



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING SEPTEMBER 13, 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 July 12, 2021

3. ACTION ITEMS

A. Development Agreement Amendment Application DA12021029: Aspesi Residence/Atlantic Avenue Estates, LLC - 3833 Cardinal Boulevard

B. Ordinance 2021-09: Property Rights Element Comprehensive Plan Amendment

C. Ordinance 2021-10: Treasure Island Stipulated Settlement Agreement Comprehensive Plan Amendment - 2025 S. Atlantic Ave, et al

4. QUASI-JUDICIAL HEARING

A. Zoning Variance Application ZV12021017: Chhaya Nathoo Residence - 2711 S. Atlantic Avenue

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
July 12, 2021
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Rose Ann Tornatore, Member Rick Delange, Member Anthony Rembiszewski, Member James Lilly

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

2. MINUTES

A. Planning & Zoning Minutes June 14, 2021

MEMBER RICK DELANGE moved, seconded by MEMBER JAMES LILLY to Approve the Planning & Zoning Minutes of June 14, 2021.

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

Yes: Member Rick Delange, Member James Lilly, Member Rose ann Tornatore, Member Anthony Rembiszewski

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

City Planner Stewart Cruz read from his staff report. The City received a request to amend its "P" Public/Quasi Public zoning district regulations to allow counseling services as an accessory use to a church. Westminster By The Sea Presbyterian Church would like to offer this service to members of the public. If approved, this would be applicable to all churches in the city. There currently are only two churches in the city limits. Staff recommended approval. Pastor Jeffrey Sumner spoke to the board. He explained that this service has been around the area for years, it has just not been offered in the Shores until now. Appointments are needed for the counseling sessions.

MEMBER RICK DELANGE moved, seconded by MEMBER ANTHONY REMBISZEWSKI to recommend approval of Ordinance 2021-07 to the City Council.

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

Yes: Member Rick Delange, Member James Lilly, Member Rose Ann Tornatore, Member Anthony Rembiszewski

5. OTHER

6. BOARD COMMENTS

Ms. Tornatore inquired about the safety of older condominiums with the recent collapse of building in Surfside, Florida. She felt many residents were concerned. Director Hiatt explained that the building in Surfside was a very old building. He would like the forensic investigation to be completed before passing judgement. It may have been an anomaly that occurred. The City has adopted engineering standards on the analysis for buildings. Most of the condominium associations have annual maintenance performed with rigorous inspections.

7. ADJOURNMENT

The meeting ended at 8:49 am.

Cheri Schwab, Recording Secretary

John Schmitz, Chairman



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PLANNING & ZONING BOARD AGENDA MEMORANDUM SEPTEMBER 13, 2021 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Development Agreement Amendment Application DA12021029: Aspesi Residence/Atlantic Avenue Estates, LLC - 3833 Cardinal Boulevard

SYNOPSIS:

On July 16, 2021 the City received an application to amend the Atlantic Avenue Estates, LLC - City of Daytona Beach Shores Development Agreement, which concerns a 0.7 acre four (4) lot subdivision in the 3800 block of S. Atlantic Avenue. The application was submitted by Cheryl and Anthony Aspesi, owners of the 3833 Cardinal Boulevard lot, situated in the northwest corner of the subdivision along Cardinal Boulevard. The applicants are requesting an amendment to allow the construction of a single-family residential structure with the following deviations on their property: (1) reduction of front yard setback from 30 feet to 25.5 feet, (2) reduction of rear yard setback from 25 feet to 10 feet and (3) increase in lot coverage from 35% to 39%. The applicant is also requesting the City waive (reimburse) the \$550 development agreement amendment application fee. **The remaining three property owners in the subdivision have provided written support of the proposed amendment.**

FISCAL IMPACT STATEMENT:

BACKGROUND:

I. OVERVIEW OF PROPOSED AMENDMENT

The development agreement concerns a 0.7 acre four (4) lot subdivision in the 3800 block of S. Atlantic Avenue. The application however, only concerns the 3833 Cardinal Boulevard lot, which is situated in the northwest corner of the subdivision along Cardinal Boulevard. The entire subdivision is overgrown and undeveloped. The applicants are requesting an amendment to allow the construction of a single-family residential structure with the following deviations on their property: (1) reduction of front yard setback from 30 feet to 25 feet, (2) reduction of rear yard setback from 25 feet to 10 feet and (3) increase in lot coverage from 35% to 39%. If approved, the proposed amendment would be reflected in Sec. 3.d of the agreement as follows. **NOTE:** Underline represents proposed amendment language to be added to the existing agreement.

Section 3. SITE LAYOUT AND CONCEPTUAL PLANS FOR DEVELOPMENT

(d). In the event that the Property Owner elects to construct a single-family residence on any of the 4 tracts depicted in Exhibit "B" he may do so at his sole discretion provided the minimum yard sizes, minimum floor area, maximum building height, and maximum lot coverage are consistent with the requirements contained in Section 14-17 of the City's Land Development Code for the RSF-2 Urban Single-Family Residential Detached District. Provided however, the property located at 3833 Cardinal Boulevard Daytona Beach Shores, Florida, 32118, also known as Tract 1, and more specifically described in Exhibit A attached, may be developed consistent with the following development standards: minimum front yard setback of 25 feet, rear yard setback of 10 feet, maximum lot coverage of 39%. All other land development standards shall apply.

II. ADDITIONAL REQUEST/INFORMATION

The applicant is also requesting the City waive (reimburse) the \$550 development agreement amendment application fee. If granted, these deviations would not apply to the remaining three lots within the subdivision. The remaining three property owners in the subdivision have provided written support of the proposed amendment.

III. OVERVIEW OF EXISTING DEVELOPMENT AGREEMENT & 1st AMENDMENT

The original Development Agreement was executed by the City to foster the development of the original tract of land, which was annexed into the City in 2015. Highlights of the Development Agreement include: (a) seven (7) benefits to the public, including, but not limited to, development of a property that was formerly a county enclave; and (b) permitting of four (4) deviations from the City's Land Development Code, including but not limited to minimum lot sizes for duplex construction.

The original agreement was amended on December 8, 2020 to also permit single-family construction on each of the four (4) lots consistent with the dimensional requirements of the RMF-2 Urban Single-Family Residential Detached District.

IV. AUTHORIZATION OF DEVELOPMENT AGREEMENT

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

V. DEVELOPMENT AGREEMENT CONTENT REQUIREMENTS

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

VI. DEVELOPMENT AGREEMENT NOTICE REQUIREMENTS

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

VII. PLANNING ANALYSIS/FINDINGS

Sections 15-4, 15-5, 5-9 and 15-10 of the LDC establish general code requirements which may be applied to analyze the application. These requirements are summarized below.

A. Sec. 15-4. - Development agreement content.

-The relevant subsection of this section of the LDC, subsection (12), requires a "*A finding that the terms and conditions of the development agreement benefit the public interest.*" Staff Finding: The public interests, also known as public benefits, outlined in Sec. Four (4) of the current agreement remained unchanged. However, in an email addressed to City Staff (see attached Application Exhibit), the property owner noted that approval of the application will also benefit the City through the development of the vacant property, among other things, and bring new permanent residents to the City in lieu of a potential rental and vacant property.

B. Sec. 15-5: Development agreement review; process and procedure; action by city.

-Subsection (b) of this section states that "*Upon receipt of a proposed development agreement, city staff shall review the proposal and develop proposed findings, in writing, respecting recommendations of approval, approval with conditions, modifications to the proposal or denial of the proposal. City staff shall provide to the city council written recommended findings on the consistency of the application with the city's comprehensive plan and the purpose and intent of the city's land development regulations and recommend any conditions, terms, restrictions or other requirements determined to be necessary for the public health, safety, or welfare of the citizens of the city.*" Staff Finding: The proposed amendment is not inconsistent with the Daytona Beach Shores Comprehensive Plan. In addition, the amendment does not appear inconsistent with the purpose and intent of the Daytona Beach Shores Land Development Code as seen below:

Sec. 1-3. - Purpose.

The purpose of this Land Development Code is to establish standards, procedures and minimum requirements to achieve the following general intentions and purposes of the city council:

- 1.To establish the regulations, procedures and standards for review and approval of all proposed development in the City of Daytona Beach Shores.
- 2.To foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the City in accordance with the Comprehensive Plan.
- 3.To adopt a development review process that is: a.Efficient, in terms of time and expense; b.Effective, in terms of addressing the natural resource and public facility implications of proposed development; while also protecting and improving the quality of life in the city; c.Equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the city.
- 4.To implement the city's comprehensive plan as required by the "Local Government Comprehensive Planning and Land Development Regulation Act."
- 5.To provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet level of service requirements (concurrency).

C. Sec. 15-9: Amendment or cancellation of development agreement

-This section provides that *"A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest."* All property owners within the subdivision have executed the proposed agreement indicating mutual consent on their part. Staff Finding: All property owners within the subdivision have executed the proposed agreement indicating mutual consent on their part.

-This section also states that development agreements may be modified *"in the city's sole discretion"* and *"require approval by the city council in accordance with the procedures set forth"* in the ordinance. Staff Finding: The amendment of a development agreement is a legislative action. Therefore, the City Council may approve or disapprove at will providing the action in question is not contrary to controlling law.

D. Sec. 15-10: Modification/revocation of development agreement

-This section stipulates that a development agreement may be modified *"in the city's sole discretion"* and *"require approval by the city council in accordance with the procedures set forth"* in the ordinance. Staff Finding: The amendment of a development agreement is a legislative action. Therefore, the City Council may approve or disapprove at will providing the action in question is not contrary to controlling law.

E. Comparison with Surrounding Neighbourhood.

Planning staff conducted an analysis of four (4) lots north and four (4) lots south, excluding the vacant lot part of the subdivision in question, of the subject lot on the west side of Cardinal Boulevard. The analysis was conducted using the Volusia County Property Appraiser Website Aerial Mapping Measure Tool. Although there is a small but unknown margin of error that should be considered when utilizing the mapping tool due to an inherent challenge with georeferencing aerial photography

relative to digitized plats, this analysis was conducted to get an idea of nearby lots in the neighbourhood. Below are the results:

1. Average front yard setback: North =27.75'; South=23' Staff Finding: Requested deviation within the range of properties analyzed.
2. Average rear yard setback: North=28.75'; South=27.75' Staff Finding: Requested deviation outside the range of properties analyzed. *NOTE*: If the proposed covered patio was detached from the principal building and constructed as an accessory structure, Sec. 14-34 of the LDC would permit the patio to be placed up to five (5) feet from the rear property line.
3. Average lot coverage: North=39%; South=31% Staff Finding: Requested deviation is at the high end of the range for the properties analyzed.

VIII. PLANNING AND ZONING BOARD RECOMMENDATION

Pending (9-13-21).

LEGAL REVIEW:

Approved as to form and legality with the signed consent of the other owners that are a part of the Development Agreement.

RECOMMENDATION:

Development agreements and amendments thereof are legislative acts and there are no assumed vested rights outside of the development agreement, LDC and Comprehensive Plan. The City Council may approve or disapprove the proposed amendment at its own pleasure. However, based on the findings contained in this report, including, among other things, consistency with the Daytona Beach Shores Comprehensive Plan, infilling of residential low density residential use which is compatible with the surrounding neighborhood and the public benefits outlined in Sec. Four (4) of the existing development planning, staff recommends approval of the proposed amendment.

SUGGESTED MOTION:

A Planning and Zoning Board Member may motion as follows:

1. "I move to recommend approval of the proposed amendment as presented."
OR
2. "I move to recommend approval of the proposed amendment, with the following amendments..."
OR
3. "I move to recommend denial of the proposed amendment on the basis of the following..."

ATTACHMENT:

1. Application
2. Location Exhibit
3. Atlantic Avenue Development Agreement-Proposed 2nd Amendment-SC-8-24-21

RECEIVED

JUL 16 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

pd 8550.00
cc # 086776



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

550.00

12021016

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

Application for New Development Agreement: ☐

Application to Amend Existing Development Agreement: ☒

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

FEES MUST BE PAID AT THE TIME THE APPLICATION IS SUBMITTED

Date Submitted: 7/16/21

Current Zoning: RMF-3

Applicant's Name: Cheryl and Anthony Aspesi

Address: 1044 Forest Cir Winter Springs Phone #: 407-694-4818
FL 32708 407-687-5281

Representative: N/A

Address: _____ Phone #: _____

Email: Caspe1@willowcreekchurch.org taspe1@Bakerdist.com

Property Address & Parcel ID: 3833 Cardinal Blvd Daytona Beach Shores, FL
32118

Property Owner: Cheryl and Anthony Aspesi ID# 630205070140

Legal Description of Property:

The northerly 75 ft of the west 1/2 of lots 14 and 15, Block 7, Oceanview
section of Halifax Estates, according to the map or plat thereof as
recorded in map book 11 page 100, of the public records of Volusia County, FL.

Together with and subject to the easement created under that certain
easement agreement dated November 16, 2020 and recorded in Official Records
Book 7946, Page 2744, Public Records of Volusia County, FL.

Cheryl Aspesi
Applicant's Signature

7/16/2021
Date

TO: Honorable Mayor and City Council Members

FROM: Cheryl and Anthony Aspesi

SUBJECT: Amendment to the Atlantic Avenue/City of Daytona Beach Shores Development Agreement pertaining to the portion of the property located at 3833 Cardinal Blvd., Daytona Beach Shores.

DATE: August 2, 2021

On May 25th, 2021, we took ownership of the property located at 3833 Cardinal Blvd., Daytona Beach Shores, FL. This was a lot that was previously part of a larger parcel known as the Atlantic Avenue Estates Duplex Development. The development was subdivided into 4 parcels and 3 have been sold. Our piece, referred to as Tract 1 and located in the NW corner of the original property, was sold to us without us knowing there was a developer's agreement attached to the property. We had purchased the property and have plans for a single family residence to be built but have now learned that the setback requirements in place under the developer's agreement create a hardship for us in terms of building the house we have chosen. We are therefore respectfully requesting the following setbacks be allowed so that we may proceed with the construction of our new home: We would require a front setback of 25 feet, a rear setback of 10.8 feet and a side setback of 10 feet. Our plans are for a single story, 2,044 square foot residence with a covered lanai. In order to accommodate the structure we would need these setbacks to be approved. We do not feel this would in any way be a detriment to the neighborhood by requesting these setbacks but actually feel it will increase home values in the area as well as creating an increase in the tax base for the city. We have already spoken with the neighbor next door, Fernando Castellanos, who said he had no issues with us building the home as planned and was very excited to see improvements in the neighborhood.

As you can see on the preliminary plan we submitted the front setback is only 4.5 feet less than the current zoning requirements, the side setbacks are in accordance with current requirements and would not need to be changed but the rear setback would go from 25 feet to 10 feet to allow for the covered lanai that is proposed. We are extremely desirous of having the covered lanai so that we can have some shaded, outdoor space to enjoy the surroundings. This would be a part of the total building structure (under a single roof) and more aesthetically pleasing than us having to do an add-on, unattached porch after construction, which we feel would not be as attractive or economically prudent. We know if we were to do an unattached add-on covered patio after construction we could build up to 5 feet from the property line. However, we would much prefer to have a covered lanai that is part of the structure and therefore need to have the 10 foot setback in the rear to accommodate it.

In conjunction with this, we would also appreciate if the fee for applying for this amendment would be waived, or at least reduced to the fee for a single family residence and not the \$550 for a developer making an amendment to an agreement.

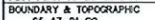
We are very excited to begin construction on a new home so that we can retire to this beautiful community by the beach. We are long time Floridians who have wanted to get to "the shore" and hopefully with your kind consideration we will be able to do this very soon.

Sincerely,

Cheryl and Anthony Aspesi

DESCRIPTION: (AS FURNISHED)

2-16--33 W 1/2 LOT 14 & W 1/2 OF N 1/2 LOT 15 BLOCK 7 OCEAN VIEW SECTION OF
HALIFAX ESTATES, IN MAP BOOK 11, PAGE 100, PER OFFICIAL RECORD 1612 PAGE 0174,
PER OFFICIAL RECORDS 4705, PAGES 2478-2479, PER OFFICIAL RECORDS 5532, PAGE
4310 PER OFFICIAL RECORDS 7177, PAGE 0575, PER OFFICIAL RECORDS 7183, PAGE
2271, VOLUSIA COUNTY, FLORIDA.



Digitally signed by James W Boleman
DN: c=US, st=Florida, o=Hortland,
ou=AMERICAN SURVEYING & MAPPING,
INC., cn=James W Boleman,
email=jboleman@a-scncorporate.com
Date: 2021.07.28 07:51:57 -0400
Adobe Acrobat version: 11.0.23

FOR THE FIRM

JAMES W. BOLEMAN PSJM #6885 DATE

Prepared by:
Tami Jo Chlan
Waterside Title Co.
1092 Ridgewood Avenue
Holly Hill, Florida 32117

File Number: 21-1127

General Warranty Deed

Made this May ²⁵ 2021 A.D. By Atlantic Avenue Estates LLC, a Florida limited liability company whose address is: 133-15 Beach Channel Drive, Rockaway Park, New York 11694, hereinafter called the grantor, to Anthony Asprel and Cheryl Asprel, husband and wife whose post office address is: 1044 Forest Circle, Winter Springs, Florida 32708, hereinafter called the grantees:

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantees, all that certain land situate in Volusia County, Florida, viz:

The Northerly 75 feet of the West 1/2 of Lots 14 and 15, Block 7, Ocean View Section of Halifax Estates, according to the map or plat thereof, as recorded in Map Book 11, Page 100, of the Public Records of Volusia County, Florida.

Together with and subject to the easement created under that certain Easement Agreement dated November 16, 2020 and recorded in Official Records Book 7946, Page 2744, Public Records of Volusia County, Florida.

