by such tenant.

7. The Landlord reserves the right to amend, rescind, or waive any of these rules and regulations as may from time to time seem necessary or desirable and any such other and further rules and regulations shall be binding upon each tenant.

8. The Landlord reserves the right to control and operate the Common Areas of the Plaza in such a manner as the Landlord deems necessary or desirable for the best interests of the Plaza and the tenants and for the protection of the building and other property in the Plaza. The Landlord, however, shall not be liable to any Tenant for any damages arising out of such control and operation.

9. Tenant shall not cause Landlord to be in violation of any City Codes.

10. No pets are allowed to live or stay on the Premises at any time. Tenants shall not bring pets to keep inside units during or before/after business hours or on any part of the Plaza Premises at any time. Only Service Animals, as specifically defined by the Americans with Disabilities Act, are exempt from this rule.

11. All Tenants and their employees shall park their vehicles in the parking lot adjacent to the Plaza. No Tenant or employee of the Tenants may park in the Plaza parking lot.

GUARANTEE AGREEMENT

To be attached to and form a part of that certain Lease Agreement ("Lease") dated 1 August, 2020, between Pappas Daughters, LLC, ("Landlord"), and Norma A Castaneda, Individually and as Guarantor for Tres Leches Café, LLC, and Saul Cifuentes, Individually and as Guarantor for Tres Leches Café, LLC, ("Tenant") demising certain space in the PAPPAS PLAZA, city of Daytona Beach Shores, Volusia County Florida.

IN CONSIDERATION OF and as inducement for the execution of the attached Lease by Landlord, the undersigned Lessees (hereinafter referred to as "Guarantors"), intending to be legally bound hereby, unconditionally become the Guarantors for the prompt and faithful performance by Lessee of all terms, covenants and conditions on Lessee's part to perform, observe or comply with under the Lease, including, but not limited to, the payment by Lessee of the rental and all sums to become due thereunder.

Guarantors agrees that (1) this Agreement shall be binding upon Guarantors, jointly and severally, without any further notice or acceptance hereof, but the same shall be deemed to have been accepted by the execution of the attached Lease; (2) immediately upon each and every default by Lessee, without any notice to or deemed upon Guarantors, Guarantors shall pay to Lessor the sum or sums in default and shall comply with or perform all the terms, covenants and conditions of said Lease, which shall be binding upon the said Lessee as provided in said Lease; (3) no extension, forbearance or leniency extended by Lessor to Lessee shall discharge Guarantors, and Guarantors agree that at all times they shall be jointly and severally liable notwithstanding same and notwithstanding the fact that Guarantors have had no prior notice of any said default or of any said forbearance or extension; (4) Lessor and Lessees without notice to or consent by Guarantors may at any time or times enter into such modifications, extensions, amendment or other covenants respecting the said Lease and Guarantors shall not be released thereby, it being intended that any joinder, waiver, consent or agreement by Lessees by its own operation, shall be deemed to be a joinder, consent, waiver or agreement by Guarantors with respect thereto, and Guarantors shall continue as a Guarantor with respect to the said Lease as so modified, extended, amended or otherwise affected; (5) this obligation of Guarantors shall be primary and that the Lessor shall not be required to proceed first against Lessees or Lessees' property before proceeding against Guarantors, and may sue Guarantors directly on this Guaranty Agreement, and Guarantors hereby waive any rights they may now have or hereafter acquire under the terms of any laws of the State of Florida; and (6) neither the Guarantors' obligation to make payment in accordance with the terms of this Guaranty Agreement nor any remedy for the enforcement thereof shall be impaired, modified, changed, released, or limited in any manner whatsoever by any impairment, its estate in bankruptcy or of any remedy for the enforcement thereof, resulting from the operation of any present or future provision of any federal or state bankruptcy statute, or any other statute, or from the decision of any Court.

Guarantors further agree to be bound, joint and severally, by each and every covenant, obligation, power, and authorization, without limitation, in the said attached Lease, with the same force, and effect as if it were designated in and had executed said Lease as Lessees thereunder. This Guaranty shall apply to the Lease, any extension or renewal thereof and to any holdover term following the term hereby granted or any extension or renewal thereof.

IN WITNESS WHEREOF, the undersigned have caused this Guarantee Agreement to be duly executed and sealed pursuant to the authority duly given as of this 15 day of, July 2020.

GUARANTORS' SIGNATURE:

By: Norma A Castañeda
Norma A Castaneda

Saul Cifuentes

(2514)

Location: _____

Unit: _____

Rental Application

NEW BUSINESS NAME
TRES LECHES CAFE, LLC

Applicant Information:
Name: Norma A Castaneda and Saul Cifuentes.
Current Address: 8261 Bear Cub Run
How Long? 3 yrs years 6 months
Rent or Own? _____

Home Phone Number: (386-621-68-685-1
Cell Phone Number: (305) 849-3381 and (305) 896 6326
Work Phone Number: (386) 999 00 85
Saul License #: C103-798-78-056-0 Saul SS# 679-96-1514
Driver's License No.: C235-621-68-685-1 State: FL
Social Security No.: 269-74-4383 Federal Tax ID #: _____

Will this business be owned by a corporation? If so, please answer below:
Corporation Name: Tres leches cafe LLC Percent of Ownership: 100% APPLIED FOR
Ownership: norma A castaneda
Federal Tax ID #: _____
MANAGING PARTNER President: Norma A Castaneda Vice President: Saul Cifuentes
Secretary: _____ MANAGING PARTNER
Other Owners and % of Ownership:
100% TOTAL.

Applicant's Employment History:
Occupation: RESTAURANT OWNER Current Employer's Name: SELF
Employer Tel. Number: 386-999-0035 Length at this Job: _____
Employer Contact Person: Norma & Saul as above.
Current Salary: Gross Monthly $ 3,000.00 Gross Annually $ _____
Other Sources of Income: N/A
Average monthly amounts of other income: $ N/A

Previous Employer: self Position: MANAGER
Previous Salary: $ 3,000 / month How long?: 2 yrs
Address: 1500 Bertha St Key West FL 33040
Supervisor: _____ Phone Number: _____

Spouse's Employment
Employer: self Supervisor: owner.
Address: ~~1500 Bertha St Key West FL 33040~~ For 9 yrs.
How long at present job?: owner Annual Income: $ 36,000 +/- yr.
2261 S. Ridgewood Ave. S. Daytona, FL 32119

Credit Check Authorization

I/We the undersigned hereby authorize WTC/ MPA, and/or any of its affiliates, partners, subsidiaries, employees or designees (hereinafter collectively referred to as "WTC/MPA"), to make any credit inquiries that WTC/MPA may deem necessary in connection with my/our lease application. This authorization also applies to inquiries regarding employment history, bank accounts, and follow-up credit inquiries/checks that WTC/MPA may deem necessary now or in the future, in connection with the tenancy contemplated.

Applicant CAFE CON LECHE

~~Secret Cafe con Tos~~

(Print company name, if applicable)

By: [signature]

(Signature)

Print Full Legal Name SAUL CIFUEN TOS.

Its: MANAGER

(Print company position held, if applicable)

2761 S. RIDGEWOOD AVE

Street Address

South Daytona, FL 32119

City, State, ZIP

2/16/76

Date of Birth

C 153-795-76-056-0

Driver's License Number

679-96-1814

FEIN or Social Security Number

(Attach copy of Social Security Card)

Dated: 6/19/2020

Spouse (If Applicable)

CAFE CON LECHE

(Print company position held, if applicable)

By: Norma A Castañeda

(Signature)

Print Full Legal Name NORMA A. CASTAÑEDA

Its: OWNER

(Print company position held, if applicable)

2761 S. Ridgewood ave.

Street Address

South Daytona Fl. 32119

City, State, ZIP

04/15/1968

Date of Birth

C 235-621-68-635-1

Driver's License Number

769-14-4883.

FEIN or Social Security Number

(Attach copy of Social Security Card)

Dated: 6/19/2020

ATTACH COPIES OF THE FOLLOWING DOCUMENTATION AS APPLICABLE:

		Check Attached Items or Mark N/A
1)	Applicant's Current Balance Sheet and Income Statement	____
2)	Applicant's most recent two years' Federal Tax Returns	____
3)	Personal Financial Statement (see attached form)	____
4)	Guarantor's most recent two years' Federal Tax Returns	____
5)	Credit Check Authorization (see attached form)	✓

CONDITIONS AND INFORMATION

The completion of this application by Applicant(s) ("Tenant") and the acceptance of this application by Creditor ("Landlord") creates no obligation of Landlord to approve the application or enter into a lease with Tenant.

By completing this application, Applicant(s) do hereby give full consent to WTC/MPA. and _____, its agents or associates to have access and obtain information on its present and past history and any information relating to same.

This application is to be used for the purpose of establishing Applicant's current and past credit position and financial credibility and is for the use and review only by those owner(s) and representative(s) of the property Applicant is interested in leasing.

A Credit Check Authorization Form (see attached) is required, in addition to this application, if the prospective Tenant is an individual or if a Guarantor is coupled with the proposed lease. At the time of completion of this application, a Credit Check Authorization is _____ or is not _____ required. Landlord reserves the, right after reviewing the initial application, to later require the completion of a Credit Check Authorization Form if a Guarantor becomes a requirement of the lease.

The confidentiality of the information being furnished by Applicant will be preserved except where disclosure of this information is required by applicable law or for the purposes of evaluating this proposed transaction.

LANDLORD USE ONLY

Annual Costs:

Rent: $_____ CAM: $_____ RET: $_____ Other: _____

Deposit 7/5/20.
&
1st month Rent Audit

2514

NORMA CASTANEDA
SAUL CIFUENTES BARRIOS
5251 BEAR CORN RUN
PORT ORANGE, FL 32128

63-7190/2531 44

213

DATE 7/15/2020

PAY TO THE ORDER OF Chris PaPas $ 781.28-83

Seventy one hundred twenty eight 83/00 DOLLARS

Security deposit and Rent

Norma A Castaneda

⑆263177903⑈8100003749229⑈ 0213

Item 8 -	Lease Commencement: Lease Expiration Date:	August 1, 2020 August 31, 2025
Item 9 -	Rent Commencement Date:	October 1, 2020
Item 10-	Net Monthly Rent (Section 2.1): Common Area Maintenance: Additional Rent (Refuse/Waste): Applicable Sales Tax 6 %: **Total Monthly Rent ("BASE RENT") due the first day of each month:**	$1,600.00 $ 333.33 $ 75.00 $ 120.50 **$2,128.83**

Item 11- Rent Increases:

1. August 1, 2021, Net Rent increases to $2,000.00 Net Monthly Rent plus CAM, plus Refuse/Waste, plus Tenant's proportionate share of Real Property Taxes & Insurance and plus 6% Sales Tax.
2. January 1 of each year for the remainder of the Lease term and any options at the cumulative percent increase of 3% per year, plus CAM, Refuse/Waste, Tenant's proportionate share of Real Property Taxes & Insurance and 6% Sales Tax.

Item 12-	Money Paid Lease at execution: First Month's Rent: Security Deposit Total	$2,128.83 $5,000.00 ~~$7,810.83~~ C.P. 7,128.83 N.C
Item 13-	Tenant's Participation in Common Area:	12.64%
Item 14-	Tenant's Participation in Real Property Taxes:	12.64%

Item 15- Notices:
Tenant (address as described in item 2)
Landlord:(address as described in item 1)

Item 16- Rental or Other Payments Via US Mail: (address as described in item 1)

Item 17: Additional Terms: Provided Lessee is not in default hereunder; Lessee is granted one consecutive 5-year option to extend said Triple Net Lease. The option shall be exercised by notice from Lessee in writing to Lessor not less than 3 months (90 days) prior to the expiration of the then current Lease term. The rental amount shall increase from the current amount to a new negotiated amount that will also include Tenant's proportionate share of CAM, Property Taxes, and Insurance as stated in Items 10 & 11.

Item 18: Guarantor: Norma A Castaneda and Saul Cifuentes (Individually and jointly)

EDP EVALUATION CRITERIA- LEASE SUBSIDY							
Business Name:	**Tres Leches Cafe**			**Proposed Address:**	**2514 S. Atlantic Ave.**		
Business Type:	**Restaurant – Latin (Casual, made to order)**	**Vacant Space:**	**Y/N**	**Evaluation Date:**	**10-2-20**	**Application No.:**	**12020028**

A	**Mandatory Criteria**-*City Planner*	Yes	No	Comment
1	Location in Targeted Area?	X		
2	Targeted Business?	X		
3	If no to #2, is Business Substantially Compliant & Desired As Approved by CC?			NA
4	Is Business A Permitted Use /Non-Residential/Mixed Use?	X		
5	Appropriate Zoning Consistent w/ Comp Plan?	X		
6	Minimum Three (3) Year Lease?	X		Lease is for 5 years

B	**Supplemental Criteria Met**-*City Attorney*	Yes	No	NA	Comment
1	Current w/ Applicable Taxes, Fees, Etc.?				
2	Subject to Related Foreclosure, Bankruptcy or Defaults?				
3	Current Related Code or Ordinance Violations?				
4	Applicant Willing to Enter into Agreement w/ Conditions?	X			
C	**Grant Distribution**-*Committee*	**Yes**	**No**		**Comment**
1	Consistency w/ED Grant Distribution Summary	X			
D	**Lease Subsidy Criteria**-*Committee*	**Low**	**Medium**	**High**	**Amount/Comment**
1	Number of New Jobs Created?	X			4 Employees
2	Desirability of Business?			X	Made to order casual Latin restaurant targeting residents, tourists, office and construction workers
3	Amount of Capital Investment Made?			X	$30.000 (per applicant)
4	*New Business*-Ability to Attract Other Targeted Businesses?			X	Located in plaza in a vacant unit with symbiosis potential
5	*Business Expansion*-Satisfies Economic Development Needs of City?				NA
6	*Business Relocation*-Enhance Operations ?				NA
7	*Business Relocation*-Enhance Employment?				NA
8	*Lease Extension*-Enhance Operations?				NA
9	*Lease Extension*-Enhance Employment?				NA
10	Additional City Council Criteria				NA

Worksheet Tabulation Matrix

Tres Leches: 2514 S. Atlantic Avenue

D	**Lease Subsidy Criteria-***Committee*	Low	Medium	High	Scoring Scale/Rationale
1	Number of New Jobs Created?	1			L=1-4; M=5-8; H=9+
2	Desirability of Business?			3	L=not very desirable (no relation to businesses on targeted list);M=Desirable (similar to business on targeted list);H=very desirable (on targeted list, dinner restaurants, etc)
3	Amount of Capital Investment Made?			3	L=$1-$2,999; M=$3,000-$19,999; H=$20,000+
4	*New Business*-Ability to Attract Other Targeted Businesses?			3	L=not very confident to attract targeted business-Very low to NO potential for Symbiosis (stand alone building, category killer, fail the DBS smell test, etc); M=moderately confident to attract targeted business-moderate potential for Symbiosis (eg located in a plaza and or mom&pop business, boutique business, etc); H=very confident to attract targeted business PROBABLE Symbiosis (eg located in a plaza and or franchise, anchor store, shadow anchor, etc)
*	*Scoring Guide: Low = 1pt, Medium = 2pts, High = 3pts*	**Average Score: 10/4 = 2.5 (round up to 3)**			*Recommended Range of LS Awards Distribution Based on Average Score: 1 = 0-33%, 2 = 33-66%, 3 = 66-100%*
Recommended LS Award: 100% of lease subsidy **Award Distribution:**		Yr1/30% = $6120 Yr2/20% = $4920 Yr3/10% = $2533.80			**3 Year Total Award = $13,573.80 < $20,000 max: OK**

CITY OF DAYTONA BEACH SHORES/COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT WITH TRES LECHES CAFE, LLC

THIS COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT (hereinafter, the "Agreement") is made and entered into this ___ day of_____, 2020, by and between the City of Daytona Beach Shores, Florida, a Florida municipality, whose mailing address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as the "CITY", and Tres Leches Cafe, LLC, whose address is 5251 Bear Corn Run, Port Orange, FL 32128, a Florida Limited Liability Company, hereinafter referred to as "GRANTEE".

WITNESSETH:

WHEREAS, the City Council of the CITY has enacted Ordinance 2019-06 to further its policy objectives of facilitating the establishment of new businesses and the expansion of existing businesses within a targeted geographical area of the CITY, which area consists of underutilized, vacant or abandoned commercial properties; and

WHEREAS, Ordinance 2019-06 authorizes a program of economic incentives designed to attract new businesses, which are presently underrepresented in the CITY, and to locate such businesses in the targeted area of the CITY for the purpose of providing residents and visitors a wider array of goods, services, entertainment and dining options, additional employment opportunities and, at the same time, expand the tax base of the CITY and eradicate vacant, abandoned and underutilized properties; and

WHEREAS, the economic incentives afforded by the ordinance include, but are not limited to, matching grants to new or existing owners of commercial properties and/or

new or existing tenants of commercial businesses in the CITY, subject to specific dollar limits and meeting certain other criteria established by the CITY, which grants may be used for interior buildouts, building façade improvements, structural alterations and/or beautification; and

WHEREAS, an alternative economic incentive in the form of a lease subsidy is also available under the ordinance, subject to specific dollar limits and meeting certain other criteria established by the CITY, to new or existing commercial lease tenants; and

WHEREAS, City Council of the CITY has determined that the investment of public funds in the economic incentive program generally, and in this Agreement in particular, are in the public interest and provide for and accomplish a public purpose; and

WHEREAS, the City Council of the CITY has found and determined that the provisions of this Agreement are consistent with applicable law and implement the provisions of controlling legal authority.

NOW, THEREFORE, in consideration of the terms, provisions and covenants contained herein, the parties hereto do mutually agree as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct, form a material part of this Agreement upon which the parties have relied and are hereby adopted and incorporated by reference herein.

SECTION 2. PURPOSE AND TERM. Subject to the terms and conditions hereinafter set forth, the CITY shall provide a Lease Subsidy Grant to the GRANTEE and the GRANTEE shall, in consideration for the receipt of said grant, continuously operate:

Name of Business: Tres Leches Cafe

Located at: 2514 S. Atlantic Avenue (Unit E & F), Daytona Beach Shores, FL 32118

for the term of the of this, being 3 years from the date first stated above.

SECTION 3. TERMS AND CONDITIONS FOR PAYMENT OF LEASE SUBSIDY

(A). The CITY shall pay the Lease Subsidy Grant to the GRANTEE under the terms and conditions of this Agreement as follow:

1. The GRANTEE business must be current in the payment of all taxes, fees, special assessments and charges for services owed to the CITY, the City Of Port Orange, Volusia County, the State of Florida and the US government at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

2. The GRANTEE must not be in default of its obligations to any creditor such as would threaten to, or in fact, cause the discontinuance of the business before the end of this Agreement; and

3. The GRANTEE must not be subject to any pending or threatened mortgage or lien foreclosure or bankruptcy proceedings at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

4. The GRANTEE must not be in violation of any code or ordinance of the CITY or of any State or Federal law or regulation governing the operation of the business at the time of application by the GRANTEE for the Lease Subsidy Grant and

continuing throughout the term of this Agreement; and

5. The GRANTEE must not engage in any prohibited or nonconforming uses under the code, ordinances or regulations of the CITY or of any law or regulations of the State of Florida and the Federal Government at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

6. The GRANTEE must not engage in any business other than the business for which this Lease Subsidy Grant has been approved by the CITY at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement, without the prior written approval of the CITY, including any conditions placed on the Grant by the CITY upon approval; and

7. The GRANTEE shall be required to submit such documentation as may be reasonably required by the CITY to verify compliance by the GRANTEE with the terms and conditions of this Agreement prior to payment by the CITY of any Lease Subsidy Grant payment.

8. The GRANTEE shall immediately notify the City Manager if the lease is terminated or if Grantee has received notice of a default from the Landlord.

9. The GRANTEE shall immediately notify the City Manager if the GRANTEE cannot faithfully execute the terms of this agreement or any term or condition of the subject grant approval imposed by the City Council.

(B). The GRANTEEE shall be in default of this agreement under any of the following conditions:

1. The GRANTEE fails to operate the business pursuant to the grant application and business plan provided to the City Council for the consideration of this grant agreement; or

2. The GRANTEE fails to operate the business pursuant to any term or condition imposed by the City Council in the approval of this grant agreement; or

3. The GRANTEEE is in violation of any term or condition in this Agreement.

(C) If the GRANTEE is in violation of any of the terms and conditions of this Agreement, the CITY shall declare a default and future Lease Subsidy Grant payments suspended pending the cancelation provisions of Section 7 for failure to timely cure the default, if any.

