



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING NOVEMBER 9, 2020

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

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

1. OPENING REMARKS

2. MINUTES

A. Planning & Zoning Minutes October 12, 2020

3. QUASI-JUDICIAL HEARING

4. DISCUSSION ITEMS

A. Ordinance 2020-17 Planning & Zoning Reorganization

B. Refresher on quasi-judicial proceedings

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
October 12, 2020
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Rick Delange, Member Chuck Horion, Chairman John Schmitz, Member Rose Ann Tornatore **Members Excused:** Jim Lilly, Van Alder
Staff: City Clerk Cheri Schwab, Board Attorney John Cary, City Planner Stewart Cruz,

2. MINUTES

A. Planning & Zoning Minutes September 14, 2020

MEMBER RICK DELANGE moved, seconded by MEMBER CHUCK HORION to Approve Planning & Zoning Minutes of September 14, 2020.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick Delange, Member Chuck Horion, Chairman John Schmitz, Member Rose Ann Tornatore

3. QUASI-JUDICIAL HEARING

4. DISCUSSION ITEMS

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

City Planner Stewart Cruz explained that the proposed ordinance would allow an amendment to the Atlantic Avenue Estates Development Agreement from 2016. The original DA allowed for the construction of four residential duplexes with a total of eight units. The proposed amendment would allow the option for single-family residential development, on some or all of the property. The total number of units would not exceed eight. The property owner has requested this amendment due to increasing construction costs and the change in market demand. This project is consistent with both the Comprehensive Plan and LDC.

Staff has reviewed and recommended approval. The ordinance will go before the City Council on October 27th and November 10th. The board held a brief discussion and asked minor questions of the City Planner.

Audience member - Gary Koplan spoke in favor of the project. His only concerns were the location of refuse dumpsters and the proximity of the buildings to his property line.

MEMBER CHUCK HORION moved, seconded by MEMBER RICK DELANGE to recommend approval of Ordinance 2020-13 to the City Council.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick Delange, Member Chuck Horion, Chairman John Schmitz, Member Rose Ann Tornatore

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

City Planner Stewart Cruz explained that the proposed ordinance would remove the background check requirement for fortunetellers, palmist and similar occupations in conjunction with the issuance of a certificate of use. There is no legal requirement for having this background check. 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 a background check on these occupations. This is purely an administrative housecleaning effort. Staff recommended approval.

MEMBER ROSE ANN TORNATORE moved, seconded by MEMBER RICK DELANGE to recommend approval of Ordinance 2020-15 to the City Council.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick Delange, Member Chuck Horion, Chairman John Schmitz, Member Rose Ann Tornatore

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

City Planner Stewart Cruz explained that the proposed Ordinance 2020-16 would amend the LDC off-street parking requirements relative to shared parking. This has been one of the limiting factors in economic development in the city due to the nonconforming nature of commercial properties. Currently, some businesses make parking agreements with their neighbors or they purchase additional property on the west side of S. Atlantic Avenue for extra parking. This is especially difficult for many small businesses. The proposed changes would amend the definition of shopping center that would make it consistent with other chapters in the LDC; amend the combination of off-street parking regulations for businesses with varying peak hours and create an additional method to calculate the overall off-street parking required. The optional method would be one parking space for every 250 square feet of gross floor area of the entire shopping center. The proposed ordinance is consistent with the LDC, the city's comprehensive plan and staff recommends approval.

MEMBER CHUCK HORION moved, seconded by MEMBER RICK DELANGE to Approve Ordinance 2020-16: Updating Shared Off-street Parking Requirements.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 0).

Yes: Member Rick Delange, Member Chuck Horion, Chairman John Schmitz, Member Rose Ann Tornatore

5. OTHER

6. BOARD COMMENTS

Attorney Cary informed the board that he would be providing training at the next meeting.

7. ADJOURNMENT

The meeting ended at 9:36 am.

Cheri Schwab, Recording Secretary

John Schmitz, Chairman



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PLANNING & ZONING BOARD AGENDA MEMORANDUM NOVEMBER 9, 2020 AGENDA

TO: The Members of the Planning & Zoning Board
FROM:
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Ordinance 2020-17 Planning & Zoning Reorganization

SYNOPSIS:

The members of the Planning & Zoning Board would like the number of regular members to return to five.

FISCAL IMPACT STATEMENT:

There is no fiscal impact with this Ordinance.

BACKGROUND:

Last year, the City Attorney at the time, created an Ordinance to reorganize some of the City's Advisory Boards. The Board of Adjustments and Planning & Zoning were combined. At that time, the number of regular members was increased to allow for members of each board. During the past year, it has been difficult to obtain full membership at many meetings. The board would like to see the number reduced back to five regular members and two alternates.

LEGAL REVIEW:

The proposed Ordinance was drafted by Attorney Cary.

RECOMMENDATION:

Staff recommends approving the Ordinance.

SUGGESTED MOTION:

I move to recommend approval of Ordinance 2020-17 to the City Council.

