



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING JUNE 8, 2021

**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 May 25, 2021
- 7. CONSENT AGENDA:**
 - A. Forfeiture expenditure request

8. REPORTS OF THE CITY ATTORNEY:

- A. City Attorney Report

9. REPORTS OF THE CITY MANAGER:

- A. City Manager Report June 8, 2021

10. OLD BUSINESS:

- A. Ordinance 2021-06: Temporary Promotional Activity Amendment to allow new businesses to have additional signage at the time of opening.

11. NEW BUSINESS:

- A. Ordinance 2021-03: Voluntary annexation of unincorporated Volusia County property located at 2924 S. Peninsula Drive
- B. Ordinance 2021-07: Permitting counseling services as an accessory use to churches in the "P - Public/Quasi Public" Zoning District
- C. Consideration to cancel July 13, 2021 City Council meeting

12. COUNCIL COMMENTS:

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

14. QUASI-JUDICIAL HEARING

15. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

16. 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.

MINUTES
CITY COUNCIL MEETING
May 25, 2021
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Mayor Nancy Miller, Vice Mayor Mel Lindauer, Councilmember Richard Bryan, Councilmember Richard Frizalone, 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, Recreation Director Nancy Maddox 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. Mayor Nancy Miller Certificate of Completion for IEMO II

City Manager Michael Booker presented Mayor Miller with a Certificate of Completion for attending IEMO II in April. Mayor Miller stated that CMBR Richard Bryan was a Home Rule Hero award recipient from the Florida League of Cities.

6. APPROVAL OF MINUTES

A. City Council Minutes May 11, 2021

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to Approve the City Council Minutes of May 11, 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:

- A. March Public Safety Report
- B. April Public Safety Monthly Report
- C. Community Services April, 2021 Report
- D. Building Division April, 2021 Report

COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Approve the consent agenda.

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

8. REPORTS OF THE CITY ATTORNEY:

- A. City Attorney Report

Attorney John Cary reviewed his submitted report to the council.

9. REPORTS OF THE CITY MANAGER:

- A. City Manager Report May 25, 2021

City Manager Michael Booker read his report for the record. He also noted that city staff would be meeting with County representatives to discuss park maintenance. Mayor Miller requested an update on the FPL charging stations. Finance Director Kurt Swartzlander explained that all the documents were signed and staff is waiting on FPL to schedule the installation.

10. OLD BUSINESS:

11. NEW BUSINESS:

- A. Special Exception Extension Request by WD Plaza, LLC - 2200 S. Atlantic Ave:
Request is for a one year extension of an existing Concession Parking Ancillary Facility

City Planner Stewart Cruz explained that the Special Exception for the Concession Parking Ancillary Facility originally began in 2017. It allowed for five one-year renewals. If approved, this would be the fourth extension. Staff recommended approval for the extension.

COUNCILMEMBER RICHARD BRYAN moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Approve the Special Exception Extension Request by WD Plaza, LLC - 2200 S. Atlantic Ave: for a one year extension of an existing Concession Parking Ancillary Facility.

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. Ordinance 2021-06: Temporary Promotional Activity Amendment to allow new businesses to have additional signage at the time of opening.

City Planner Stewart Cruz stated that this Ordinance was created by the direction of the City Council. If adopted, it would allow a new business 14 additional days of promotional activity. The benefit must be utilized within 90 days of obtaining a Certificate of Use.

COUNCILMEMBER RICHARD BRYAN moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Approve Ordinance 2021-06 on first reading.

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

12. COUNCIL COMMENTS:

Mayor Miller thanked everyone involved for the Armed Forces Day celebration. She reminded the residents of the upcoming concert on Friday from 6:30 to 8:30pm. The band is Traces of Gold. CMBR Bryan commented that he felt the bill regarding smoking regulations would be seen again next year. Vice Mayor Lindauer inquired the date for the next food truck event. It will be June 25th. He also congratulated the City Manager's son, Zachary Booker on his graduation from Parris Island. CMBR Frizalone also complimented the staff for the Armed Forces celebration. CMBR Politis requested a status update on Treasure Island. The City Manager explained that fines were still accruing on Code Enforcement violations. It is the

city's understanding that Akers is currently working with Marriott representatives.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Consideration to cancel the first meeting in July

15. ADJOURNMENT:

The meeting ended at 6:31 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

**DAYTONA BEACH SHORES PUBLIC
SAFETY DEPARTMENT**

**CONTRABAND FORFEITURE
EXPENDITURE REQUEST**

May 26, 2021
File: PS21-05-02

FUNDING REQUEST

The Daytona Beach Shores Public Safety Department seeks Council approval for the expenditure of state contraband forfeiture monies under the "additional law enforcement training" provision of FSS 932.7055 (5) (b). The Department has determined that the following is a necessity to the Department.

Training

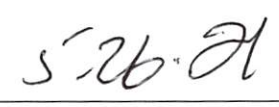
The Department of Public Safety would like to utilize \$5,000 from the state contraband forfeiture account for the making of a recruitment video.

Certification of Compliance:

The undersigned, as Public Safety Director of the City of Daytona Beach Shores, Florida, hereby requests, pursuant to Section 932.704, Florida Statutes, that the City Commission authorize the appropriation to, and expenditure by, the Daytona Beach Shores Public Safety Department of funds held in the City's Special Law Enforcement Trust Fund. The request is made, and the expenditure of appropriated funds shall be in conformity with Section 932.7055 (5) (b).



Stephan Dembinsky
Public Safety Director



Date



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
JUNE 8, 2021 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: June 2, 2021
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 May 25, 2021. Please advise if you have any questions, comments or concerns relative to these matters.

(1) *Ordinance Review*

Reviewed and approved as to form and legal sufficiency an ordinance for an annexation of a property into the city.