SECTION 4. PAYMENT OF LEASE SUBSIDY GRANT BY CITY TO GRANTEE.

(A). Provided the GRANTEE is in compliance with all terms and conditions of this Agreement, the CITY shall pay to the GRANTEE a monthly Lease Subsidy Grant for not more than 3 years and not exceeding a total of $20,000.00 based on the following formula:

1. For the first year of the Lease Subsidy Grant: Monthly rent times 30%. Total year one disbursement shall not exceed $6,120.

2. For the second year of the Lease Subsidy Grant: Monthly rent times 20%. Total year two disbursement shall not exceed $4,920.

3. For the third year of the Lease Subsidy Grant: Monthly rent times 10%. Total year three disbursement shall not exceed $2,533.80.

SECTION 5. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This

Agreement is solely for the benefit of the formal parties hereto, and no right or case of action shall accrue upon or by reason hereon, to or for the benefit of any third party not a formal party hereto.

SECTION 6. <u>ASSIGNMENT.</u> This Agreement shall be binding on the parties hereto and their representatives and successors. Neither party shall assign this Agreement or the rights and obligations hereof to any other party.

SECTION 7. <u>DEFAULT.</u>

(A). In the event of default by the GRANTEE or the CITY, the aggrieved party shall be entitled to any and all legal remedies available under Florida law.

(B). The aggrieved party shall give the defaulting party written notice of any defaults hereunder and shall allow the defaulting party thirty (30) days from the date of receipt to cure such defaults. Upon the failure to timely cure the default, the aggrieved party may cancel the Agreement by notice as provided below.

SECTION 8. <u>NOTICES</u>. Any notice required or allowed hereunder shall be in writing and either (1) personally served upon a party, with an affidavit of service from the server or (2) sent by a commercial delivery service, restricted delivery, or (3) by US mail, certified delivery, with return receipt requested, to the designated address set forth below for that party or such other address as a party may specify by a prior written notice delivered in accordance herewith. If a party cannot be served in the manner prescribed above after two attempts, delivery may be accomplished by publication, one time, in a newspaper of general circulation.

SECTION 9. <u>THE GRANTEE'S MANDATORY COMPLIANCE WITH CHAPTER</u>

119, FLORIDA STATUTES, AND PUBLIC RECORDS REQUESTS.

In order to comply with Section 119.0701, *Florida Statutes*, public records laws, the GRANTEE must:

(A). Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.

(B). Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(C). Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(D). Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of the GRANTEE upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

(E). If the GRANTEE does not comply with a public records request, the CITY shall enforce the contract provisions in accordance with this Agreement.

(F). Failure by the GRANTEE to grant such public access and comply with public records requests shall be grounds for immediate unilateral cancellation of this Agreement by the CITY. The GRANTEE shall promptly provide the CITY with a copy of any request to inspect or copy public records in possession of the GRANTEE and shall

promptly provide the CITY with a copy of the GRANTEE's response to each such request.

(G). **IF THE GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE GRANTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CHERI SCHWAB, CITY CLERK, (386) 763-5353, CSCHWAB@CITYOFDBS.ORG, 2990 SOUTH ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118.**

SECTION 10. **SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of the Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be affected. To that end, the terms of this Agreement is declared severable.

SECTION 11. **TIME OF THE ESSENCE.** Time is hereby declared essence to the lawful performance of the duties and obligations contained in this Agreement.

SECTION 12. **APPLICABLE LAW/VENUE.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue for any legal proceeding related to this Agreement shall be in the Seventh Judicial Circuit Court in and for Volusia County, Florida.

SECTION 13. **ATTORNEYS FEES.** In the event it becomes necessary

to institute legal action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover all out-of-pocket expenses and costs and all reasonable attorneys fees, paralegal fees and associated fees and costs from the date of filing until the termination of litigation whether incurred at trial, on appeal, or otherwise.

SECTION 14. **NONDISCRIMINATION.** The GRANTEE agrees that it will not discriminate against any business invitee, employee or applicant for employment because of race, color, religion, sex, age, national origin or disability. The GRANTEE, moreover, shall comply with all the requirements of the *Americans with Disability Act*, the regulations of the Federal government issued thereunder, and any and all requirements of State law related thereto.

SECTION 15. **INTERPRETATION.** The CITY and the GRANTEE agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

SECTION 16. **MODIFICATION.** This Agreement may not be amended, changed, or modified, and material provisions hereunder may not be waived, except by a written document, of equal dignity herewith, approved by the City Council of the CITY and the GRANTEE and executed by all parties to this Agreement.

SECTION 17. **ENTIRE AGREEMENT: EFFECT IN PRIOR AGREEMENT.** This instrument constitutes the entire agreement between the parties and supersedes all

previous discussions, understandings, and agreements between parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement in the date and year first above written.

ATTEST: **CITY OF DAYTONA BEACH SHORES**

_____ _____
Cheri Schwab, City Clerk Nancy J. Miller, Mayor

_____
Michael T. Booker, City Manager

Approved as to form:

_____
JOHN CARY, CITY ATTORNEY

TRES LECHES CAFÉ, LLC - GRANTEE

ATTEST:

_____ _____
Norma A. Castaneda - Manager

:

_____ _____
Saul Cifuentes - Manager

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM:
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Economic Development Grant: Beach Bagel Cafe of Daytona, LLC (aka High Tide Kitchen), 3344 S. Atlantic Ave.

SYNOPSIS:

On March 10, 2020 the City Council approved the Beach Bagel Cafe of Daytona, LLC Economic Development "Buildout" Grant for the new High Tide Kitchen restaurant located at 3344 S. Atlantic Avenue. The grant would assist in paying for the buildout costs associated with transforming the Beach Bagel Cafe into the new High Tide Kitchen. On April 28, 2020 the City Council approved the related grant agreement (**attached**). The restaurant has now opened and only the pergola needs to be completed. However, at this time the restaurant is not offering dinner services, which played some part of the City Council's consideration when approving the grant (**see 3-10-20 CC minutes attached**). Pursuant to Sec. Three (6) of the grant agreement, "*he GRANTEE must not engage in any business other than the business for which this Lease Subsidy Grant has been approved by the CITY at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement, without the prior written approval of the CITY.*"

Considering the Grantee will soon be applying for reimbursement, the Economic Development Committee and City Attorney have recommended to have this item brought before the City Council for direction.

FISCAL IMPACT STATEMENT:

To be determined by City Council action.

BACKGROUND:

LEGAL REVIEW:

The City Council has discretion as to how this matter will be handled.

RECOMMENDATION:

Staff and the City Attorney require direction from the City Council regarding this issue. Dependent on direction given, the grant agreement may need to be amended and placed on a future agenda.

SUGGESTED MOTION:

ATTACHMENT:

1. Beach Bagel Cafe-High Tide Kitchen-Lease Subsidy Grant Agreement-Approved-4-28-20
2. Beach Bagel-Build out Grant12020004 - 3344 S. Atlantic Avenue -
3. CC Minutes-March 10-2020
4. hightides pictures of renovation

CITY OF DAYTONA BEACH SHORES/COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT WITH _____

THIS COMMERCIAL LEASE SUBSIDY GRANT AGREEMENT (hereinafter, the "Agreement") is made and entered into this ___ day of_____, 2020, by and between the City of Daytona Beach Shores, Florida, a Florida municipality, whose mailing address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as the "CITY", and Beach Bagel Café of Daytona, LLC, whose address is 3344 S. Atlantic Avenue, Daytona Beach Shores, FL 32118, Daytona Beach Shores, Florida 32118, hereinafter referred to as AGRANTEE@.

WITNESSETH:

WHEREAS, the City Council of the CITY has enacted Ordinance 2019-06 to further its policy objectives of facilitating the establishment of new businesses and the expansion of existing businesses within a targeted geographical area of the CITY, which area consists of underutilized, vacant or abandoned commercial properties; and

WHEREAS, Ordinance 2019-06 authorizes a program of economic incentives designed to attract new businesses, which are presently underrepresented in the CITY, and to locate such businesses in the targeted area of the CITY for the purpose of providing residents and visitors a wider array of goods, services, entertainment and dining options, additional employment opportunities and, at the same time, expand the tax base of the CITY and eradicate vacant, abandoned and underutilized properties; and

WHEREAS, the economic incentives afforded by the ordinance include, but are not limited to, matching grants to new or existing owners of commercial properties and/or

new or existing tenants of commercial businesses in the CITY, subject to specific dollar limits and meeting certain other criteria established by the CITY, which grants may be used for interior buildouts, building façade improvements, structural alterations and/or beautification; and

WHEREAS, an alternative economic incentive in the form of a lease subsidy is also available under the ordinance, subject to specific dollar limits and meeting certain other criteria established by the CITY, to new or existing commercial lease tenants; and

WHEREAS, City Council of the CITY has determined that the investment of public funds in the economic incentive program generally, and in this Agreement in particular, are in the public interest and provide for and accomplish a public purpose; and

WHEREAS, the City Council of the CITY has found and determined that the provisions of this Agreement are consistent with applicable law and implement the provisions of controlling legal authority.

NOW, THEREFORE, in consideration of the terms, provisions and covenants contained herein, the parties hereto do mutually agree as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct, form a material part of this Agreement upon which the parties have relied and are hereby adopted and incorporated by reference herein.

SECTION 2. PURPOSE AND TERM. Subject to the terms and conditions hereinafter set forth, the CITY shall provide a Lease Subsidy Grant to the GRANTEE and the GRANTEE shall, in consideration for the receipt of said grant, continuously operate

Beach Bagel Cafe

(name of business)

located at: 3348 S. Atlantic Avenue, Daytona Beach Shores, FL 32118

for the term of the of this agreement, being 3 years from the date first stated above.

SECTION 3. TERMS AND CONDITIONS FOR PAYMENT OF LEASE SUBSIDY

(A). The CITY shall pay the Lease Subsidy Grant to the GRANTEE under the terms and conditions of this Agreement as follow:

1. The GRANTEE business must be current in the payment of all taxes, fees, special assessments and charges for services owed to the CITY, the City Of Port Orange or Daytona Beach (water), Volusia County, the State of Florida and the US government at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

2. The GRANTEE must not be in default of its obligations to any creditor such as would threaten to, or in fact, cause the discontinuance of the business before the end of this Agreement; and

3. The GRANTEE must not be subject to any pending or threatened mortgage or lien foreclosure or bankruptcy proceedings at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

4. The GRANTEE must not be in violation of any code or ordinance of the CITY or of any State or Federal law or regulation governing the operation of the

business at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

5. The GRANTEE must not engage in any prohibited or nonconforming uses under the code, ordinances or regulations of the CITY or of any law or regulations of the State of Florida and the Federal Government at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement; and

6. The GRANTEE must not engage in any business other than the business for which this Lease Subsidy Grant has been approved by the CITY at the time of application by the GRANTEE for the Lease Subsidy Grant and continuing throughout the term of this Agreement, without the prior written approval of the CITY; and

7. The GRANTEE shall be required to submit such documentation as may be reasonably required by the CITY to verify compliance by the GRANTEE with the terms and conditions of this Agreement prior to payment by the CITY of any Lease Subsidy Grant payment.

8. The GRANTEE shall notify the City Manager if the lease is terminated or if Grantee has received notice of a default from the Landlord.

(B). If the GRANTEE is in violation of any of the above terms and conditions of this Agreement, the CITY shall declare a default and future Lease Subsidy Grant payments suspended pending the cancelation provisions of Section 7 for failure to timely cure the default, if any.

SECTION 4. <u>PAYMENT OF LEASE SUBSIDY GRANT BY CITY TO GRANTEE.</u>

Provided the GRANTEE complies with all terms and conditions of this Agreement AND

(Check the applicable subsidy grant below)

_____ (A) Upon submission of proof of payment of the monthly rent by GRANTEE, the CITY shall pay to the GRANTEE a Lease Subsidy Grant for not more than 3 years and not to exceed a total of $_____ (Note: ordinance cap is $20,000.00) based on the following formula:

1. For the first year of the Lease Subsidy Grant, $_____ monthly rent times ____% (not to exceed 30%) totaling $_____ per month.

2. For the second year of the Lease Subsidy Grant, $_____ monthly rent times____% (not to exceed 20%) totaling _____ per month.

3. For the third year of the Lease Subsidy Grant, $_____ monthly rent times ____% (not to exceed 10%) totaling _____ per month.

_____ (B) Upon submission of proof of payment by the GRANTEE of renovations and/or improvements in the amount of $_____ approved by the CITY to the real property (fixtures), which real property is part of the tenancy of the GRANTEE, the CITY shall pay to the GRANTEE **$20,000** (Note: ordinance cap of $20,000.00 is subject to minimum expenditure by GRANTEE of $40,000.00)

SECTION 5. DISCLAIMER OF THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the formal parties hereto, and no right or case of action shall accrue upon or by reason hereon, to or for the benefit of any third party not a formal party hereto.

SECTION 6. ASSIGNMENT. This Agreement shall be binding on the parties

hereto and their representatives and successors. Neither party shall assign this Agreement or the rights and obligations hereof to any other party.

SECTION 7. DEFAULT.

(A). In the event of default by the GRANTEE or the CITY, the aggrieved party shall be entitled to any and all legal remedies available under Florida law.

(B). The aggrieved party shall give the defaulting party written notice of any defaults hereunder and shall allow the defaulting party thirty (30) days from the date of receipt to cure such defaults. Upon the failure to timely cure the default, the aggrieved party may cancel the Agreement by notice as provided below.

SECTION 8. NOTICES. Any notice required or allowed hereunder shall be in writing and either (1) personally served upon a party, with an affidavit of service from the server or (2) sent by a commercial delivery service, restricted delivery, or (3) by US mail, certified delivery, with return receipt requested, to the designated address set forth below for that party or such other address as a party may specify by a prior written notice delivered in accordance herewith. If a party cannot be served in the manner prescribed above after two attempts, delivery may be accomplished by publication, one time, in a newspaper of general circulation.

SECTION 9. THE GRANTEE'S MANDATORY COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES, AND PUBLIC RECORDS REQUESTS.

In order to comply with Section 119.0701, *Florida Statutes*, public records laws, the GRANTEE must:

(A). Keep and maintain public records that ordinarily and necessarily would be

required by the CITY in order to perform the service.

(B). Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(C). Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(D). Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of the GRANTEE upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

(E). If the GRANTEE does not comply with a public records request, the CITY shall enforce the contract provisions in accordance with this Agreement.

(F). Failure by the GRANTEE to grant such public access and comply with public records requests shall be grounds for immediate unilateral cancellation of this Agreement by the CITY. The GRANTEE shall promptly provide the CITY with a copy of any request to inspect or copy public records in possession of the GRANTEE and shall promptly provide the CITY with a copy of the GRANTEE's response to each such request.

(G). **IF THE GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE**

GRANTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CHERI SCHWAB, CITY CLERK, (386) 763-5353, CSCHWAB@CITYOFDBS.ORG, 2990 SOUTH ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118.

SECTION 10. **SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of the Agreement if the rights and obligations of the parties contained therein are not materially prejudiced and if the intentions of the parties can continue to be affected. To that end, the terms of this Agreement is declared severable.

SECTION 11. **TIME OF THE ESSENCE.** Time is hereby declared essence to the lawful performance of the duties and obligations contained in this Agreement.

SECTION 12. **APPLICABLE LAW/VENUE.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue for any legal proceeding related to this Agreement shall be in the Seventh Judicial Circuit Court in and for Volusia County, Florida.

SECTION 13. **ATTORNEYS FEES.** In the event it becomes necessary to institute legal action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover all out-of-pocket expenses and costs and all reasonable attorneys fees, paralegal fees and associated fees and costs from the date of filing until

the termination of litigation whether incurred at trial, on appeal, or otherwise.

SECTION 14. **NONDISCRIMINATION.** The GRANTEE agrees that it will not discriminate against any business invitee, employee or applicant for employment because of race, color, religion, sex, age, national origin or disability. The GRANTEE, moreover, shall comply with all the requirements of the *Americans with Disability Act*, the regulations of the Federal government issued thereunder, and any and all requirements of State law related thereto.

SECTION 15. **INTERPRETATION.** The CITY and the GRANTEE agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

SECTION 16. **MODIFICATION.** This Agreement may not be amended, changed, or modified, and material provisions hereunder may not be waived, except by a written document, of equal dignity herewith, approved by the City Council of the CITY and the GRANTEE and executed by all parties to this Agreement.

SECTION 17. **ENTIRE AGREEMENT: EFFECT IN PRIOR AGREEMENT.** This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings, and agreements between parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement in the date and year first above written.

ATTEST:

CITY OF DAYTONA BEACH SHORES

_____
Cheri Schwab, City Clerk

_____
Nancy J. Miller, Mayor

_____
Michael T. Booker, City Manager

Approved as to form:

_____
Raymond J. Branch, City Attorney

ATTEST:

By:

_____

_____
, Grantee

12020004

DAYTONA BEACH SHORES ECONOMIC DEVELOPMENT PROGRAM

GRANT APPLICATION

491978

(There is no entitlement to any reward, but the City encourages applications and the opportunity to work with applicants.)

DATE RECEIVED: **REFERENCE:**

RECEIVED
JAN 14 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

(Please Print)

APPLICANT NAME: Beach Bagel Cafe of Daytona LLC
CONTACT PERSON (if an entity): Erision Tahiraj
ADDRESS: 3344 S Atlantic Ave
CITY: Daytona Beach Shores STATE: FL ZIP: 32118
TELEPHONE: 386-341-1039 FAX:
EMAIL ADDRESS: Beachbagelcafe@gmail.com

APPLICANT BUSINESS STRUCTURE:
(Please check all that apply)

- ☐ Sole proprietorship/individual
- ☐ Corporation
- ☒ Limited Liability Company
- ☐ Other

GRANT TYPE:

(Check one only)

Lease Subsidy

- ☐ New Business (Buildout or Lease Subsidy)
- ☐ Existing Business Expansion
- ☐ Existing Business Relocation
- ☐ Existing Business Lease Extension

Other

- ☐ Land Purchase
- ☐ Façade/Beautification
- ☒ Alternative Grant Request

PROJECT SITE INFORMATION:

Address: 3344 S Atlantic Ave

City: Daytona Beach Shores State: FL Zip: 32118

Tax Parcel ID: 533503050030

BASE REAL PROPERTY VALUE:

Most recent City Taxable Value $ 253,987 Year: 2019

Maximum New Investment Value $

Certified by a licensed Florida Engineer or Architect $

PROJECT DESCRIPTION:

PROJECT BENEFITS TO THE CITY:

REQUIRED PROJECT CHECKLIST:

☐ Certification by Applicant

☐ Application Authorization or Affidavit of Ownership

☐ Site plan, building plans, elevations and a detailed scope of work

☐ Business Plan

☐ Estimate by a Licensed Engineer or Architect certifying amount of new investment

☐ Most recent property tax bill and truth in millage statement

3244 S. Atlantic Ave

RECEIVED
JAN 30 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

CERTIFICATION BY APPLICANT

The applicant certifies that all information in this application, and all information furnished in support of this application, is given for obtaining funds from the City of Daytona Beach Shores Economic Development Program and is true and complete to the best of the applicant's knowledge and belief.

If the applicant is not the owner of the property, or if the applicant is an organization rather than an individual, the applicant certifies that he/she has the authority to sign and enter into an agreement to perform the improvements on the property. **Evidence of this authority must be attached**.

Verification of any of the information contained in this application may be obtained from any source named herein.

It is further understood that all information obtained will be held in strict confidence and used for no other purposes by the City of Daytona Beach Shores inconsistent with controlling law. I have received and reviewed the program guidelines prior to submitting this application.

SIGNATURE: Erision Tahiraj DATE: 1/29/2020

PRINTED NAME: Erision Tahiraj

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 29th day of January, 2020 by Erision Tahiraj, who is personally known to me, OR who has produced as identification and did (did not) take an oath.