Subject to restrictions, reservations and easements of record, if any, the mention of which shall not serve to reimpose the same.

Parcel ID Number: 6302-05-07-0140

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantees that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2020.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

Witness 1 signature
Witness Printed Name



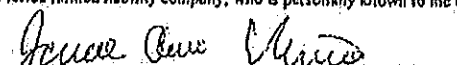
Atlantic Avenue Estates LLC,
a Florida limited liability company

By: Mark Scharff, as Member
Address: 133-15 Beach Channel Drive, Rockaway Park, New York 11694

Witness 2 signature
Witness Printed Name

State of New York
County of Kings

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this May 25th, 2021, by Mark Scharff as Member of Atlantic Avenue Estates LLC, a Florida limited liability company, who is personally known to me or who has produced a driver's license as identification.


Notary Public
Print Name: Janice Evelise Velez
My Commission Expires: Nov 31, 2023

Cruz, Stewart

From: Cheryl Aspesi <CAspesi@willowcreekchurch.org>
Sent: Thursday, August 19, 2021 9:50 AM
To: Cruz, Stewart
Subject: RE: DAA12021016 Atlantic Avenue Estates DA Amendment-1st Review

Good morning,

1. By an affidavit for the mailing of the letters, you just need a word document stating that they were mailed out and when?
2. Placed the order for the ad yesterday and waiting on the documentation for that. I will send over as soon as I have it.
3. I'll send the list of the neighbors and a copy of the letter later today.
4. I put the one owner's phone number (Jareb Rossi) in the email I sent (see below). That is what was listed for his business in Port Orange so figured that was the easiest way to contact. I tried googling Mr. Goorab but didn't find anything quickly so will have to search that a little bit more.
5. Our last phone conversation we discussed that we would take out the request to eliminate the \$2,500 permit fee, which was to be used for public benefits, but since we are not removing that from the agreement than the \$2,500 will be a benefit to the public interests as it was intended originally. The only other public benefits I would see are the overall improvements to the vacant property, an increase in the tax base which would help with public interests, the fact that this will eventually become our permanent home and as permanent residents we will maintain our property and be involved in the community to a higher degree than a rental or vacant property owner would.

Hope this helps and will get the rest of the items to you asap.

Thanks and have a great day,
Cheryl

From: Cruz, Stewart [mailto:SCruz@cityofdb.org]
Sent: Wednesday, August 18, 2021 12:28 PM
To: Cheryl Aspesi
Subject: RE: DAA12021016 Atlantic Avenue Estates DA Amendment-1st Review
Importance: High

Got it. Thank you.

I will need the following from you at least a week prior to the meeting. You can email.

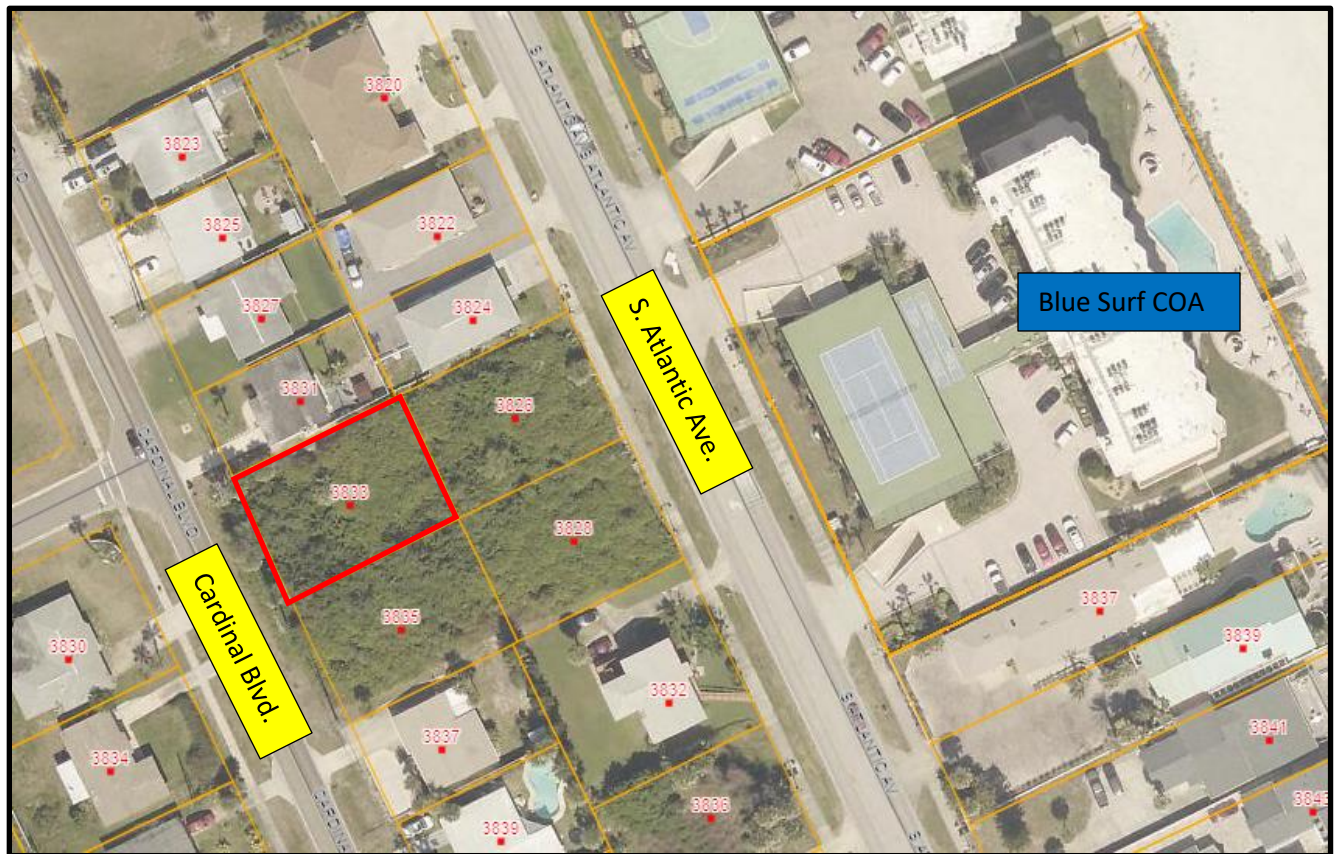
1. An affidavit from you attesting that you've mailed out the letters as required by code
2. A copy of the News Journal affidavit and proof of publication
3. A copy of the letter and list of the neighbors to whom you sent the mail

Also, besides Mark Scharff, do you have telephone numbers or email contact for the subdivision owners?

Lastly, did you ever provide a list of public benefits or benefits to the public interest as a result of the proposed amendment? If I missed it can you resend? Thank you.

stewart

AERIAL VIEW: 3833 Cardinal Boulevard



Source: Volusia County Property Appraiser, 2021

CARDINAL STREET VIEW: 3833 Carinal Boulevard



Source: GoogleMaps, 2021

Document prepared by:
Cheryl Aspesi
1044 Forest Circle
Winter Springs, FL 32708

Return recorded document to:
City of Daytona Beach Shores City Clerk
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118

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

The **CITY OF DAYTONA BEACH SHORES, FLORIDA**, a Florida municipal corporation located in Volusia County, Florida ("City"), and **ANTHONY ASPESI AND CHERYL ASPESI**, husband and wife, whose mailing address is 1044 Forest Circle, Winter Springs, Florida, 32708 the record title property owner ("Property Owner"), make and enter into this **SECOND AMENDMENT TO THE ATLANTIC AVENUE/CITY OF DAYTONA BEACH SHORES DEVELOPMENT AGREEMENT PERTAINING TO THE DEVELOPMENT OF THE ATLANTIC AVE ESTATES DUPLEX DEVELOPMENT**.

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

WHEREAS the Developer sold the 3833 Cardinal Boulevard portion of the development, more specifically described in Exhibit A attached, to Property Owner as recorded in the Official Records Book 8057, Page 1047, Public Records of Volusia County, Florida as instrument Number 2021-126765, and

WHEREAS, Property Owner proposes to amend the Agreement as set forth herein, and

WHEREAS, the Developer and remaining property owners in the development agree with the terms of the Agreement as set forth herein, and

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

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

Now, Therefore the City and the Property Owner hereby agree to amend the Agreement as follows:

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

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

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

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

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

however, the property located at 3833 Cardinal Boulevard Daytona Beach Shores, Florida, 32118, also known as Tract 1, and more specifically described in Exhibit A attached, may be developed consistent with the following development standards: minimum front yard setback of 25 feet, rear yard setback of 10 feet, maximum lot coverage of 39%. All other land development standards shall apply.

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

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

(Signature pages following)

Signed, sealed and delivered in the presence of:

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

Signature of Witness

By: _____
Nancy Miller, Mayor

Print Name of Witness

Signature of Witness

Attest:
By: _____
Cheri Schwab, City Clerk

Print Name of Witness

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by Nancy Miller and Cheri Schwab, Mayor and City Clerk, respectively, of The City of Daytona Beach Shores, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public
Commission No: _____

Signed, sealed and delivered in the presence of:

Cheryl and Anthony Aspesi (Owner)
3833 Cardinal Blvd, Daytona Beach
Shores, Florida, 32118

Signature of Witness

By: _____
Cheryl Aspesi

Print Name of Witness

Date: _____

Signature of Witness

By: _____
Anthony Aspesi

Print Name of Witness

Date: _____

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by Cheryl and Anthony Aspesi, referred to in this agreement as "Property Owner". They are personally known to me and did not take an oath.

Notary Public
Commission No. _____

Signed, sealed and delivered in the presence of:

Jacob Rossi (Owner)
3835 Cardinal Blvd, Daytona Beach
Shores, Shores, Florida 32118

Signature of Witness

By: _____
Jacob Rossi

Print Name of Witness

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by Jacob Rossi, referred to in this agreement as "Owner". He is ☐ personally known to me or ☐ produced identification and did not take an oath.

Notary Public
Commission No. _____

Signed, sealed and delivered in the presence of:

Raiyasswar Goorah (Owner)
3828 S. Atlantic Avenue
Daytona Beach Shores, FLorida 32118

Signature of Witness

By: _____
Raiyasswar Goorah

Print Name of Witness

Date: _____

STATE OF GEORGIA
COUNTY OF BIBB

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by Raiyasswar Goorah, referred to in this agreement as "Owner". He is ☐ personally known to me or ☐ produced identification and did not take an oath.

Notary Public
Commission No. _____

Signed, sealed and delivered in the presence of:

Atlantic Avenue Estates, LLC (Owner)
3826 S. Atlantic Avenue
Daytona Beach Shores, FLorida 32118

Signature of Witness

By: _____
Mark Scharff
Managing Member

Print Name of Witness

Date: _____

STATE OF NEW YORK
COUNTY OF KINGS

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by Mark Scharff as Managing Member of Atlantic Avenue Estates, LLC, referred to in this agreement as "Owner". He is ☐ personally known to me or ☐ produced identification and did not take an oath.

Notary Public
Commission No. _____

Approved as to legal form:

By: _____
John Cary, City Attorney

EXHIBIT A

The Northerly 75 feet of the West 1/2 of Lots 14 and 15, Block 7, Ocean View Section of Halifax Estates, according to the map or plat thereof, as recorded in Map Book 11, Page 100, of the public records of Volusia County, Florida. Together with and subject to the easement created under that certain Easement Agreement dated November 16, 2020 and recorded in Official Records Book 7946, Page 2744, Public Records of Volusia County, Florida.



City of Daytona Beach Shores

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"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING SEPTEMBER 13, 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.

PLANNING & ZONING BOARD AGENDA MEMORANDUM SEPTEMBER 13, 2021 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2021-09: Property Rights Element Comprehensive Plan Amendment

SYNOPSIS:

Comprehensive Plans are statutorily required land use plans which guide the overall future growth and development of cities and counties in Florida. Ordinance 2021-09, if approved, would adopt a Large-Scale Comprehensive Plan Text Amendment creating a new Property Rights Element ("Chapter") in the Daytona Beach Shores Comprehensive Plan. The new Property Rights Element includes adding Goals, Objectives and Policies to ensure that private property rights are considered in local decision making in accordance with House Bill 59, which was recently approved during the 2021 legislative session and signed into law on June 29, 2021. In addition, adopting the Property Rights Element is a requirement of the recently approved Stipulated Settlement Agreement between the City and the owner of the Treasure Island properties.

FISCAL IMPACT STATEMENT:

BACKGROUND:

Chapter 163, Florida Statutes, relating to comprehensive plans, were amended to require each local government to adopt a property rights element into their comprehensive plan. Inclusion of the property rights element is intended to ensure that governmental entities respect judicially acknowledged and constitutionally protected private property rights.

House Bill 59 adds Section 163.3177(6)(i) to the Florida Statutes. Each local government is now required to adopt a property rights element into its comprehensive plan. This new element must be adopted by the earlier of the date of its adoption of its next proposed plan amendment, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes. HB 59 includes model property rights element language, which was used in drafting this comprehensive plan amendment.

LEGAL REVIEW:

Approved as to form and content. The comp plan amendments within this ordinance were agreed to by the City Council as part of the stipulated agreement with the owner of the property.

RECOMMENDATION:

Staff recommends **approval** of Ordinance 2021-09 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may move as follows:

1. "I move to recommend **approval** of Ordinance 2021-09 as presented."

OR

2. "I move to recommend approval of Ordinance 2021-09, with the following amendments..."

ATTACHMENT:

1. Ord. 2021-09 - Property Rights Element
2. Ord. 2021-09 - Exhibit A
3. HB 59

ORDINANCE NO: 2021-09

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY FLORIDA, RELATING TO COMPREHENSIVE PLANNING; AMENDING *THE CITY OF DAYTONA BEACH SHORES COMPREHENSIVE PLAN*, BY CREATING CHAPTER 12, ENTITLED “PROPERTY RIGHTS ELEMENT”, AS REQUIRED BY THE RECENTLY ENACTED HOUSE BILL 59; PROVIDING FOR A SAVINGS AND RATIFICATION PROVISION; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores is committed to planning and managing the future growth of the City; and

WHEREAS, the City of Daytona Beach Shores has the authority to amend its Comprehensive Plan pursuant to Part II, Chapter 163, *Florida Statutes*; and

WHEREAS, the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* directly relates to the amendment of the text of a comprehensive plan as provided in Section 163.3184, *Florida Statutes*; and

WHEREAS, the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* is being submitted under the expedited state review process as provided in Section 163.3184, *Florida Statutes*; and

WHEREAS, the Volusia County Growth Management Commission (VGMC) has issued a determination of consistency in accordance with Section 202.3 of the *Charter of Volusia County, Florida*, for the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan*, attached as Exhibit “A”; and

WHEREAS, the proposed comprehensive plan amendment does not conflict with the determination of consistency issued by the VGMC in accordance with Section 202.3 of the *Charter of Volusia County, Florida*; and

WHEREAS, the Planning and Zoning Board, which is the local planning agency of the City, and City Council of the City of Daytona Beach Shores have conducted public hearings and issued notices required by Florida law in the preparation and enactment of this Ordinance; and

WHEREAS, the Governor of the State of Florida has signed HB 59, which was passed during the 2021 Legislative Session, requiring local governments adopt a property rights element

Ordinance 2021-09

Page No.1

in their comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is **initiated** after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes, as depicted in **Exhibit A** attached; and

WHEREAS, the City Council of the City of Daytona Beach Shores declares that the purpose and intent of the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* is to guide future growth and development; encourage and maximize the most appropriate use of the land, water and other resources, consistent with the public interest, promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate facilities and services; conserve and protect natural resources within the City, while protecting private property rights; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds that this Ordinance serves the best interest of the City of Daytona Beach Shores; and

WHEREAS, underlined words shall constitute additions to the original text of the Comprehensive Plan, *** shall constitute ellipses, and ~~strike through~~ shall constitute deletions to the Comprehensive Plan.

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

SECTION ONE: CHANGE IN TEXT OF THE DAYTONA BEACH SHORES COMPERENSIVE PLAN. The *City of Daytona Beach Shores Comprehensive Plan* is hereby amended to create a new comprehensive plan element entitled “Property Rights Element” as depicted in Exhibit “A”.

SECTION TWO: IMPLEMENTING ADMINISTRATIVE ACTIONS. The Community Services Director is hereby authorized to transmit copies of the adopted amendment to the *City of Daytona Beach Shores Comprehensive Plan* to the appropriate agencies and to any other unit of local government who has filed a written request for a copy in accordance with the provisions of Section 163.3184, *Florida Statutes*, and *Volusia Growth Management Rules*. The City Manager and the City Attorney are hereby authorized to take any and all necessary actions to defend the enactment and implementation of this Ordinance and assert the legal compliance status of this Ordinance.

SECTION THREE: SAVINGS AND RATIFICATION. The City of Daytona Beach Shores hereby ratifies and affirms that action taken by the City Council and the City as a whole to date relative to the comprehensive planning programs action activities of the City. The applicability and effect of the *City of Daytona Beach Shores Comprehensive Plan* are hereby ratified and shall remain in full force and effect consistent with the provisions of this Ordinance.

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

SECTION FIVE: SEVERABILITY. If any section or portion of a section of this Ordinance, or application of any provision of this Ordinance, proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Ordinance.

SECTION SIX. CODIFICATION. This Ordinance shall be codified in the *City of Daytona Beach Shores Comprehensive Plan* as deemed appropriate by the Code codifier.

SECTION SEVEN: EFFECTIVE DATE. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the State Land Planning Agency (the Florida Department of Economic Opportunity) notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the State Land Planning Agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

CITY OF DAYTONA BEACH SHORES, FLORIDA

Mayor, Nancy Miller

ATTEST:

Michael T. Booker, City Manager

Cheri Schwab, City Clerk

Approved as to form and content:

JOHN CARY, CITY ATTORNEY

Passed upon first reading this ___ day of _____, 2021.