ATTACHMENT: 1. ord 2020-17 PZB reorg

ORDINANCE 2020-17

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO THE MEMBERSHIP, VOTING MAJORITY, AND ALTERNATE MEMBERS OF THE PLANNING AND ZONING BOARD; PROVIDING FOR THE AMENDMENT OF SECTION 14-62 AND SECTION 14-64 OF THE *CITY CODE OF THE CITY OF DAYTONA BEACH SHORES*; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR PROCESSES AND PROCEDURES; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS AND RESPONSIBILITY FOR IMPLEMENTATION; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Daytona Beach Shores as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*, and other applicable controlling law; and

WHEREAS, in this Ordinance, when text is being amended, ~~strikethrough text~~ represents deletions from the current text of the *Code of Ordinances of the City of Daytona Beach Shores* while underlined text represents additions.

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

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS AND INTENT.

(a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) set forth herein as the legislative and administrative findings and intent of the City Council.

(b). The City Council of the City of Daytona Beach Shores hereby reaffirms its

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commitment to being a government that operates “in the Sunshine” for the benefit of its citizens and the general public.

(c). The provisions of this Ordinance are enacted pursuant to the statutory and home rule powers of the City of the City of Daytona Beach Shores to establish and maintain the appropriate operations of City to ensure the utmost engagement of the public in City decision making processes and transparency of actions for the benefit of the public.

(d). The City Council of the City of Daytona Beach Shores appreciates the public service provided by the members of the various City boards, commissions and committees and desires and directs that such bodies operate under normative and consistent administrative processes and procedures and receive the training and support that they require in order to accomplish the role and function of local government assigned to each such body.

(e). The City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

SECTION TWO. AMENDMENT TO SECTION 14-62 AND 14-64, *CODE OF ORDINANCES, APPENDIX G-LAND DEVELOPMENT CODE OF THE CITY OF DAYTONA BEACH SHORES* RELATING TO THE PLANNING AND ZONING BOARD. Sections 14-62 and 14-64 of the *Code of Ordinances, Appendix G-Land Development Code of the City of Daytona Beach Shores* is amended to read as follows:

Sec. 14-62. - Creation of the planning and zoning board.

The city council establishes a planning and zoning board which shall consist of five (5) ~~seven (7)~~ members to be known as "The Daytona Beach Shores Planning and Zoning Board." The jurisdiction of the said planning and zoning board shall be throughout the incorporated areas of the city.

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

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

2. The affirmative vote of a majority of the voting membership present ~~three (3)~~ members shall be required to take any action as to make any recommendation to the city council.

3. Alternate members, as appointed in accordance with sec. 2-8(k) of the Code of Ordinances, shall be required to attend all meetings under the same conditions as regular members, and are subject to removal in accordance with sec. 2-8(e) of the Code of Ordinances if the alternate member has three (3) unexcused absences over a twelve (12) month period.

SECTION THREE: REDUCTION OF BOARD MEMBERS THROUGH ATTRITION.

The planning and zoning board shall remain at its current membership until such time as there is natural attrition through either resignation or end of term without reappointment. If there is a single vacancy caused by attrition, leaving six active members of the board, then an alternate shall be allowed to vote as the seventh member until such time as there is another vacancy. At such time as there are five regular members due to attrition and/or resignations, then the board shall consist of five members, with quorum and majority thresholds adjusted accordingly.

SECTION FOUR: IMPLEMENTING ADMINISTRATIVE ACTIONS.

The City Manager, City Clerk and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance and to provide support, training and guidance to the boards, commissions or committees of the City as such Charter officials may deem appropriate in their respective roles and functions under the *City Charter* and, further, to

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agendize matters before a Code Enforcement Special Magistrate in accordance in accordance with the needs of the City.

SECTION FIVE: SAVINGS; EFFECT OF ORDINANCE.

The prior actions of the City of Daytona Beach Shores in terms of the matters relating to the operations of boards, commissions and committees, within the City of Daytona Beach Shores and any and all actions of the City of Daytona Beach Shores pertaining thereto, as well as any and all related matters and processes and procedures of the City of an associated nature, are hereby ratified and affirmed.

SECTION SIX: CODIFICATION; SCRIVENER'S ERRORS.

(a). The provisions Section Two of this Ordinance be codified while the remaining sections shall not be codified; provided, however, that the Code codifier shall take all actions necessary to implement the provisions of this Ordinance.

(b). 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.

(c). The Code codifier shall, as may be needed, change referenced throughout the *City Code* and *Land Development Code*, as the case may be, from the Board of Adjustments to the Planning and Zoning Board such as, but not limited to, Section 6-10, Section 10-7, Section 14-43, Section 14-76, Section 14-82, and Section 1-5.7 and Section 2-2.

SECTION SEVEN: CONFLICTS.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the

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extent of such conflict such as, but not limited to, Section 5-15.6.

SECTION EIGHT: 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 NINE: 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:

JOHN CARY, CITY ATTORNEY

Passed on first reading this 10th day of November, 2020.

Passed on second reading this 8th day of December, 2020.

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FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Refresher on quasi-judicial proceedings

SYNOPSIS:

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: None