My commission expires: June 20, 2022

Printed Name:
NOTARY PUBLIC

PAULA SHEPHARD
State of Florida-Notary Public
Commission # GG 202105
My Commission Expires
June 20, 2022

AFFIDAVIT OF OWNERSHIP*

PROPERTY ADDRESS: 3344 S Atlantic Ave
TAX PARCEL ID: 533503050030

Signed and sealed
in the presence of:

WITNESS #1 (Signature)

OWNER (Printed Name)

DEMIR TAHIRAJ

NAME PRINTED

WITNESS #2 (Signature)

OWNER (Signature)

NAME PRINTED

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 14th day of Jan, 2020 by Demir Tahiraj, who is personally known to me, OR who has produced as identification and did (did not) take an oath.

My commission expires: June 20, 2022

PAULA SHEPHARD
State of Florida-Notary Public
Commission # GG 202105
My Commission Expires
June 20, 2022

Printed Name: PAULA SHEPHARD
NOTARY PUBLIC

***NOTE: If more than one owner please provide additional affidavit of ownership for each owner.**

AUTHORIZATION TO APPLY

I, Demir Tahiraj, am the owner of the following described property:

PROPERTY ADDRESS: 3349 S. Atlantic Ave

I do hereby authorize the following named individual or entity to apply for an Economic Development grant and enter into an agreement with the City of Daytona Beach Shores.

AUTHORIZED REPRESENTATIVE:
(IF APPLICABLE) Erision Tahiraj

PROPERTY OWNER (1) (Print Name)

DEMIR TAHIRAJ

PROPERTY **OWNER (2)** (Printed Name)

PROPERTY OWNER (1) (Signature)

PROPERTY OWNER (2) (Signature)

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 14th day of January, 2020 by Demir Tahiraj, who is personally known to me, OR who has produced as identification and did (did not) take an oath.

My commission expires: June 20, 2022

Printed Name: PAULA SHEPHARD
NOTARY PUBLIC

PAULA SHEPHARD
State of Florida-Notary Public
Commission # GG 202105
My Commission Expires
June 20, 2022

Sunbiz.org DIVISION of CORPORATIONS an official State of Florida website

Department of State / Division of Corporations / Search Records / Detail By Document Number /

Detail by Entity Name

Florida Limited Liability Company
BEACH BAGEL CAFE OF DAYTONA LLC

Filing Information

Document Number	L14000183124
FEI/EIN Number	47-2424777
Date Filed	11/26/2014
Effective Date	12/01/2014
State	FL
Status	ACTIVE
Last Event	LC AMENDMENT
Event Date Filed	12/17/2019
Event Effective Date	NONE

Principal Address

3344 S ATLANTIC AVE.
DAYTONA BEACH SHORES, FL 32118

Mailing Address

3344 S ATLANTIC AVE.
DAYTONA BEACH SHORES, FL 32118

Registered Agent Name & Address

Tahiraj, Erision
3344 S ATLANTIC AVE.
DAYTONA BEACH SHORES, FL 32118

Name Changed: 04/10/2019

Address Changed: 04/16/2018

Authorized Person(s) Detail

Name & Address

Title Manager

Tahiraj, Erision
3344 S ATLANTIC AVE.
DAYTONA BEACH SHORES, FL 32118

Annual Reports

Report Year	Filed Date

Report Year	Filed Date
2017	04/27/2017
2018	04/16/2018
2019	04/10/2019

Document Images

12/17/2019 -- LC Amendment	View image in PDF format
04/10/2019 -- ANNUAL REPORT	View image in PDF format
04/16/2018 -- ANNUAL REPORT	View image in PDF format
04/27/2017 -- ANNUAL REPORT	View image in PDF format
04/26/2016 -- ANNUAL REPORT	View image in PDF format
04/30/2015 -- ANNUAL REPORT	View image in PDF format
11/26/2014 -- Florida Limited Liability	View image in PDF format

PROGRAM APPLICATION PROCESS

1. Applicant meets with staff to discuss economic development program and potential project eligibility.
2. Applicant submits a complete application for staff eligibility review.
3. Staff conducts eligibility review and prepares City Council report.
4. City Attorney drafts agreement for City Council consideration.
5. City Council evaluates application, staff report and draft agreement and makes a final determination in approval of the grant and associated terms.

GRANT PAYMENTS ELIGIBILITY AND PROCESS

1. The applicant shall provide make a request in writing and provide firm evidence to the Finance Director that all terms and conditions of the agreement approved by the City Council have been satisfied.

2. Upon review of the evidence provided and legal review, the Finance Director shall provide a recommendation to the City Manager who shall determine whether the applicant has met all terms and conditions of the agreement to the satisfaction of the City.

DAYTONA BEACH SHORES ECONOMIC DEVELOPMENT PROGRAM OVERVIEW

(See Ordinance Number 2019-06)

A. ECONOMIC DEVELOPMENT LAND PURCHASE PROGRAM (LPP):

To encourage the renovation, development, redevelopment and productive use of lands and buildings within the City, the City Council may enter development agreements, which may relate to either City-owned property (an RFP is currently issued for a parcel) or non-City-owned real property. The City shall impose conditions in each development to prevent a buyer purchasing City-owned real property from holding the real property for investment purposes or implementing a flip of the real property. The City's goal is that the real property shall be expeditiously developed in a high quality manner for the benefit of the citizens of the City.

LPP Benefits:

Purchaser of the land may receive a grant of up to a 10% of the purchase price to allow: (1) the purchaser of a **City owned** real property to use the funds to assist in the development of the real property or (2) the purchaser of a **non-City owned** real property to use the funds to assist in the build out of the real property.

City Considerations (There Is No Entitlement To Approval):

1. Development plans must be of high quality.
2. Development plans must enhance high quality economic development of the City.

B. ECONOMIC DEVELOPMENT COMMERCIAL LEASE SUBSIDY PROGRAM (LSP):

This program will provide a subsidy, under appropriate circumstances, to subsidize leases relating to the following: (a) expansion of existing tenancies; (b) new businesses within the City; (c) existing businesses which desire to relocate to a larger space in the City; and (d) businesses which extend a lease for a longer term of at least three (3) years.

LSP Program Benefits:

Over a three (3) year period in order to assist selected businesses to commence economic activity and remain a going concern, leases may be subsidized up to 30% for the first year of the lease, up to 20% for the second year of the lease, and up to 10% for the third year of the lease. The total amount awarded under the lease subsidy program may not exceed $20,000.00.

LSP Program Requirements:

1. Only real property that is assigned a commercial, or similar, zoning classification consistent with the City's *Comprehensive Plan* and that will be used for a nonresidential or mixed use purpose (as set forth in a binding development agreement of development order) are eligible under the Program for lease subsidy assistance.
2. Lease subsidies may be made only to, or for the benefit of, a tenant and may only be used for development and renovations to real property or lease payments as determined by the City Council.
3. Normative lease underwriting criteria and documentation must be satisfied as part of the transaction to protect the City's interests, as determined under the authority and guidance of the Finance Director in conjunction with the City Attorney.
4. Should the grantee cease conducting business on the real property during the term of the lease subsidy; the City's subsidy payments shall cease.
5. The City shall not in any way guarantee any underlying loan or the lease relating to real property and the City does not pledge its full faith and credit to any extent by enacting or implementing this Ordinance and shall not be deemed to have done so to any degree or extent or to be a partner or co-venturer in any way.
6. The lease subsidy applicant must submit documentation to the City detailing the proposed development or renovation to be performed on the real property as well as details concerning the proposed lease and business activities. If approved by the City Council, the City will then issue a letter approving the subsidy subject to normal underwriting criteria as determined under the authority and guidance of the Finance Director in conjunction with the City Attorney.
7. Once the lease subsidy is approved, the applicant must submit full details of the proposed transaction to the City. The amount of the subsidy will then be fixed and the funds will be encumbered and appropriately released from time-to-time. Escrow accounts may be established in conjunction within City accounting systems or under the Finance Director with the City Attorney as needed.
8. The lease subsidy documents shall include, but not be limited to, documents to be filed of record which protect the interests of the City and shall provide that the City Manager must be notified should the real property which is the subject of the lease be sold, transferred, assigned or encumbered in any way or if the lease is terminated or sought to be terminated.

City Considerations (There Is No Entitlement To Approval):

1. Expansion of Existing Tenancies: As solely and exclusively determined by the City Council based upon the economic development needs of the City as determined by the City Council.
2. Existing Business Relocation: Relocation to a larger space will result in enhanced business operations or employment.
3. Lease Extension: (1) Lease is extended for a longer term of at least three (3) years; and (2) extension will result in enhanced business operations or employment.

4. All Types: (a) Number of new jobs created; (b) the desirability of the type of business for the City; and (c) capital investment to be made.

Additional City Considerations for LSP & AGP (There Is No Entitlement To Approval):

The City Council shall evaluate applications based on such criteria as it deems appropriate and in the best interest of the City to include, but not be limited to, the following:

1. Businesses that due to their success will attract other businesses to the City.
2. Renovation and development projects that will spur additional development and private investment.
3. Renovation and development projects that will attract desirable new businesses and create an effective merchandise mix.
4. Renovation and development projects that will have a substantial positive visual and aesthetic impact to the City.
5. Renovation and development projects that will result in filling vacant retail space.
6. Renovation and development projects that will increase real property value(s).
7. Renovation and development projects that will increase employment opportunities within the City.
8. Renovation and development projects that work in favorable concert with other development within the City by providing enhanced activities for the City.

C. ALTERNATIVE GRANT PROGRAM (AGP):

In the event that an owner of real property has engaged in or entered a business relationship in a manner which the City determines is not conducive to a lease subsidy being granted by the City, the City may enter grant agreements with such applicants such as, by way of example, facade or beautification grant agreements. Such grants may be awarded under conditions that address the unique nature of the business arrangement within which context the real property is held, or the business operated. The total amount of the grant under an agreement may not exceed $20,000.00.

City Considerations (There Is No Entitlement To Approval):

1. The City attains substantially or more of the same economic and other benefits that are substantially the same or greater than the City would enjoy under a lease subsidy award.

For additional information, please contact:

Stewart Cruz, AICP
City Planner
Email: scruz@cityofdbs.org
Tel. (386) 763-5361

Project Description

INTRODUCTION

Daytona Beach Shores, a sliver of land between the Halifax River and the Atlantic Ocean, is a unique coastal community with a location that is both a strength and a weakness. While there is no disputing the beauty and pleasures of this natural setting, the narrow band of land severely limits growth of a substantial core of amenities for its large residential and visitor community. Hence development of its public and commercial spaces must be carefully planned. Fortunately, South Atlantic Avenue (Route A1A) from Dunlawton Bridge north to the City's Public Safety building is ripe for friendly commercial development. Our proposal offers a project that will contribute a much needed amenity to the west side of A1A: the transformation of Beach Bagel Cafe into a full service restaurant. With a combination of additional upgraded indoor and outdoor space, streamlined operations, expanded hours and menu, plus a new identity, we can enhance the dining experience for both residents and visitors. Toward that end we are asking for funding from the City of Daytona Beach Shores Economic Development Program to match our investment in undertaking a enhancement of Beach Bagel Cafe. With funding secured we can complete this project in time for the 2020 summer season.

BEACH BAGEL CAFE TODAY

We are a small, family owned cafe. We have been in business since 2013 at 3344 South Atlantic Avenue (the west side of Route A1A), open daily from 7:00 a.m. to 3:00 p.m., offering a variety of breakfast and lunch choices. We also sell authentic New York bagels and various dessert pastries.

Our property consists of an asphalt parking lot and a long narrow building housing the cafe with seating, an open grill, and support space. The parking area, measuring 2000-2500 square feet, accommodates 27 parking spaces, including two spaces for handicapped accessibility. A sign, Beach Bagel Cafe, is located at the driveway entrance. A small patio near the A1A highway offers seating for 8 people.

The interior, approximately 2,000 square feet, has 12 tables and a bar that seats five. The grill and all food preparation are located in full view across from the bar seating. The cash register is set off to the far right away from the entrance. Food preparation and serving staff work in the same area between the bar and grill.

OUR PROPOSAL: TRANSFORMATION TO HIGH TIDE KITCHEN

With support from the City, we propose remodeling and upgrading both interior and exterior spaces to improve workflow, add additional seating, and enhance the overall customer experience. Exterior changes (Attachment A) include repair (or repavement?) of the parking lot as needed, including new curb cuts for handicapped parking and closer access to the entrance. We also propose expansion of the outdoor dining area to create a more inviting outdoor seating area, adding ambiance with a pergola for shade and screening from highway noise and exhaust fumes. We will paint the baby blue mansard to a rustic blue and frame it with the same wood being used for the pergola, giving the restaurant a more unified look. Last, we will locate more visible signage with our new name and color scheme.

In the interior we will improve staff and customer flow by moving the cash register closer to the entrance/reception area. The current work areas for both serving and food preparation staff are in the same narrow space. While we plan to consolidate and continue food preparation in full public view, we will move the service staff access to western corner of the restaurant by installing a new 14ft hood range By streamlining and consolidating functions, we will expedite customer turnover and improve guest experience. We will change the decor to better reflect the rustic charm and vitality of our nautical location and offer additional dining offerings.

These physical changes will allow us to make major operational change as well. We will add dinner service with a menu that will invite residents, visitors, and their families to join us in our kitchen. This addition of hours and tables inside and out will require a staff increase from 8 to 13-15. Further, we intend to increase our marketing, particularly online, with an additional target market— residents of mainland Port Orange, Daytona, and Ormond beach.

WHY WE SHOUD BE SUPPORTED: OUR TRACK RECORD

Since opening Beach Bagel Cafe six years ago, we have seen consistent growth of customers and revenues. With expanded seating, an expanded menu, and expanded hours we expect this transformation to continue that upward trajectory. Our goals for this project are congruent with the City's aim to enhance the west side of South Atlantic Avenue with development of projects that bring new energy, add jobs, and increase revenue for the City. We have been both frugal and persistent in developing our business thus far. We have gotten to know the community and its needs. Our record indicates growing customer support. We will deliberately leave food preparation in full sight, and deliberately add "kitchen" to our name to demonstrate our welcome to our neighbors. We believe scaling upward with a new dining experience will only add satisfied customers seeking a nearby place that welcomes them to relax and feel at home.

Project Benefits to City

- Local oasis mixed with tourist enthusiasm
- Encourage foot traffic in the area
- Expansion of hours offering more choices for the community
- Create jobs and ignite passion
- Enhance the visual appeal of the City
- Extend "locals" reach using social media geo-targeting.
- Ada accessibility improvements
- Marketing efforts to bring more exposure to the city via social media outlets and search engines
- Contribute to the well being of the community by offering fresh foods and a place to gather
- Connect with the community to inspire growth for both of us
- Domino effect on new businesses down the road
- Loyalty programs to keep customers in the community

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HIGH TIDE KITCHEN

CLASSIC DINER + BEACH SIDE VIBE

2020 Business Plan

Executive Summary

Daytona Beach Shores, a sliver of land between the Halifax River and the Atlantic Ocean, is a unique coastal community with a location that is both a strength and a weakness. While there is no disputing the beauty and pleasures of this natural setting, the narrow band of land severely limits growth of a substantial core of amenities for its large residential and visitor community. Hence development of its public and commercial spaces must be carefully planned. Fortunately, South Atlantic Avenue (Route A1A) from Dunlawton Bridge north to the City's Public Safety building is ripe for friendly commercial development. Our proposal offers a project that will contribute a much-needed amenity to the west side of A1A: the transformation of Beach Bagel Cafe into a full service restaurant, rebranded and redesigned into High Tide Kitchen. With a combination of additional upgraded indoor and outdoor space, streamlined operations, expanded hours and menu, plus a new identity, we can enhance the dining experience for both residents and visitors. Toward that end we are asking for funding from the City of Daytona Beach Shores Economic Development Program to assist with our investment in undertaking an enhancement of Beach Bagel Cafe. With funding secured we can complete this project in time for the 2020 summer season.

Company Overview

Located on the beach side of Daytona Beach Shores, we aim at giving our restaurant a look that hasn't been very prevalent in Daytona beach over the years, and will serve to be a breath of fresh air. Our theme will center around a coastal look with industrial accents complimenting. We will stick to our breakfast and lunch hours while also expanding for dinner to meet the requests of the many diners who are unsatisfied with the lack of dinner options in our area. We will remain a table service restaurant as we intend to keep the personal feel that customers have fallen in love with over the years; we believe

that one core value has kept us in business, above the food and service, treating everyone that walks through our doors as family is a value we must never forget and always strive to be better at.

Industry Analysis

For many, the main draw of opening a restaurant on beachside is clear, to capitalize on the influx of tourists coming in and out of Daytona beach. The narrative behind this is evident behind the majority of businesses on beachside, specifically restaurants. The message they display is clear, concise, and to the point. While this has its advantages, it's downfall is that there is no room for a brand to be built, no story behind the business, and nothing for consumers to relate to. It is easy for consumers to forget this business model as soon as they walk out of the door, leaving little room for engagement afterwards. Restaurants in the area display a lack of "dining culture." Our attempt is instead of being just "another restaurant" in the mind of our consumer, we want to give a unique feeling and ambiance not only when customers walk through our doors but also when they walk out. We want to continue to linger on our clienteles minds until it is time for their next visit, the idea is behind the motto "a business can die, but a brand lives forever."

Target Market

We are lucky enough to have a frontage on A1A that exposes us to the majority of traffic on beachside. We are easy to find for consumers, making us a convenient option for customers looking for something along the way. However it would be a fault in our thinking to believe our target market is simply anyone driving by, instead this should be treated as an added bonus. We have and always will be a down to earth family restaurant. Our typical customer is someone who wants a place with a relaxing ambience, coupled with a fantastic meal. A place for friends and family to gather and feel welcome. This can come in the form of a student, a young family, tourists, seniors out for their daily breakfast, and more. Over the years, we've cultivated a following of people from all walks of life, in essence, the average consumer will always choose a place where they can come in and simply enjoy themselves in the company of a staff who treats them like family.

Financial Analysis / Growth Plan

Investment Plan

Initial investment will commence on the exterior, with the construction of a contemporary pergola going over the existing patio area to give the patio a more inviting look with a decorative railing around to enclose and give off a pleasant, comfortable atmosphere. The baby blue mansard will be painted a more rustic blue, to match with the industrial theme of the restaurant, framed with the same wood panels the pergola will be constructed with. Inside, we will be updating many major facets of the restaurant such as new flooring, new ceiling style with exposed ac ductwork, coordinated color and material schemes of walls, new countertop area and service area, new kitchen lay out to improve operations along with updated bathrooms. These changes will be implemented with ADA regulations in mind to have a universal friendly dining establishment.

Finance Trajectory

Going on our 6th year of business, we've been fortunate enough to see increases in sales each year of business we've been through. We've followed tried and trusted principle such as consistency in food quality, attention to detail in service aspects, cleanliness of the restaurant at all time, details that when put together, make a huge difference in output. We are confident in our ability to grow and sustain a business because of these principles, however we are also open to new possibility, and remain flexible on trying new growth tactics, always learning more about how we can improve our guests experience with us. This mindset will guide us forward, and with the support of our community, we truly believe we can set a benchmark for new restaurants coming into the area.

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HIGH TIDE KITCHEN

CLASSIC DINER + BEACH SIDE VIBE

2020 Marketing Plan

SOCIAL MEDIA

Summary of Plan

Social media in a marketing capacity has the ability to reach an unprecedented number of people on a fraction of the cost the traditional direct mail/print marketing can reach. The majority of our marketing will revolve around social media and connecting with our fans and followers, the key here is to engage, not sell. A simple example is the average person scrolling through their facebook feed, it is less likely they stop to take action on an ad trying to sell them a particular product, as they are to stop on a post from a friend of theirs sharing something meaningful to them. This is a broad perspective of our outlook on social media and how we will approach this facet of our marketing, by becoming a friend of our followers, rather than a business, we aim to share engaging content, prompting our followers thoughts and ideas/ reactions. The aim is to stay on top of a guests mind even when they are not within the 4 doors of our restaurant,

Frequency of Posts

- Facebook/ Instagram/ Twitter:
  - We will be posting content on average of minimum 4 times a week.
  - Content will range from food pics, event promos, customer taken photos, contests, polls, new menu additions, customer shout outs, special occasion posts, etc.

Paid Marketing:

Section 2: Explain which channels or platforms will be used in your restaurant marketing. The main difference between paid marketing and organic marketing is the idea that organic marketing results in engagement, paid marketing results in new customers walking through the door, the strategy remains fairly consistent however the key factor in making paid marketing a success is being able to exchange something for a customers point of contact, whether it be a special one time introductory offer for a customers email, the idea is to make an exchange where you can then reach out to the customer on a consistent basis, and attempt to get them through our doors.