(2) *Economic Development Committee*

Met with prospective business owners and provided legal counsel for the city for an Economic Development Committee meeting.

(3) *2021 Legislative Session*

Began a review of bills passed during the 2021 legislative session, for presentation at the June 22, 2021, City Council meeting.

(4) *County Council Human Trafficking Ordinance*

Reviewed an ordinance passed by the Volusia County Council. Notified and advised

city staff as to the ordinance and the city's jurisdiction under said ordinance.

(5) *Appeal of Code Enforcement Matter*

Provided legal counsel to the City regarding the appeal of a Code Enforcement matter.

(6) *Dangerous Building*

Provided legal advice to city staff regarding a dangerous building in the City.

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: June 2, 2021

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

FROM: Michael T. Booker, City Manager

SUBJECT: City Manager's Report –June 8, 2021

City Park Maintenance:

City staff is meeting with staff from the County on June 3rd to discuss this issue. Will provide an update at the City Council meeting.

Budget Workshop:

At this time we are planning to schedule a budget workshop on July 27th prior to our regular City Council meeting.



CITY COUNCIL AGENDA MEMORANDUM JUNE 8, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Stewart Cruz, City Planner

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Ordinance 2021-06: Temporary Promotional Activity Amendment to allow new businesses to have additional signage at the time of opening.

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 additional signage at the time of their business opening. Ordinance 2021-06 does just that by streamlining the proposal into the existing 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:

Businesses (new and existing) are also permitted additional promotional signage as seen in attached Exhibit A.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2021-06 as presented.

SUGGESTED MOTION:

A City Council Member may motion one of the following:

1. "I move to **approve** Ordinance 2021-06 as presented."

OR

2. "I move to approve Ordinance 2021-06, with the following amendments..."

OR

3. "I move to deny Ordinance 2021-06, for the following reasons."

- ATTACHMENT:**
1. Ordinance 2021-06-CC-TPA-Additional Signage for New Businesses-SC-4-30-21-JC-5-3-21
 2. 4-13-21 cc minutes (1)
 3. Exhibit A- Business Promotional Signage

ORDINANCE 2021-06

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.

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.

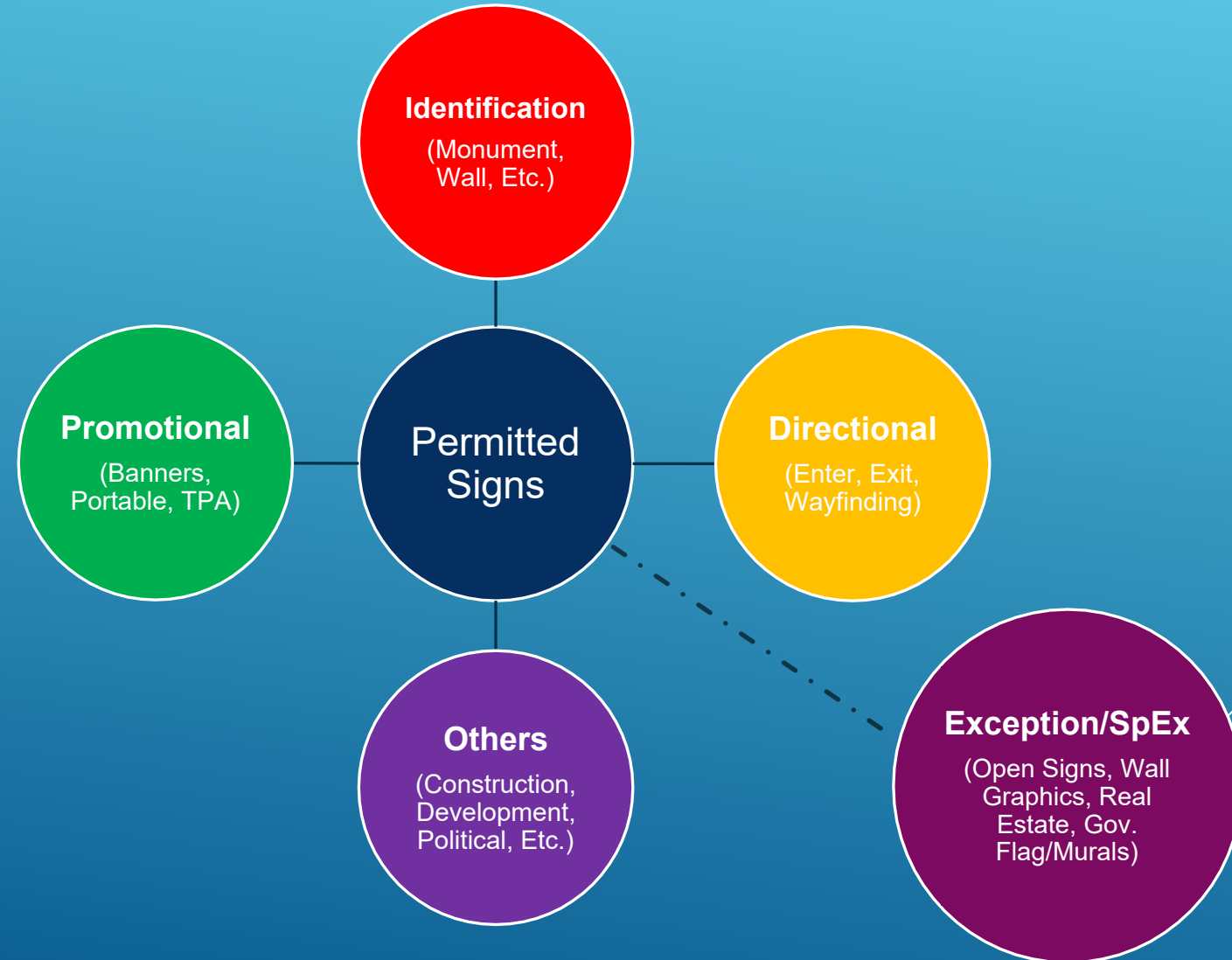
**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