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

EXHIBIT A

CHAPTER 12: PROPERTY RIGHTS ELEMENT

GOAL 12-1: TO RESPECT JUDICIALLY ACKNOWLEDGED AND CONSTITUTIONALLY PROTECTED PRIVATE PROPERTY RIGHTS.

Objective 12-1.1: The following policies are to ensure that private property rights shall be considered in local decision making.

Policy 12-1.1.1 The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 1-1.1.2: The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 1-1.1.3: The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 1-1.1.4: The right of a property owner to dispose of his or her property through sale or gift.

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

1
2 An act relating to growth management; amending s.
3 163.3167, F.S.; specifying requirements for certain
4 comprehensive plans effective, rather than adopted,
5 after a specified date and for associated land
6 development regulations; amending s. 163.3177, F.S.;
7 requiring local governments to include a property
8 rights element in their comprehensive plans; providing
9 a statement of rights which a local government may
10 use; requiring a local government to adopt a property
11 rights element by the earlier of its adoption of its
12 next proposed plan amendment initiated after a certain
13 date or the next scheduled evaluation and appraisal of
14 its comprehensive plan; prohibiting a local
15 government's property rights element from conflicting
16 with the statement of rights contained in the act;
17 amending s. 163.3237, F.S.; providing that the consent
18 of certain property owners is not required for
19 development agreement changes under certain
20 circumstances; providing an exception; amending s.
21 337.25, F.S.; requiring the Department of
22 Transportation to afford a right of first refusal to
23 certain individuals under specified circumstances;
24 providing requirements and procedures for the right of
25 first refusal; amending s. 380.06, F.S.; authorizing

Page 1 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0059-05-er

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CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

26 certain developments of regional impact agreements to
27 be amended under certain circumstances; providing
28 retroactive applicability; providing a declaration of
29 important state interest; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

32
33 Section 1. Subsection (3) of section 163.3167, Florida
34 Statutes, is amended to read:

35 163.3167 Scope of act.—

36 (3) A municipality established after the effective date of
37 this act shall, within 1 year after incorporation, establish a
38 local planning agency, pursuant to s. 163.3174, and prepare and
39 adopt a comprehensive plan of the type and in the manner set out
40 in this act within 3 years after the date of such incorporation.
41 A county comprehensive plan is controlling until the
42 municipality adopts a comprehensive plan in accordance with this
43 act. A comprehensive plan for a newly incorporated municipality
44 which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and
45 all land development regulations adopted to implement the
46 comprehensive plan must incorporate each development order
47 existing before the comprehensive plan's effective date, may not
48 impair the completion of a development in accordance with such
49 existing development order, and must vest the density and
50 intensity approved by such development order existing on the

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CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

effective date of the comprehensive plan without limitation or modification.

Section 2. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)–(5), the comprehensive plan shall include the following elements:

(i)1. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

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CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

76

77 2. The right of a property owner to use, maintain,
78 develop, and improve his or her property for personal
79 use or for the use of any other person, subject to
80 state law and local ordinances.

81

82 3. The right of the property owner to privacy and to
83 exclude others from the property to protect the
84 owner's possessions and property.

85

86 4. The right of a property owner to dispose of his or
87 her property through sale or gift.

88

89 2. Each local government must adopt a property rights
90 element in its comprehensive plan by the earlier of the date of
91 its adoption of its next proposed plan amendment that is
92 initiated after July 1, 2021, or the date of the next scheduled
93 evaluation and appraisal of its comprehensive plan pursuant to
94 s. 163.3191. If a local government adopts its own property
95 rights element, the element may not conflict with the statement
96 of rights provided in subparagraph 1.

97 Section 3. Section 163.3237, Florida Statutes, is amended
98 to read:

99 163.3237 Amendment or cancellation of a development
100 agreement.—A development agreement may be amended or canceled by

Page 4 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0059-05-er

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CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

101 mutual consent of the parties to the agreement or by their
102 successors in interest. A party or its designated successor in
103 interest to a development agreement and a local government may
104 amend or cancel a development agreement without securing the
105 consent of other parcel owners whose property was originally
106 subject to the development agreement, unless the amendment or
107 cancellation directly modifies the allowable uses or
108 entitlements of such owners' property.

109 Section 4. Subsection (4) of section 337.25, Florida
110 Statutes, is amended to read:

111 337.25 Acquisition, lease, and disposal of real and
112 personal property.—

113 (4) The department may convey, in the name of the state,
114 any land, building, or other property, real or personal, which
115 was acquired under subsection (1) and which the department has
116 determined is not needed for the construction, operation, and
117 maintenance of a transportation facility. When such a
118 determination has been made, property may be disposed of through
119 negotiations, sealed competitive bids, auctions, or any other
120 means the department deems to be in its best interest, with due
121 advertisement for property valued by the department at greater
122 than \$10,000. A sale may not occur at a price less than the
123 department's current estimate of value, except as provided in
124 paragraphs (a)-(d). The department may afford a right of first
125 refusal to the local government or other political subdivision

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CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

126 in the jurisdiction in which the parcel is situated, except in a
127 conveyance transacted under paragraph (a), paragraph (c), or
128 paragraph (e). Notwithstanding any provision of this section to
129 the contrary, before any conveyance under this subsection may be
130 made, except a conveyance under paragraph (a) or paragraph (c),
131 the department shall first afford a right of first refusal to
132 the previous property owner for the department's current
133 estimate of value of the property. The right of first refusal
134 must be made in writing and sent to the previous owner via
135 certified mail or hand delivery, effective upon receipt. The
136 right of first refusal must provide the previous owner with a
137 minimum of 30 days to exercise the right in writing and must be
138 sent to the originator of the offer by certified mail or hand
139 delivery, effective upon dispatch. If the previous owner
140 exercises his or her right of first refusal, the previous owner
141 has a minimum of 90 days to close on the property. The right of
142 first refusal set forth in this subsection may not be required
143 for the disposal of property acquired more than 10 years before
144 the date of disposition by the department.

145 (a) If the property has been donated to the state for
146 transportation purposes and a transportation facility has not
147 been constructed for at least 5 years, plans have not been
148 prepared for the construction of such facility, and the property
149 is not located in a transportation corridor, the governmental
150 entity may authorize reconveyance of the donated property for no

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2021 Legislature

151 consideration to the original donor or the donor's heirs,
152 successors, assigns, or representatives.

153 (b) If the property is to be used for a public purpose,
154 the property may be conveyed without consideration to a
155 governmental entity.

156 (c) If the property was originally acquired specifically
157 to provide replacement housing for persons displaced by
158 transportation projects, the department may negotiate for the
159 sale of such property as replacement housing. As compensation,
160 the state shall receive at least its investment in such property
161 or the department's current estimate of value, whichever is
162 lower. It is expressly intended that this benefit be extended
163 only to persons actually displaced by the project. Dispositions
164 to any other person must be for at least the department's
165 current estimate of value.

166 (d) If the department determines that the property
167 requires significant costs to be incurred or that continued
168 ownership of the property exposes the department to significant
169 liability risks, the department may use the projected
170 maintenance costs over the next 10 years to offset the
171 property's value in establishing a value for disposal of the
172 property, even if that value is zero.

173 (e) If, at the discretion of the department, a sale to a
174 person other than an abutting property owner would be
175 inequitable, the property may be sold to the abutting owner for

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CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

the department's current estimate of value.

Section 5. Paragraph (d) of subsection (4) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(d) Any agreement entered into by the state land planning agency, the developer, and the local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before April 6, 2018, and may be amended pursuant to the processes adopted by the local government for amending development orders. Any such agreement or amendment may authorize the developer to exchange approved land uses, subject to demonstrating that the exchange will not increase impacts to public facilities. This paragraph applies to all such agreements and amendments effective on or after April 6, 2018.

Section 6. The Legislature finds and declares that this act fulfills an important state interest.

Section 7. This act shall take effect July 1, 2021.



City of Daytona Beach Shores

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AGENDA PLANNING & ZONING BOARD MEETING SEPTEMBER 13, 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.

PLANNING & ZONING BOARD AGENDA MEMORANDUM SEPTEMBER 13, 2021 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Ordinance 2021-10: Treasure Island Stipulated Settlement Agreement Comprehensive Plan Amendment - 2025 S. Atlantic Ave, et al

SYNOPSIS:

Ordinance 2021-10 if approved, would amend the Daytona Beach Shores Comprehensive Plan to create Redevelopment Overlay policies pursuant to the 2025 South Atlantic Avenue, LLC – City of Daytona Beach Shores Stipulated Settlement Agreement ("Agreement") approved by the City Council on August 17, 2021. The Redevelopment Overlay policies provide for land use and development flexibility that would foster the redevelopment of the Treasure Island properties as stipulated in the Agreement. As required by Florida Law and the Volusia County Code of Ordinances, the proposed comprehensive plan amendment will be transmitted to the Florida Department of Economic Opportunity and other state review agencies, as well as the Volusia Growth Management Commission, for evaluation consistent with controlling law.

FISCAL IMPACT STATEMENT:

BACKGROUND:

I. SUMMARY BACKGROUND

Ordinance 2021-10 (attached) if approved, would amend the Future Land Use Element in Daytona Beach Shores Comprehensive Plan to create a Redevelopment Overlay objective and related policies pursuant to the Agreement recently approved by the City Council on August 17, 2021. Sec. 5.b of the Agreement provides that the *“Property Owner shall initiate, process, and the City will support, waive application fees, and ultimately adopt a Large Scale Comprehensive Plan Amendment to create a “Redevelopment Overlay”, which is intended to act as a redevelopment based overlay that will provide additional flexibility in the redevelopment of certain properties within the City.”*

On August 27, 2021, owner/applicant 2025 S. Atlantic Avenue, LLC submitted Comprehensive Plan Amendment CPA2021024 (**Exhibit A**), which provides for the creation of the subject Redevelopment Overlay. If approved, Ordinance 2021-10 will enact the Redevelopment Overlay as required in the Agreement, subject to state and VGMC approval. If approved by the state and VGMC the owner/applicant has stipulated to demolish the Treasure Island structure, which has been abandoned since 2004.

If approved and thereafter, the City will amend the Land Development Code (LDC) to establish the Redevelopment Overlay and applicant/owner will petition the City to apply said overlay unto the subjected properties. This will enable the owner/developer to redevelop the subject properties for the purpose of hotel (300 units) and residential (200 units) uses sometime in the future.

II. PROPERTY DESCRIPTION

The Treasure Island properties contain nine (9) parcels located on the east and west sides of the 2000 block of S. Atlantic Avenue and corners of Fraile and Armstrong streets (**Exhibit B**). The 2025 S. Atlantic Avenue parcel is currently occupied by an 11-storey abandoned shell structure, which formerly hosted the Treasure Island Hotel. All other properties are vacant but were once developed with tourism related structures. Combined, the Treasure Island properties total approximately 4.89 upland acres and 1.58 acres east of the bulkheadline.

III. PROPOSED AMMENDMENT

The proposed amendment language is contained in **Exhibit C** attached. The origin of the amendment language is the Agreement.

IV. PLANNING ANALYSIS

See attached Planning Analysis (**Exhibit D**).

V. DUE PUBLIC NOTICE

Evidence of due public notice has been submitted to the City Clerk.

VI. PLANNING AND ZONING BOARD RECOMMENDATION

Pending (9-13-21)

LEGAL REVIEW:

Approved as to form and content. These comp plan amendments were agreed to by the City Council as a part of the stipulated agreement with the owner of the property.

RECOMMENDATION:

Pursuant to the findings in the Planning Analysis of this staff report and the stipulations of the Agreement, Staff recommends approval of Ordinance 2021-10 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may move as follows:

"I move to recommend approval of Ordinance 2021-10 as presented."

- ATTACHMENT:**
1. Ord. 2021-10 - Treasure Island CPA
 2. Exhibit A-Application CPA12021024-Treasure Island Overlay
 3. EXHIBIT B-Location Map
 4. Exhibit C-Ord. 2021-10 Exhibit A-Proposed Language
 5. Exhibit D-Planning Analysis-Ord 2021-10-Treasure Island

ORDINANCE NO: 2021-10

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY FLORIDA, RELATING TO COMPREHENSIVE PLANNING; AMENDING *THE CITY OF DAYTONA BEACH SHORES COMPREHENSIVE PLAN*, BY AMENDING CHAPTER 1, ENTITLED “FUTURE LAND USE ELEMENT”, TO ESTABLISH REDEVELOPMENT OVERLAY POLICIES NECESSARY TO IMPLEMENT CERTAIN LAND USE PROVISIONS OF THE 2025 SOUTH ATLANTIC AVENUE, LLC – CITY OF DAYTONA BEACH SHORES STIPULATED SETTLEMENT AGREEMENT; PROVIDING FOR A SAVINGS AND RATIFICATION PROVISION; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Daytona Beach Shores is committed to planning and managing the future growth of the City; and

WHEREAS, the City of Daytona Beach Shores has the authority to amend its Comprehensive Plan pursuant to Part II, Chapter 163, *Florida Statutes*; and

WHEREAS, the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* directly relates to the amendment of the text of a comprehensive plan as provided in Section 163.3184, *Florida Statutes*; and

WHEREAS, the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* is being submitted under the expedited state review process as provided in Section 163.3184, *Florida Statutes*; and

WHEREAS, the Volusia County Growth Management Commission (VGMC) has issued a determination of consistency in accordance with Section 202.3 of the *Charter of Volusia County, Florida*, for the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan*, attached as Exhibit “A”; and

WHEREAS, the proposed comprehensive plan amendment does not conflict with the determination of consistency issued by the VGMC in accordance with Section 202.3 of the *Charter of Volusia County, Florida*; and

WHEREAS, the Planning and Zoning Board, which is the local planning agency of the City, and City Council of the City of Daytona Beach Shores have conducted public hearings and issued notices required by Florida law in the preparation and enactment of this Ordinance; and

WHEREAS, on August 17, 2021 the City Council of the City of Daytona Beach Shores approved the 2025 South Atlantic Avenue – City of Daytona Beach Shores Stipulated Settlement Agreement; and

WHEREAS, on August 25, 2021 the Daytona Beach Shores Special Magistrate accepted the 2025 South Atlantic Avenue – City of Daytona Beach Shores Stipulated Settlement Agreement; and

WHEREAS, the 2025 South Atlantic Avenue – City of Daytona Beach Shores Stipulated Settlement Agreement calls for a comprehensive plan amendment that will create a Redevelopment Overlay creating additional density and providing flexibility in the redevelopment of the properties subject to the agreement; and

WHEREAS, the City Council of the City of Daytona Beach Shores declares that the purpose and intent of the proposed amendment to the *City of Daytona Beach Shores Comprehensive Plan* is to guide future growth and development; encourage and maximize the most appropriate use of the land, water and other resources, consistent with the public interest, promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate facilities and services; conserve and protect natural resources within the City, while protecting private property rights; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds that this Ordinance serves the best interest of the City of Daytona Beach Shores; and

WHEREAS, underlined words shall constitute additions to the original text of the Comprehensive Plan, *** shall constitute ellipses, and ~~strike through~~ shall constitute deletions to the Comprehensive Plan.

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

SECTION ONE: CHANGE IN TEXT OF THE DAYTONA BEACH SHORES COMPERENSIVE PLAN. The text of Chapter 1, “Future Land Use Element,” of the *City of Daytona Beach Shores Comprehensive Plan* is hereby amended to create a Redevelopment Overlay policy as depicted in Exhibit “A”.

SECTION TWO: IMPLEMENTING ADMINISTRATIVE ACTIONS. The Community Services Director is hereby authorized to transmit copies of the adopted amendment to the *City of Daytona Beach Shores Comprehensive Plan* to the appropriate agencies and to any other unit of local government who has filed a written request for a copy in accordance with the provisions of Section 163.3184, *Florida Statutes*, and *Volusia Growth Management Rules*. The City Manager and the City Attorney are hereby authorized to take any and all necessary actions to

defend the enactment and implementation of this Ordinance and assert the legal compliance status of this Ordinance.

SECTION THREE: SAVINGS AND RATIFICATION. The City of Daytona Beach Shores hereby ratifies and affirms that action taken by the City Council and the City as a whole to date relative to the comprehensive planning programs action activities of the City. The applicability and effect of the *City of Daytona Beach Shores Comprehensive Plan* are hereby ratified and shall remain in full force and effect consistent with the provisions of this Ordinance.

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

SECTION FIVE: SEVERABILITY. If any section or portion of a section of this Ordinance, or application of any provision of this Ordinance, proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Ordinance.

SECTION SIX. CODIFICATION. This Ordinance shall be codified in the *City of Daytona Beach Shores Comprehensive Plan* as deemed appropriate by the Code codifier.

SECTION SEVEN: EFFECTIVE DATE. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the State Land Planning Agency (the Florida Department of Economic Opportunity) notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the State Land Planning Agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

CITY OF DAYTONA BEACH SHORES, FLORIDA

Mayor, Nancy Miller

ATTEST:

Michael T. Booker, City Manager

Cheri Schwab, City Clerk

Approved as to form and content:

JOHN CARY, CITY ATTORNEY

Passed upon first reading this __ day of _____, 2021.

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

EXHIBIT A



City of Daytona Beach Shores
COMMUNITY SERVICES DEPARTMENT
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Phone (386) 763-5377 Fax (386) 763-5370

**APPLICATION FOR COMPREHENSIVE PLAN/FUTURE LAND USE MAP
AMENDMENT**

The Undersigned Applicant requests the Planning and Zoning Board AND City Council to hear and decide upon this application in accordance with Sec. 2-2 of the Land Development Code and Florida Law.