- Facebook/ Instagram:
    - Target new customers, predominantly over the bridge in Port Orange, Daytona, and Ormond areas using geographic and characteristics targeting on social media sites like facebook and Instagram. The key is to narrow in on specific demographics to get a sharper conversion.
        - Ex. All facebook members who have Embry Riddle, Palmer Chiropractic, DSC, and Bethune Cookman, among more, listed as their university on facebook, that are located with 5 miles of zip codes 32127, 32114 will have an ad pop up on there newsfeed offering a free desert in exchange for a sign up on our student loyalty program.

Total Budget: $10,000- $15,000

GOOGLE & SEARCH ENGINE ADS

Summary of Plan

Our website will be used as a "homebase" for all of our online marketing efforts, at the very least, the consumer will always have an option to redirect their search right to our website, the key behind google and search engine ads is to give customers the easiest pathway towards finding us.

- Google My Business
  - Currently have 4.5 rating, we push these reviews in-house heavily, encouraging guests to leave reviews about their dining experience with us.
  - Updating our Google page with recent photos is huge as they are likely the first photos customers will see of ours as Google is the most used search engine in todays world.
- Website
  - Optimize website to be user and mobile friendly, with 78% of consumers using the internet on their cellular devices, there is no exception to being mobile friendly.
  - Website app, in an effort to convert more catering and online orders, having an app will make us more accessible to customers.
- Google AdWords and Search Engine Marketing
  - When a consumer googles "breakfast Daytona beach" we want to be the first website to pop up with a direct call to action, such as getting directions or calling in to the restaurant.
  - Using google analytics, we can find the top ten keywords consumers use to find restaurants like ours, utilizing them to show up first when they search will go hand in hand with a consistently built organic reach as well.

Total Budget: $5,000- $6,500

COMMUNITY EVENT SPONSORSHIP & CHARITABLE GIVING

Summary of Plan

Giving back to the community is first and foremost a way of showing respect to the customers who have supported us throughout the years, and are the reason we continue to exist today. Being a locally owned business, when we give back to the community, we are giving to friends and family, neighbors and co-workers. As a thank you to the support our community has shown us, it's imperative we return the gratitude. Also to mention, this is a great way to highlight brand recognition and get our name out to people who may have not heard of us before.

- Community Sponsorship
  - Every year we've sponsored local youth soccer teams in port orange and south Daytona.
  - We will be expanding our sponsorships to go to the schools in our community as well, not just with focus on athletics, but educational programs as well as teacher appreciations events.

Total Budget: $3,000-$4,000

VIDEO

Summary of Plan

The truth is in the facts, video has been proven to engage far more than photos. 60% of consumers say that they engage with video far more than they do with regular photos.

- How does your restaurant's target audience consume video content?
  - Being in the food business, our audience loves seeing the raw, behind the scenes footage of our prep, what goes in to making the food, and serving it.
- How much time and money would it take to produce quality video content?
  - No more than a few hours a week to shoot high quality short clips, the upfront expenditure is the most significant cost impact, however in the long run it is the investment is mitigated by the direct and indirect benefits derived from it.
- Is the return on investment substantial enough to justify video marketing?
  - Yes, as mentioned before, 60% of consumers say they engage with video more so than photos, the trend is only to increase as well.

Total Budget: $500-$1,000

Summary of Plan

While a big portion of our marketing efforts are focused on bringing in guests using external mediums such as social media and email, we've developed a plan to market to customers within our four walls, the advantage this brings is you have more control over their experience where as once a customer leaves your restaurant it becomes more difficult to reengage them.

- Show Appreciation
  - Above all, we must respect the customers decision making process that leads to walking through our doors.
  - Taking into consideration the number of decisions a consumer makes before choosing our restaurant, out of the many they pass on the way to us among the other many options available to diners.
  - We will properly train hosts to greet every guest that walks through our doors, and make an effort to recognize returning customers.
  - Managers should touch each table and do best to recognize returning customers.
  - Focus on the little things, they go a long way with customers, everyone wants to be treated like family.
- Recognize Guest Expectations
  - Guests always make a decision to dine at a restaurant based on some type of criteria.
  - Being a casual restaurant, diners expect a friendly and vibrant atmosphere, good value for their dollar, and a comfortable ambiance.

  It is our job to meet and exceed these expectations.
- Table Tents
  - Table tents will be put on each table to promote menu items
  - Promote engagement
    - Customers will be encouraged to post photos of their experience with us on social media and "tag" us in the photo, the motive is to post at least one customer taken photo on our social media each week.
  - Encourage entry into loyalty program, promote specials and upcoming events.
- Make the Most of Free Wifi

    - Capture guests email information when they log into wifi.
    - Direct guests to restaurants website page after they've logged into wifi
    - Feature marketing messages on login page
    - Add customer to POS connected CRM
- Set Objectives during Pre-Shift Meetings
    - Hold Pre-shift meeting with staff before each shift, go over the day's specials and how to upsell them while interacting with guests.
    - Introduce goal-setting, and introduce contests and prizes for employees who fulfill the days objectives.

Total Budget: $1,000-$2,000

BAYWATER CONSTRUCTION INC
PROPOSAL FOR SERVICES

For Beach Bagel Cafe

491978

December 19, 2019

Proposal by Jeremy J Folmsbee, Project Manager

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OVERVIEW

The following is a proposal for services to update the existing Exterior and Interior of the building at 3344 S. Atlantic Ave., Daytona beach Shores, FL 32118

- Exterior Updates are described as the following
  - Construct Pergola per plans (provided by others)
  - Construct Deck beneath Pergola for designed outdoor seating
  - Construct new Façade and decorative Post features to East and North Elevations
  - Replace existing overhang soffit with decorative wood soffit (selected by owner) and reconfigure soffit lighting and install new lights
- Interior Updates are described as the following
  - Remove existing acoustic ceiling and grid and replace with wood Shiplap ceiling boards
  - Reconfigure and install new lighting per plan
  - Replace existing AC duct with exposed galvanized tube duct (industrial look)
  - Update Interior Finishes per plans

Proposed Labor and Materials cost

Exterior:

Pergola (including foundation footers, PT wood materials. Fasteners and labor) $9, 475.00

Deck (including concrete joists, Composite Deck boards. Fasteners and labor $8,650.00

Mansard roof Façade and Decorative post features (materials and labor) $7,700.00

Soffit (materials and labor) $4,200.00

Interior:

Labor and Materials to replace ceiling and install shiplap approx. 1000 sq ft $7500.00

Mechanical Fees to replace AC duct $3,950.00

Lighting (labor and Material Electrical Subcontractor) $11,400.00 (exterior Lights included)

Interior Finishes per plans and customer selections $$12,760.00

Process Costs:

Permitting and project plan development $2000.00

Debris Removal $2,500.00

Content Manipulation $1750.00

Safety Blockades and Signage $1500.00

Project Management and Contractor O/P (20%) $7300.00

Total Estimated Cost of Proposed Services

$80,687.00

HIGH TIDE KITCHEN

Classic Diner + Beach Side Vibe

Starters

SMOKED SALMON CROSTINI

Baked French Bread slathered with Tzatziki topped with Smoked Norwegian Salmon, Lemon, Red Onion, Capers and Fresh Dill

BATTERED SPICY CAULIFLOWER

Vegan option. Spicy battered mixed with cauliflower, fried to a crisp. Served with cucumber tzatziki sauce.

Dinner

GREEK BURGER

Fresh ground beef seasoned with salt, pepper, garlic and herbs, lathered with homemade tzatziki sauce, topped with feta cheese, olives, red onions, lettuce, and tomato. Served with roasted herb potatoes

SPINACH ARTICHOKE STUFFED CHICKEN

2 Chicken breasts stuffed with our homemade Spinach Artichoke mix. Served with roasted herb potatoes.

GYRO PLATTER

Base of our herb white rice. Comes with your choice of gyro meat or grilled chicken. Topped with feta cheese, tomato, onions, kalamata olives, and tzatziki sauce. Served with roasted herb potatoes.

CHICKEN QUESADILLA

Grilled crispy wrap stuffed with chicken, peppers, onions, tomatoes, homemade sauce and cheese.

HIGH TIDE KITCHEN
CLASSIC DINER + BEACH SIDE VIBE

MINUTES
CITY COUNCIL MEETING
March 10, 2020
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Vice Mayor Richard Bryan, Councilmember Michael Politis
Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney Raymond Branch, Community Services Director Fred Hiatt, City Planner Stewart Cruz, Finance Director Kurt Swartzlander, and Public Safety Director Stephan Dembinsky.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

6. APPROVAL OF MINUTES

A. City Council Minutes Feb. 25, 2020

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MEL LINDAUER to approve the City Council Minutes of Feb. 25, 2020.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

7. CONSENT AGENDA:

A. City Attorney February 2020 invoice

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MEL LINDAUER to approve the consent agenda.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

8. REPORTS OF THE CITY ATTORNEY:

There was no City Attorney report for this agenda.

9. REPORTS OF THE CITY MANAGER:

A. City Manager report March 10, 2020

City Manager Booker reported on the following: staff will meet with Halifax Health officials who anticipate having "bid ready" documents in a week; city staff will begin work on creating a more coherent Economic Development Incentive Ordinance. He recommended suspending any new grant applications. Those currently in the process would be considered. Census meetings will begin starting tomorrow (March 11). There will be a secure computer in the Community Center for residents to use. There is definite interest from the Port Orange Chamber of Commerce to open an annex here in the City. Developer Mark Scharff who had planned on creating apartments south of Dunlawton has withdrawn his applications.

10. OLD BUSINESS:

A. Ordinance 2020-04: Amending the Daytona Beach Shores Land Development Code tree removal exemption provisions for consistency with Sec. 163.045, *Florida Statutes.*

It was explained that this ordinance allows the city to comply with the new state law for tree removal.
COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MEL LINDAUER to adopt Ordinance 2020-04 on second reading.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

11. NEW BUSINESS:

A. Ordinance 2020-01: City of Daytona Beach Shores and Oceans 25, LLC Development Agreement to permit the development of townhomes on the City owned property located at 2900 S. Atlantic Avenue.

City Planner Stewart Cruz provided a brief overview of his staff report. The property is currently under contract to develop 25 town-homes at 2900 S. Atlantic Avenue. The

proposed development agreement would be for two years. The agreement calls for $100,000 from the city for the sewer line relocation. As part of the economic development incentive program, the city will rebate 10% of the purchase price upon issuance of the certificate of occupancy if the project is completed within two years from the closing date. The amount would be $80,100. The development agreement includes three deviations from the Land Development Code. They are: a front yard setback of 15 feet on S. Atlantic Avenue and 10 feet on Ridge Road, there is no commercial component as required by the Mixed Use District and there are no loading zones. The site is limited to only 25 town-homes with a deed restriction requirement. The new renderings were on display. Mr. Cruz stated that staff did recommend approval.

Joe Hopkins spoke for the developer. He stated that the development team listened to the changes that both the council and the residents requested. There are now patios and balconies on the units. The roof line is more developed showing gable roofs. The exterior coatings now have a mix of hardy board and stone. When asked how long construction would take, Mr. Hopkins responded 9 months once the site plan was approved. The Council complimented them on their response to the previous concerns.

Audience member John Hannula explained that he was a retired builder. He felt the site needed to provide more of a landscape buffer along S. Atlantic Avenue. He also was not in agreement with the setback amounts for the structures. Mr. Hopkins explained there was a large utility easement in the front of that building that does not allow and landscaping.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER MEL LINDAUER to approve Ordinance 2020-01 on first reading.

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

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

B. Economic Development Grant Application 12019036: Lynn Jones-Kwik Stop Plaza-3348 S. Atlantic Avenue

City Planner Stewart Cruz explained that the item had been continued from the last meeting. The grant application was submitted on November 25, 2019. The owner would like to repave and re-stripe the parking lot and also install new modern electrical lighting. The minimum bids received totaled $14,795. The grantprogram is capped at $20,000. After a brief discussion, the council was not in favor of businesses utilizing grant funds for what they considered routine yearly property maintenance.

COUNCILMEMBER MEL LINDAUER moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to deny Economic Development Grant Application 12019036 due to the fact it is routine maintenance.

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

Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

C. Economic Development Grant Application 12020003: Eri's Propertys, LLC-3344 S. Atlantic Avenue

City Planner Stewart Cruz began by explaining that the property owner would like to combine both grant applications on the night's agenda. The paving and re-striping component would be removed. Council should only consider the grant to renovate the interior space of the building to transform from Beach Bagel Cafe to High Tide Kitchen, a full service restaurant. The business will extend service hours and hire additional employees. The design also included a new outdoor dining area. The business owner has been working with staff for many months to draft the proposed plans. The renovations will exceed $80,000 but the grant is capped at $20,000. City staff recommended approval of the grant funds.
The Council had a few questions for the business owner but were very impressed with the proposed plans. They looked forward to another option for evening dining.
COUNCILMEMBER MEL LINDAUER moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Approve Economic Development Grant Application 12020004: Eri's Propertys, LLC-3344 S. Atlantic Avenue.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

D. Economic Development Grant Application 12020004: Beach Bagel Cafe of Daytona, LLC-3344 S. Atlantic Avenue

This item was included with the above agenda item.

E. Ordinance 2020-05: An ordinance amending various sections of Chapter 14 (Zoning Regulations) of the Land Development Code relating to outdoor dining.

City Planner Stewart Cruz provided a brief summary of his staff report. If adopted, this would allow properties who are non-conforming to establish dining structures within front and side yard setbacks. The structure would be 400 square feet or less and located no less than three feet from the property line. There are currently two applications that are in the process now. One restaurant wants to construct a pergola for dining and the other wishes to have a pavilion. The Planning & Zoning Board recommended unanimous approval.

COUNCILMEMBER MEL LINDAUER moved, seconded by COUNCILMEMBER MICHAEL POLITIS to approve Ordinance 2020-05 on first reading.

Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5 No = 0).
Yes: Mayor Nancy Miller, Vice Mayor Richard Bryan, Councilmember Richard Frizalone, Councilmember Mel Lindauer, Councilmember Michael Politis

12. COUNCIL COMMENTS:

Mayor Miller explained that she wanted to hold a workshop to amend the current Economic Development Incentive program. Council decided to meet on Friday, March 20 at 2:00 pm. She reminded the audience that the next Coffee with the Mayor was the following day. She advised that the city website was updated with links to the latest information regarding the Corona Virus. CMBR. Frizalone agreed that the development incentive grants needed to be revised. He also stated that he would like all future Development Agreements to first be shown to the Planning & Zoning Board for their recommendation. CMBR. Bryan requested an update on the Treasure Island property. Code Enforcement Coordinator, Gwyn Herstein explained that so far they had not complied with the dates given by the Special Magistrate. The next meeting is March 25th.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Jeremy Stroud explained that he would like to open a new restaurant. He has had successful restaurants in Georgia. He had been speaking with the City Planner and asked the City Council for any advice. Mayor Miller advised him to continue working with City Planner Stewart Cruz.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

discussion on number of members for P & Z board, suspending economic development grant applications

15. ADJOURNMENT:

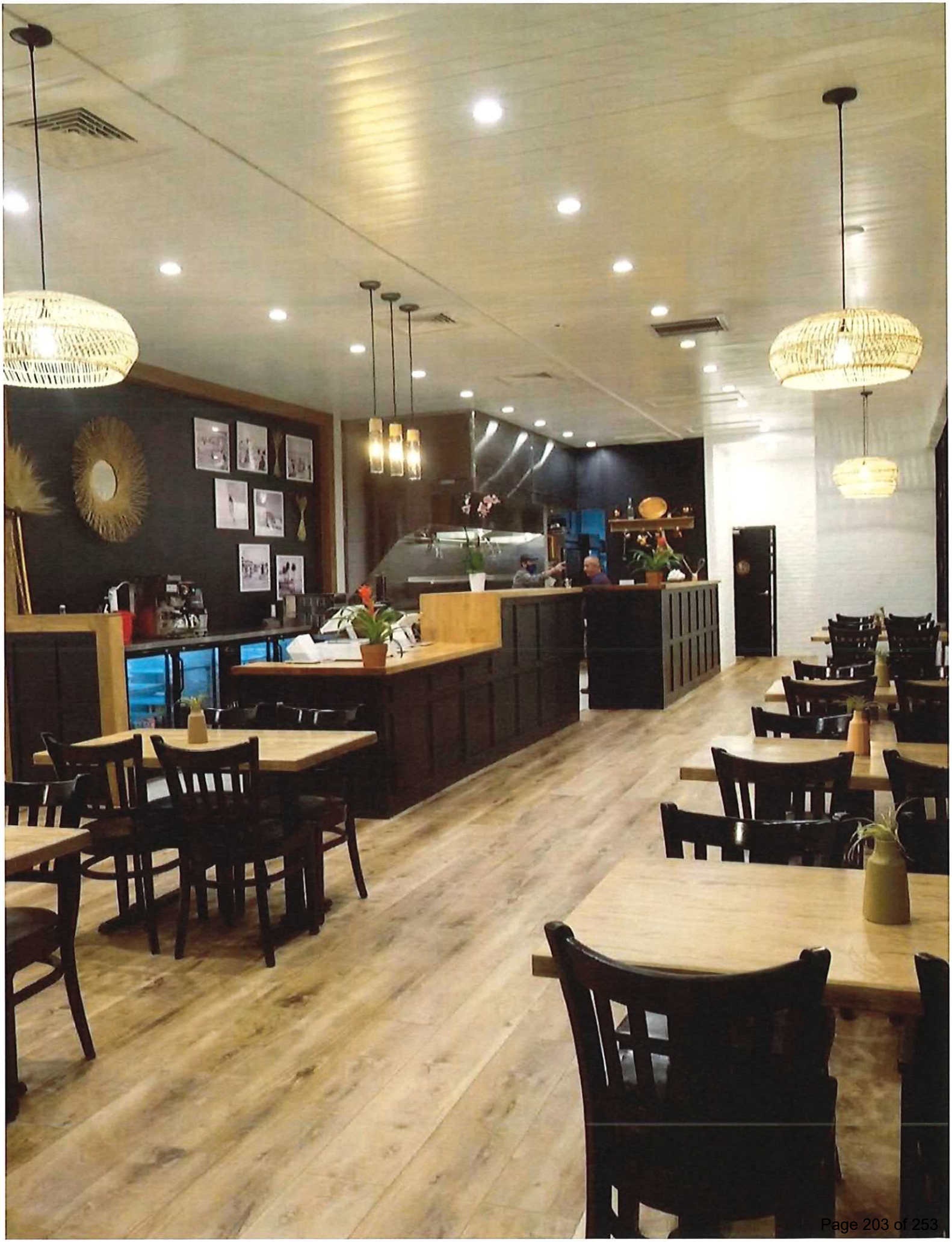
The meeting ended at 7:13 pm.