PERMITTED SIGNS IN DAYTONA BEACH SHORES



PROMOTIONAL SIGNAGE PERMITTED FOR NEW & EXISTING BUSINESSES

Portable

- One portable sign permitted
- 30-day period
- Once/year
- Only one/plaza at a time
- Includes A-frame & sandwich signs

Banner

- One banner permitted
- 32 sf max
- 30 days max
- 4 times/yr.
- Includes feather & traditional banner signs

TPA

- 2 banners & 1 temporary promotional accessory permitted (e.g. flag, A-frame sign, inflatable feature)
- Up to 21 days/yr.
- Banners 32 sf max



CITY COUNCIL AGENDA MEMORANDUM

JUNE 8, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2021-03: Voluntary annexation of unincorporated Volusia County property located at 2924 S. Peninsula Drive

SYNOPSIS:

Shane McGill and Erica Smith, owners of the unincorporated Volusia County property located at 2924 S. Peninsula Drive (**Exhibit 1**), have petitioned the City of Daytona Beach Shores for voluntary annexation into the City's corporate limits (**Exhibit 2**) pursuant to Section 171.044, Florida Statutes. The property houses a single-family residential structure. If adopted, Ordinance 2021-03 will annex the subject property and adjacent right-of-way into the City limits of Daytona Beach Shores.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The subject property is approximately 0.308 of an acre with dimensions of 91' (road frontage) by 135' (depth). The property contains a 2,835 square foot two story single-family residential structure (**Exhibit 3**). The proposed City future land use and zoning classifications will be similar to those of the County's and consistent with the existing neighborhood as the owners have no plans to redevelop the property. **Exhibit 4** attached provides a general description of the subject property.

Exhibit 5 attached demonstrates compliance with the voluntary annexation requirements prescribed in Section 171.044, Florida Statutes.

Finally, pursuant to Section 171.062, Florida Statutes, the property owners have also submitted applications to amend the future land use and zoning classifications of the property in question to those of the City's. The future land use amendment and rezoning ordinances will be adopted subsequent to the formal annexation of the subject property.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2021-03 as presented.

SUGGESTED MOTION:

A City Council member may move as follows:

"I move to **approve** Ordinance 2021-03 as presented."

- ATTACHMENT:**
1. Ord 2021-03-Voluntary Annexation-2924 S. Peninsula Drive
 2. 2924 S. Peninsula-M-B Description
 3. 2924 S. Peninsula-Sketch of M-B
 4. Ord 2021-03-Staff Report Exhibits

ORDINANCE NO. 2021-03

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, RELATING TO VOLUNTARY ANNEXATION OF REAL PROPERTY LOCATED AT 2924 S. PENINSULA DRIVE (SHORT PARCEL IDENTIFICATION NUMBER 5327-09-00-0200) TOGETHER WITH ASSOCIATED RIGHT-OF-WAYS IN ACCORDANCE WITH SECTION 171.044, *FLORIDA STATUTES*; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; REDEFINING THE BOUNDARIES OF THE CITY; PROVIDING FOR LEGAL EFFECT AND IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, PROVIDING FOR NON-CODIFICATION AND SETTING AN EFFECTIVE DATE.

WHEREAS, Shane McGill and Erica Smith applied for annexation of property into the City of Daytona Beach Shores and are hereby determined to be the fee simple title owners of the real property described below; and

WHEREAS, the said applicants petitioned the City of Daytona Beach Shores, pursuant to Section 171.044, *Florida Statutes*, for annexation of said property into the municipal limits of the City of Daytona Beach Shores; and

WHEREAS, the subject property is currently addressed 2924 South Peninsula Drive; and

WHEREAS, the subject property currently has a Short Tax Parcel Identification Number 5327-09-00-0200; and

WHEREAS, the City of Daytona Beach Shores has determined that all of the property which is proposed to be annexed into the City of Daytona Beach Shores is within an unincorporated area of Volusia County, is reasonably compact and contiguous to the corporate areas of the City of Daytona Beach Shores, Florida and it is further determined that the annexation of said property will not result in the creation of any enclave (and, indeed, logically fills in the City Limits of the City and is consistent with sound principles and practices relating to the delineating of jurisdictional boundaries thereby furthering sound management in terms of the provision of public facilities and services as well as sound land use planning), and it is further determined that the property otherwise fully complies with the requirements of State law and has, further, determined that associated rights-of-way should be annexed hereby; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida has taken all actions in accordance with the requirements and procedures mandated by State law; and

WHEREAS, the City Council of the City of Daytona Beach Shores, Florida hereby determines that it is to the advantage of the City of Daytona Beach Shores and in the best interests of the citizens of the City of Daytona Beach Shores to annex the aforescribed property; and

WHEREAS, the provisions of Section 166.031(3), *Florida Statutes*, provide that [a] municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2); and

WHEREAS, the provisions of Section 171.091, *Florida Statutes*, provide as follows:

Recording.—Any change in the municipal boundaries through annexation or contraction shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within 30 days. A copy of such revision must be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

; and

WHEREAS, the map attached hereto as Exhibit “A” shows, describes, and depicts the property and named associated rights-of-ways which are hereby annexed into the City of Daytona Beach Shores said Exhibit being incorporated into the substantive provisions of this Ordinance as if fully set forth herein verbatim.

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

SECTION ONE: LEGISLATIVE AND ADMINISTRATIVE FINDINGS/ANNEXATION OF PROPERTIES.

(a). The City Council of the City of Daytona Beach Shores hereby finds that the recitations set forth are true and correct and that the requirements of Section 171.044, *Florida Statutes*, as well as all other requirements of controlling law, have been complied with in every respect.