Date Submitted: 8 / 27 / 2021

Applicable Section of the Comprehensive Plan: Future Land Use Element

Fees must be paid at the time the application is submitted.

Applicant's Name: 2025 South Atlantic Avenue, LLC

Address: 865 Merrick Ave, Ste 200 South Westbury, NY Phone #: 386-323-9226

Property Address: See Attached

Existing Property Use: Vacant/Formerly Developed

Representing Attorney (if any): Robert Merrell, Cobb Cole Law Firm

Address: 149 S. Ridgewood Ave, Ste 700, Daytona Beach Phone #: 386-323-9226

NOTES: 1) Notarized letter of authorization from owner MUST be submitted if application is filed by anyone other than the owner. 2) A completed application MUST be submitted at least 45 days prior to the anticipated Planning and Zoning hearing date.

Legal description of the property:

See Attached

Description of your request:

See Attached

 Jessica Gow
Applicant's Signature

8 / 31 / 21
Date

12021024

RECEIVED

AUG 30 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

REDEVELOPMENT OVERLAY

DAYTONA BEACH SHORES

Large Scale Comprehensive Plan Amendment

1. APPLICANT INFORMATION

1.1 Applicant Name and Address

2025 SOUTH ATLANTIC AVENUE, LLC

1.2 Primary Contact for Applicant

Guy Milone
865 Merrick Avenue, Suite 200 S
Westbury, NY 11590
GMilone@AcresCap.com

1.3 Applicant's Authorized Representatives

Robert A. Merrell III, Esquire
Cobb Cole
149 S. Ridgewood Avenue, Suite 700
Daytona Beach, FL 32114
Office: 386/323-9226
Robert.Merrell@CobbCole.com

Joseph Hopkins, P.E.
The Performance Group
100 Marina Point Drive
Daytona Beach, FL 32114
386-239-7166
TPGDaytona@aol.com

2. Property Information

2.1 Nature of Applicant's Interest

Applicant is the owner of certain property located within Daytona Beach Shores, a portion of which is known as the former Treasure Island Resort, and intends to develop the property as a mixed use development inclusive of hotel and a multifamily development. This Project will allow for additional visitor accommodation and residential uses to support the existing retail and commercial developments located in close proximity to the property. To facilitate redevelopment of the Applicant's property, the Applicant is requesting that the City of Daytona Beach Shores adopt a Large Scale Comprehensive Plan Amendment created a "Redevelopment Overlay" that would apply to the property and allow for certain redevelopment advantages, including a density bonus and ability to transfer development rights within properties located within the Overlay District.

2.2 Size of Property and Location

The proposal initial overlay boundary is attached hereto as Exhibit “A.” The Parcel Identification Nos. include 531618000090 531618000110, 531618000270, 531618000250, 531618000240, 531618000230, and 531621000090, 531621000080. Portions of the Property include the former Treasure Island Resort, which remains partially developed on the site. The remaining parcels are comprised of vacant, underutilized land. The proposed redevelopment of the site will be an infill development project that will cluster development in areas where urban services exist to serve the needs of the project.

3. **Land Use Information**

3.1 Current Zoning

The current zoning designation on the initial Overlay property is T-RMF-1, and there is a Statutory Development Agreement applicable to the site. The Applicant is intending to revise the Statutory Development Agreement for the Property to reflect an updated development plan for the site, inclusive of a maximum of three hundred (300) hotel units and two hundred (200) multifamily residential units.

3.2 Future Land Use Map Designation

The current FLU designations on the initial Overlay properties include High Intensity, Tourist Oriented Commercial, and Low Density Residential.

3.3 Comprehensive Plan Text Amendment

Future Land Use Element

Objective 1-1.7 The City shall promote the redevelopment of properties located along South Atlantic Avenue and included in the redevelopment plan for the former Treasure Island Resort, known as Volusia County Property Appraiser Parcel ID Nos. 531618000090 531618000110, 531618000270, 531618000250, 531618000240, 531618000230, and 531621000090, and 531621000080.

New Policy 1-1.7.1. It is the intent of the City to adopt a redevelopment based overlay that will provide additional flexibility in the redevelopment of the above-referenced properties within the City. The purpose of the Redevelopment Overlay shall be to allow for convenient and flexible special character district that authorizes horizontal and vertical mixed-use development within an area of existing development where the comprehensive redevelopment of a blighted parcel of land is envisioned. Development on land designated by the Redevelopment Overlay is intended to feature high quality architecture and well-designed urban form that promotes pedestrian activity, reduces transportation impacts, and creates a balance of land uses.

Within the Redevelopment Overlay, density associated with a parcel of land may be transferred from the existing parcel to another parcel of land within the Redevelopment Overlay, subject to

the requirements set forth herein. In order to transfer density associated with a parcel, the owner of the “sending” parcel and the owner of the “receiving” parcel must enter into a written agreement evidencing such transfer, which shall act to restrict density within the sending parcel to the extent of the transfer. Such Agreement shall be approved by resolution of the City Council of the City of Daytona Beach Shores and recorded in the Public Records of Volusia County and will constitute a restriction on future development of the sending parcel.

Properties located within the Redevelopment Overlay shall be permitted a density bonus of 25% for redevelopment projects that are enrolled in the City’s Alternative Tax Relief program, provided that the total combined density (including residential and hotel density) associated with a redevelopment project does not exceed five hundred (500) units within the Development.

3.4 Density Review for Overlay District

An overview of the density transfer and density bonus contemplated by this Comprehensive Plan Amendment is included as Exhibit “B” attached hereto. A review of the impacts of such density bonus on City services, such as water, sewer, and traffic, is further included as Exhibit “C” attached hereto. Review of the proposed increase demonstrates that existing capacity is in place to serve the proposed redevelopment.

4. **Consistency and Compatibility**

4.1 Consistency with Plan Goals, Policies and Objectives of the Daytona Beach Comprehensive Plan

The proposed amendment is consistent with several of the Goals, Policies and Objectives of the Comprehensive Plan, as outlined below. This amendment will allow development of the property to allow for additional residential uses within a growing sector of the City. In addition to these factors, the amendment is also consistent with the following provisions of the Daytona Beach Comprehensive Plan:

Future Land Use Element

GOAL 1-1: Effectively manage future development by designating appropriate areas for new growth that does not compromise environmental integrity, is responsive to market needs and is consistent with sound land planning practices.

Response: The proposed overlay allows for flexibility in development for properties located in appropriate areas for urban development. The proposed overlay will direct additional growth to areas that have already faced development and will lessen impacts on environmentally sensitive areas.

Objective 1-1.2: Future redevelopment activities shall take the form of replacing the outmoded and inefficient existing hotels and motels that were built in the 1950s and early 1960s. These uses are found primarily on the east side of S.R. A1A, north of Florida Shores Boulevard to the City

limits at the north end, and south of Van Avenue to the south City limits ending at the Wilbur-by-the-Sea area. These redevelopment activities shall be consistent with the goals, objectives, and policies set forth in this Element

Response: The proposed overlay is connected with the potential redevelopment of the Treasure Island Resort, a historic hotel that has been vacant for an extended time and additional surrounding areas that have remained underutilized.

Objective 1-1.3. The economic base of the City shall be broadened by allowing within the tourist oriented commercial and retail/service commercial future land use categories mixed use developments that allow for office uses, as well as residential, hotel and commercial facilities.

Response: The proposed overlay is connected with the potential redevelopment of a hotel and multifamily development that will allow for both tourists and residents to be located within close proximity to existing retail and commercial areas.

Policy 1-2.1.1: The City shall encourage an urban design pattern in redevelopment areas, where appropriate, that will minimize travel requirements among living, working, shopping and recreation areas.

Response: The proposed overlay is connected with the potential redevelopment of a hotel and multifamily development that will allow for both tourists and residents to be located within close proximity to existing retail and commercial areas.

GOAL 3-1: Provide a variety of adequate housing for all present and future residents of the City of Daytona Beach Shores through cost efficient objectives, while promoting individual self-sufficiency.

Response: The proposed overlay is connected with the potential development of a multifamily development that will allow for additional residential opportunities within this sector of the City.

4.2 Consistency with the Urban Sprawl Rule

Section 163.3177(6)(a)(9)(b), Florida Statutes, provides that plan amendments shall be determined to discourage the proliferation of urban sprawl if they incorporate a development pattern or urban form that achieves four or more of the following:

- (I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

Response: The proposed overlay allows for flexibility in development for properties located in appropriate areas for urban development. The proposed overlay will direct additional growth to areas that have already faced development and will lessen impacts on environmentally sensitive areas.

- (II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

Response: The proposed overlay would promote higher intensity and density developments within an area with existing public utilities and infrastructure to support clustered developments that offer a mixture of uses and support services to residents and visitors.

- (III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

Response: The proposed overlay is connected with the potential redevelopment of a hotel and multifamily development that will allow for both tourists and residents to be located within close proximity to existing retail and commercial areas.

- (IV) Promotes conservation of water and energy.

Response: Redevelopment activities within the Overlay will meet current building standards, and will generally be more energy and water efficient than outdated structures.

- (V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

Response: N/A

- (VI) Preserves open space and natural lands and provides for public open space and recreation needs.

Response: N/A

- (VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

Response: The proposed overlay is connected with the potential redevelopment of a hotel and multifamily development that will allow for both tourists and residents to be located within close proximity to existing retail and commercial areas.

- (VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

Response: The proposed overlay will direct growth into an area that is supportive of urban growth and limit the necessity of additional sprawl-type developments that would be necessary in other areas to achieve the projected density or intensity.

Accordingly, the proposed amendment exceeds the urban sprawl standards set forth in Section 163.3177(6)(a)(9)(b), Florida Statutes.

4.3 Land Use Compatibility Analysis

The proposed amendment seeks to create a redevelopment overlay that will promote redevelopment of existing structures and underutilized properties within the City. The proposed amendment will not negatively alter the character that exists in the area at the present time. The amendment is intended to allow for improved planning and coordination for development of the Property.

5. Conclusion

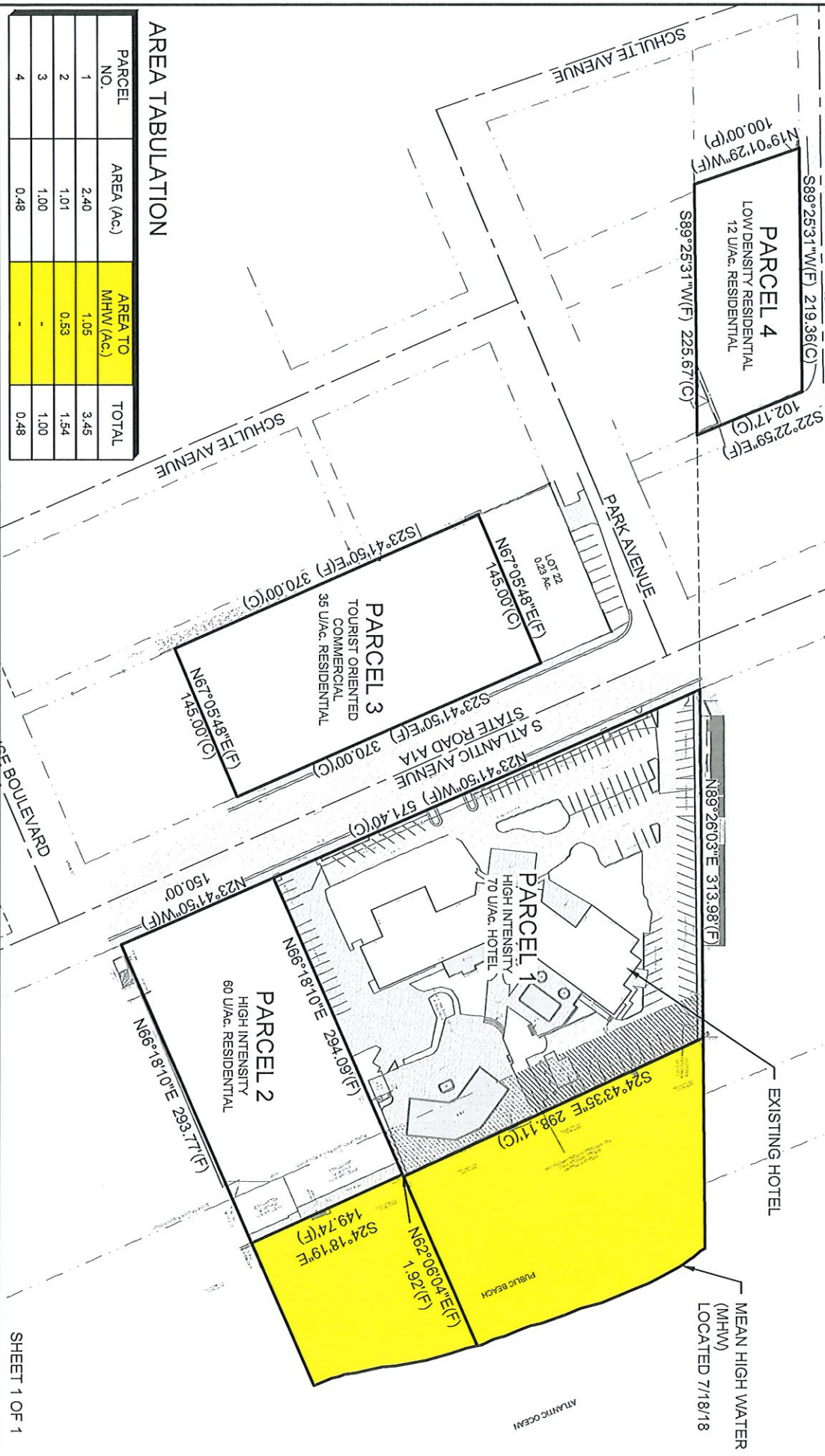
The proposed amendment is consistent with the City of Daytona Beach Shores Comprehensive Plan as detailed herein. The amendment will permit the efficient integration of planning and management of the Property. The proposed amendment will ensure that the subsequent development of the Property will not include any inconsistent uses with those currently anticipated throughout this area. The amendment will allow for mixed use development in an appropriate location where it will be properly buffered and compatible with surrounding uses.

EXHIBIT A

Proposed Overlay Boundaries



SOUTH ATLANTIC AVENUE, LLC
2025 A. ATLANTIC AVE.
DAYTONA BEACH SHORES, FL



AREA TABULATION

PARCEL NO.	AREA (Ac.)	AREA TO MHW (Ac.)	TOTAL
1	2.40	1.05	3.45
2	1.01	0.53	1.54
3	1.00	-	1.00
4	0.48	-	0.48

DENSITY STUDY

PROJECT: TREASURE ISLAND
SCALE: NONE
FILE: 827-SURVEY DENSITY STUDY
DATE: 8/26/21

THE PERFORMANCE GROUP

CIVIL ENGINEERING / PLANNING / DEVELOPMENT



JOSEPH H. HOPKINS, P.E. NO. 48056
100 MARINA POINT DR., DAYTONA BEACH, FL 32114
TELEPHONE: (386) 239-7166 FAX: (386) 239-7120

EXHIBIT B

Density Study

DENSITY SUMMARY

PARCEL 1

Description: The existing hotel site has a vested density of 227 hotel units. Additional permitted density can be computed from the seawall to the mean high water line (MHWL) at a ration of 70 units per acre. The development agreement limits the site to a maximum of 300 hotel units.

Land Use: High Intensity = 70 units/acre (hotel)

Site Area from seawall to MHWL = 1.05 ac

Total Density = 227 units (vested) + 1.05 ac x 70 units/ac = 300 units

PARCEL 2

Description: The site is currently vacant but is intended to be redeveloped as a multifamily residential use. The permitted density can be computed over the entire parcel measured from Atlantic Avenue (SRA1A) to the MHWL at a ration of 60 units per acre. The development agreement limits the site to a maximum of 200 residential units.

Land Use: High Intensity = 60 units/acre (multi family residential)

Area of Parcel = 1.54 acres

Total Density = 1.54 acres x 60 unit/ac = 92.4 units

PARCEL 3

Description: The site is currently undeveloped but is intended to be redeveloped to provide support services to Parcels 1 and 2. The permitted density can be computed over the entire parcel at a ration of 35 units per acre. The permitted density will be transferred to Parcel 2.

Land Use: Tourist Oriented Commercial = 35 units/acre (multi family residential)

Area of Parcel = 1.00 acres

Total Density = 1.00 acres x 35 unit/ac = 35 units

PARCEL 4

Description: The site is currently undeveloped but is intended to be redeveloped to provide support services to Parcels 1 and 2. The permitted density can be computed over the entire parcel at a ration of 12 units per acre. The permitted density will be transferred to Parcel 2.

Land Use: Low Density Residential = 12 units/acre (multi family residential)

Area of Parcel = 0.48 acres

Total Density = 0.48 acres x 12 unit/ac = 5.76 units

Parcel Density Summary

PARCEL	HOTEL	RESIDENTIAL	TRANSFERRED (out)	TRANSFERRED (IN)	NET
1	300	0	0		300
2	0	92.4	0	40.76	133.1
3	0	35	-35	0	0
4	0	5.76	-5.76	0	0
TOTAL	300	133.16	-40.76	40.76	433.1

DENSITY BOUNDS

The Redevelopment Overlay provides for a maximum density bonus of 25% above the permitted density for both residential and hotel uses. The density bonus will be applied to the permitted density up to a maximum of 500 units (300 hotel units on Parcel 1 and 200 residential units on Parcel 2)

Density Bonus = $433.16 \times 25\% = 108.29$ units (hotel or residential)

The site is already at a maximum capacity on the hotel density of 300 units. The Density Bonus will be applied to Parcel 2 to increase the multi family residential density from 133.16 units to the maximum residential density of 200 units.