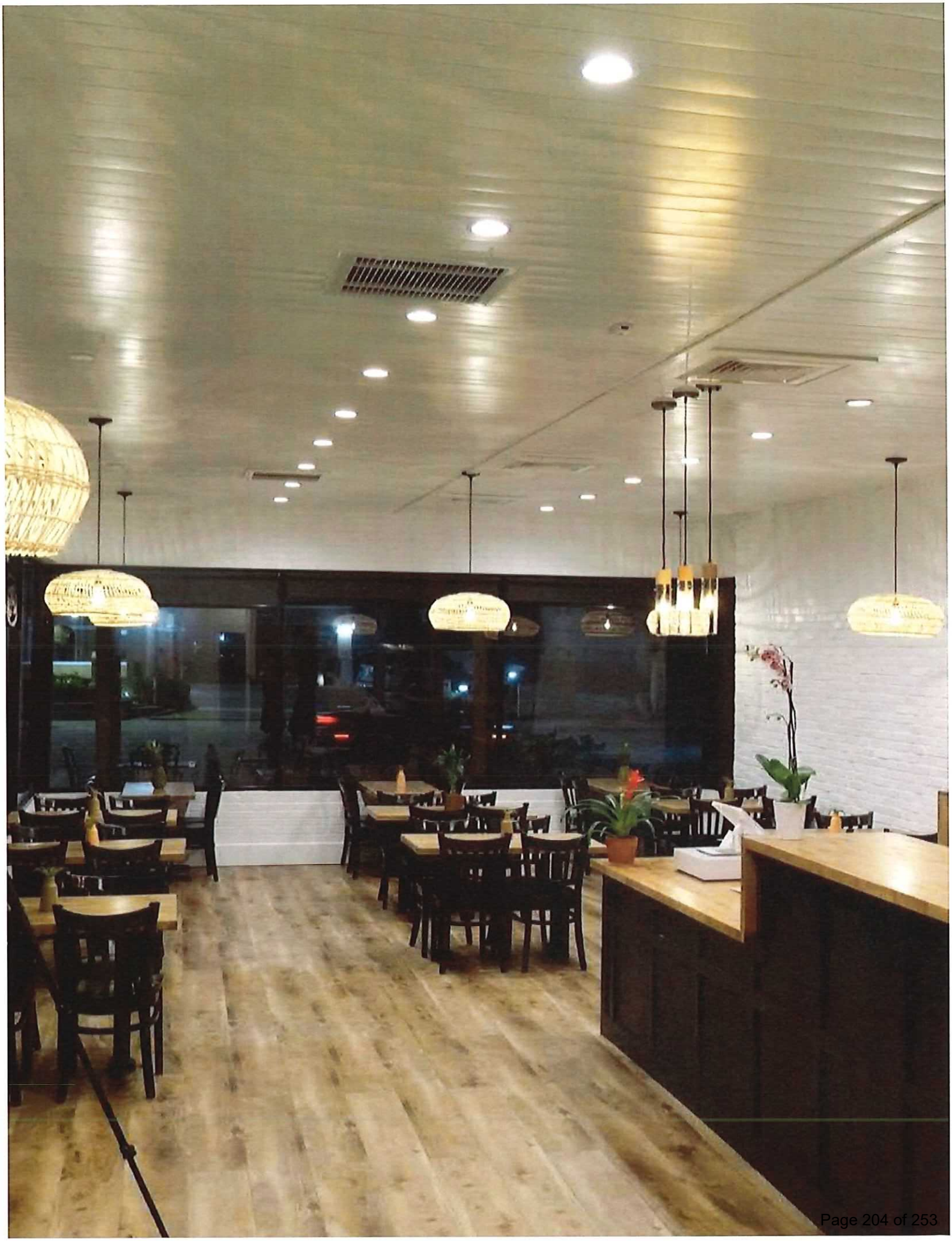
MAYOR
NANCY MILLER

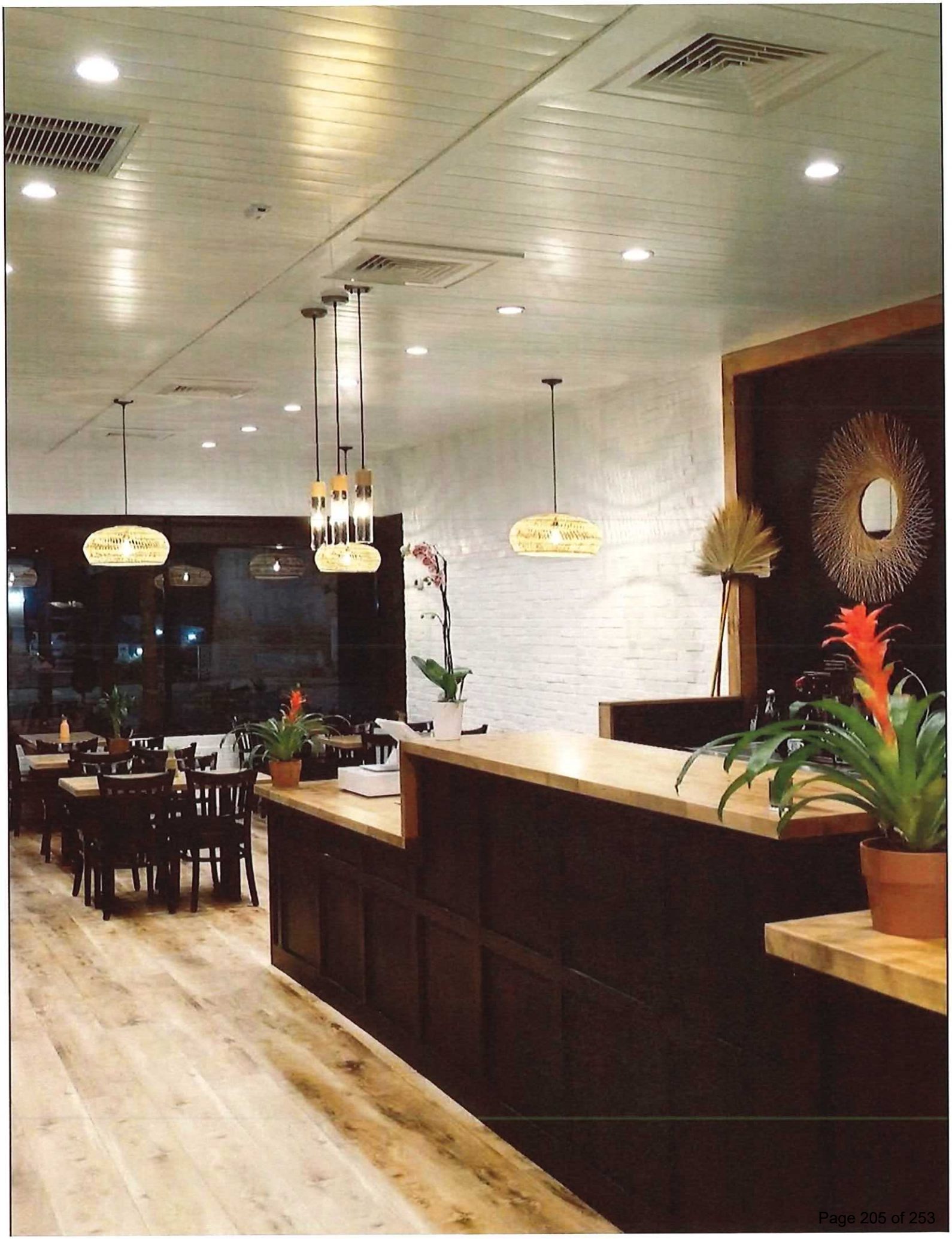
CITY MANAGER
MICHAEL T. BOOKER

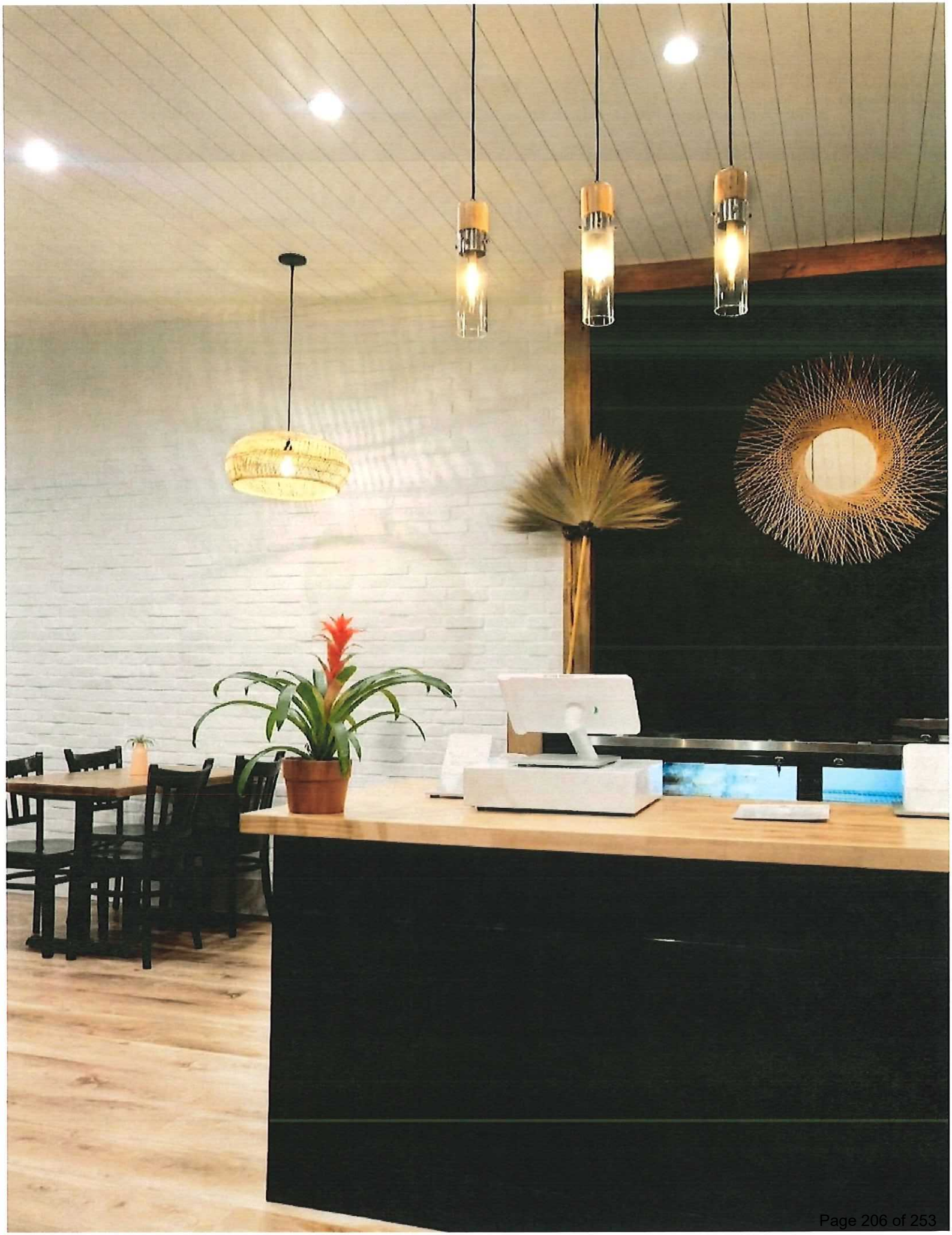
ATTEST:

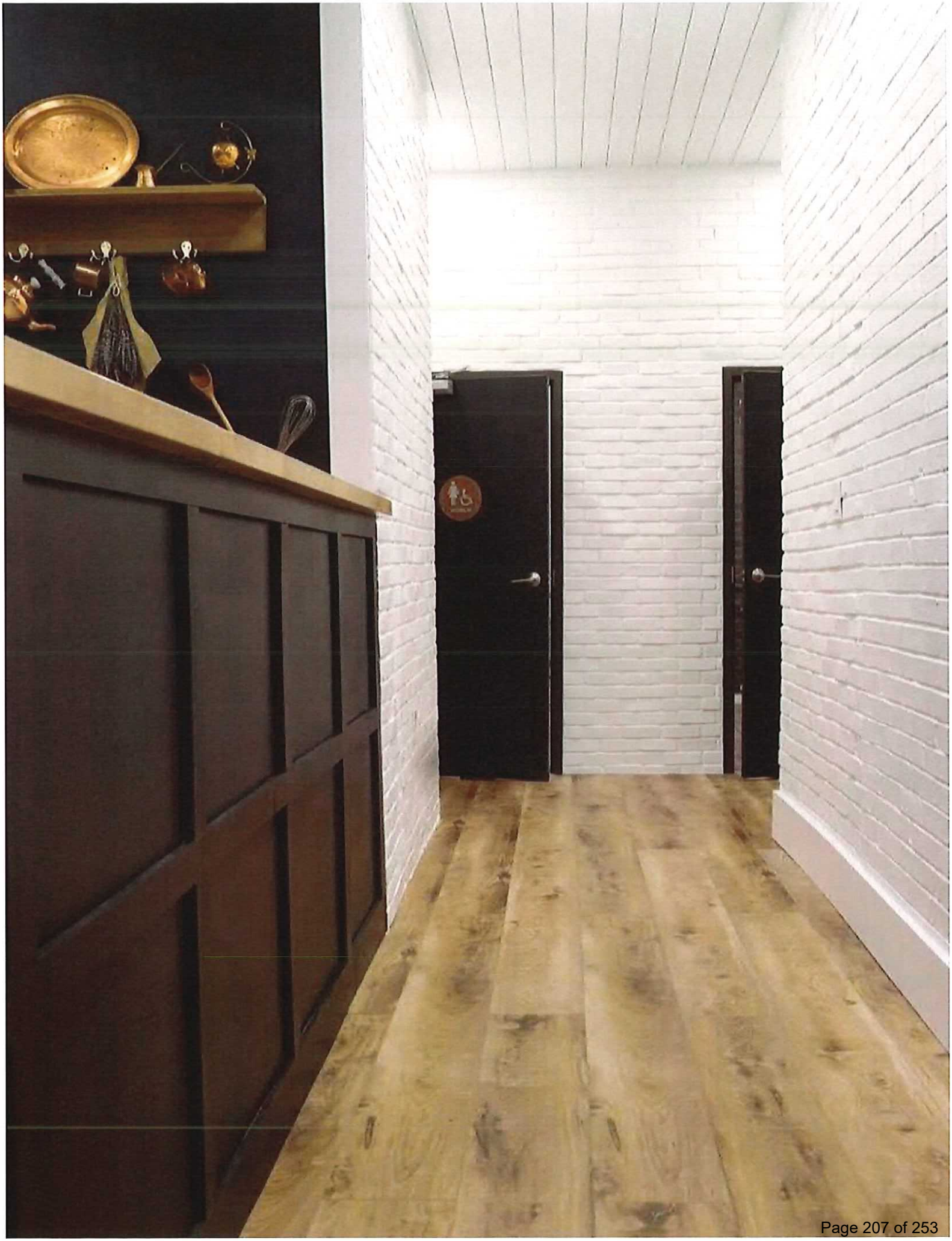
CITY CLERK, CHERI SCHWAB

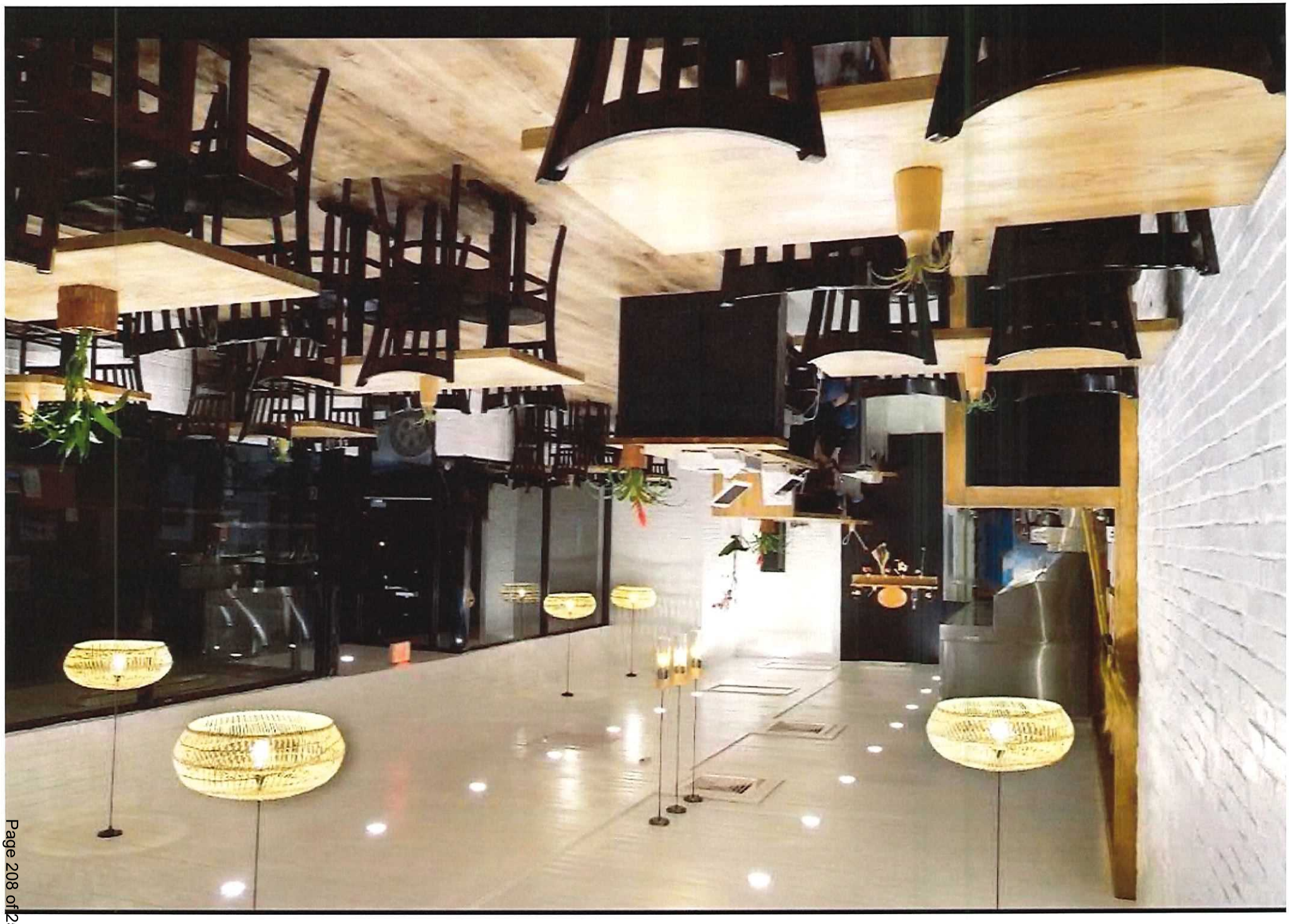












CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Beautification Improvement Grant 12020031: Angels X, LLC, 2006 S. Atlantic Avenue

SYNOPSIS:

On October 2, 2020, Kitty X, LLC submitted a completed Beautification Improvement Grant Application 12020031 (attached) to assist with the cost associated with the painting and pressure cleaning of the external facade of the building housing the "GX, Inc." online retail business located at 2006 S. Atlantic Avenue. The Beautification Improvement Grant Program predated and is not associated with the Economic Development Grant Program. The purpose of the Beautification Improvement Grant Program is to improve the community's overall physical appearance by assisting existing businesses with the costs associated with (1) landscaping/planters, (2) painting, (3) pressure cleaning and (4) awning repair/purchase. This grant program is a 50-50 (dollar for dollar) matching grant capped at $1,000. Due to low demand for the program's grant funds, this fiscal year's budgeted amount is $1,500. The lowest bid provided (MPS Sklare, LLC) totaled $8,000. If approved, the applicant would be eligible for $1,000 in grant funding.

FISCAL IMPACT STATEMENT:

This is a budgeted expenditure.

BACKGROUND:

The Beautification Improvement Grant program eligibility criteria are: (1) business located in the T (hotel/motel), GC-1, GC-2 and GC-RD commercial districts; (2) project must include or more of the following: (a) landscaping/planters, (b) painting, (c) pressure cleaning and (d) awning repair/purchase.

The subject property is located in the GC-RD (General Commercial-Redevelopment) District and houses an existing business. The project scope includes but is not limited to pressure washing, painting and sealing of cracks on the subject building.

LEGAL REVIEW:

This item is approved as to legality.

RECOMMENDATION:

Staff recommends approval of the grant application.

SUGGESTED MOTION:

A City Council Member may motion as follow:

1. "I move to **approve** the subject grant application as presented."

OR

2. "I move to approve the subject grant application with the following conditions..."

OR

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

ATTACHMENT: 1. Beautification Improvement Grant - Kitty X - 2006 S. Altantic Avenue

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RECEIVED
OCT 02 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

RECEIVED
122136
OCT 28 2020
BUILDING AND CODES DIVISION
DAYTONA BEACH SHORES

Received & Completed 10/2

BEAUTIFICATION IMPROVEMENT GRANT PROGRAM
APPLICATION (BUSINESSES ONLY)

APPLICANT NAME*: JoDi Tomlinson for Angels X, LLC

PROPERTY ADDRESS: 2006 S. Atlantic Ave, DBS, FL 32118

PROPERTY ZONING: _____

TELEPHONE NUMBER (DAY) 566-9201 **(EVENING)** (386) 566-9201

EMAIL: jodicalt@yahoo.com

TYPE OF BEAUTIFICATION/IMPROVEMENT PLANNED:

- ☐ Landscaping and planters
- ☒ Painting (all colors to be approved by the City)
- ☒ Pressure Cleaning
- ☐ Awnings (including removal of old awnings and installation of new awnings)

PROJECT PROPOSAL ON IMPROVEMENTS (Attach the following)

1. Summary, including costs from three vendors, of the scope of work.
2. Color photographs clearly showing existing condition of property and all four of the sides of the existing building.
3. Site plans and specifications detailing the scope of work.
4. Samples of all paint colors and awning materials to be used on the buildings and signage.