(b). Under the authority of Section 166.031 (3), *Florida Statutes*, relating to city charter amendments, “[a] municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. . . . A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State . . .” This Ordinance shall amend the boundaries of the City to include the property annexed in this Ordinance.

SECTION TWO: ANNEXATION INTO THE CITY. The real property depicted and described by metes and bounds in Exhibit “A” appended hereto, which Exhibit is made part hereof and which property is owned by the petitioning property owners, and further described as set forth below, together with the associated rights-of-way as described below, is hereby annexed into the City Limits of the City of Daytona Beach Shores, said property being described as follows:

LOT 20, RIVER POINT SUBDIVISION AS RECORDED IN MAP BOOK 34, PAGE 113, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN S55°50'30"W ALONG THE SOUTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.95 FEET TO THE WESTERLY LINE OF SAID LOT 20; THENCE N27°22'00"W ALONG THE WESTERLY LINE OF SAID LOT 20, A DISTANCE OF 107.50 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 135.00 FEET TO THE EASTERLY LINE OF SAID LOT 20 BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY LINE, 91.42 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.308 ACRES, MORE OR LESS.

TOGETHER WITH A PORTION OF SOUTH PENINSULA DRIVE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1823, PAGE 366, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 20; THENCE RUN N27°22'00"W ALONG THE EASTERLY LINE OF SAID LOT 20, BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE, A DISTANCE OF 91.42 FEET TO THE NORTHERLY LINE OF SAID LOT 20; THENCE N62°38'00"E ALONG THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF SAID LOT 20, A DISTANCE OF 80.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID SOUTH PENINSULA DRIVE; THENCE S27°22'00"E ALONG SAID EASTERLY RIGHT OF WAY LINE, 91.42 FEET; THENCE S62°38'00"W, 80.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.168 ACRES, MORE OR LESS.

SECTION THREE: CHANGE IN CITY BOUNDARIES/LEGAL EFFECT OF ANNEXATION. The boundary lines of the City Limits of the City of Daytona Beach Shores are hereby redefined and, upon the effective date of this Ordinance shall also encompass the annexed property as described herein and depicted in Exhibit “A”. Upon this Ordinance becoming effective, the property owner of the annexed property shall be entitled to all the rights and privileges and immunities as are from time-to-time granted to property owners of the City as further provided in Chapter 171, *Florida Statutes*, and shall further be subject to the responsibilities of ownership as may from time-to-time be determined by the governing authority of the City and the provisions of said Chapter 171, *Florida Statutes*.

SECTION FOUR: ADMINISTRATIVE IMPLEMENTING ACTIONS.

(a). Within seven (7) days of the adoption of this Ordinance, the City Clerk shall file a copy of said Ordinance with the Clerk of the Court (Land Records/Recording), with the Chief Administrative Officer of Volusia County (the County Manager), with the Florida Department of State, and with such other agencies and entities as may be required by law or otherwise desirable.

(b). The City Manager, or designees within City management staff, shall ensure that the property annexed by this Ordinance is incorporated into the City of Daytona Beach Shores *Comprehensive Plan* and the *Official Zoning Map* of the City of Daytona Beach Shores in an expeditious manner and, in accordance with, and pursuant to, the provisions of Under the authority of Section 166.031(3), *Florida Statutes*, the City Manager, or designees, shall amend the boundaries of the City to include the property annexed in this Ordinance and all previously annexed properties in all maps and geographical data

relating to the City Limits said properties to include, but not be limited to, annexed rights-of-way and natural features.

SECTION FIVE: CONFLICTS. Any and all ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION SIX: SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION SEVEN: NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shores*, or the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted on the pertinent maps of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

