



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING MAY 10, 2021

**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 March 8, 2021

3. QUASI-JUDICIAL HEARING

4. DISCUSSION ITEMS

A. Ordinance 2021-xx: Temporary Promotional Activities Regulation Amendment to Permit Additional Signage Duration for new Businesses.

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
March 8, 2021
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

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

Staff: City Clerk Cheri Schwab, Board Attorney John Cary, Community Services Director Fred Hiatt, and City Planner Stewart Cruz.

2. MINUTES

A. Planning & Zoning Minutes February 22, 2021

MEMBER CHUCK HORION moved, seconded by MEMBER RICK DELANGE to Approve the Planning & Zoning Minutes February 22, 2021.

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

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

3. QUASI-JUDICIAL HEARING

A. Zoning Variance ZV12021003: 2902 S. Peninsula Drive - Vitulano Residential Structure and Pool Waterfront Setback Variance Requests

The Chair opened the public hearing. Several members disclosed that they had driven by the subject property.

City Planner Stewart Cruz provided the background details on the property. It is a single family residence located at 2902 S. Peninsula Drive. The owners wish to demolish the current structure and build a new two story home with a pool. The applicant is requesting the following three variances: to allow a 4.33 foot covered balcony/patio encroachment into the 25-foot waterfront yard setback in lieu of the maximum 3.5 foot allowance; a 10-foot front yard setback in lieu of the required 30-foot setback; and a 15-foot waterfront yard setback in lieu of the required 25-foot setback. All due public notice has been met. The property is unique as it has two waterfronts on both the north and west side. It is the only property in the city that has two waterfront boundaries. The code does not provide for any exemptions for waterfront property on the river. Even though the existing structure is non-conforming, once it is demolished, the new construction must meet the city's codes. Mr. Cruz reviewed the seven criteria that must be met for each variance with the board. It was staff's determination that the criteria was met in full only for the variance on the pool structure. The other two variances

were only partially met.

Attorney Joey Posey spoke for the applicants. He stated that city staff had worked well with the owners. He felt the owners would be penalized for staying within the city's codes and having to lessen the size of their home. The variance for the balcony and patio is strictly to hide the air handlers. The current structure is only four feet from the property line and the new home would be ten feet away. He thought that was an improvement. The board inquired what the square footage of both the old home compared to what was proposed. The current home is 2,800 sq. feet and the proposed would be 3,936 sq. feet. Mr. Lilly inquired how long ago they purchased the property. The response was five years ago. He next asked if the code had been changed in the past five years and the response was that it had not. Ms. Tornatore thought that if the design was scaled down, it could easily meet the parameters of the existing code.

The Chairman asked for any public input.

Ms. Lisa Sbordon, a neighbor located at 2900 S. Peninsula, spoke. Her main concern is that the proposed home would be a 2-story structure that would encroach on her view if placed so close to the northern border of the property. She wants to be sure she can still see the river from her home.

Applicant Deanna Vitulano stated that she felt there would still be a view to the north from the neighbor's home. She further explained that the balcony would cover the air conditioning unit which she considered an eyesore. Attorney Posey explained that the applicant had reworked the footprint a few times and the current plan has the house situated farther back from the water.

The public hearing was closed. Attorney Cary advised that if the board choose, it could accept the variance on the pool structure and ask to continue the remaining two. This would allow the applicant time to re-design the structure and bring it back to the board. Ms. Tornatore again stated that she felt the house could be scaled down to allow the structure to fit within the limits of our code.

MEMBER JAMES LILLY moved, seconded by MEMBER ROSE ANN TORNATORE to Approve the Zoning Variance ZV12021003 of a 15-foot waterfront yard setback for the swimming pool only and to deny the remaining two variances.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 1).

Yes: Member Chuck Horion, Member James Lilly, Chairman John Schmitz, Member Rose Ann Tornatore **No:** Rick Delange

4. DISCUSSION ITEMS

5. OTHER

A. Nomination of Chair and Vice-Chair

Ms. Tornatore nominated John Schmitz for Chair. This was seconded by Mr. Lilly. There were no other nominations and the vote was unanimous.