ESTIMATED TOTAL COST OF PROPOSED IMPROVEMENT: $8,000.00

ESTIMATED AMOUNT OF GRANT ASSISTANCE REQUESTED:** $8,000.00

*If not owner, a notarized affidavit is required.
** Maximum matching City contribution is $1,000

I UNDERSTAND THAT IN ORDER FOR MY REQUEST FOR GRANT FUNDING TO BE APPROVED, I MUST AGREE TO THE FOLLOWING CONDITIONS:

1. To follow the sketch plans and specifications submitted and approved by the City.

2. To adhere to the Application Procedures and Guidelines and the Grant Agreement, as specified.

3. That I shall incur all initial project costs and receive reimbursement only after:
   A. All improvements have been completed.
   B. Final inspection of the improvements was approved.
   C. Proof of payment for project costs have been received.

4. Additional improvements, or changes not approved, will not be funded.

I ACKNOWLEDGE THAT I HAVE RECEIVED, UNDERSTAND AND AGREE TO THE GUIDELINES OF THE BEAUTIFICATION IMPROVEMENT GRANT PROGRAM AND THAT NO WORK SHALL START UNTIL CITY APPROVAL HAS BEEN GRANTED.

Jodi Tamlinson 8-30-2020

APPLICANT'S SIGNATURE (Date)

SIGNATURE: Jodi Tamlinson DATE:

PRINTED NAME: JODI Tamlinson

STATE OF FLORIDA
COUNTY OF VOLUSIA
The foregoing instrument was acknowledged before me this 30 day of August 20 20 by _____, who is personally known to me; OR who has produced _____ as identification and did (did not) take an oath.

ASHLEY QUIER
Commission # HH 019796
Expires July 9, 2024
Bonded Thru Budget Notary Services

Ashley 8-30-20

My commission expires:

NOTARY PUBLIC

DAYTONA BEACH SHORES
BEAUTIFICATION IMPROVEMENT GRANT PROGRAM OVERVIEW

PURPOSE

One of the City's goals is to encourage the overall improvement of the physical appearance of the Community. This can be facilitated by assisting business property owners, and/or tenants, to develop creative and coordinated improvements to their existing property. These physical improvements will also increase the economic base of the City. The purpose of this grant program is to provide a monetary incentive for business property owners who are interested in making an improvement to their property. The beautification improvement grant is a 50-50 (dollar for dollar) matching grant with the City's contribution capped at $1,000.

ELIGIBILITY

All business property owners, and/or tenants with the owner's approval, in the T, GC-1, GC-2, and GC-RD districts, who are interested in improving their existing business property within the City limits of Daytona Beach Shores are eligible. A business is defined as hotel/motels, and other commercial/retail businesses. An eligible applicant may apply for a grant for the following improvements:

- **Landscaping and planters**
- **Painting (all colors to be approved by the City)**
- **Pressure cleaning**
- **Awnings**

GUIDELINES

All improvements must be in compliance with all City codes. All improvements must be discussed and approved by the Director, Community Services Department, or his designee. After-the-fact grants shall not qualify. The beautification improvement grant shall be completed within 90 days of City Council approval.

PROCEDURE

STEP ONE: Submit completed application form to the Community Services Department Director, 2990 S. Atlantic Avenue. The completed application, if eligible, will be submitted to the City Council for funding approval at the next available regular scheduled meeting, typically held on the second or fourth Tuesday of the month at 6:00pm. Completed application submission deadline is 20 days prior to the targeted City Council meeting.

STEP TWO: All work must comply with City building codes and all applicants are responsible for obtaining required permits before beginning any work. All proposed improvements must be approved before beginning any work.

STEP THREE: When the work is completed and paid for, submit all invoices, receipts and/or canceled checks as proof that all services and copies of permits or materials have been paid. Inspections will be done to ensure that all materials purchased and installed conform to the work, which was proposed and was done in a professional manner.

For additional information, contact Fred Hiatt, Director, Community Services Department, at (386) 763-5371.

INVOICE

MPS SKLARE LLC
MIKE SKLARE

330-697-7045
MPSSKLARE@GMAIL

DATE: 8/6/2020

TO 2006 S ATLANTIC AVE.
DAYTONA BEACH,FL 32118

SALESPERSON	P.O. NUMBER	REQUISITIONER	SHIPPED VIA	F.O.B. POINT	TERMS

	DESCRIPTION	UNIT PRICE	TOTAL
	EXTERIOR PRESSURE WASH BUILDING (BLEACH) PREP FOR PAINTING		
	INSPECT FOR STUUCO REPAIRS AS NEEDED THERE ARE A NUMBER OF AREAS BUT WILL KNOW MORE ATFER PRESSUURE WASHING		
	CONDITION AND SEAL EXTERIOR BUILDING		
	PAINTING BODY COLOR WITH ELASTIC PAINT		
	PAINT TRIM		
	PAINT DOORS BLACK		8,000
	PAINT COLORS TBD WILL APPLY SAMPLES FOR FINAL DECISION		
	ALL OTHER MATERIALS INCLUDED ALL WORK DONE WILL HAVE WARRENTY ANY OTHER ADDITIONAL WORK WILL BE DICUSSED BEFORE DOING.		

TOTAL DUE	8,000

Make all checks payable to .. MPS SKLARE LLC
If you have any questions concerning this invoice, contact: MIKE SKLARE

THANK YOU FOR YOUR BUSINESS!

R&J Coatings and Waterproofing, Inc.
401 Brentwood Drive • Daytona Beach, FL 32117
(386) 947-4888 • (800) 800-2827 • (386) 947-4872 Fax
CGC1512120

October 2, 2020

Jodi Tomlinson
2006 South Atlantic Ave
Daytona Beach, Fl. 32118
jodicalt@yaoo.com

Subject: Exterior vertical sheer walls

R & J Coatings and Waterproofing, Inc. proposes to perform as follows:

Scope of Work to be Performed:

1. To prepare and waterproof:
   Exterior vertical sheer walls

2. Prepare and patch all exterior cracks, loose or broken stucco and spalled concrete

3. Areas not to be coated:
   Vinyl soffit
   Light fixtures
   Gutters and down spouts
   Security bars
   Window frames

Specifications:

1.0 General Conditions
   1.1 R & J Coatings and Waterproofing, Inc. shall obtain all permits.
   1.2 R & J Coatings and Waterproofing, Inc. shall provide certificates and maintain the following insurance coverage indemnifying to the stated limit where applicable:

Workers Compensation	Statutory Limits
Bodily Injury	$1,000,000.00
Property Damage	$1,000,000.00

   1.3 All stages, ladders, etc. shall be secured at the end of the workday.
   1.4 R & J Coatings and Waterproofing, Inc. will take special precautions to protect against spills and splatters.

2.0 Preparation:
   2.1 Thoroughly wash with a mixture of one-quart household bleach, one tablespoon non-ammonia detergent and three quarts of warm water or any approved commercially available

mildewcide to remove mildew and/or algae and other pollutants, where necessary. Rinse with clear water.

2.2 Pressure clean (minimum 3000PSI) all exterior stucco wall surfaces, roof structures, and exterior ceiling.

2.3 All locations where peeling of existing coating occurs must be cleaned and damaged coating removed down to a well-adhered bondable surface.

3.0 Crack Repair:

3.1 All cracks less than 1/16 inch are to be detailed with elastomeric patching compound.

3.2 All cracks greater than 1/16 inch and smaller than 3/8 inch are to be routed open to form a 'U' or 'V' shape, dusted clean and packed with a one-part urethane sealant, which shall be forced into the crack to insure adhesion to the inner surface.

3.3 Any cracks greater than 3/8 inch shall be repaired in accordance with acceptable structural repair techniques.

4.0 Concrete Repair:

4.1 Sound testing shall be conducted with a percussion device or chain to indicate the probable extent of delaminated concrete.

4.2 Damaged concrete shall be removed exposing the reinforcing steel and creating a minimum 1/2-inch clearance around the steel.

4.3 Precision removal shall continue until acceptable steel and concrete conditions are encountered.

4.4 Work shall be conducted per the standards of the International Concrete Repair Institute.

4.5 Exposed rebar shall be cleaned of rust and other contaminants by mechanical methods.

4.6 New rebar shall be installed as per industry standards when steel loss limitations have been exceeded.

4.7 Immediately after cleaning, the rebar shall be coated with a rust converter.

4.8 BASF Polymer Modified Structural Concrete (or approved equal) shall be applied to all repair areas as per manufacturer's specifications.

Please note: Concrete restoration is not included in the total project cost, as we are unable to determine quantities and exact scope. Billing shall be at $380.00 per cubic foot of replacement concrete to cover labor and materials.

5.0 Delaminated Stucco:

5.1 Loose or damaged stucco shall be broken out until a sound surface is reached.

5.2 The repair area shall be linked and re-stuccoed to match the existing as closely as possible.

Please note: Stucco repair is not included in the total project cost, as we are unable to determine quantities and exact scope. Billing shall be at $20.00 per square foot of replacement stucco to cover labor and materials.

6.0 Finish Schedule:

6.1 All masonry walls and ceilings to be sealed with Sherwin Williams Loxon Guide Coat white sealer.

6.2 All weather-exposed vertical surfaces shall receive one coat of Sherwin Williams Conflex High Build Elastomeric Coating.

6.3 All masonry walls, ceiling areas, and columns shall receive one coat of Sherwin Williams Superpaint.

7.0 Warranty Inspections:

7.1 A qualified, trained representative from Sherwin Williams shall make inspections at each stage of work (i.e. Pressure washing, application of primer/sealer, crack repair, caulking and application of coating).

7.2 On completion and payment in full, R & J Coatings and Waterproofing, Inc. shall provide a five-year labor and materials warranty. In addition, a five-year manufacturer's warranty shall also be delivered.

8.0 Color Submittal:

8.1 Color selection shall be made by an appointed building representative.

8.2 A sample of final finish shall be prepared on the job site utilizing existing wall surface before job is started.

9.0 Delivery, Storage and Handling:

9.1 All materials delivered to job site in unbroken containers bearing the manufacturer's brand name and/or product name.

9.2 Materials and equipment to be stored at a secured site that is properly ventilated and has been assigned for this purpose by the building manager. All receiving, opening and mixing shall be done in this location.

9.3 R & J shall comply with manufacturer's recommendations as to environmental conditions under which materials can be applied.

9.4 R & J shall protect adjacent surfaces from spills and splatters by using adequate drop cloths, masking, etc. as necessary.

We hereby propose to furnish labor and materials complete in accordance with the above specifications for the sum of: $8,660.00

COMPANY PROPOSAL

Proposed this October 2, 2020 by R & J Coatings and Waterproofing, Inc.

_____

Bob Geary, General Manager

ACCEPTANCE OF PROPOSAL

Accepted on behalf of Jodi Tomlinson

_____ Date _____

_____ Date _____

Color Selected

0827
Ray of Light

*

0828
Go Go Glow

0829
Dandy Lion

S. Atlantic View

North Wall

West Wall

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Beautification Improvement Grant Application 12020030: Angels X, LLC - 2010 S. Atlantic Avenue

SYNOPSIS:

On October 2, 2020, Angels X, LLC submitted a completed Beautification Improvement Grant Application 12020030 (attached) to assist with the cost associated with the painting and pressure cleaning of the external facade of the building housing the "Generation X" body art establishment located at 2010 S. Atlantic Avenue. The Beautification Improvement Grant Program predated and is not associated with the Economic Development Grant Program. The purpose of the Beautification Improvement Grant Program is to improve the community's overall physical appearance by assisting existing businesses with the costs associated with (1) landscaping/planters, (2) painting, (3) pressure cleaning and (4) awning repair/purchase.

The lowest bid provided totaled $13,500 (MPS Sklare, LLC). The grant program is a 50-50 (dollar for dollar) matching grant capped at $1,000. Due to low demand for the program's grant funds, this fiscal year's budgeted amount is $1,500. Therefore, if the preceding Beautification Improvement Grant application on the agenda is fully approved, this application will only qualify for $500.

FISCAL IMPACT STATEMENT:

This is a budgeted expenditure.

BACKGROUND:

The Beautification Improvement Grant program eligibility criteria are: (1) business located in the T (hotel/motel), GC-1, GC-2 and GC-RD commercial districts; (2) project must include or more of the following: (a) landscaping/planters, (b) painting, (c) pressure cleaning and (d) awning repair/purchase.

The subject property is located in the GC-RD (General Commercial-Redevelopment) District and houses an existing business. The project scope includes but is not limited to pressure washing, painting and sealing of cracks on the subject building.

LEGAL REVIEW:

This item is approved as to legality.

RECOMMENDATION:

Staff recommends approval of the grant application subject to funding availability.

SUGGESTED MOTION:

A City Council Member may motion as follow:

1. "I move to approve the subject grant application as presented, subject to funding availability."

OR

2. "I move to approve the subject grant application with the following conditions..."

OR

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

ATTACHMENT: 1. Beautification Improvement Grant - Kitty X - 2010 S. Altantic Avenue

1202030

RECEIVED
OCT 02 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

RECEIVED
OCT 16 2020
122136
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

BEAUTIFICATION IMPROVEMENT GRANT PROGRAM
APPLICATION (BUSINESSES ONLY)

APPLICANT NAME*: JODI Tomlinson for Generation X

PROPERTY ADDRESS: 2010 S. Atlantic Ave, DBS, FL 32118

PROPERTY ZONING: _____

TELEPHONE NUMBER (DAY) 566-9201 (EVENING) (386) 566-9201

EMAIL: jodicalt@yahoo.com

TYPE OF BEAUTIFICATION/IMPROVEMENT PLANNED:

- [ ] Landscaping and planters
- [x] Painting (all colors to be approved by the City)
- [x] Pressure Cleaning
- [ ] Awnings (including removal of old awnings and installation of new awnings)

PROJECT PROPOSAL ON IMPROVEMENTS (Attach the following)

1. Summary, including costs from three vendors, of the scope of work.
2. Color photographs clearly showing existing condition of property and all four of the sides of the existing building.
3. Site plans and specifications detailing the scope of work.
4. Samples of all paint colors and awning materials to be used on the buildings and signage.

ESTIMATED TOTAL COST OF PROPOSED IMPROVEMENT: $13,500.00

ESTIMATED AMOUNT OF GRANT ASSISTANCE REQUESTED**: $13,500.00

*If not owner, a notarized affidavit is required.
** Maximum matching City contribution is $1,000

I UNDERSTAND THAT IN ORDER FOR MY REQUEST FOR GRANT FUNDING TO BE APPROVED, I MUST AGREE TO THE FOLLOWING CONDITIONS:

1. To follow the sketch plans and specifications submitted and approved by the City.

2. To adhere to the Application Procedures and Guidelines and the Grant Agreement, as specified.

3. That I shall incur all initial project costs and receive reimbursement only after:
   A. All improvements have been completed.
   B. Final inspection of the improvements was approved.
   C. Proof of payment for project costs have been received.

4. Additional improvements, or changes not approved, will not be funded.

I ACKNOWLEDGE THAT I HAVE RECEIVED, UNDERSTAND AND AGREE TO THE GUIDELINES OF THE BEAUTIFICATION IMPROVEMENT GRANT PROGRAM AND THAT NO WORK SHALL START UNTIL CITY APPROVAL HAS BEEN GRANTED.

Jodi Tomlinson 8-30-2020

APPLICANT'S SIGNATURE (Date)

SIGNATURE: Jodi Tomlinson DATE: _____

PRINTED NAME: Jodi Tomlinson

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 30 day of August, 20 20 by _____, who is personally known to me, OR who has produced _____ as identification and did (did not) take an oath.

ASHLEY QUIER
Commission # HH 019796
Expires July 9, 2024
Bonded Thru Budget Notary Services

Ashley Quier 8-30-20

My commission expires:

NOTARY PUBLIC

DAYTONA BEACH SHORES
BEAUTIFICATION IMPROVEMENT GRANT PROGRAM OVERVIEW

PURPOSE

One of the City's goals is to encourage the overall improvement of the physical appearance of the Community. This can be facilitated by assisting business property owners, and/or tenants, to develop creative and coordinated improvements to their existing property. These physical improvements will also increase the economic base of the City. The purpose of this grant program is to provide a monetary incentive for business property owners who are interested in making an improvement to their property. The beautification improvement grant is a 50-50 (dollar for dollar) matching grant with the City's contribution capped at $1,000.

ELIGIBILITY

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- **Landscaping and planters**
- **Painting (all colors to be approved by the City)**
- **Pressure cleaning**
- **Awnings**

GUIDELINES

All improvements must be in compliance with all City codes. All improvements must be discussed and approved by the Director, Community Services Department, or his designee. After-the-fact grants shall not qualify. The beautification improvement grant shall be completed within 90 days of City Council approval.

PROCEDURE

STEP ONE: Submit completed application form to the Community Services Department Director, 2990 S. Atlantic Avenue. The completed application, if eligible, will be submitted to the City Council for funding approval at the next available regular scheduled meeting, typically held on the second or fourth Tuesday of the month at 6:00pm. Completed application submission deadline is 20 days prior to the targeted City Council meeting.

STEP TWO: All work must comply with City building codes and all applicants are responsible for obtaining required permits before beginning any work. All proposed improvements must be approved before beginning any work.

STEP THREE: When the work is completed and paid for, submit all invoices, receipts and/or canceled checks as proof that all services and copies of permits or materials have been paid. Inspections will be done to ensure that all materials purchased and installed conform to the work, which was proposed and was done in a professional manner.

For additional information, contact Fred Hiatt, Director, Community Services Department, at (386) 763-5371.

. MPS SKLARE LLC

INVOICE

MPS SKLARE LLC
MIKE SKLARE

330-697-7045
MPSSKLARE@GMAIL

DATE: 8/6/2020

TO 2010 S ATLANTIC AVE.
DAYTONA BEACH,FL 32118

SALESPERSON	P.O. NUMBER	REQUISITIONER	SHIPPED VIA	F.O.B. POINT	TERMS

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	EXTERIOR PRESSURE WASH BUILDING (BLEACH) PREP FOR PAINTING		
	INSPECT FOR STUUCO REPAIRS AS NEEDED THERE ARE A NUMBER OF AREAS BUT WILL KNOW MORE ATFER PRESSUURE WASHING		
	CONDITION AND SEAL EXTERIOR BUILDING		
	PAINTING BODY COLOR WITH ELASTIC PAINT		
	PAINT TRIM		
	PAINT DOORS BLACK		
	PAINT COLORS TBD WILL APPLY SAMPLES FOR FINAL DECISION		
	PRESSURE WASH FRONT SIDEWALK AND ETCH		
	PAINT BENCHES PAINT POLE AND SIGN PAINT SIDEWALK/ADD TEXTURE SPRINKLES PAINT COLOR TBD		

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	DEMO AND INSTALL FLOOR TILE CLOSET AND PAINT TILE PROVIDED BY OWNER INSTALL TWO BATHROOM LIGHTS LIGHTS PROVIDED BY OWNER REMOVE FRONT EXTERIOR DOOR INSTALL NEW SIX PANEL COMPOSITE FRAME AND FIBER GLASS SLAB INSTALL COMMERCIAL GRADE HARDWARE INTERIOR PREP FOR PAINTING IN SECTIONS REPAIR DRYWALL AS NEEDED PREP ALL DOORS FOR SMOOTH FINISH PAINT MAIN ROOM BOARDER THROUGH OUT ALL OTHER MATERIALS INCLUDED ALL WORK DONE WILL HAVE WARRENTY ANY OTHER ADDITIONAL WORK WILL BE DICUSSED BEFORE DOING.		13,500
		TOTAL DUE	13,500

Make all checks payable to . MPS SKLARE LLC
If you have any questions concerning this invoice, contact: MIKE SKLARE

THANK YOU FOR YOUR BUSINESS!