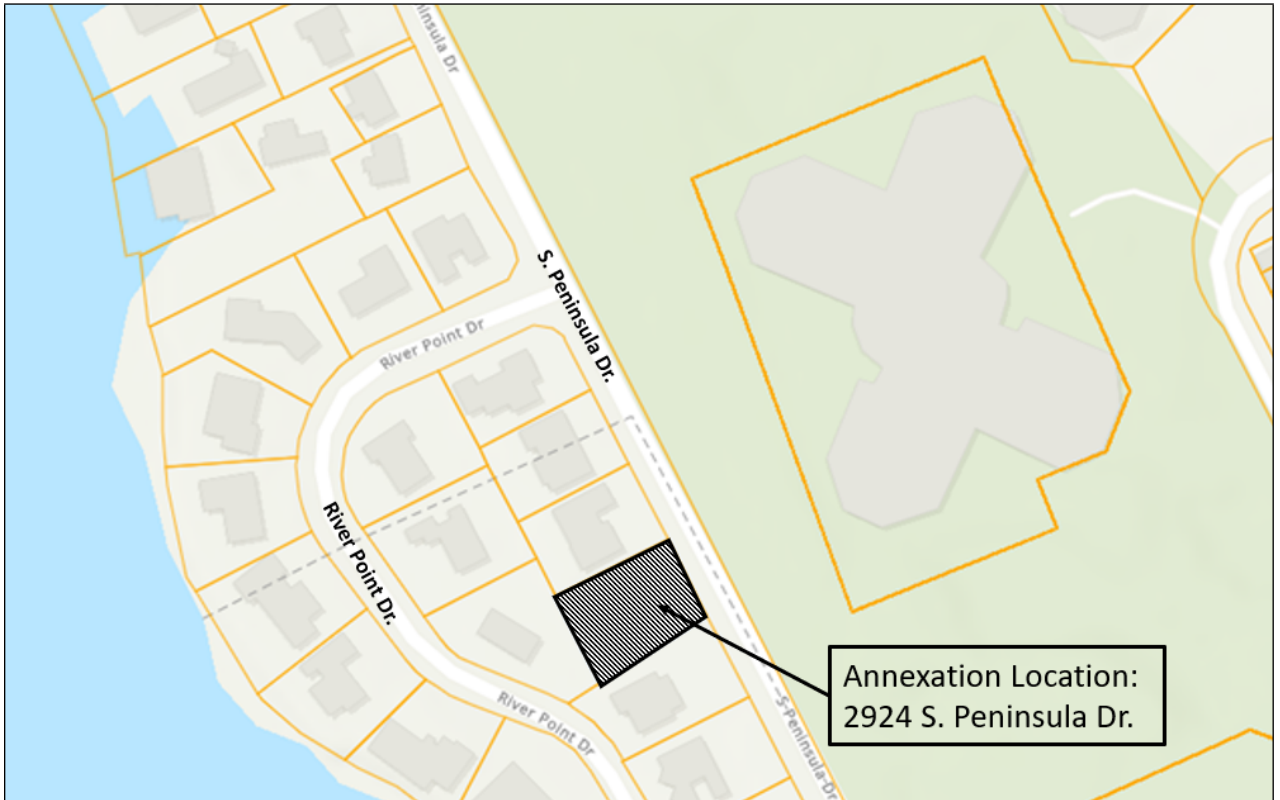
JOHN CARY, CITY ATTORNEY

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

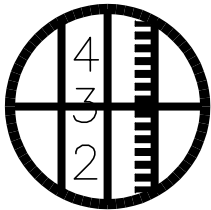
Adopted on second reading this _____ day of _____, 2021.

EXHIBIT A

(1) Location Map of Annexing Property (2924 South. Peninsula Drive)



(2) Metes and Bounds Description/Sketch (Attached)



SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

LICENSED BUSINESS CERTIFICATION NO. 3019

3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385

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www.sligerassociates.com

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. BEARING STRUCTURE BASED ON RECORD PLAT WITH THE BEARING ON THE WESTERLY LINE OF LOT 20, RIVER POINT SUBDIVISION BEING N27°22'00"W.
- 4. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.
- 5. "NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR VALID DIGITAL SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER."
- 6. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME.
- 7. DESCRIPTION REPOARED BY SLIGER & ASSOCIATES, INC..

LOT 20, RIVER POINT SUBDIVISION AS RECORDED IN MAP BOOK 34, PAGE 113, OF THE PUBLIC ERCORDS OF VOLUSIA COUNTY, FLORIDA BEING IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

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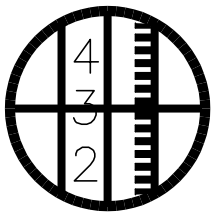
REFERENCE: RIVER POINT SUBDIVISION

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	SURVEY DATE	JOB NUMBER
SKETCH OF DESCRIPTION	CITY OF DAYTONA BEACH SHORES, FLORIDA	APRIL 28, 2021	21-0740

SHEET 2 OF 2

FOR: CITY OF DAYTONA BEACH SHORES						I HEREBY CERTIFY THAT THIS PLAT MEETS THE STANDARDS OF PRACTICE 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. J.E. ZAPERT, P.L.S. NO. 4046 STEVEN T. KRUGER, P.L.S. NO. 4722 C.O. VAN KLEECK JR., P.S.M. NO. 6149 MICHAEL S. MURPHY, P.S.M. NO. 6208
SKETCH OF DESCRIPTION	DATE	JOB NO.	P.C.	DRW.	CHECKED BY	
BOUNDARY SURVEY	APRIL 28, 2021	21-0740		JZ	DH	
TOPOGRAPHIC SURVEY						
FOUNDATION LOCATED						
FINAL IMPROVEMENTS						
RECERTIFICATION						
PROPOSED HOUSE LOCATION						



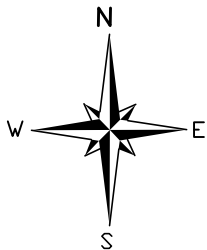
SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

LICENSED BUSINESS CERTIFICATION NO. 3019

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LOT 18
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0180

0.308 ACRES +/-
LOT 20
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0200

LOT 19
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0190

LOT 21
RIVER POINT SUB.
MAP BOOK 34,
PAGE 113
5327-09-00-0210

COMMON AREA
OCEANS WEST A
PLANNED UNIT
DELOPMENT
AMENDED PLAT
MB 39, PGS 6-11
5327-10-00-0010

EASTERLY EXTENSION OF
NORTHERLY LINE LOT 20
N62°38'00"E
215.00'

S. PENINSULA DRIVE
ORB 1823, PG 366
0.168 ACRES +/-
N27°22'00"W
91.42'

EASTERLY R/W LINE
S27°22'00"E
91.42'

WESTERLY R/W LINE
N27°22'00"W
91.42'

WESTERLY LINE LOT 20
S27°22'00"E
91.42'

S62°38'00"W
80.00'

POINT OF
BEGINNING
SOUTHEASTERLY
CORNER OF LOT 20

SOUTHERLY LINE LOT 20
S55°50'30"W
135.95'

WESTERLY LINE LOT 20
N27°22'00"W
107.50'

SKETCH OF DESCRIPTION
NOT A BOUNDARY SURVEY

FOR: THE CITY OF DAYTONA BEACH SHORES, FLORIDA

DESCRIPTION: SEE
SHEET 2 FOR LEGAL
DESCRIPTION

JOB #21-0740

SCALE: 1"=40'

FIELD BOOK:

PAGE:

ABBREVIATIONS

(P)	PLATTED DIMENSION
(D)	DEEDED DIMENSION
MB	MAP BOOK
PG	PAGE
ORB	OFFICIAL RECORDS BOOK
A/C	AIR CONDITIONER
R/W	RIGHT OF WAY
CL	CENTERLINE
D	CENTRAL ANGLE
R	RADIUS
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