Mr. Delange nominated Rose Ann Tornatore for Vice Chair. This was seconded by Mr. Lilly. There were no other nominations and the vote was unanimous.

6. BOARD COMMENTS

7. ADJOURNMENT

The meeting ended at 9:15 am.

Cheri Schwab, Recording Secretary

John Schmitz, Chairman



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PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 10, 2021 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2021-xx: Temporary Promotional Activities Regulation Amendment to Permit Additional Signage Duration for new Businesses.

SYNOPSIS:

At its April 13, 2021 City Council meeting, the City Council directed staff to prepare an ordinance that would permit new businesses to have an additional signage duration to be utilized at the time of opening up their businesses. Draft Ordinance 2021-xx does just that through the Temporary Promotional Activity (TPA) Permit process. The ordinance proposes a one-time TPA permit for up to 14 consecutive calendar days for the purpose of signage to announce the opening of a new business. This additional time does not count towards the annual 21 days permitted for typical temporary promotional activities. However, new businesses must utilize this benefit within 90 days of obtaining a Certificate of Use for the new business. The City may reduce or fully rescind said 90-day utilization period if evidence exists that the business began to operate prior to receiving the required Certificate of Use. The signage permitted during this period, as with all TPAs, include two (2) banners no larger than 32 square feet and one (1) temporary promotional accessory no larger than 12 feet in height and 150 cubic feet.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of the proposed ordinance as presented.

SUGGESTED MOTION:

A Board Member may recommend one of the following:

1. "I recommend **approval** of the proposed Ordinance 2021-xx as presented."

OR

2. "I recommend approval of the proposed Ordinance 2021-xx, with the following conditions..."

OR

3. "I recommend denial of the proposed Ordinance 2021-xx as presented, for the following reasons."

ATTACHMENT:

1. 4-13-21 cc minutes (1)
2. Ordinance 2021-XX-TPA-Additional Signage for New Businesses-SC-4-30-21-JC-5-3-21

MINUTES
CITY COUNCIL MEETING
April 13, 2021
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer, Councilmember Michael Politis

Staff: 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 - Cheryl Thibault 15 years

Community Services Director Fred Hiatt presented Cheryl Thibault with a 15-year service award.

6. APPROVAL OF MINUTES

A. City Council Economic Workshop Minutes March 23, 2021

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by COUNCILMEMBER RICHARD BRYAN to Approve the City Council Economic Workshop Minutes of March 23, 2021.

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

Yes: Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer, Councilmember Michael Politis

B. City Council Minutes March 23, 2021

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to approve the City Council Minutes of March 23, 2021.

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

Yes: Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer, Councilmember Michael Politis

7. CONSENT AGENDA:

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report

Attorney Cary reviewed his report for the council and answered any questions they had.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report April 13, 2021

Assistant City Manager/Finance Director Kurt Swartzlander read the City Manager's report for the record. Mayor Miller explained that she would reach out to Bank Of America to speak with someone in their real estate division.

10. OLD BUSINESS:

A. Discussion on Ordinance 2021-02 Micromobility Devices with staff proposals

Community Services Director Hiatt reviewed the proposed changes by staff to the ordinance. The two main changes include not having individual retailers obtain a permit, but instead the parent scooter company would obtain the permit and altering the definition of a retailer to include all hotels.

One of the main concerns of the council was having children operate a scooter without adult supervision. Most felt a valid driver's license should be required to rent a scooter. Attorney Cary explained that the city can only regulate the rental aspect not the operational issues. At this time, the state does not require a license for driving a scooter. CMBR Frizalone suggested that the Mayor reach out to other cities and ask them to require a driver's license to rent a scooter. If all the cities had the same requirement, it could create a safer

environment on the road and sidewalks.