R&J Coatings and Waterproofing, Inc.
401 Brentwood Drive • Daytona Beach, FL 32117
(386) 947-4888 • (800) 800-2827 • (386) 947-4872 Fax
CGC1512120

October 2, 2020

Jodi Tomlinson
2010 South Atlantic Ave
Daytona Beach, Fl. 32118
jodicalt@yaoo.com

Subject: Brick wall facing East

R & J Coatings and Waterproofing, Inc. proposes to perform as follows:

Scope of Work to be Performed:

1. To prepare and waterproof:
   Brick wall facing east "clear sealer"
   Roof top walls previously painted "facing south and west"
   Exterior vertical sheer walls

2. Seal all exterior doors and windows

3. Prepare and patch all exterior cracks, loose or broken stucco and spalled concrete

4. Areas not to be coated:
   Balcony and walkway decks
   Window frames
   Railings
   Perimeter walls
   Doors
   Light Fixtures/Ceiling fans
   Plastic Vents

Specifications:

1.0 General Conditions
   1.1 R & J Coatings and Waterproofing, Inc. shall obtain all permits.
   1.2 R & J Coatings and Waterproofing, Inc. shall provide certificates and maintain the following insurance coverage indemnifying to the stated limit where applicable:

Workers Compensation	Statutory Limits
Bodily Injury	$1,000,000.00
Property Damage	$1,000,000.00

1.3 All stages, ladders, etc. shall be secured at the end of the workday.
1.4 R & J Coatings and Waterproofing, Inc. will take special precautions to protect against spills and splatters.

2.0 Preparation:
2.1 Thoroughly wash with a mixture of one-quart household bleach, one tablespoon non-ammonia detergent and three quarts of warm water or any approved commercially available mildewcide to remove mildew and/or algae and other pollutants, where necessary. Rinse with clear water.
2.2 Pressure clean (minimum 3000PSI) all exterior stucco wall surfaces, roof structures, and exterior ceiling.
2.3 All locations where peeling of existing coating occurs must be cleaned and damaged coating removed down to a well-adhered bondable surface.

3.0 Crack Repair:
3.1 All cracks less than 1/16 inch are to be detailed with elastomeric patching compound.
3.2 All cracks greater than 1/16 inch and smaller than 3/8 inch are to be routed open to form a 'U' or 'V' shape, dusted clean and packed with a one part urethane sealant, which shall be forced into the crack to insure adhesion to the inner surface.
3.3 Any cracks greater than 3/8 inch shall be repaired in accordance with acceptable structural repair techniques.

4.0 Concrete Repair:
4.1 Sound testing shall be conducted with a percussion device or chain to indicate the probable extent of delaminated concrete.
4.2 Damaged concrete shall be removed exposing the reinforcing steel and creating a minimum 1/2 inch clearance around the steel.
4.3 Precision removal shall continue until acceptable steel and concrete conditions are encountered.
4.4 Work shall be conducted per the standards of the International Concrete Repair Institute.
4.5 Exposed rebar shall be cleaned of rust and other contaminants by mechanical methods.
4.6 New rebar shall be installed as per industry standards when steel loss limitations have been exceeded.
4.7 Immediately after cleaning, the rebar shall be coated with a rust converter.
4.8 BASF Polymer Modified Structural Concrete (or approved equal) shall be applied to all repair areas as per manufacturer's specifications.

Please note: Concrete restoration is not included in the total project cost, as we are unable to determine quantities and exact scope. Billing shall be at $380.00 per cubic foot of replacement concrete to cover labor and materials

5.0 Delaminated Stucco:
5.1 Loose or damaged stucco shall be broken out until a sound surface is reached.
5.2 The repair area shall be linked and re-stuccoed to match the existing as closely as possible.

Please note: Stucco repair is not included in the total project cost, as we are unable to determine quantities and exact scope. Billing shall be at $20.00 per square foot of replacement stucco to cover labor and materials.

6.0 Window and Door Openings:
- 6.1 All foreign, loose, or damaged material shall be cleaned from all masonry-to-metal joints.
- 6.2 Masonry-to-metal joints to receive a bead of Sonneborn Ultra Sealant applied to manufacturer's specifications.

7.0 Finish Schedule:
- 7.1 All masonry walls and ceilings to be sealed with Sherwin Williams Loxon Guide Coat white sealer.
- 7.2 All weather-exposed vertical surfaces shall receive one coat of Sherwin Williams Conflex High Build Elastomeric Coating.
- 7.3 All masonry walls, ceiling areas, and columns shall receive one coat of Sherwin Williams Superpaint.

8.0 Warranty Inspections:
- 8.1 A qualified, trained representative from Sherwin Williams shall make inspections at each stage of work (i.e. Pressure washing, application of primer/sealer, crack repair, caulking and application of coating).
- 8.2 On completion and payment in full, R & J Coatings and Waterproofing, Inc. shall provide a five year labor and materials warranty. In addition, a five year manufacturer's warranty shall also be delivered.

9.0 Color Submittal:
- 9.1 Color selection shall be made by an appointed building representative.
- 9.2 A sample of final finish shall be prepared on the job site utilizing existing wall surface before job is started.

10.0 Delivery, Storage and Handling:
- 10.1 All materials delivered to job site in unbroken containers bearing the manufacturer's brand name and/or product name.
- 10.2 Materials and equipment to be stored at a secured site that is properly ventilated and has been assigned for this purpose by the building manager. All receiving, opening and mixing shall be done in this location.
- 10.3 R & J shall comply with manufacturer's recommendations as to environmental conditions under which materials can be applied.
- 10.4 R & J shall protect adjacent surfaces from spills and splatters by using adequate drop cloths, masking, etc. as necessary.

We hereby propose to furnish labor and materials complete in accordance with the above specifications for the sum of: $16,800.00

COMPANY PROPOSAL

Proposed this October 2, 2020 by R & J Coatings and Waterproofing, Inc.

_____

Bob Geary, General Manager

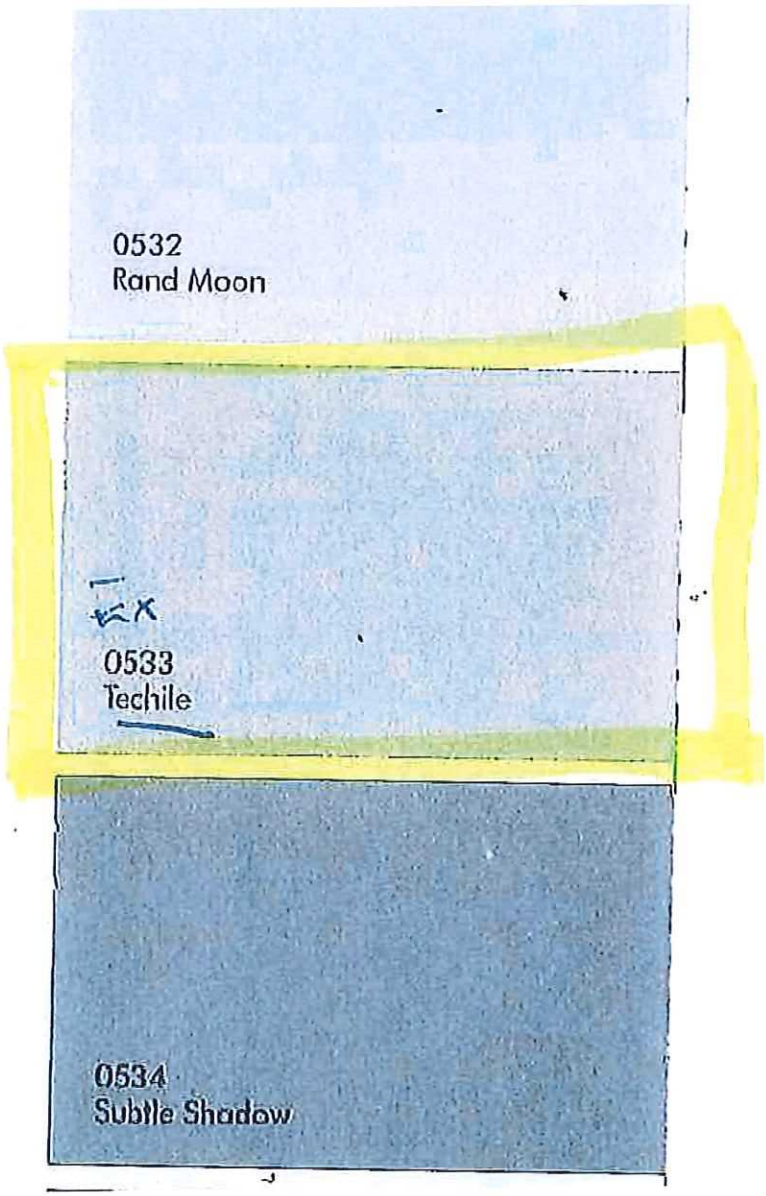
ACCEPTANCE OF PROPOSAL

Accepted on behalf of Jodi Tomlinson

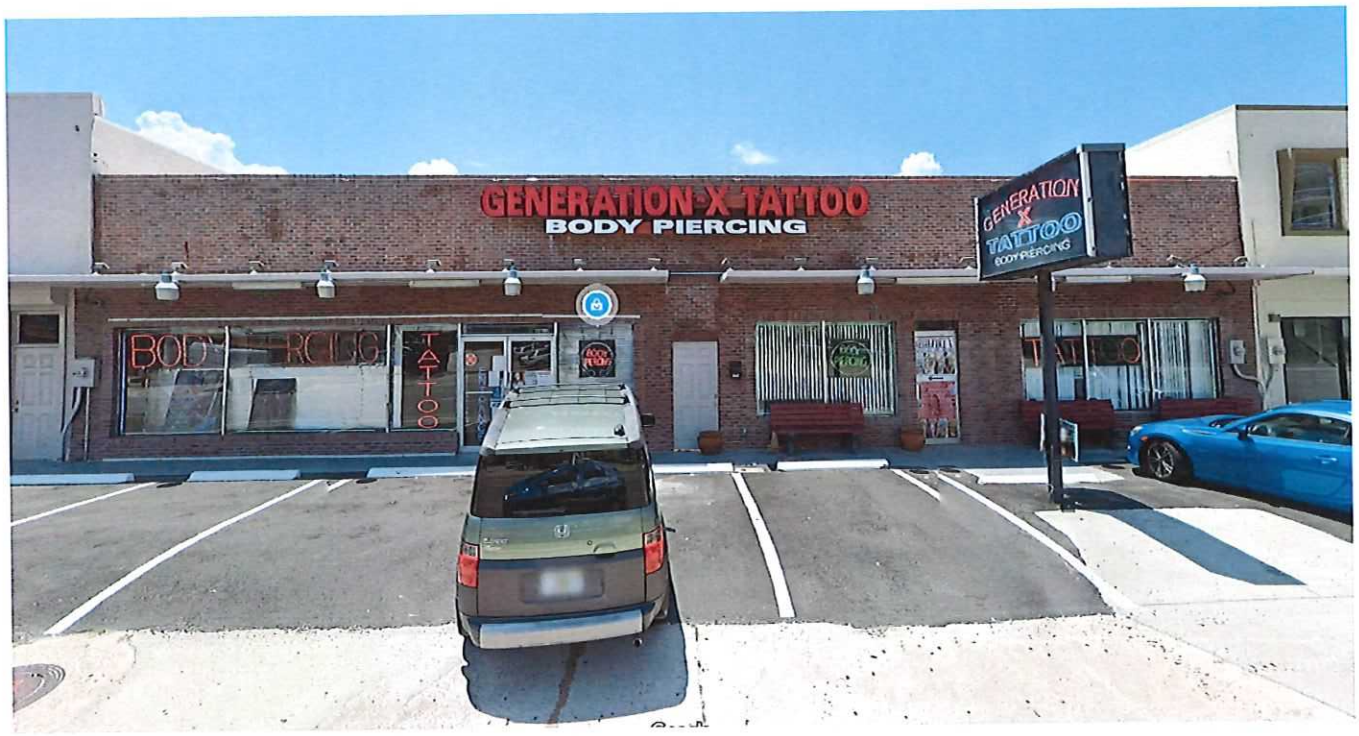
_____ Date _____

_____ Date _____

Exterior Color Selected



S. Atlantic Avenue View



Source: GoogleMaps, 2020

West Wall

Source: GoogleMaps, 2020

CITY COUNCIL AGENDA MEMORANDUM
OCTOBER 27, 2020 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Beautification Improvement Grant 12020029: Kitty X, LLC - 2016 S. Atlantic Avenue

SYNOPSIS:

On October 2, 2020, Kitty X, LLC submitted a completed Beautification Improvement Grant Application 12020029 (attached) to assist with the cost associated with the painting and pressure cleaning of the external facade of the building housing the "Just Relax" retail business located at 2016 S. Atlantic Avenue. The Beautification Improvement Grant Program predated and is not associated with the Economic Development Grant Program. The purpose of the Beautification Improvement Grant Program is to improve the community's overall physical appearance by assisting existing businesses with the costs associated with (1) landscaping/planters, (2) painting, (3) pressure cleaning and (4) awning repair/purchase. The lowest bid provided totaled $12,000 (MPS Sklare, LLC). The grant program is a 50-50 (dollar for dollar) matching grant capped at $1,000. Due to low demand for the program's grant funds, this fiscal year's budgeted amount is $1,500. Therefore, if the two preceding Beautification Improvement Grant applications on the agenda are fully approved, there will not be available funding for this grant application.

FISCAL IMPACT STATEMENT:

This is a budgeted expenditure.

BACKGROUND:

The Beautification Improvement Grant program eligibility criteria are: (1) business located in the T (hotel/motel), GC-1, GC-2 and GC-RD commercial districts; (2) project must include or more of the following: (a) landscaping/planters, (b) painting, (c) pressure cleaning and (d) awning repair/purchase.

The subject property is located in the GC-RD (General Commercial-Redevelopment) District and houses an existing business. The project scope includes but is not limited to pressure washing, painting and sealing of cracks on the subject building.

LEGAL REVIEW:

This item is approved as to legality.

RECOMMENDATION:

Staff recommends approval of the grant application subject to funding availability.

SUGGESTED MOTION:

If funding is available, a City Council Member may motion as follow:

1. "I move to **approve** the subject grant application as presented."

OR

2. "I move to approve the subject grant application with the following conditions..."

OR

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

ATTACHMENT: 1. Beautification Improvement Grant - Kitty X - 2016 S. Altantic Avenue

120200029

RECEIVED
OCT 02 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

122136

RECEIVED
OCT 12 2020
BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

BEAUTIFICATION IMPROVEMENT GRANT PROGRAM
APPLICATION (BUSINESSES ONLY)

APPLICANT NAME*: Jodi Tomlinson for Kitty X, LLC

PROPERTY ADDRESS: 2016 S. Atlantic Ave, DBS, FL 32118

PROPERTY ZONING: _____

TELEPHONE NUMBER (DAY) 566-9201 **(EVENING)** (386) 566-9201

EMAIL: jodicalt@yahoo.com

TYPE OF BEAUTIFICATION/IMPROVEMENT PLANNED:

- [ ] Landscaping and planters
- [x] Painting (all colors to be approved by the City)
- [x] Pressure Cleaning
- [ ] Awnings (including removal of old awnings and installation of new awnings)

PROJECT PROPOSAL ON IMPROVEMENTS (Attach the following)

1. Summary, including costs from three vendors, of the scope of work.
2. Color photographs clearly showing existing condition of property and all four of the sides of the existing building.
3. Site plans and specifications detailing the scope of work.
4. Samples of all paint colors and awning materials to be used on the buildings and signage.

ESTIMATED TOTAL COST OF PROPOSED IMPROVEMENT: $ 12,000.00

ESTIMATED AMOUNT OF GRANT ASSISTANCE REQUESTED:** $ 12,000.00

*If not owner, a notarized affidavit is required.
** Maximum matching City contribution is $1,000

I UNDERSTAND THAT IN ORDER FOR MY REQUEST FOR GRANT FUNDING TO BE APPROVED, I MUST AGREE TO THE FOLLOWING CONDITIONS:

1. To follow the sketch plans and specifications submitted and approved by the City.

2. To adhere to the Application Procedures and Guidelines and the Grant Agreement, as specified.

3. That I shall incur all initial project costs and receive reimbursement only after:
   A. All improvements have been completed.
   B. Final inspection of the improvements was approved.
   C. Proof of payment for project costs have been received.

4. Additional improvements, or changes not approved, will not be funded.

I ACKNOWLEDGE THAT I HAVE RECEIVED, UNDERSTAND AND AGREE TO THE GUIDELINES OF THE BEAUTIFICATION IMPROVEMENT GRANT PROGRAM AND THAT NO WORK SHALL START UNTIL CITY APPROVAL HAS BEEN GRANTED.

Jodi Tomlinson 8-30-2020

APPLICANT'S SIGNATURE (Date)

SIGNATURE: Jodi Tomlinson DATE:_____

PRINTED NAME: JODI Tomlinson

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 30 day of August, 20 20 by_____, who is personally known to me, OR who has produced_____as identification and did (did not) take an oath.

NOTARY PUBLIC STATE OF FLORIDA
ASHLEY QUIER
Commission # HH 019796
Expires July 9, 2024
Bonded Thru Budget Notary Services

Ashley Quier 8-30-20

My commission expires:

NOTARY PUBLIC

DAYTONA BEACH SHORES
BEAUTIFICATION IMPROVEMENT GRANT PROGRAM OVERVIEW

PURPOSE

One of the City's goals is to encourage the overall improvement of the physical appearance of the Community. This can be facilitated by assisting business property owners, and/or tenants, to develop creative and coordinated improvements to their existing property. These physical improvements will also increase the economic base of the City. The purpose of this grant program is to provide a monetary incentive for business property owners who are interested in making an improvement to their property. The beautification improvement grant is a 50-50 (dollar for dollar) matching grant with the City's contribution capped at $1,000.

ELIGIBILITY

All business property owners, and/or tenants with the owner's approval, in the T, GC-1, GC-2, and GC-RD districts, who are interested in improving their existing business property within the City limits of Daytona Beach Shores are eligible. A business is defined as hotel/motels, and other commercial/retail businesses. An eligible applicant may apply for a grant for the following improvements:

- **Landscaping and planters**
- **Painting (all colors to be approved by the City)**
- **Pressure cleaning**
- **Awnings**

GUIDELINES

All improvements must be in compliance with all City codes. All improvements must be discussed and approved by the Director, Community Services Department, or his designee. After-the-fact grants shall not qualify. The beautification improvement grant shall be completed within 90 days of City Council approval.

PROCEDURE

STEP ONE: Submit completed application form to the Community Services Department Director, 2990 S. Atlantic Avenue. The completed application, if eligible, will be submitted to the City Council for funding approval at the next available regular scheduled meeting, typically held on the second or fourth Tuesday of the month at 6:00pm. Completed application submission deadline is 20 days prior to the targeted City Council meeting.

STEP TWO: All work must comply with City building codes and all applicants are responsible for obtaining required permits before beginning any work. All proposed improvements must be approved before beginning any work.

STEP THREE: When the work is completed and paid for, submit all invoices, receipts and/or canceled checks as proof that all services and copies of permits or materials have been paid. Inspections will be done to ensure that all materials purchased and installed conform to the work, which was proposed and was done in a professional manner.

For additional information, contact Fred Hiatt, Director, Community Services Department, at (386) 763-5371.

MPS SKLARE LLC

INVOICE

MPS SKLARE LLC

MIKE SKLARE

330-697-7045
MPSSKLARE@GMAIL

DATE: 8/6/2020

TO 2016 S ATLANTIC AVE.
DAYTONA BEACH,FL 32118

SALESPERSON	P.O. NUMBER	REQUISITIONER	SHIPPED VIA	F.O.B. POINT	TERMS
					Due on receipt

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	EXTERIOR PRESSURE WASH BUILDING (BLEACH) PREP FOR PAINTING		
	INSPECT FOR STUUCO REPAIRS AS NEEDED THERE ARE A NUMBER OF AREAS BUT WILL KNOW MORE ATFER PRESSUURE WASHING		
	CONDITION AND SEAL EXTERIOR BUILDING		
	PAINTING BODY COLOR WITH ELASTIC PAINT		
	PAINT TRIM		
	PAINT DOORS BLACK		
	INTERIOR REMOVE WALLS MOUNTS PAINT SOUTH ROOM WALLS, DOORS, BATHROOM ,CLOSET , AND OFFIC		

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	PAINT COLORS TBD WILL APPLY SAMPLES FOR FINAL DECISION		
	ALL OTHER MATERIALS INCLUDED ALL WORK DONE WILL HAVE WARRENTY ANY OTHER ADDITIONAL WORK WILL BE DICUSSED BEFORE DOING.		12,000
		TOTAL DUE	12,000

Make all checks payable to MPS SKLARE LLC
If you have any questions concerning this invoice, contact: MIKE SKLARE

THANK YOU FOR YOUR BUSINESS!