SHEET 1 OF 2

LEGEND

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

EXHIBIT 1: Location Map of Annexing Property (2924 S. Peninsula Drive)



Source: Volusia County Property Appraiser Website, 2021

EXHIBIT 2

A: Annexation Application (2924 S. Peninsula Drive)



City of Daytona Beach Shores

Building & Codes Division
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377 Fax (386) 763-5370

637085

RECEIVED

12021009
REQUEST FOR ANNEXATION

APR 23 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

3/15/2021
(Date)

I (We) the undersigned am the sole property owner(s) of 2924 S Peninsula Dr, Volusia
County, Florida. (Street Address) Daytona Beach, 32118

By this letter, I (We) am requesting annexation into the City of Daytona Beach Shores, Florida.
It is my (our) understanding that the fee for legal advertising has been waived by the City and
that I (we) will not incur any costs for annexation. 5327-04-000200

Signed,

Shane McGill
Signature

Shane McGill
Name (Printed or typed)

860-501-2520
Telephone

Erica Smith
Signature

Erica Smith
Name (Printed or typed)

617-513-2017
Telephone

Signature

Name (Printed or typed)

Telephone

SWORN to and subscribed before me this 23 day of April, 2021 by
Shane McGill + Erica Smith, who is personally known to me or produced
Identification Y. Type of Identification provided FL Driver's License

Cheryl Lee Thibault
Notary Public - State of Florida
My Commission Expires:



Please return this form to: Annexation Committee
c/o Planning Department
City of Daytona Beach Shores
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

shane.mcgill@rocketmail.com

EXHIBIT 2
B: Property Appraiser Website Owner Information



VOLUSIA COUNTY PROPERTY APPRAISER

LARRY BARTLETT, JD, CFA

WE VALUE VOLUSIA

Agriculture

Maps

Tangible Properties

Search

Downloads

Home / Parcel Summary for 3434412

Summary

Tax Estimate

Permits

Map

Pictometry

Print

Alternate Key:

3434412

Parcel ID:

532709000200

Township-Range-Section:

15 - 33 - 27

Subdivision-Block-Lot:

09 - 00 - 0200

Business Name:

Owner(s):

SMITH ERICA - TE - Tenancy in the Entirety - 100
MCGILL SHANE - TE - Tenancy in the Entirety - 100

Mailing Address On File:

2924 S PENINSULA DR
DAYTONA BEACH FL 32118
[Update Mailing Address](#)

Physical Address:

2924 S PENINSULA DR, DAYTONA BEACH 32118

Building Count:

1

Neighborhood:

3101 - DACHS SUB # 1 (5327-01)--DACH
[Neighborhood Sales](#)

Subdivision Name:

RIVER POINT

Property Use:

0100 - SINGLE FAMILY

Tax District:

200-UNINCORPORATED - NORTHEAST

2020 Certified Millage Rate:

19.5221

Homestead Property:

Yes

Agriculture Classification:

No - [Additional Information](#)

Values & Exemptions

Land & Buildings

Sales

Legal

 **Property Tax Bill**

EXHIBIT 3

A: Aerial View of Annexing Property (2924 S. Peninsula Drive)



Source: Volusia County Property Appraiser Website (Pictometry), 2020

B: Street View of Annexing Property (2924 S. Peninsula Drive)



Source: GoogleMaps, 2018

Exhibit 4



PRE-ANNEXATION FORM

Name of Property Owner: Shane McGill & Erica Smith

Property Address/Tax Parcel ID: 2924 S. Peninsula Drive /5327-09-00-0200

According to Volusia County property records, does this property appear to meet Section 171.044 of Florida Statutes? Yes X No _____

How is property contiguous? East X West _____ North _____ South _____

Property Appraiser Just/Market Value: \$387,485

Homesteaded Property: Yes _____ No X

Improved Lot X Unimproved Lot (Vacant) _____

Existing Use: Single-family Residential

Conforming Land Use: X Non-Conforming Land Use: _____ Explain:

Existing County Zoning: R-3 Urban Single-Family Residential District

Existing County Land Use: Urban Low Intensity

Condition of Property: Poor _____ Good X Excellent _____

Water: Port Orange X Daytona Beach _____

Sanitary: Sewer X (DBS) Septic Tank _____

If septic tank on site, is sewer available? NA Yes _____ No _____

Metes and Bounds Survey conducted? Yes X No _____

Prepared by: Stewart Cruz, City Planner Date: May 26, 2021

EXHIBIT 5: Voluntary Annexation Criteria pursuant to Section 171.044, *Florida Statutes*

Section	Annexation Criteria	Criteria Met	Comments
171.044(1)	Property must be contiguous to the City.	Yes	Per Sec. 171.031(11), subject property is contiguous to the City to the east.
171.044(1)	Property must be reasonably compact.	Yes	Per Sec. 171.031(12), subject property is reasonably compact and will not create new enclaves, pockets or finger areas in serpentine patterns. In addition, the annexation will aid in reducing the larger county enclave in the vicinity.
171.044(2)	Petition bears the signatures of all owners of property.	Yes	See Exhibit 2 .
171.044(2)	Meet publication requirements.	Yes	Evidence filed with the Office of the City Clerk.
171.044(3)	Ordinance shall be filed per statute.	Pending	Ordinance filing will occur per statutory deadline subsequent to the Ordinance's adoption.
171.044(3)	Ordinance shall include a map and legal description by metes and bounds.	Yes	See Ordinance 2021-03.
171.044(4)	Annexation method shall be supplemental to any other procedure provided by general law.	N/A	
171.044(5)	Annexation shall not create enclaves.	Yes	Per Sec. 171.031(13), subject property does not create an enclave. In fact the annexation will reduce the larger County enclave that currently exists in this area.
171.044(6)	Provision of notice to County Commissioners per statute.	Yes	Notice provided via certified mail on 05/10/21 per statutory requirement.