Multi Family Residential Density Bonus = $200 \text{ units} - 133.16 \text{ units} = 66.84 \text{ units}$

TOTAL DENSITY BONUS INCREASE = $500 \text{ units} / 433.16 \text{ units} = 1.1543$

NET INCREASE = 67 Multi Family Residential Units (15.43%)
(15.43% < 25%)

EXHIBIT C

Impact Review

Chapter 163.3177(6)(a)2.F.S.....The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:

- a. The amount of land required to accommodate anticipated growth.
The property is located in an established urban mixed use community. The land mass is limited in size based on ownership.
- b. The projected permanent and seasonal population of the area.
The residential and tourist based components of the property will support both a permanent and seasonal or population.
- c. The character of undeveloped land.
Parcels 1 is currently developed and Parcels 2 and 3 were previously developed and have given way to be redevelopment. The land is highly urbanized and contiguous to a Major City Thoroughfare. The land is located on a barrier island is located on a high elevated geologically historical sand dune.
- d. The availability of water supplies, public facilities, and services.
The property is located within the City of Daytona Beach Shores utility service area. Waster water is collected by the City of Daytona Beach Shores and treated by the City of Port Orange through an inter-local agreement. Potable water is provided by the City of Daytona Beach through an inter-local agreement. The property is currently provided with general city services such a fire, police and emergency medical services.
- e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.
The property is currently at various stages of redevelopment. The character of the proposed redevelopment plan is in conjunction with the City's policies and objective for future growth in this area.
- f. The compatibility of uses on lands adjacent to or closely proximate to military installations.
No military installations are located in the area.
- g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.
The subject property is not in conflict with the established air traffic patterns of Daytona International Airport. The existing and proposed development will not create a hazard for airport operations.
- h. The discouragement of urban sprawl.
The property is located in an established urban community with adequate public facilities and services.
- i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.
The redevelopment of the property will strengthen the local community's economy as a result of the increase in ad valorem tax. Future development and expansion of services will create several local jobs and will require a capital investment of over \$75 million dollars. The development of this property will strengthen the local community and result in positive economic growth for the surrounding area.
- j. The need to modify land uses and development patterns within antiquated subdivisions.
The subject property is located along a Major City Thoroughfare and is not part of an established subdivision.

Chapter 163.3177(6)(a)8. F.S..... Future land use map amendments shall be based upon the following analyses:

- a. An analysis of the availability of facilities and services.
The following is an analysis of the land use amendment

CONCURRENCY ANALYSIS

1. Traffic Data and Analysis

The data contained in the data and analysis is based on trip generation estimated from the most intense use allowed in the existing and proposed FLU category.

Gross Trip Generation – Existing FLUM Designation

Description	Land Use	Quantity	Trip Generation Rate		Net Trip Generation	
			Daily	PM Peak	Daily	PM Peak
Residential Condo	230	133 units	5.86/ unit	0.55/ unit	779	73

Gross Trip Generation – Proposed FLUM Designation

Description	Land Use	Quantity	Trip Generation Rate		Net Trip Generation	
			Daily	PM Peak	Daily	PM Peak
Residential Condo	230	200 units	5.86/ unit	0.55/ unit	1172	110

The capacity of Atlantic Avenue (State Road A1A) is currently estimated to be:
AADT = 13,500 Trips Road LOS Capacity = 39,8000 Trips

Trip Generation Summary

Potential ADT = 393 ADT (increase)
Potential PM Peak Hour Traffic = 37 peak hour (increase)

The trip generation analysis indicates that there would be an increase in both AADT and Peak Hour as a result of the proposed land use change. State Road A1A has the capacity to support the increased trip generation.

2. Sewer Facilities

The data contained in the data and analysis is based on sewer generation estimated from the existing and proposed FLU. Sewer is collected by the City of Daytona Beach Shores and through an inter-local agreement the City of Port Orange provides the treatment. Level of service capacity is measured at the treatment plant.

Gross Sewer Generation – Existing FLUM Designation

Description	Quantity	Sewer Generation Rate		Net Sewer Generation	
		Daily	Peak	Daily	Peak
Residential Condo	133 units	180gpd/ unit	2.5 x AFD	23,940 gpd	58,850 gpd

Gross Sewer Generation – Proposed FLUM Designation

Description	Quantity	Sewer Generation Rate		Net Sewer Generation	
		Daily	Peak	Daily	Peak
Residential Condo	200 units	180gpd/ unit	2.5 x AFD	36,000 gpd	90,000 gpd

Sewer Generation Summary

Potential ADF = 12,060 gpd (increase)

Potential Peak Sewer Generation = 31,150 gpd (increase)

The proposed FLU amendment will result in an increase in average daily and peak daily flow as a result of the proposed land use amendment. The current treatment plant average daily flow is 7.3 MGD. The capacity of the plant is 12 MGD. Therefore the City has sufficient Level of Service (LOS) of sanitary sewer treatment capacity.

3. Water Facilities

The data contained in the data and analysis is based on water demand estimated from the existing and proposed FLU. Water is provided by the City of Daytona Beach through an inter-local agreement.

Gross Water Demand – Existing FLUM Designation

Description	Quantity	Water Demand Rate		Net Water Demand	
		Daily	Peak	Daily	Peak
Residential Condo	133 units	180gpd/unit	2.5 x AFD	23,940 gpd	59,850 gpd

Gross Water Demand – Proposed FLUM Designation

Description	Quantity	Water Demand Rate		Net Water Demand	
		Daily	Peak	Daily	Peak
Residential Condo	200 units	180gpd/unit	2.5 x AFD	36,000 gpd	90,000 gpd

Water Generation Summary

Potential ADF = 12,060 gpd (increase)

Potential Peak Water Generation = 30,150 gpd (increase)

The proposed FLU amendment will result in an increase in average daily and peak daily demand. The current treatment plant average daily flow is 7.4 MGD. The available capacity of the plant is 15 MGD. Therefore the City has sufficient Level of Service (LOS) of water treatment capacity.

4. Stormwater Data and Analysis

The site will maintain current drainage patterns and will provide stormwater attenuation and water quality treatment in accordance with the State guidelines and requirement of the City of Daytona Beach Shores.

5. Solid Waste Data Analysis

Solid waste disposal is provided by Waste Pro within the corporate limits of the City of Daytona Beach Shores. Waste Pro has sufficient capacity to accommodate the proposed FLU amendment. The Tomoka Landfill, operated by Volusia County has capacity estimated until the year 2052.

6. Wellfield Protection

The site is not located in a wellfield protection zone.

7. Reclaimed Water

The site is not currently served by reclaimed water.

- b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.

Parcel 1 is currently developed. Parcel 2 and 3 were developed and the structures have been demolished. Parcels 4 has some surface improvements and has historically been used for parking. All four parcels are located in the metro urban area of Daytona Beach Shores. The soils and topography are suitable for development. The site is not located in a floodplain. There are no vegetative communities, threatened or endangered species and no known historic resources on the site or listed on any local, state or federal registers.

- c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

The amount of land necessary to support the corresponding comp plan amendment is dictated by the ownership boundaries of the parcels of land.

Chapter 163.3177(6)(a)9. FS.....The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl.

a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

(I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

The property is located in an already established urban mixed use community with established levels of intensity.

(II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

The property is located in an already established urban mixed use community.

(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

The property is located in an already established urban mixed use community.

(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

The property is located in an already established urban mixed use community and does not impact any natural resources or natural systems.

(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

The property is located in an already established urban mixed use community. There are no agricultural land uses or zoning in the area.

(VI) Fails to maximize use of existing public facilities and services.

Through the proposed annexation, the property will gain better use of the City's existing public facilities and services.

(VII) Fails to maximize use of future public facilities and services.

The property will use existing public facilities and services. Currently there are adequate public facilities and services in the area.

(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

The property will use existing public facilities and services. Currently there are adequate public facilities and services in the area.

(IX) Fails to provide a clear separation between rural and urban uses.

The property is located in an already established urban mixed use community.

(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

The property is located in an already established urban mixed use community and will promote redevelopment within the existing neighborhood and community .

(XI) Fails to encourage a functional mix of uses.

The parcel will be enhanced through the future development of the property and results in a marginal increase in intensity and demand on public services..

(XII) Results in poor accessibility among linked or related land uses.

The property is located in an already established urban mixed use community and is linked to other surrounding uses by an established transportation network.

(XIII) Results in the loss of significant amounts of functional open space.

The property is located in an already established urban mixed use community and does not contain any significant amount of functional open space.

b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

The property is located in an already established urban mixed use community and will have no impact on natural resources and ecosystems.

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

The property is located in an already established urban mixed use community and is currently served by public infrastructure and services.

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

The property is located in an already established mixed use community with access to multi-modal transportation systems including roads, sidewalks, bike paths and the public transit network.

(IV) Promotes conservation of water and energy.

The property is located in an already established urban mixed use community. As redevelopment of the property occurs state of the art water conservation fixtures and energy conservation elements such as insulation, lighting, heating, air-conditioning, glazing, etc... will be implemented.

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

The property is located in an already established urban mixed use community and will not impact agricultural areas, farmland or other agricultural pursuits.

(VI) Preserves open space and natural lands and provides for public open space and recreation needs.

The property is located in an already established urban mixed use community and does not include a surplus of natural lands suitable for public open space.

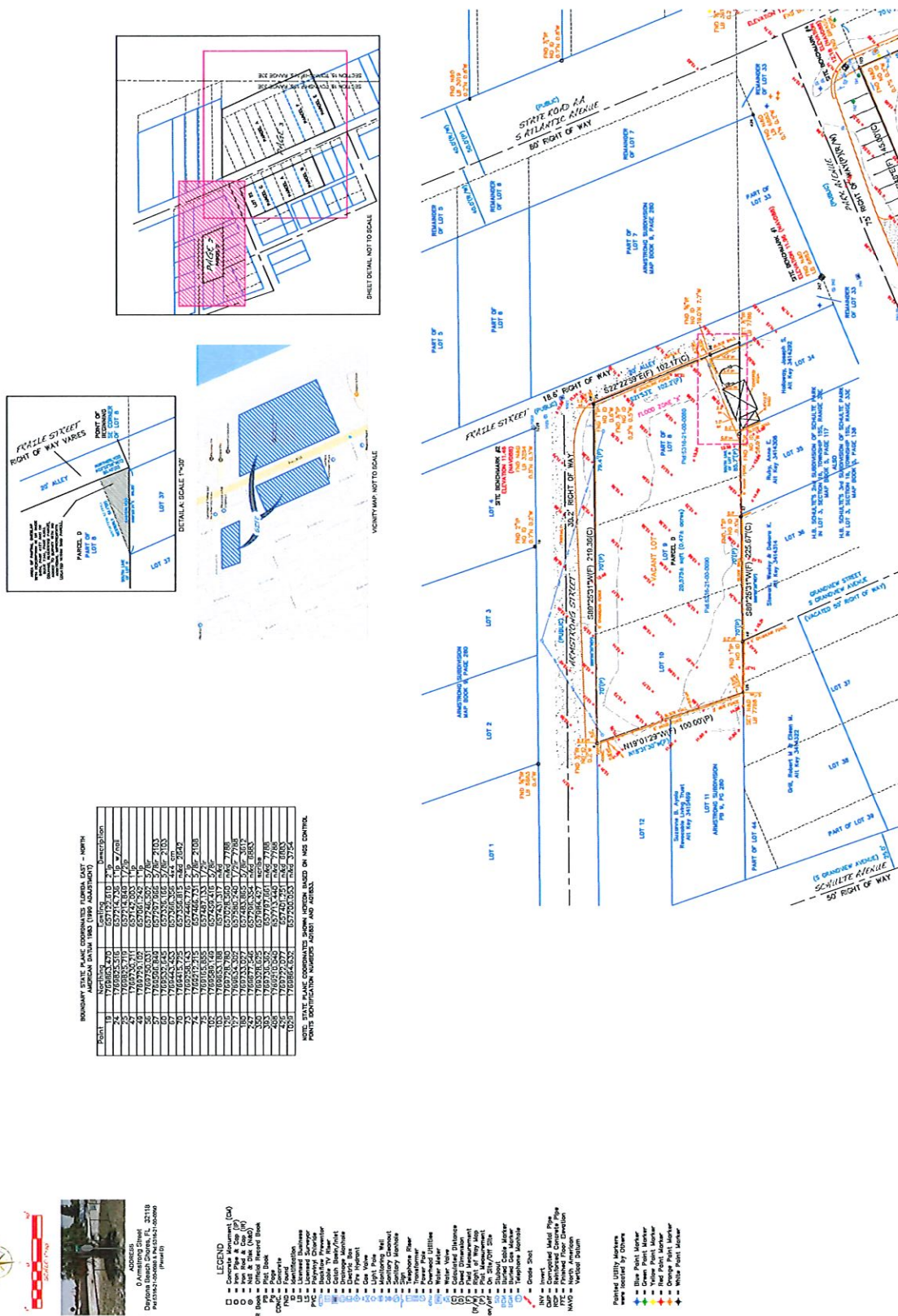
(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

The properties will be aggregated to provide a functional mix of uses of residential and tourist based accommodations that are consistent with the needs, character and development trends of the area.

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

The property is located in an already established urban mixed use community.

ALTAMPS Land Title Survey



Mean High Water Line Survey

NOTE:
- THIS MEAN HIGH WATER LINE SURVEY COMPLES WITH CHAPTER 172,
PART I, FLORIDA STATUTES.



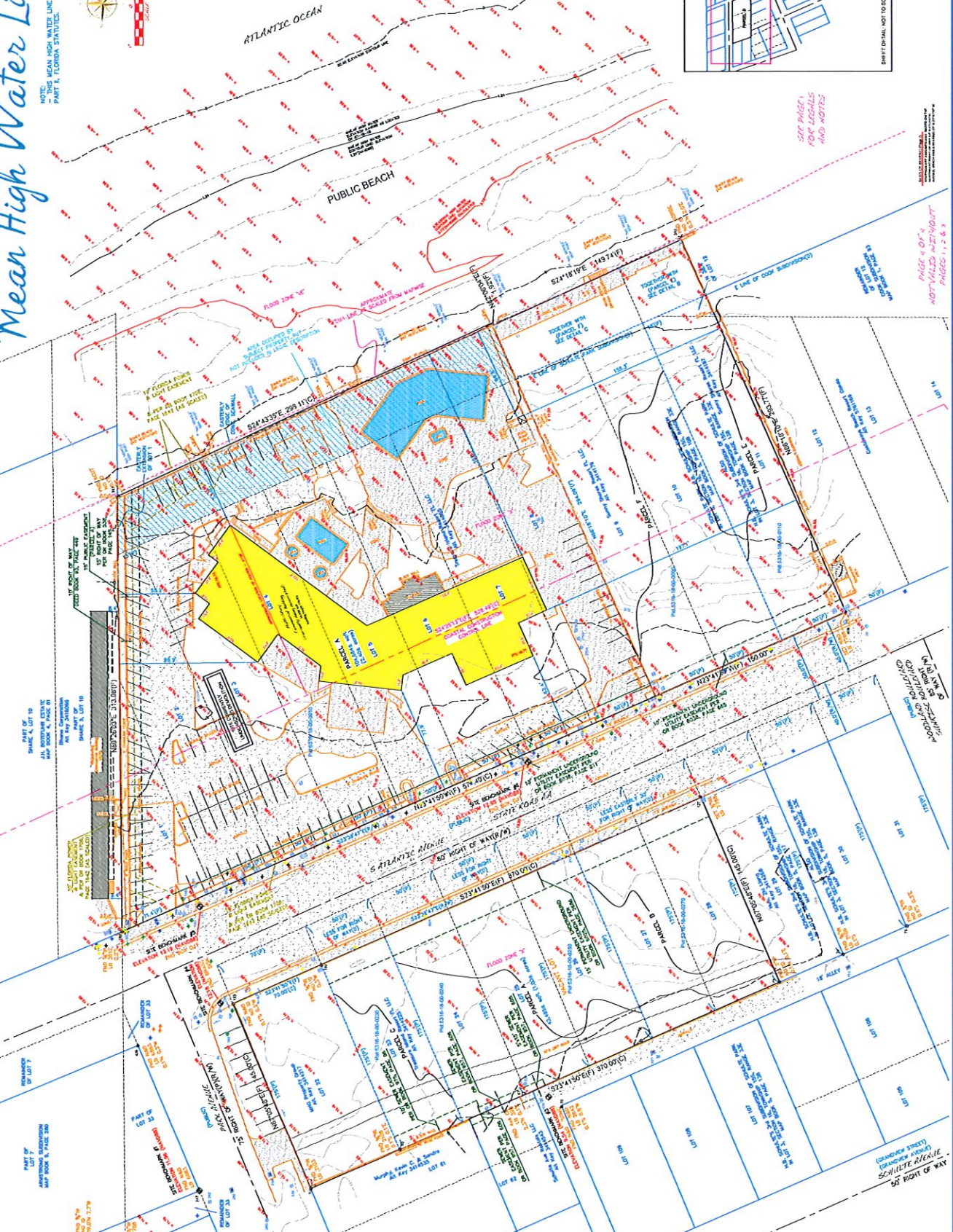
ADDITIONAL
DAYTONA BEACH, FL 32118
1400 S. BEACH BLVD. (N. BEACH)
1400 S. BEACH BLVD. (N. BEACH)



ADDITIONAL
DAYTONA BEACH, FL 32118
1400 S. BEACH BLVD. (N. BEACH)
1400 S. BEACH BLVD. (N. BEACH)

LEGEND

- Survey Monument (SM)
- Survey Point (SP)
- Survey Line (SL)
- Survey Boundary (SB)
- Survey Area (SA)
- Survey Zone (SZ)
- Survey Point Marker (SPM)
- Survey Line Marker (SLM)
- Survey Boundary Marker (SBM)
- Survey Area Marker (SAM)
- Survey Zone Marker (SZM)
- Survey Point Marker (SPM)
- Survey Line Marker (SLM)
- Survey Boundary Marker (SBM)
- Survey Area Marker (SAM)
- Survey Zone Marker (SZM)



NOTARIZED AUTHORIZATION OF OWNER

I/WE, 2025 SOUTH ATLANTIC AVENUE, LLC, as the sole fee simple title holder of the property described as the following Tax Parcel ID Numbers, 531618000010 (the "Treasure Island Property") 531618000090 and 531618000110 (collectively the "Sunny Shores Parcel"), 531618000270, 531618000250, 531618000240, 531618000230 (collectively, the "West A1A Parcel"), and 531621000090, 531621000080 (collectively, the "Fraile Street Parcel"), authorize Cobb Cole by Robert A. Merrell III, Esquire and Jessica Gow, Esquire and/or their consultants to act as our agent to seek a Large Scale Comprehensive Plan Amendment, Statutory Development Agreement, and/or all regulatory approvals in connection therewith, on the above-referenced property.