R&J Coatings and Waterproofing, Inc.
401 Brentwood Drive • Daytona Beach, FL 32117
(386) 947-4888 • (800) 800-2827 • (386) 947-4872 Fax
CGC1512120

October 2, 2020

Jodi Tomlinson
2016 South Atlantic Ave
Daytona Beach, Fl. 32118
jodicalt@yaoo.com

Subject: Reachable exterior vertical sheer walls

R & J Coatings and Waterproofing, Inc. proposes to perform as follows:

Scope of Work to be Performed:

1. To prepare and waterproof:
   Reachable exterior vertical sheer walls "minus south facing wall that cannot be reached"
   East facing wall
   South facing wall*
   North facing wall on roof top
   West facing walls

2. Seal all exterior doors and windows

3. Prepare and patch all exterior cracks, loose or broken stucco and spalled concrete

4. Areas not to be coated:
   Balcony and walkway decks
   Window frames
   Railings
   Perimeter walls
   Doors
   Light Fixtures/Ceiling fans
   Plastic Vents

Specifications:

1.0 General Conditions
   1.1 R & J Coatings and Waterproofing, Inc. shall obtain all permits.
   1.2 R & J Coatings and Waterproofing, Inc. shall provide certificates and maintain the following insurance coverage indemnifying to the stated limit where applicable:
   Workers Compensation Statutory Limits

Bodily Injury	$1,000,000.00
Property Damage	$1,000,000.00

1.3 All stages, ladders, etc. shall be secured at the end of the workday.
1.4 R & J Coatings and Waterproofing, Inc. will take special precautions to protect against spills and splatters.

2.0 Preparation:
2.1 Thoroughly wash with a mixture of one-quart household bleach, one tablespoon non-ammonia detergent and three quarts of warm water or any approved commercially available mildewcide to remove mildew and/or algae and other pollutants, where necessary. Rinse with clear water.
2.2 Pressure clean (minimum 3000PSI) all exterior stucco wall surfaces, roof structures, and exterior ceiling.
2.3 All locations where peeling of existing coating occurs must be cleaned and damaged coating removed down to a well-adhered bondable surface.

3.0 Crack Repair:
3.1 All cracks less than 1/16 inch are to be detailed with elastomeric patching compound.
3.2 All cracks greater than 1/16 inch and smaller than 3/8 inch are to be routed open to form a 'U' or 'V' shape, dusted clean and packed with a one part urethane sealant, which shall be forced into the crack to insure adhesion to the inner surface.
3.3 Any cracks greater than 3/8 inch shall be repaired in accordance with acceptable structural repair techniques.

4.0 Concrete Repair:
4.1 Sound testing shall be conducted with a percussion device or chain to indicate the probable extent of delaminated concrete.
4.2 Damaged concrete shall be removed exposing the reinforcing steel and creating a minimum 1/2 inch clearance around the steel.
4.3 Precision removal shall continue until acceptable steel and concrete conditions are encountered.
4.4 Work shall be conducted per the standards of the International Concrete Repair Institute.
4.5 Exposed rebar shall be cleaned of rust and other contaminants by mechanical methods.
4.6 New rebar shall be installed as per industry standards when steel loss limitations have been exceeded.
4.7 Immediately after cleaning, the rebar shall be coated with a rust converter.
4.8 BASF Polymer Modified Structural Concrete (or approved equal) shall be applied to all repair areas as per manufacturer's specifications.

Please note: Concrete restoration is not included in the total project cost, as we are unable to determine quantities and exact scope. Billing shall be at $380.00 per cubic foot of replacement concrete to cover labor and materials

5.0 Delaminated Stucco:
5.1 Loose or damaged stucco shall be broken out until a sound surface is reached.
5.2 The repair area shall be linked and re-stuccoed to match the existing as closely as possible.

Please note: Stucco repair is not included in the total project cost, as we are unable to determine quantities and exact scope. Billing shall be at $20.00 per square foot of replacement stucco to cover labor and materials.

6.0 Finish Schedule:

6.1 All masonry walls and ceilings to be sealed with Sherwin Williams Loxon Guide Coat white sealer.

6.2 All weather-exposed vertical surfaces shall receive one coat of Sherwin Williams Conflex High Build Elastomeric Coating.

6.3 All masonry walls, ceiling areas, and columns shall receive one coat of Sherwin Williams Superpaint.

7.0 Warranty Inspections:

7.1 A qualified, trained representative from Sherwin Williams shall make inspections at each stage of work (i.e. Pressure washing, application of primer/sealer, crack repair, caulking and application of coating).

7.2 On completion and payment in full, R & J Coatings and Waterproofing, Inc. shall provide a five year labor and materials warranty. In addition, a five year manufacturer's warranty shall also be delivered.

8.0 Color Submittal:

8.1 Color selection shall be made by an appointed building representative.

8.2 A sample of final finish shall be prepared on the job site utilizing existing wall surface before job is started.

9.0 Delivery, Storage and Handling:

9.1 All materials delivered to job site in unbroken containers bearing the manufacturer's brand name and/or product name.

9.2 Materials and equipment to be stored at a secured site that is properly ventilated and has been assigned for this purpose by the building manager. All receiving, opening and mixing shall be done in this location.

9.3 R & J shall comply with manufacturer's recommendations as to environmental conditions under which materials can be applied.

9.4 R & J shall protect adjacent surfaces from spills and splatters by using adequate drop cloths, masking, etc. as necessary.

We hereby propose to furnish labor and materials complete in accordance with the above specifications for the sum of: $27,060.00

FOR INSURANCE PURPOSES:

9020 sq ft for 1st Primer Coat – 30 gallons Primer
9020 sq ft for 2nd coat Elastomeric – 45 gallons of Elastomeric Paint
9020 sq ft for 3rd coat Superpaint – 28 gallons of Superpaint

COMPANY PROPOSAL

Proposed this October 2, 2020 by R & J Coatings and Waterproofing, Inc.

_____

Bob Geary, General Manager

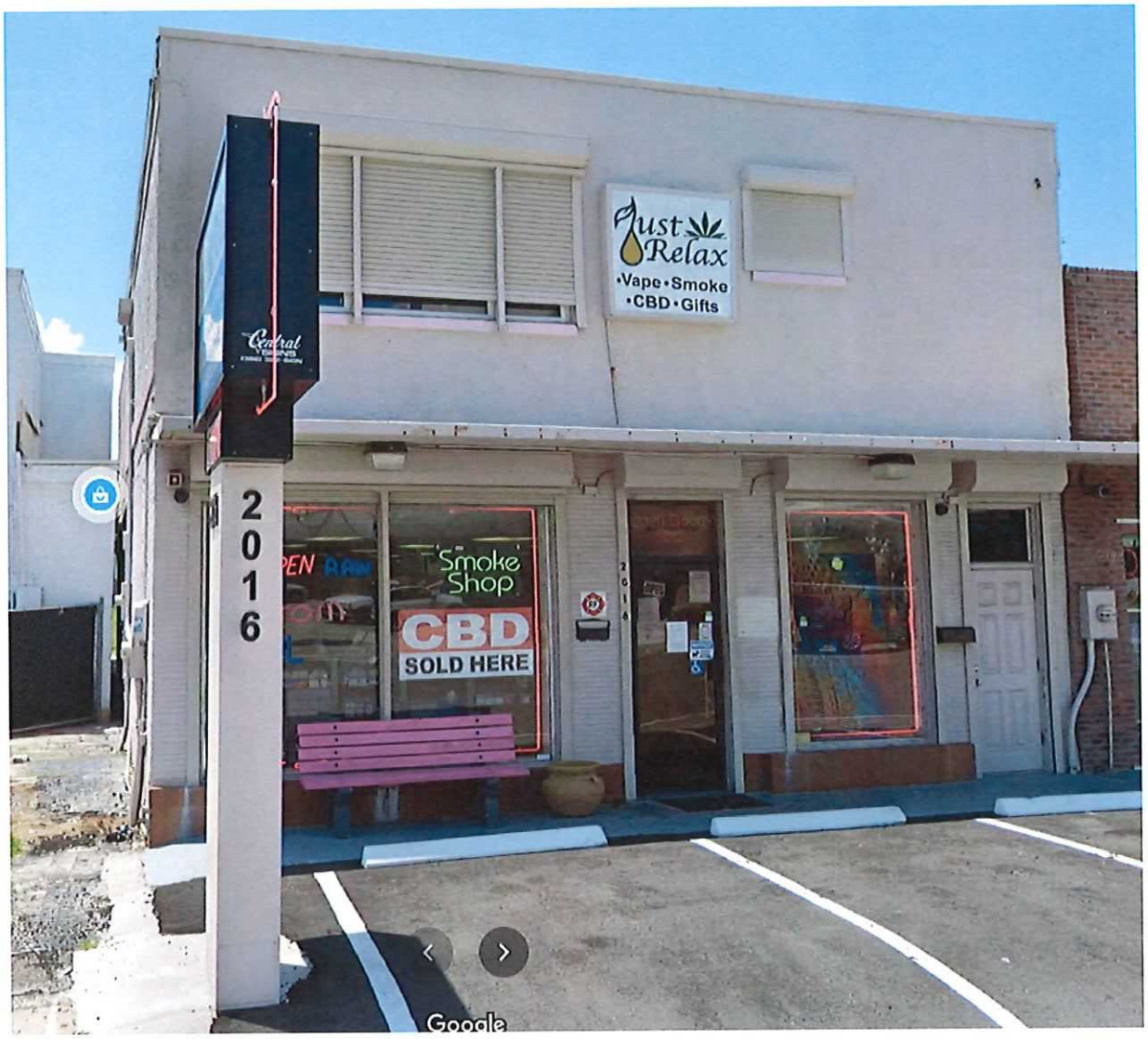
ACCEPTANCE OF PROPOSAL

Accepted on behalf of Jodi Tomlinson

_____ Date _____

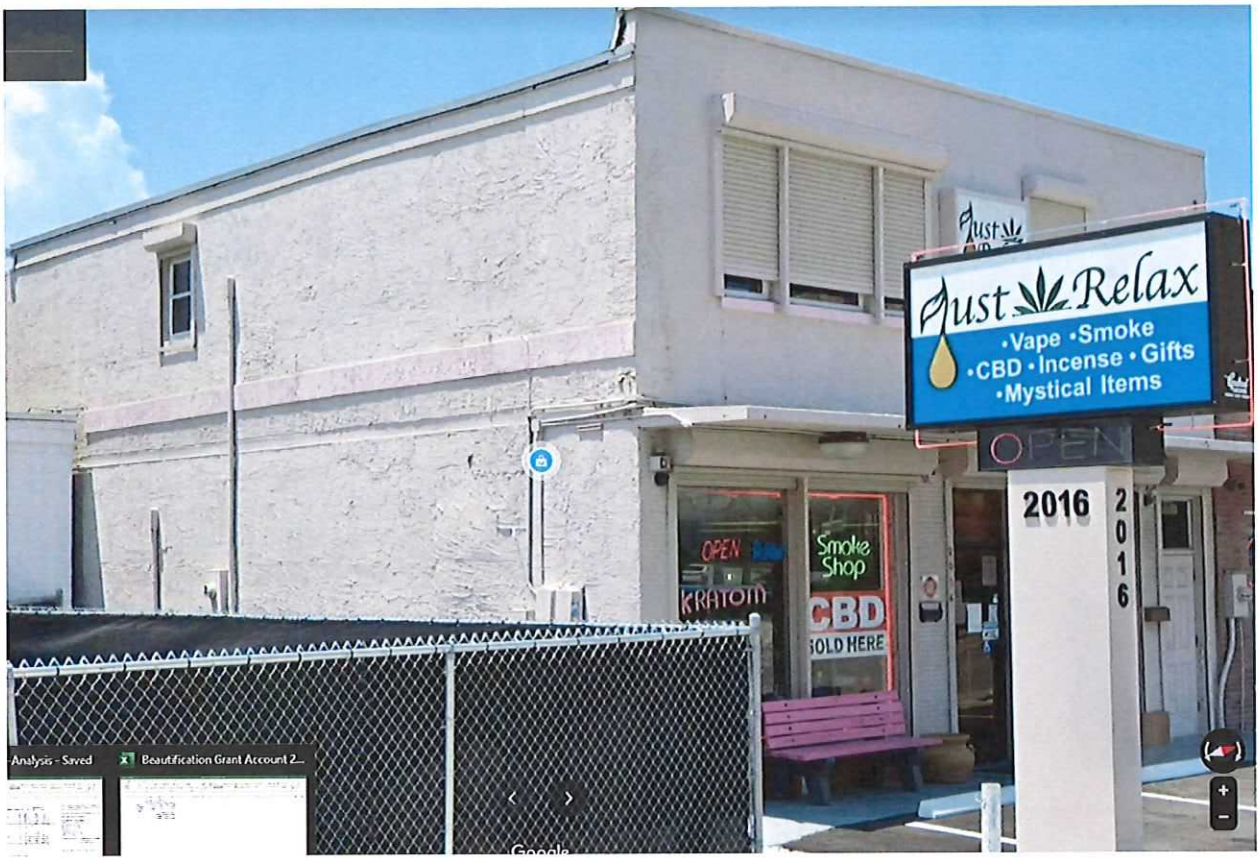
_____ Date _____

S. Atlantic View



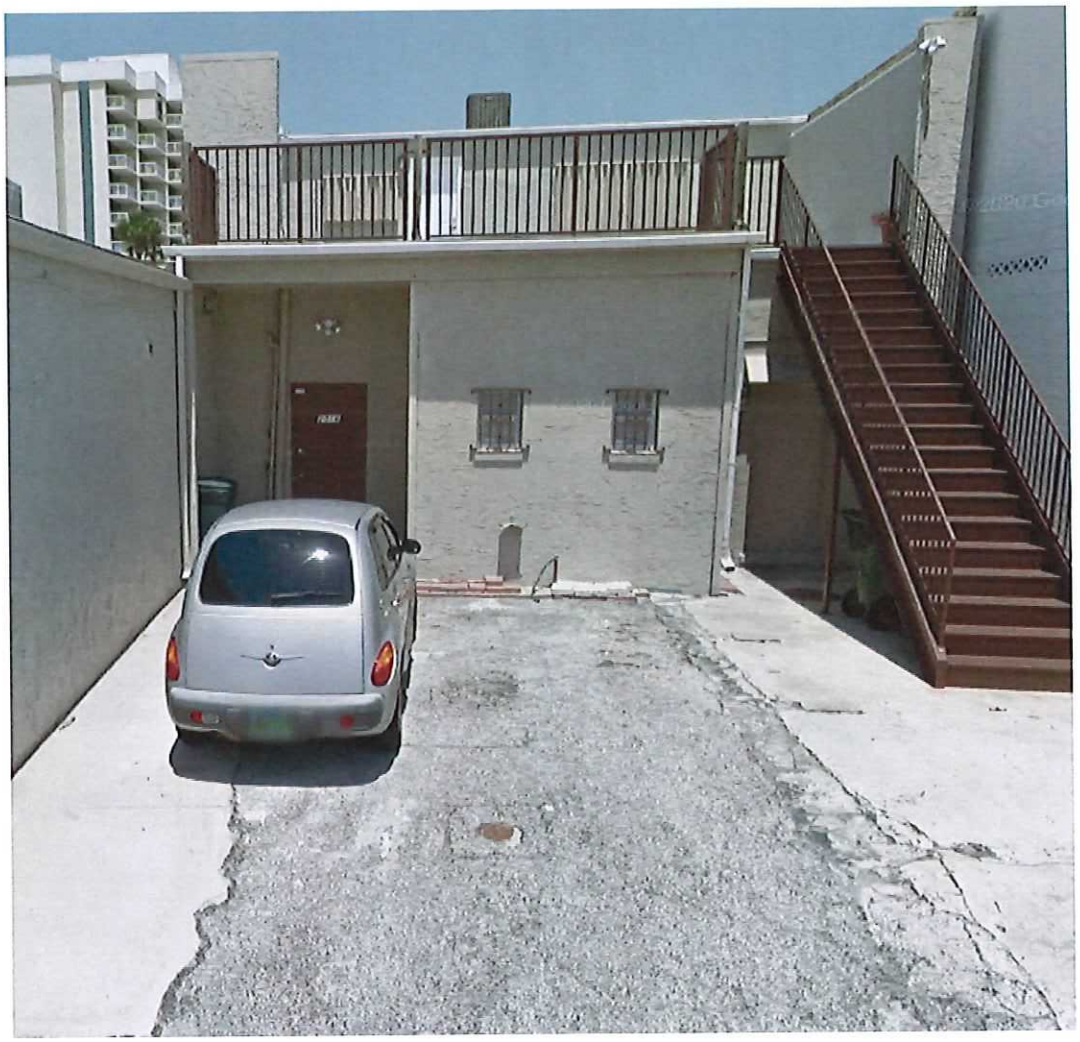
Source: GoogleMaps 2020

Side View (South Wall)



Source: GoogleMaps 2020

West Wall



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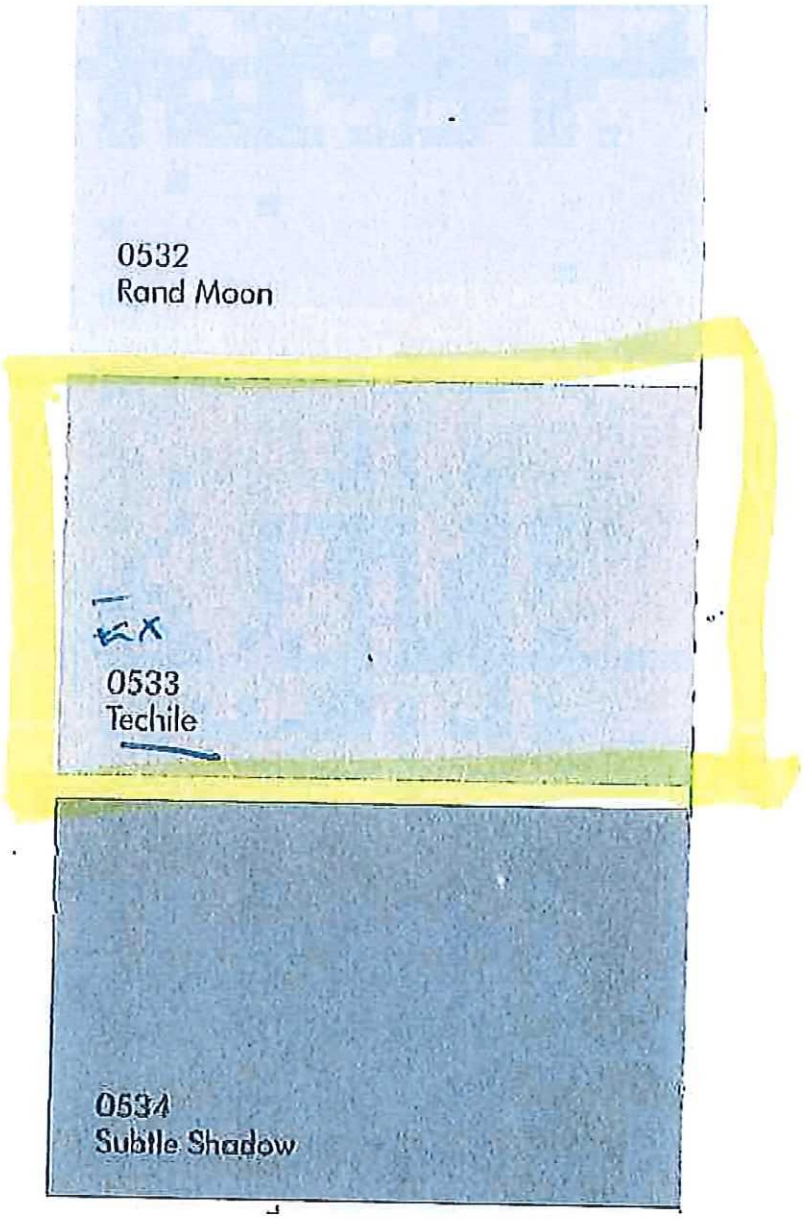
Proposed Color