CITY COUNCIL AGENDA MEMORANDUM JUNE 8, 2021 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2021-07: Permitting counseling services as an accessory use to churches in the "P - Public/Quasi Public" Zoning District

SYNOPSIS:

On March 19, 2021 the City received a written request from Zahn Engineering (**Exhibit A**), agent of Westminster By The Sea Presbyterian Church, requesting the City amend its "P" Public/Quasi Public Zoning District regulations to permit counseling services as an accessory use to a church. An accessory use is a use that is customarily incidental and subordinate to the principal use on a property. The Presbyterian Counseling Center, which is a separate entity from the church, would provide onsite counseling services to members of the public in a detached structure located on the southeast portion of the property (**Exhibit B**). Ordinance 2021-07, if adopted, would permit the aforementioned use as described.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. Background

Subsequent to consulting with Zahn Engineering regarding the establishment of counseling services on the Westminster By The Sea Presbyterian Church property located at 3215 S. Peninsula Drive, the engineering firm provided a written request to the City to consider the aforementioned.

Per Sec. 14-26 of the Land Development Code (see below), counseling service is not a permitted use in the "P" Public Quasi/Public" District. Counseling service to the general public is also not a traditional accessory use to churches. Per Sec.14-10 of the Land Development Code (see below) if a use is not specifically listed as a permitted use or allowed by special exception then it is prohibited, hence the proposed Ordinance 2021-07.

Sec. 14-26. - P Public/Quasi Public.

14-26.1. Purpose and Intent.

The purpose and intent of the Public/Quasi Public District is to best satisfy the internal, recreational

and governmental service needs of the entire community. This district has been developed for implementing the City's land use plan within, but not necessarily limited to, those areas shown for Public/Quasi Public.

14-26.2. Permitted Accessory Uses and Structures.

Parks, churches and government offices, telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq., etc.

Sec. 14-10. - Interpretation of uses permitted.

Uses not designated as permitted by right or accessory to those permitted by right or allowed as special exception shall be prohibited from that district. Special exceptions shall only be permitted according to the additional regulations imposed, approved and permitted in accordance with the provisions of this ordinance.

B. Staff Analysis

If approved, Ordinance 2021-07 would permit counseling services to the public as an accessory use for churches in the "P" Public/Quasi Public District. Currently there are only two (2) churches, which are defined as houses of worship (Sec. 2-2, LDC), within city limits. Counseling services are generally offered on an appointment basis in an office setting. Therefore, counseling services are not considered an adverse land use as no undesired direct or secondary effects are anticipated. Finally, medical and government officials on the national and local level have been highlighting the need for increased mental health services, particularly due to factors such as the COVID-19 pandemic, economy, grief and other factors.

LEGAL REVIEW:

The word "Presbyterian" is spelled wrong in the whereas clause. It should be corrected for second reading. Otherwise approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2021-07 as presented.

SUGGESTED MOTION:

A City Council member may motion as follows:

1. "I move to **approve** Ordinance 2021-07 as presented."
- OR
2. "I move to approve Ordinance 2021-07, with the following amendments..."
- OR
3. "I move to deny Ordinance 2021-07 on the basis of the following..."

- ATTACHMENT:**
1. Ordinance 2021-07 Counseling Services in P District
 2. Exhibit A-Letter from Zahn Engineering-3-19-21
 3. Exhibit B-Location Map

ORDINANCE 2021-07

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO COUNSELING SERVICES; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-26 ENTITLED “PUBLIC/PUBLIC QUASI DISTRICT” TO PERMIT COUSELING SERVICES AS AN ACCESSORY USE TO CHURCHES; 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 was approached by the Westminster By The Sea Presbyterian Church to permit counseling services open to the public on its church facility in Daytona Beach Shores; and

WHEREAS, churches customarily offer counseling services to their members; and

WHEREAS, counseling services and offices are not considered adverse land uses; 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, the recitals to this Ordinance (whereas clauses) are adopted as the legislative findings and intent of the City Council of the City of 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: Section 14-26, *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “P Public/Quasi Public,” is amended to read as follows:

Sec. 14-26. - P Public/Quasi Public.

14-26.1. Purpose and Intent.

The purpose and intent of the Public/Quasi Public District is to best satisfy the internal, recreational and governmental service needs of the entire community. This district has been developed for implementing the City's land use plan within, but not necessarily limited to, those areas shown for Public/Quasi Public.

14-26.2. Permitted ~~Aeeessory~~ Principal Uses and Structures.

Principal uses permitted in the P Public/Quasi Public District include parks, Parks, churches and government offices, telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq., etc.

14-26.2.1 Permitted Accessory Uses.

In the P Public/Quasi Public District counseling services shall be permitted as an accessory use to a church. All other permitted accessory uses shall be consistent with the definition of accessory uses pursuant to Sec. 2-2 of this code.

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 the regulation of the matters and uses which are the subject of this Ordinance 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.

ZAHN ENGINEERING, INC.
Land Planning • Civil Engineering • Permitting

March 19, 2021

Via Email

Honorable Mayor Nancy Miller
Michael Booker, City Manager
City of Daytona Beach Shores
2990 S Atlantic Avenue
Daytona Beach Shores, FL 32118

**Re: Westminster by the Sea Presbyterian Church
Presbyterian Counseling Center**

Dear Honorable Mayor Miller and City Manager Booker:

Westminster by the Sea Presbyterian Church has been offering counseling services through the church office and classrooms for many years. The church also received a single-family home from the estate of a long-time church member. The parcel was incorporated into the church property and has been used as a manse for our associate pastor. The associate pastor has moved on and the building has been utilized for various office uses.