2025 SOUTH ATLANTIC AVENUE, LLC

By:


Mark Fogel
Its Managing Member

STATE OF New York
COUNTY OF Nassau

The foregoing instrument was acknowledged before me this 6 day of September, 2021, by Mark Fogel, as Managing Member of 2025 South Atlantic Avenue, LLC, who is personally known to me or who has produced N/A (type of ID) as identification and who did not take an oath.


NOTARY PUBLIC – STATE OF New York

Guy R. Milone, Jr.
NAME OF NOTARY – TYPED OR PRINTED

COMMISSION NO: _____

GUY R. MILONE, JR.
NOTARY PUBLIC-STATE OF NEW YORK
No. 02MI6376609
Qualified in Nassau County
My Commission Expires 06-18-2022

EXHIBIT B

FIGURE1: Treasure Island Properties - Aerial Location Map



Source: GoogleMaps 2021

ORDINANCE 2021-10
EXHIBIT A

DAYTONA BEACH SHORES COMPREHENSIVE PLAN

CHAPTER 1: FUTURE LAND USE ELEMENT

Objective 1-1.7. The City shall promote the redevelopment of properties located along South Atlantic Avenue and included in the redevelopment plan for the former Treasure Island Resort, known as Volusia County Property Appraiser Parcel ID Nos. 531618000010, 531618000090 531618000110, 531618000270, 531618000250, 531618000240, 531618000230, and 531621000090, and 531621000080 by adopting a redevelopment based overlay that will provide additional flexibility in the redevelopment of the Treasure Island properties within the City.

Policy 1-1.7.1. The Redevelopment Overlay shall allow for a convenient and flexible special character district that authorizes horizontal and vertical mixed-use development within an area of existing development where the comprehensive redevelopment of a blighted parcel of land is envisioned.

Policy 1-1.7.2. Development on land designated by the Redevelopment Overlay is intended to feature high quality architecture and well-designed urban form that promotes pedestrian activity, reduces transportation impacts, and creates a balance of land uses.

Policy 1-1.7.3. Within the Redevelopment Overlay, density associated with a parcel of land may be transferred from the existing parcel to another parcel of land within the Redevelopment Overlay, subject to the requirements set forth herein. In order to transfer density associated with a parcel, (i) the owner of the “sending” parcel and the owner of the “receiving” parcel must enter into a written agreement evidencing such transfer, which shall act to restrict density within the sending parcel to the extent of the transfer. (ii) The Agreement shall be approved by resolution of the City Council of the City of Daytona Beach Shores and (iii) recorded in the Public Records of Volusia County and (iv) will constitute a restriction on future development of the sending parcel.

Policy 1-1.7.4. Properties located within the Redevelopment Overlay shall be permitted a density bonus of 25% for redevelopment projects that are enrolled in the City’s Alternative Tax Relief program, provided that the total combined density (including residential and hotel density) associated with a redevelopment project does not exceed five hundred (500) units within the Development.

**EXHIBIT D
PLANNING ANALYSIS
ORDINANCE 2021-10**

A. SUMMARY BACKGROUND

I. APPLICANT

Applicant is 2025 South Atlantic Avenue, LLC, owner of the nine (9) parcels collective known as the “Treasure Island” (TI) properties as described below and subject of this comprehensive plan amendment. The applicant’s authorized representatives, are requesting the City amends its Comprehensive Plan Future Land Use Element to create a Redevelopment Overlay Objective and associated policies that would foster the infill redevelopment of the subject properties pursuant to a stipulated settlement agreement between the City and the owner (“Agreement”).

II. STIPULATED SETTLEMENT AGREEMENT

The Agreement between the property owner and the City was approved by the City Council on August 17, 2021. Section 5.b of the Agreement provides that the *“Property Owner shall initiate, process, and the City will support, waive application fees, and ultimately adopt a Large Scale Comprehensive Plan Amendment to create a “Redevelopment Overlay”, which is intended to act as a redevelopment based overlay that will provide additional flexibility in the redevelopment of certain properties within the City.”*

On August 27, 2021, owner/applicant 2025 S. Atlantic Avenue, LLC submitted Comprehensive Plan Amendment CPA2021024, which provides for the creation of the subject Redevelopment Overlay. If approved, Ordinance 2021-10 will enact the Redevelopment Overlay as required in the Agreement, subject to state and VGMC approval. If approved by the state and VGMC the owner/applicant has stipulated to demolish the Treasure Island shell structure, which has been abandoned since 2004.

If approved and thereafter, the City will amend the Land Development Code (LDC) to establish the Redevelopment Overlay and applicant/owner will petition the City to apply said overlay unto the subjected properties. This will enable the owner/applicant to redevelop the subject properties for the purpose of hotel (300 units) and residential (200 units) uses sometime in the future.

III. PROPERTY DESCRIPTION

The Treasure Island properties contain nine (9) parcels located on the east and west sides of the 2000 block of S. Atlantic Avenue and corners of Fraile and Armstrong streets (**Figure 1**).

The 2025 S. Atlantic Avenue parcel is currently occupied by an 11-storey abandoned shell structure, which formerly hosted the Treasure Island Resort. All other subject properties are vacant but were once developed with tourism related structures, with the exception of the Fraile Street Parcel, which once hosted beach concession parking (**Exhibit 1**). Combined, the Treasure Island properties total approximately 4.89 upland acres and 1.58 acres east of the bulkhead line to the mean highwater mark.

FIGURE1: Treasure Island Properties - Aerial Location Map



Source: GoogleMaps 2021

IV. PROPOSED AMMENDMENT

The origin of the proposed amendment language is the Agreement approved by the City Council on August 17, 2021. The proposed amendment language is as follows below: [Note: Underline indicates proposed added text to the comprehensive plan]

DAYTONA BEACH SHORES COMPREHENSIVE PLAN

CHAPTER 1: FUTURE LAND USE ELEMENT

Objective 1-1.7 The City shall promote the redevelopment of properties located along South Atlantic Avenue and included in the redevelopment plan for the former Treasure Island Resort, known as Volusia County Property Appraiser Parcel ID Nos. 531618000010, 531618000090 531618000110, 531618000270, 531618000250, 531618000240, 531618000230, and 531621000090, and 531621000080 by adopting a redevelopment based overlay that will provide additional flexibility in the redevelopment of the Treasure Island properties within the City.

Policy 1-1.7.1. The Redevelopment Overlay shall allow for a convenient and flexible special character district that authorizes horizontal and vertical mixed-use development within an area of existing development where the comprehensive redevelopment of a blighted parcel of land is envisioned.

Policy 1-1.7.2. Development on land designated by the Redevelopment Overlay is intended to feature high quality architecture and well-designed urban form that promotes pedestrian activity, reduces transportation impacts, and creates a balance of land uses.

Policy 1-1.7.3. Within the Redevelopment Overlay, density associated with a parcel of land may be transferred from the existing parcel to another parcel of land within the Redevelopment Overlay, subject to the requirements set forth herein. In order to transfer density associated with a parcel, (i) the owner of the “sending” parcel and the owner of the “receiving” parcel must enter into a written agreement evidencing such transfer, which shall act to restrict density within the sending parcel to the extent of the transfer. (ii) The Agreement shall be approved by resolution of the City Council of the City of Daytona Beach Shores and (iii) recorded in the Public Records of Volusia County and (iv) will constitute a restriction on future development of the sending parcel.

Policy 1-1.7.4. Properties located within the Redevelopment Overlay shall be permitted a density bonus of 25% for redevelopment projects that are enrolled in the City’s Alternative Tax Relief program, provided that the total combined density (including residential and hotel density) associated with a redevelopment project does not exceed five hundred (500) units within the Development.

V. EXISTING & PROPOSED ENTITLEMENTS

The sole beneficiaries of the proposed Comprehensive Plan amendment are the nine (9) Treasure Island parcels. A summary of the current entitlements is depicted in the **Table 1** below:

TABLE 1: Existing Entitlements

EXISTING ENTITLEMENT											
Parcel ID	Address	Upland Area (Ac.)	Area To MHW (Ac.)	Total Area	Existing FLUM	Density Permitted (upa)	Maximum Density	Vesting Certificate	Additional Density Development Agreement	Maximum Density	Total Maximum Density
531618000010	2025 S. Atlantic	2.4	1.05	3.45	High Intensity	70		227	74	301	434
531618000090	2037 S. Atlantic	1.01	0.53	1.54	High Intensity	60	61.01	NA	32	93	
531618000110	2041 S. Atlantic										
531618000270	2036 S. Atlantic										
531618000250	2030 S. Atlantic	1	NA	1	Tourist Oriented Commercial	35	NA	35			
531618000240	None										
531618000230	2026 S. Atlantic										
531621000090	Fraille Street	0.48	NA	0.48	Low Density Residential	12		NA		6	
531621000080	Fraille Street										
2014 Vesting Agreement between the City and Owner allows preexisting 227 hotel units to be vested.											
2014 Development Agreement between the City and Owner allows additional hotel density to be calculated east of the seawall up to the mean highwater.											
Policy 1-1.2.1 and Sec. 14-29 of the City's LDC permit mixed use development on one acre lots at 35upa, respectively.											

As seen in **Table 1**, the total maximum density permitted within the proposed Treasure Island redevelopment area is 434 units. The total maximum density was derived utilizing entitlement standards located in the Daytona Beach Shores Comprehensive Plan (2030), Future Land Use Map (**Exhibit 2**), Land Development Code and the 2014 Certificate of Vesting and 2014 Development Agreement, both of which were approved by the Daytona Beach Shores City

Council and are recorded in the Official Records of Volusia County Book 7033, Page 3638 and Book 7033, Page 3645, respectively.

Table 2 below summarizes the proposed entitlements that would inure to the benefit of the property owner should this comprehensive plan amendment be approved as proposed.

TABLE 2: Proposed Treasure Island CPA Redevelopment Overlay Entitlements

PROPOSED COMPREHENSIVE PLAN AMENDMENT						
Proposed Entitlement	Proposed Use	Total Maximum Density	Proposed Transfer Scenario (New Policy 1-1.7.3)	Total Max. Density 25% Density Bonus (New Policy 1-1.7.4)	Total Maximum Density	Total Maximum Density Cap (New Policy 1-1.7.4)
Redevelopment Overlay	Hotel	434		109	543	300
Redevelopment Overlay	Multifamily					200
Redevelopment Overlay	Parking		Sending	0	0	0
Redevelopment Overlay	Parking		Sending	0	0	0
Despite the result of the total max density, new Policy 1-1.7.4 limits the site to 300 and 200 hotel and residential multifamily units, respectively.						

Table 2 above shows that if the proposed comprehensive plan amendment is approved the total maximum density within the Treasure Island Redevelopment Overlay would be capped at 500 units, with 300 hotel units and 200 residential multifamily units, pursuant to new Comprehensive Plan Policy 1-1.7.4.

B. ANALYSIS OF PROPOSED AMENDMENT

I. POTENTIAL IMPACTS

The density increase between the current total maximum density entitled relative to the total density cap of the proposed amendment is 66 units, as seen in **Table 1** and **Table 2**, respectively.

As seen in **Table 1** of this report and as stipulated in the 2014 Vesting Certificate and 2014 Development Agreement between the City and Owner, the 2025 S. Atlantic Avenue parcel is currently entitled to 301 hotel units. New Comprehensive Plan Policy 1-1.7.4 limits the Redevelopment Overlay 300 hotel units. Therefore, the additional 66 units noted above would be multifamily residential units applied to the 2037-2041 S. Atlantic Avenue properties.

In accordance with the Daytona Beach Shores Comprehensive Plan Update (2030) and standard practice from the Florida Department Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical impacts of the additional 66 residential multifamily units were they to be built out (**Table 3**). The following seven public facilities and services were examined and discussed briefly below: (1) Transportation, (2) Sanitary Sewer, (3) Potable Water, (4) Solid Waste, (5) Stormwater Drainage, (6) Recreation, and (7) Public Schools.

TABLE 3: Impact Analysis (Theoretical Max.)

Development Variable	Theoretical Impact Multifamily Residential Units	Does Capacity Exist?
Proposed Additional Multifamily Units	66	
Population ¹	116	
Transportation ADT/PM Peak Hour Trips ²	387/36	Yes
Sanitary Sewer (gallons/day) ³	16,500	Yes
Potable Water (gallons/day) ⁴	12,760	Yes
Solid Waste (lbs./person) ⁵	1,160	Yes
Stormwater Drainage ⁶	n/a	n/a
Recreation/Open Space	Varies (See summary below)	Yes
Public School Student(s)	9	Yes

Notes:

1. Population: 1.75 persons per residential dwelling
2. Transportation: Residential Condo: PM Peak Hour = 0.55/unit; Average Daily Trips = 5.86/unit
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25 year, 24 hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Student generation rates = 0.127per multifamily residential unit.

Sources:

2010 US Census
ITE Trip Generation Manual, 7th Edition
Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)
Volusia County School District Student Generation Rates

Transportation:

The subject property that would inure the additional 66 multifamily residential units is located at 2037-2041 S. Atlantic Avenue located on the 2.3 mile SRA1A segment between Florida Shores and Silver Beach. This segment of SRA1A has a functional classification of “Principal Arterial-Other Urban,” with five traffic lanes, two lanes heading north and south in each direction and one turning lane. The 2019 AADT for the segment was 13,500 trips per day while the Level of Service (LOS) capacity was 39,800. This means in 2019 the segment in question was operating at 34 percent capacity or LOS “C”, which is an acceptable LOS by all regulatory government agencies. The proposed 66 multifamily residential units would theoretically create an additional 397 daily trips. The City does not have any vested trips impacting SRA1A. Therefore, the additional trips generated by the proposed development in the Redevelopment Overlay would not result in an unacceptable impact on the LOS for the immediate segment of SRA1A. Lastly, SRA1A connects to Dunlawton Boulevard (SR421) and International Speedway Boulevard (US92) which are both principal arterial roads leading to the interstate system. Both east and west side of the road also contain multimodal sidewalks for bicycle and pedestrian use.

Sanitary Sewer:

The City’s adopted LOS standard for sanitary sewer is 250 gallons per dwelling unit per day. Using this standard, the proposed land use would theoretically generate a demand of 16,500

gallons per day (GPD) . The City of Port Orange Water Reclamation Facility treats the City of Daytona Beach Shores sanitary sewer. The plant has a design capacity of 12 million gallons per day (MGD). The current maximum daily flow to the plant, which includes actual flow, committed flow and inflow and infiltration, for all service areas is 9.9MGD. The proposed additional 16,500GPD represents 0.7 percent of the plant's remaining capacity. Hence, the proposed amendment, if approved, would result in the plant continuing to operate at an acceptable level of service.

Potable Water:

The City's adopted LOS standard for potable water is 110 gallons per capita per day. Using this standard, the proposed amendment would theoretically create a demand of 12,760 gallons of water per day. The proposed Treasure Island properties are served by the Daytona Beach Ralph F. Brennan Water Treatment Plant. The plant has a design treatment capacity of 24MGD. The current maximum daily flow and committed flows are 14.47MGD and 1.83MGD, respectively. The potential impact of the amendment, i.e. 12,760GPD, represents 0.17 percent of the plant's remaining capacity. Therefore, the proposed amendment, if approved, would result in the plant continuing to operate at an acceptable level of service.

Solid Waste Collection:

The City's adopted LOS standard for solid waste is 10 pounds per capita per day. Using this standard, the proposed amendment would theoretically create a demand of 1,160 pounds of solid waste per day. Solid waste generated within the City of Daytona Beach Shores is collected by Waste Pro, which delivers it to the Volusia County landfill. The 3,000-acre landfill is a Class I facility with a projected life span to the year 2050.

Stormwater Drainage:

The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the LDC requires that there be no net loss of stormwater retention function as a result of development. Therefore, any property that is developed or redeveloped must have the ability to store and discharge water after development as it does before development occurs. The applicants would be required to demonstrate stormwater retention on the property in accordance with these City standards during the site plan review process.

Recreation and Open Space:

The proposed amendment would theoretically add 116 residents to the City. The City's most recent available population count was 4,247 (2010 US Census). Policy 7-1.2.1 and Policy 9-1.3.1 in the City's Comprehensive plan establish the LOS standards for recreation facilities within the City. Considering the City's population and the City's recreational LOS standards, it is easy to conclude that Daytona Beach Shores currently has adequate capacity for all recreational facilities as required by the City's Adopted Comprehensive Plan and as demonstrated in **Table 4** below.

