



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING JULY 12, 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 June 14, 2021

3. QUASI-JUDICIAL HEARING

4. DISCUSSION ITEMS

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

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
June 14, 2021
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Rick Delange, Member James Lilly, Member Chuck Horion, Member Anthony Rembiszewski
Staff: City Clerk Cheri Schwab, Board Attorney John Cary, and City Planner Stewart Cruz.

Due to the fact that both the Chair and Vice-Chair were excused, Member Chuck Horion presided over running the meeting today.

2. MINUTES

A. Planning & Zoning Minutes May 10, 2021

MEMBER RICK DELANGE moved, seconded by MEMBER JAMES LILLY to Approve the Planning & Zoning Minutes of May 10, 2021.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Anthony Rembiszewski

3. QUASI-JUDICIAL HEARING

A. Ordinance 2021-05: Single-family residential rezoning application for annexed property located at 2924 S. Peninsula Drive

The public hearing was opened by Mr. Horion. The boardmembers reported no ex-parte communication.

City Planner Stewart Cruz provided details from his staff report. The property is a single-family home that is currently in Volusia County. It is being annexed into the city and the proposed ordinance would rezone the property with a city zoning category. There is no impact to city services and staff recommended approval. The property owners have homesteaded the land and plan to relocate by August.

Audience member Lorraine Geiger spoke in support of approving the item but noted that the property owner had been renting it out to friends in the past. She felt Ms. Smith had misled the council about renting the house when she spoke at the last council meeting. Ms. Geiger is a resident of the Cloverleaf, and she is able to see many different groups of people staying there. She noted that she has contacted the county to complain about the loud noise late at night.

Mr. Horion closed the public hearing.

MEMBER RICK DELANGE moved, seconded by MEMBER JAMES LILLY to recommend approval of Ordinance 2021-05 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Anthony Rembiszewski

- B. Special Exception SPEX12021005: El Caribe Resort Westside Overflow Parking, 2122 - 2128 S. Atlantic Avenue

City Planner Stewart Cruz provided details from his staff report. The property currently has a vacant building with an existing parking lot. It is intended to become overflow parking for hotel guests and staff. Landscaping will be added along the A1A corridor and two additional ADA compliant parking spaces will be available. The property is zoned appropriately for parking. There were no additional questions for staff and it was recommended for approval.

MEMBER RICK DELANGE moved, seconded by MEMBER JAMES LILLY to recommend Approval of Special Exception SPEX12021005 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Anthony Rembiszewski

4. DISCUSSION ITEMS

- A. Ordinance 2021-04: Comprehensive Plan Future Land Use Map amendment for annexing single-family residential property located at 2924 S. Peninsula Drive

City Planner Stewart Cruz explained that this is a part of the annexation process and is mostly administrative in nature. The land use will change from Volusia County Urban Low Intensity to the city's Residential Low Intensity. The property does contain a single-family home and there is no impact change to the service levels. Staff recommended approval.

MEMBER RICK DELANGE moved, seconded by MEMBER JAMES LILLY to recommend approval of Ordinance 2021-04 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Anthony Rembiszewski

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

The meeting ended at 9:05 am.

Cheri Schwab, Recording Secretary

John Schmitz, Chairman



CITY COUNCIL AGENDA MEMORANDUM JULY 12, 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 Planning and Zoning Board member may motion as follows:

1. "I move to recommend **approval** of Ordinance 2021-07 as presented."
OR
2. " I move to recommend approval of Ordinance 2021-07, with the following amendments..."
OR
3. "I move to recommend denial 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 “P 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
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www.zahneng.com

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