One of the church outreach programs is the Presbyterian Counseling Center. Our pastor, Jeff Sumner, recognized an opportunity to utilize the building as counseling offices for the Presbyterian Counseling Center. This provides an extended counseling service from that which is currently provided by Pastor Jeff and others in the Church.

We previously reached out to the City regarding the use of the building by the Presbyterian Counseling Center (PCC). The response was that counseling services offered by the church employees to the church membership is an accessory use to the church. However, counseling services offered by an entity other than the church and to the general public disqualifies counseling services as an accessory use. We are continuing to use the building as before (office) and additionally, desire to offer space to the PCC.

There are no special exceptions permitted for counseling services in the "P" District per Staff. This leaves two options available to the church: 1) Apply to rezone and change the Future Land Use to commercial use or 2) petition the City Council to amend the LDC to permit counseling services as a permitted use in the "P" District.

Since rezoning will be very costly, and we want to preserve its religious standing, we decided to pursue the second option: petition to City Council.

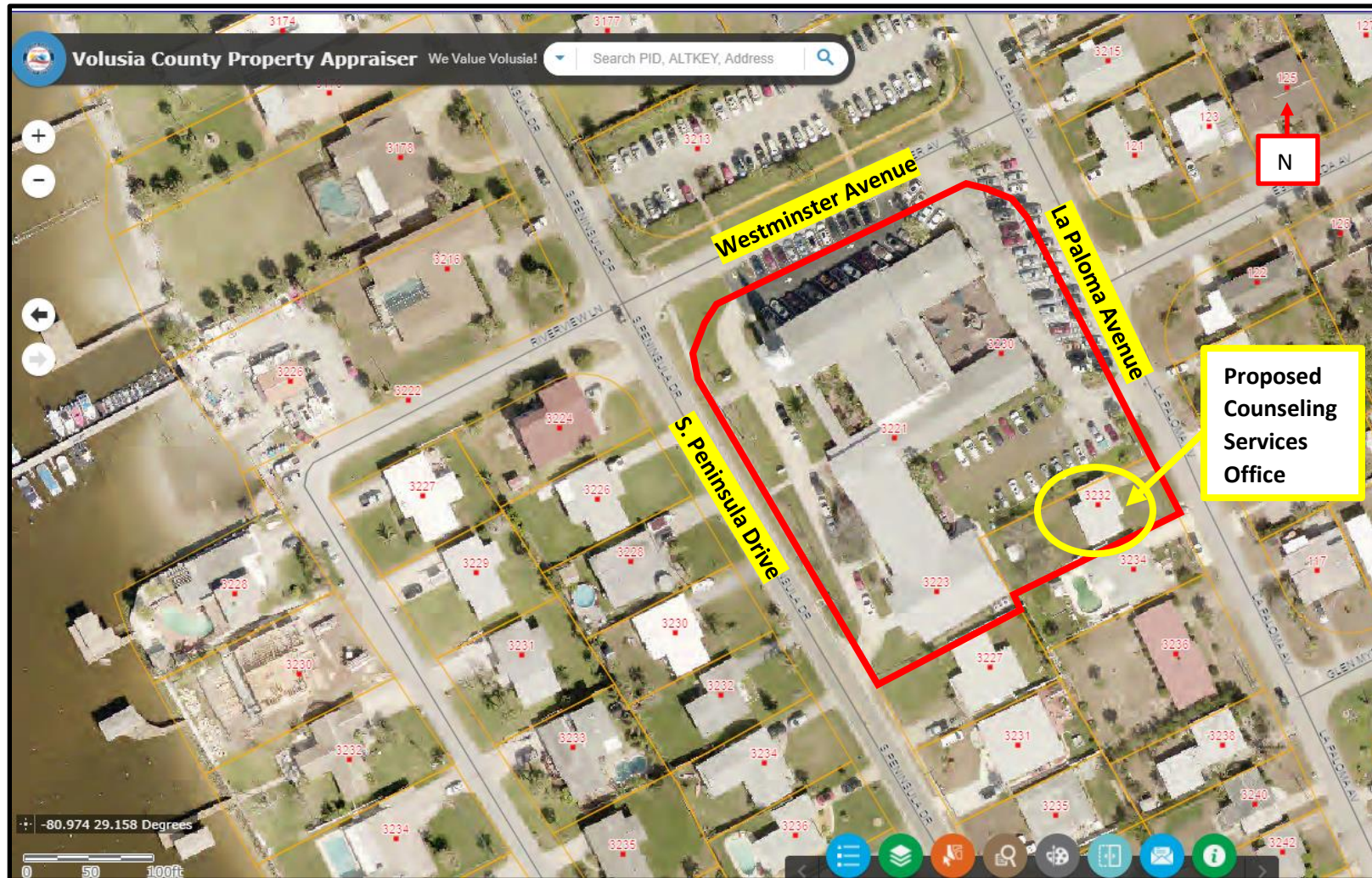
We were advised that the first step is a meeting with you to discuss the situation. So here we are, respectfully requesting a meeting to discuss. Pastor Jeff will be contacting you to arrange a time and date that is acceptable. We look forward to hearing from you.

Sincerely,
ZAHN ENGINEERING, INC.


Pete A. Zahn, PE
Treasurer, WBTS

150 S Palmetto Ave, Ste 201 • Daytona Beach, FL 32114
Phone: (386) 252-0020 • Fax: (386) 252-6050
www.zahneng.com

EXHIBIT B
Westminster by the Sea Presbyterian Church Property
3215 S. Peninsula Drive





**CITY COUNCIL AGENDA MEMORANDUM
JUNE 8, 2021 AGENDA**

TO: Honorable Mayor and Members of the City Council

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Consideration to cancel July 13, 2021 City Council meeting

SYNOPSIS:

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: None