TABLE 4: Recreation Facilities Analysis

Type of Park/ Recreational Facility	Unit of Measure/LOS Standard	Current LOS (Facilities)	Deficit
Playgrounds	one per 10,000 people	1	None
Neighborhood Park	one per 10,000 people	5	None
Community Park	one per 25,000 people	1	None
Children's Play Areas	one per 10,000 people	1	None
Baseball/Softball Field	one per 15,000 people	1	None
Tennis Courts	one per 2,000 people	11	None
Community Center	one per 20,000 people	1	None
Exercise Trail	one per 14,000 people	1	None
Nature Study Trail	one per 14,000 people	1	None

Public Schools:

Based on the Volusia County School District's student generation rate for a multifamily residential unit, the proposed amendment could result in the generation of at least nine (9) full time public school students. The School District has provided written notice that adequate public school capacity exists if a 200-unit multifamily residential development was built out on the site in question. Therefore, no negative impact on existing public school facilities is anticipated.

II. LAND USE COMPATIBILITY

The Future Land Use (FLU) of the surrounding area is high intensity and tourist oriented commercial on the east and west of S. Atlantic Avenue, respectively (**Exhibit 2**). The subject parcels FLU and proposed uses, i.e. hotel, multifamily residential and parking, are depicted in **Table 1** and **Table 2**, respectively. The existing land use of the area is comprised of a mixture of uses including hotel and multifamily residential and commercial development on the east and west side of S. Atlantic Avenue, respectively (see **Figure 2** below)

Section. 163.3164(9), *Florida Statutes*, defines compatibility as “a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.”

Since the proposed land uses in the Redevelopment Overlay are similar to the existing uses in the area it is reasonable to conclude that the proposed comprehensive plan amendment would result in land uses and conditions that are not incompatible the character of the surrounding area but instead, the proposed comprehensive plan amendment would yield uses and conditions that are consistent with the area in question. Further, as seen in **Table 5** below, the overall average intensity of Redevelopment Overlay, 77 units per acre, is compatible with the City's *High Intensity* FLU classification, which permits up to 70 hotel and 60 residential units per acre.

Considering the aforementioned and the entirety of this Planning Analysis Report, staff finds that the proposed comprehensive plan amendment meets the statutory definition of compatibility.

FIGURE 2: Treasure Island Development Site Area Land Uses



Source: Volusia County Property Appraiser, 2021

TABLE 5: East Side Area Land Uses/Density

EXISTING LAND USES EAST OF S. ATLANTIC AVE. IN CPA VICINITY			
S. Atlantic Address	Name	Land Use	Permitted Density
1,000 Ft. North of Site Midpoint			
2015	Grand Prix Motel	Hotel/Motel	70 UPA
2011	Flamingo Inn	Hotel/Motel	70 UPA
2009	Mick's Beach Hideaway	Hotel/Motel	70 UPA
2001	Bahama House	Hotel/Motel	70 UPA
1925	Ocean Vistas COA	Residential Multifamily	60 UPA
2025-2041	TI REDEVELOPMENT	Hotel/Residential MF	77 UPA
1,000 Ft. South of Site Midpoint			
2043	Castaway Beach Resort	Hotel/Motel	70 UPA
2055	Towers Grande COA	Residential Multifamily	60 UPA
2071	Opus COA	Residential Multifamily	60 UPA

III. INTERNAL CONSISTENCY ANALYSIS

Sec.163.3177(2), *Florida Statutes* provides that comprehensive plans and plan amendments be internally consistent and that elements of the plan and plan amendments do not create conflicts with each other. Below is an analysis of relative Daytona Beach Shores Comprehensive Plan objectives and policies and staff findings regarding consistency with the proposed amendment.

Chapter 1: Future Land Use Element

(i) **GOAL 1-1:** Effectively manage future development by designating appropriate areas for new growth that does not compromise environmental integrity, is responsive to market needs and is consistent with sound land planning practices.

Staff Finding: The proposed amendment is borne from an owner seeking to respond to anticipated market needs. The amendment will result in the infill redevelopment of previously developed land with a mixture of hotel and multifamily residential uses. Further, there is no discernible environmental features on site. Therefore, the amendment will not compromise environmental integrity of the area.

(ii) **Objective 1-1.2:** Future redevelopment activities shall take the form of replacing the outmoded and inefficient existing hotels and motels that were built in the 1950s and early 1960s. These uses are found primarily on the east side of SR A1A, north of Florida Shores Boulevard to the City limits at the north end, and south of Van Avenue to the south City limits at the Wilbur-by-the-Sea area. These redevelopment activities shall be consistent with the goals, objectives, and policies set forth in this Element.

Additionally, no land development shall be permitted that is detrimental to the natural resources of the City. In this context, no land development order shall be issued that denigrates existing topographic or soil conditions. Additionally, prior to the issuances of any development order, written assurances shall be obtained from the appropriate municipal agency providing infrastructure that available capacity exists to properly support the proposed development activity at the adopted Level of Service standard for the relevant facility or service to be provided.

Staff Finding: The proposed amendment will facilitate the redevelopment of the Treasure Island east properties located at 2025 – 2041 S. Atlantic Avenue. The current abandoned Treasure Island shell structure that remains today was built in 1974, however, according to the Volusia County Property Appraiser (2021), the effective year of the building is 1963. According to the Agreement, this outmoded structure will be demolished and pave the way for a modern development with a mixture uses on the site should the amendment be approved.

Additionally, the proposed amendment will not permit development that is detrimental to the natural resources of the City as the redevelopment is infill and occurring on vacant sites with no discernable natural resource present. Finally, prior to final development approval, the City will require written assurances from public facility service providers.

(iii) **Policy 1-1.2.2:** The City's existing policy of requiring written assurance from any entity providing sewage treatment, potable water, or solid waste disposal shall be maintained throughout the planning period.

Staff Finding: As seen in Sec. B.I of this Planning Analysis Report, adequate capacity currently exist for all public facilities. The analysis results were derived from available data provided by the service provider and generally available to the public. In addition, if the proposed amendment is approved, subsequent projects will undergo site development plan review, at which time more specific written assurances from service providers will be required by the City.

(iv) **Objective 1-1.4:** Land uses that are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged. This shall take the form of not allowing any objectionable uses (industrial, warehousing, etc.) in the new Land Development Code that will be adopted subsequent to this Comprehensive Plan.

Staff finding: Per Sec. B.II of this Planning Analysis Report, the proposed amendment will not result in incompatible land uses that are not compatible with the FLU Plan of the City. The hotel and multifamily proposed land use mixture is consistent with the FLU Plan and existing built environment in the impacted area.

(v) **Policy 1-2.1.1:** The City shall encourage an urban design pattern in redevelopment areas, where appropriate, that will minimize travel requirements among living, working, shopping and recreation areas.

Staff Finding: The proposed amendment will result in infill redevelopment of a previously development site. The redevelopment will contain hotel and residential multifamily uses within close proximity to existing and future recreation, retail and commercial areas within the City.

Chapter 9: Capital Improvement Element

(vi) Policy 9-1.3: The City shall use the following Level of Service (LOS) standards in reviewing the impacts of new development and redevelopment on public facility provisions:

- (a) **Sanitary Sewers:** 250 gallons per dwelling unit per day
- (b) **Solid Waste:** 10 pounds per capita per day
- (c) **Drainage:** 25-year, 24-hour design storm
- (d) **Potable Water:** 110 gallons/capita/day (gcd) for Port Orange Service Area
150 gcd for Daytona Beach Service Area
- (e) **Roadways:** Arterials: LOS "D" at peak hour
Collectors: LOS "C" at peak hour
- (f) **Recreation:** See Table 3 above

Staff finding: The analysis conducted in Section B.I of this Planning Analysis Report utilized the requisite LOS standards established by the subject policy. The analysis determined that adequate public facilities capacity exist to accommodate the proposed amendment.

IV. URBAN SPRAWL

Sec. 163.3177(6)(a)(9), *Florida Statutes*, state that “*The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl.*” Further, sections 163.3177(6)(a)(9)(a) and 163.3177(6)(a)(9)(b) of the *Florida Statutes* provide criteria for demonstrating consistency with the urban sprawl rule. The required urban sprawl analysis outlined in **Exhibit 3** attached demonstrates the plan amendment does not proliferate urban sprawl and is consistent with Sec. 163.3177(6)(a)(9), *Florida Statutes*.

V. ADDITIONAL STATE REQUIREMENTS

(i) Sec.163.3177(1)(f), *Florida Statutes*: Plan amendment shall be based upon relevant and appropriate data and analysis.

Staff Finding: Per Section B.I and B.II of this Planning Analysis Report, the proposed plan amendment is based upon relevant and appropriate data and analysis.

(ii) Sec.163.3177(2), *Florida Statutes*: The comprehensive plan shall be internally consistent.

Staff Finding: Per Section B.III of this Planning Analysis Report, the proposed plan amendment is internally consistent with the Daytona Beach Shores Comprehensive Plan.

(iii) Sec.163.3177(6)(a)(2), *Florida Statutes*: Comprehensive plan amendments shall be based upon adequate data regarding the area.

Staff Finding: Per Section B.I and B.II of this Planning Analysis Report, the proposed plan amendment is based on adequate data regarding the area.

(iv) Sec.163.3177(6)(a)(8), *Florida Statutes*: Future land use map amendments shall be based on suitability analysis.

Staff Finding: Per Section B.I and B.II of this Planning Analysis Report, the proposed plan amendment is based on an analysis and finding the site suitable for infill redevelopment.

(v) Sec.163.3177(6)(a)(9), *Florida Statutes*: Any comprehensive plan future land use element amendments shall discourage the proliferation of urban sprawl.

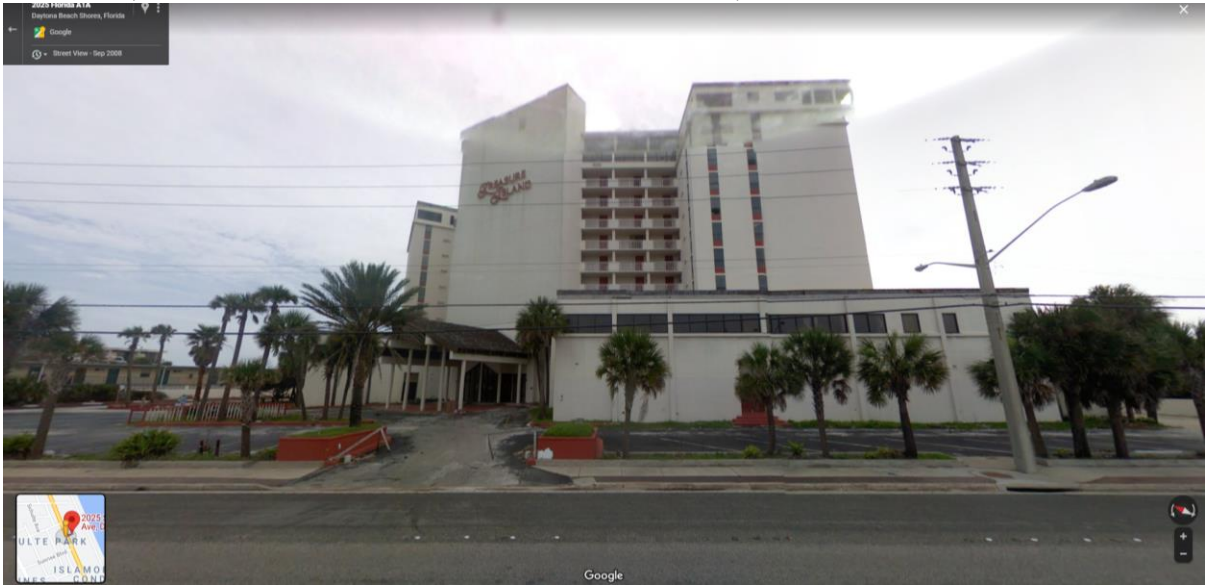
Staff Finding: Per Section B.IV of this Planning Analysis Report, the proposed plan amendment discourages the proliferation of urban sprawl.

VI. CONCLUSION:

Pursuant to the findings in this Planning Analysis Report and those in the applicant’s application, staff has concluded that the proposed amendment is consistent with controlling law including, but not limited to, Sec. 163.3177, *Florida Statutes*, and the Daytona Beach Shores Comprehensive Plan.

EXHIBIT 1
TREASURE ISLAND PROPERTIES FORMER USES

Picture A, 2025 S. Atlantic Ave: Treasure Island Resort; 2008



Source: GoogleMaps, 2008

Picture B, 2037-2041 S. Atlantic Ave: Sunny Shores Resort; 2007



Source: GoogleMaps, 2007

Picture C, 2026-2030 S. Atlantic Ave: TI Maintenance & Westside Rooms; 2007



Source: GoogleMaps, 2007

Picture D, 2036 S. Atlantic Ave: TI Island West; 2007



Source: GoogleMaps, 2007

EXHIBIT 2
TREASURE ISLAND AREA FUTURE LAND USE MAP

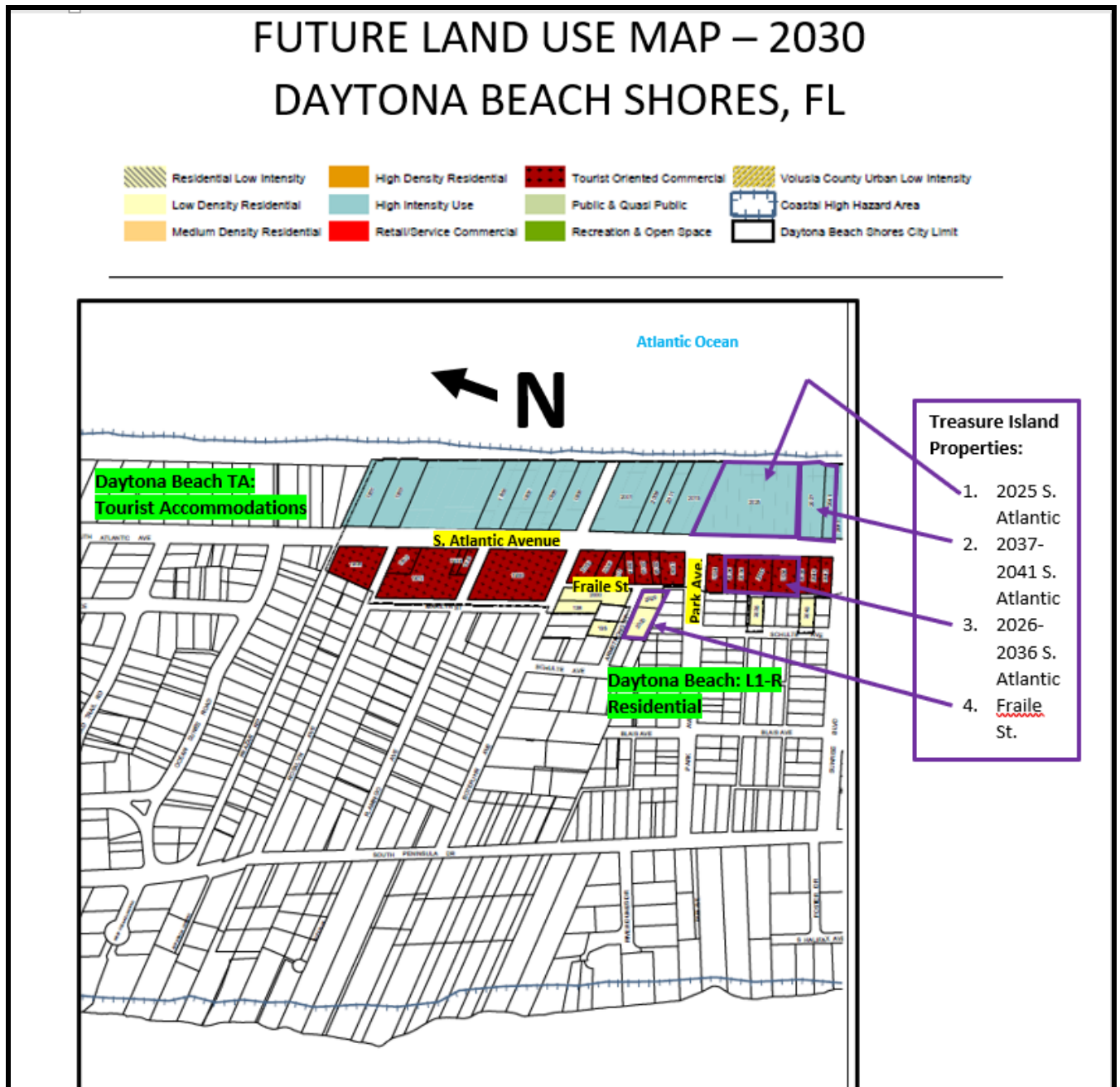


EXHIBIT 3
URBAN SPRAWL ANALYSIS
Sec. 163.3177(6)(a)(9), Florida Statutes

9. The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl.

a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

(I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores. The amendment proposes a mixture of hotel and multifamily high density uses.* **Criterion Met.**

(II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development.* **Criterion Met.**

(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores. The amendment does not propose the development pattern noted in this criterion.* **Criterion Met.**

(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores. The amendment does not seek to develop the sensitive and critical resources noted in this criterion.* **Criterion Met.**

(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores. The amendment proposes development in an urban setting away from agriculture and farming activities noted in this criterion.* **Criterion Met.**

(VI) Fails to maximize use of existing public facilities and services. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores. The amendment proposes development that will utilize existing public facilities and services, which currently serve the site and general vicinity.* **Criterion Met.**

(VII) Fails to maximize use of future public facilities and services. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties*

within the City of Daytona Beach Shores. The amendment proposes development that will maximize the use of future public facilities and services in coordination and as required by service providers. **Criterion Met.**

(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores. The amendment proposes infill redevelopment that will utilize existing public facilities and services, which currently serve the site and general vicinity. Further, the City's concurrency requirements stipulate that developers shall pay for impacts on public facilities should there be any. In addition, as required by the City's LDC, any improvement in public facilities will be borne by the developer. Therefore, the proposed amendment will not disproportionately increase the costs as outlined in this criteria.*

Criterion Met.