Jared Root, owner of the parent scooter company explained the rental process and what type of safety and training is provided for instruction. All of his scooters are equipped with lights and bells. It is mostly done through a phone app. He advised the council that anyone can buy a scooter at Walmart and the city would have no control over it. He also stated that much of the riding happened at night after the sun goes down. He felt it could be a challenge to stop them at 9:00 pm.

CMBR Politis felt that the City Attorney and staff should work with Mr. Root to revise the ordinance once again. The council would see another draft for discussion before bringing it for second reading.

Audience member Mickey Pederson is owner of Mickey's Hide-Away and would like to be included on a committee to help assist with the ordinance revision. He stated that he rides late at night and has not had any issue.

11. NEW BUSINESS:

A. Consideration to approve the Second Lease Amendment with Halifax Health

Attorney Cary explained that Halifax Health requested an amendment to the current lease agreement. The reason for the amendment was to increase the allotted parking spaces back to 18 as previously requested. Due to a redesign in the parking area, they lost three spaces. This amendment would ensure they have 18 total spaces for both the Urgent Care and Imaging Center. He recommended approval. The center is still on tract to open July 1st.

B. Discussion on outdoor displays

Mayor Miller had previously requested the council to notice any and all flags or banners that were being displayed in front of businesses. The current code prohibits banner displays without a permit. She felt that a new business should be allowed to display a sign of some sort to allow visitors to know that they are open. Her fear was that if a plaza had 3-4 new businesses open at once, it could look distasteful. The remaining council did not have a problem with this new type of display. Staff will make the appropriate code changes and bring it back for council review.

12. COUNCIL COMMENTS:

Mayor Miller spoke on Van Alder's passing over the weekend. She was glad to have known him and worked well with him on the creation of the dog park. She announced her Coffee with the Mayor the following day. CMBR Bryan mentioned the memorial service for Rita Muffachio at the Drive-In Christian Church on Saturday.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Mr. Yuleri who owns a plaza on S. Atlantic Avenue, requested the council to consider a code change to allow a tattoo parlor to open in one of his storefronts. Mayor Miller informed staff to

present the item as a proper agenda item for the next meeting.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

15. ADJOURNMENT:

The meeting ended at 7:37 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

ORDINANCE 2021-XX

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. *General:* A temporary promotional activity, also known as a TPA, shall be limited to promotional activities, exhibits, displays and sales directly and customarily associated with the principal and accessory uses of a business, ~~as determined by the City Manager or his designee,~~ within zoning categories GC-RD, GC-1 and GC-2 commercial districts and T Hotel/Motel District. TPA permits shall only be issued to one (1) tenant space per primary address. Outdoor promotional activities are permitted between the hours of 7am and 10pm subject to the City’s noise regulations. A TPA permit shall not authorize itinerant vending.
2. *Application:* (i) An application shall be submitted to the City Manager, or designee, on the approved form provided by the City. (ii) Applications shall be submitted at least ten (10) days prior to the start of the requested TPA. (iii) Fees established by the City Council shall be paid in full at the time of application submission. (iv) Applications shall contain a site sketch exhibit indicating dimensions, tent capacity, egress and location and placement of all TPA components relative to all buildings and structures, parking and property lines. (v) TPA permits may only be obtained by the business owner. (vi) TPA shall be authorized by the property owner.
3. *Transfers:* TPA permits shall not be transferable.
4. *Duration:* Temporary promotional activities shall not exceed 21 days per calendar year for any business tenant space with a primary address, excepting that the owner of a newly opened business in the city may obtain an additional, one-time TPA permit for up to 14 consecutive calendar days for the purpose of signage, pursuant to subsection 11 of this section, announcing the opening of such business, if utilized within 90 days of obtaining a Certificate of Use for the new business. The City may reduce or fully rescind said 90-day utilization period if evidence exists of the business operating before a required Certificate of Use was obtained. A TPA permit shall be issued for a minimum of three (3) days.

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:

JOHN CARY, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2021.

Adopted on second reading this _____ day of _____, 2021.