(IX) Fails to provide a clear separation between rural and urban uses. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are outside of the rural – urban interface.* **Criterion Met.**

(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development.* **Criterion Met.**

(XI) Fails to encourage a functional mix of uses. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development. The amendment proposes a mixture of hotel and residential multifamily uses.* **Criterion Met.**

(XII) Results in poor accessibility among linked or related land uses. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development. The properties in question are under a unified ownership and adjacent to similar related land uses.* **Criterion Met.**

(XIII) Results in the loss of significant amounts of functional open space. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development and once occupied tourism related businesses. No functional open space exists on the property.* **Criterion Met.**

b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development.* **Criterion Met.**

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development with existing public infrastructure and services currently available to the site.* **Criterion Met.**

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development. The proposed development will provide a mixture of high density uses which will be able to access the adjacent road network. The development site is connected to SRA1A which has a functional classification of "Principal Arterial-Other Urban," with five traffic lanes, and sidewalks on both sides of the road. The sidewalks provide pedestrian and bicycle access throughout the City as the sidewalks were designed for multimodal activity and vary from eight to five feet in width. Additionally, the site is served by the local Volusia County transit system, VOTRAN.* **Criterion Met.**

(IV) Promotes conservation of water and energy. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development.* **Criterion Met.**

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area outside of the agriculture and farmlands noted in this criterion.* **Criterion Met.**

(VI) Preserves open space and natural lands and provides for public open space and recreation needs. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores, which is an urban area and the properties in question are suitable for development. While no natural lands and open space exist on the properties, new designed open space will be provided pursuant to the City's LDC.* **Criterion Met.**

(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area. **Staff Finding:** *The proposed amendment seeks redevelopment and infilling of previously developed properties within the City of Daytona Beach Shores by providing a mixture of hotel and multifamily residential land uses to meet the residential and nonresidential needs of the area.* **Criterion Met.**

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. [163.3164](#).



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING SEPTEMBER 13, 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.

PLANNING & ZONING BOARD AGENDA MEMORANDUM SEPTEMBER 13, 2021 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Zoning Variance Application ZV12021017: Chhaya Nathoo Residence - 2711 S. Atlantic Avenue

SYNOPSIS:

On July 25, 2021, Chhaya K. Nathoo Revocable Living Trust, owner of the property located at 2711 S. Atlantic Avenue, submitted zoning variance application ZV12021017. The application, if approved, would permit a 6.5-foot side yard setback, in lieu of the required 10 feet, on the north and south side of the property to facilitate the construction of a new residential structure on the vacant property.

FISCAL IMPACT STATEMENT:

BACKGROUND:

The property owner purchased the 0.41 acre vacant residential property on January 6, 2021. The property is zoned "RSF-1 Urban Single-Family Residential Detached District." Per the application submitted, the owner is applying for a 6.5-foot side yard setback, in lieu of the required 10 feet, on both the north and south sides of the property so that a single-family residential structure might be

built.

The subject application (**Exhibit A**) and staff's analysis of the application (**Exhibit B**) are attached .

LEGAL REVIEW:

Approve if the board finds that the application meets the criteria for a variance.

RECOMMENDATION:

Based on the staff analysis (**Exhibit B**) provided, staff recommends **approval** of Zoning Variance ZV12021017 as presented.

SUGGESTED MOTION:

A Board member may motion one of the following:

- 1) "I move to **approve** Zoning Variance ZV12021017 as presented."
OR
- 2) "I move to approve Zoning Variance ZV12021017, on the condition of the following..."
OR
- 3) "I move to deny Zoning Variance ZV12021017, on the basis of..."

- ATTACHMENT:**
1. EXHIBIT A-Variance Application
 2. EXHIBIT B-Staff Analysis
 3. kiran beach house site topo 1=250
 4. Artist Rendering

CC # 120665

1220.00

240219

City of Daytona Beach Shores
Community Services Department
2990 S. Atlantic Avenue, Daytona Beach Shores, FL 32118
Telephone (386) 763-5377
Fax (386) 763-5370



BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

12021017

VARIANCE APPLICATION BEFORE THE PLANNING AND ZONING BOARD

The Undersigned Applicant requests the Planning and Zoning Board to hear and decide upon this application in accordance with Sec. 14-63 of the Daytona Beach Shores Land Development Code entitled "Planning and Zoning Board Functions, Powers and Duties."

Date Submitted: 5 / 17 / 2021

Applicable Section of Code: _____

Fees must be paid at the time the application is submitted

Applicant's Name: CHHAYA K. NATHOO REVOCABLE LIVING TRUST Email: CNBOMP@COMCAST.NET

Address: 646 W. PALM VALLEY DRIVE OVIEDO FL 32765 Phone #: 407-947-9635

Property Address: 2711 S. ATLANTIC AVENUE DAYTONA BEACH SHORES FLORIDA 32118

Representing Attorney (if any): _____ Email: _____

Address: _____ Phone #: _____

NOTE: Notarized letter of authorization from owner MUST be submitted if application is filed by anyone other than the owner. In addition, all new exhibits introduced at a scheduled hearing must be submitted to the City Clerk to be included as part of the record.

Legal description of the property:

ALT KEY 3426657 PARCEL ID 532 705001 140

TRS 15-33-27 S.B.L. 05-00-1140

SUBDIVISION NAME: RIVER RIDGE ESTATES LOTS 1-13

Description of your request:

WE WANT TO BUILD A 37 FEET WIDE HOUSE ON OUR 50 FOOT LOT NARROWING THE SET BACKS TO

6.5 FEET

CNBOMP@COMCAST.NET

1. Please explain how your application meets the following variance criteria (Sec. 14-63.8):
- a. Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable generally to other lands, structures or buildings in the same zoning classification.
LOT IS NARROW BUT LONG.WE WANT TO ENJOY THE NATURAL BEAUTY OF THE BEACH.WE ALSO WANT TO VIEW IT BY ALLOWING US TO USE THE MAXIMUM WIDTH POSSIBLE.ALSO WE ARE GETTING OLDER AND WANT TO MAKE MOST USE OF GROUND LEVEL
- b. The special conditions or circumstances do not result from the actions of the applicant and are not primarily economic or financial in nature.
NO,THERE IS NO EXPENSE THAT ALLOW US TO GET THE ENJOYMENT AND USE OF PROPERTY THAN YOU ALLOWING VARIANCE
- c. Literal interpretation or enforcement of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification under the terms of the Land Development Code.
YES, WE SEE MANY OTHER PROPERTIES THAT HAVE LESS SIDE SET BACKS,WE ALSO HAVE BEEN TOLD THAT DUE TO THE NARROWNESS OF THE LOT THAT IT HAS BEEN DONE BEFORE ON SIMILAR LOTS.
- d. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification of the regulation at issue.
YES,WE WANT TO DO NO HARM TO THE BEACH AREA AND WE ALSO WANT TO MAINTAIN THE BEAUTY OF THE AREA AND THE CITY OF DAYTONA BEACH SHORES.
- e. The variance sought will not authorize or extend any nonconforming use or other nonconformity with respect to the land or structures in question.
NO EXISTING LAND OR STRUCTURES WILL BE AFFECTED .NEW HOME WILL BE WIDER BUT NARROWER THAN MOST IN THE AREA.
- f. The granting of the variance will be in harmony with the general intent and purpose of this ordinance, will not be injurious to the area involved, or surrounding properties, and will not authorize a use of the property not permitted by its zoning classification.
WE FEEL WE WILL BRING A POSITIVE IMPROVEMENT TO THE AREA AND NOT IN ANYWAY BE INJURIOUS TO THE AREA.
- g. The variance sought will be consistent with the City's Comprehensive Plan, its enabling legislation and regulations adopted pursuant thereto.
YES, WE FEEL THIS HAS BEEN APPROVED PRIOR.

The applicant must agree that:

2. In granting any variance, the Planning and Zoning Board may prescribe appropriate conditions and safeguards in conformity with this ordinance and any regulations enacted under its authority. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and regulations promulgated hereunder.

Agree (x) Disagree ()

Explanation: WE WANT TO BE AS AGREEABLE AS POSSIBLE AND CONFIRM TO THE STIPULATIONS.

3. The Planning and Zoning Board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun, or completed, or both.

Agree (x) Disagree ()

Explanation: WE ARE READY TO BEGIN AND WORK WITHIN ANY REASONABLE TIME LIMITS.

4. No conforming use of neighboring lands, structures, or buildings in the same zoning classification and no permitted use of lands, structures or buildings in other zoning classifications shall be considered grounds for the authorization of a variance.

Agree (x) Disagree ()

Explanation: WE AGREE BUT FEEL IF THIS HAS BEEN DONE IN THE PAST SHOULD SET PRECEDENTS.

5. Concerning ex-parte communications, the applicant shall not speak to the Planning and Zoning Board members upon their visiting the site and prior to the Public Hearing relating to said variance request in order that said board member shall not prejudice themselves prior to said variance request coming before the Planning and Zoning Board in an open proceeding where the Board's decision-making process and determination will be in full view of the public, thereby providing due process involving a fair opportunity for the presentation of both sides of the case in an open proceeding where a record of the proceedings may be kept.

Agree (x) Disagree ()

Explanation: _____

GKDathoo
Applicant's Signature

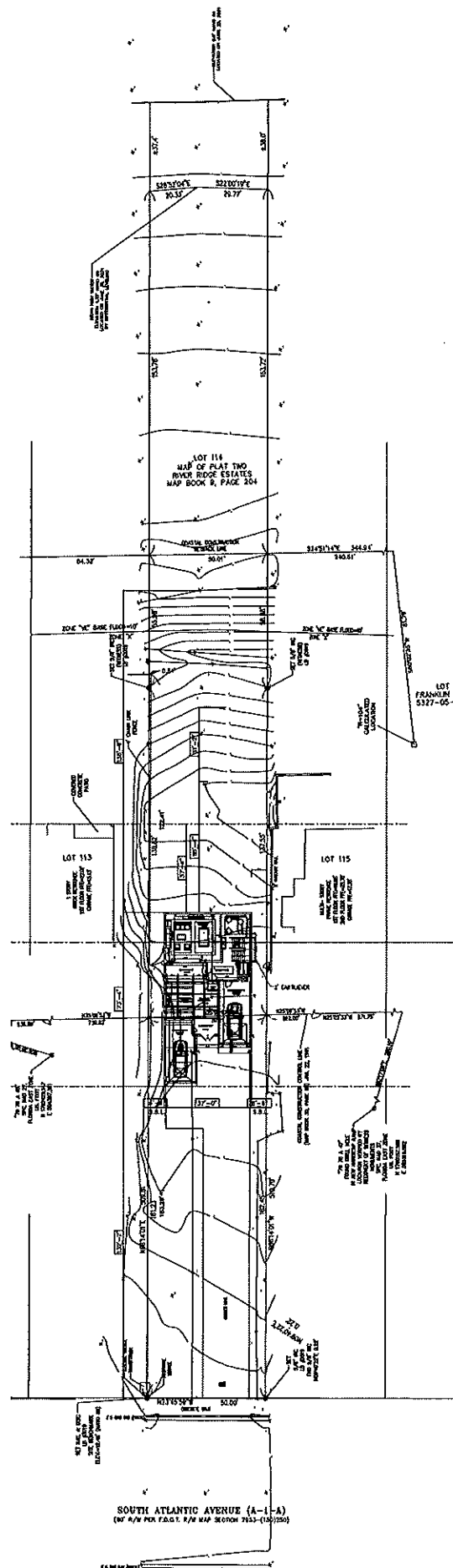
5/15/2021
Date

240219

RECEIVED

JUL 20 2021

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES



BASEMENT LAYOUT

EXHIBIT B
ZV12021017 STAFF ANALYSIS

Section 14-63.8.a of the City's Land Development Code outlines the criteria for the Planning and Zoning Board to consider when evaluating variance requests. To justify a variance request, the applicant must demonstrate the following [NOTE: required criteria in *italics*]:

- i. *Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable generally to other lands, structures or buildings in the same zoning classification.*

The subject property is located in the RSF-1 District at 2711 S. Atlantic Avenue. The dimensional requirements for the RSF-1 District are listed below.

Sec. 14-16. - RSF-1 Urban Single-Family Residential Detached District.

14-16.4. Dimensional Requirements.

Minimum lot size:

Area: Ten thousand (10,000) square feet.

Width: Eighty-five (85) feet.

Minimum yard size:

Front yard: Thirty (30) feet.

Rear yard: Twenty-five (25) feet.

Side yard:

Interior lot: Ten (10) feet.

Waterfront: Twenty-five (25) feet (river); fifty (50) feet (ocean).

As seen above, the minimum lot width for a property in the RSF-1 District is 85 feet. The subject property is only 50 feet wide (see survey attached to application). Therefore, due to the 10-foot side yard setbacks, in a standard RSF-1 District lot, a property owner is able to build a 65-foot wide residence whereas the applicant is only able to build a 30-foot wide residence. In addition, of the 31 RSF-1 parcels in the 2700 – 2800 block, the subject property is the only vacant 50-foot wide lot. Therefore, based on the aforementioned, special circumstances exist which are peculiar to the land and said circumstances are not applicable generally to other lands, structures or buildings in the same zoning classification.

- ii. *The special conditions or circumstances do not result from the actions of the applicant and are not primarily economic or financial in nature.*

The subject circumstances noted in Sec. i of this analysis are not the result of the actions of the applicant and are not primarily economic or financial in nature. The subject lot was platted prior to the adoption of the current zoning regulations.

- iii. *Literal interpretation or enforcement of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification under the terms of this Ordinance.*

Per sections i and ii of this analysis, the literal interpretation or enforcement of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification under the terms of this Ordinance.

- iv. *The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.*

According to the property owner, the variance, if authorized, would represent the minimum variance that will afford relief and would represent the least modification possible of the regulation at issue.

- v. *The variance sought will not authorize or extend any non-conforming use or other non-conformity with respect to the land or structures in question.*

Based on the information provided, it does not appear that the variances sought will authorize or extend any non-conforming use or other non-conformity with respect to the land or structures in question.

- vi. *The granting of the variance will be in harmony with the general intent and purpose of this Ordinance, will not be injurious to the area involved, or surrounding properties, and will not authorize a use of the property not permitted by its zoning classification.*

The granting of the variance, if authorized, would be in harmony with the general intent and purpose of the Ordinance. Additionally, if approved, the variance will not authorize a use of the property not permitted by its zoning classification. Lastly, it appears that the variance, if authorized, would not be injurious to the area involved or the surrounding properties.

- vii. *The variance sought will be consistent with the City's Comprehensive Plan, its enabling legislation and regulations adopted pursuant thereto.*

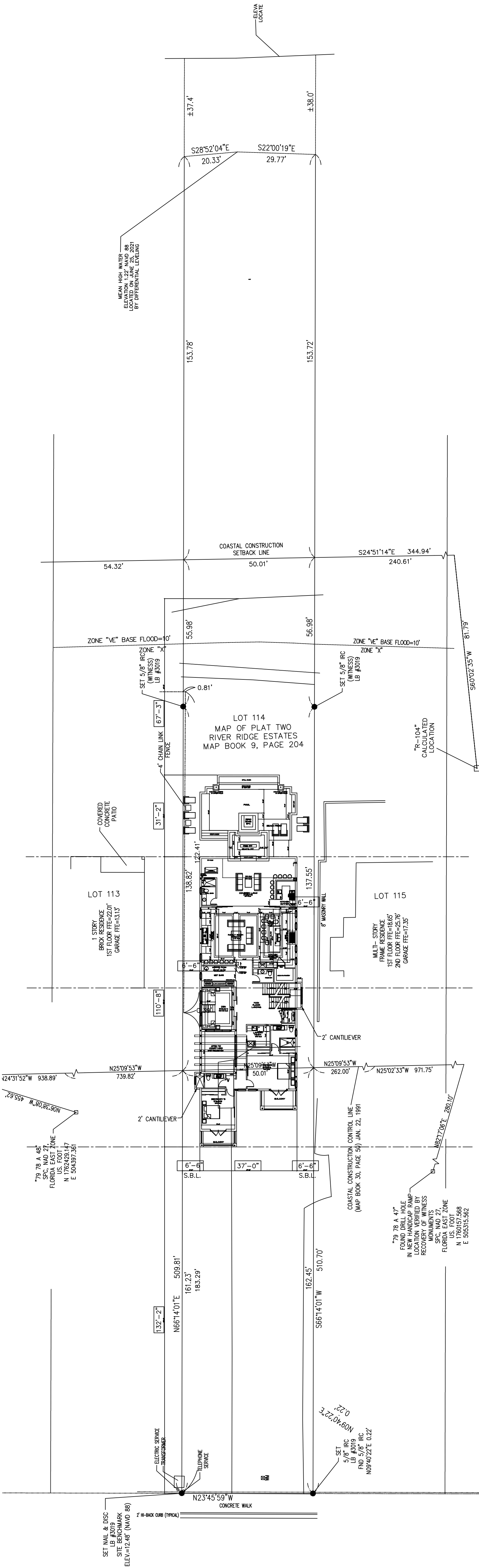
The variance sought would be consistent with the City's Comprehensive Plan, its enabling legislation and regulations adopted pursuant thereto.

Based on staff's interpretation of the facts and evidence provided, **Table 1** below was derived to assist the Board's decision-making process:

Table 1: Authorization Criteria Summary (per Section 14-63.8.a)*

Criteria	i	ii	iii	iv	v	vi	vii	Total
Criteria Met	X	X	X	X	X	X	X	7
Criteria Not Met								0
Criteria Partially Met								0

NOTE: * Pursuant to prior and current legal counsel, a successful variance application can only be achieved if all evaluation criteria are met.

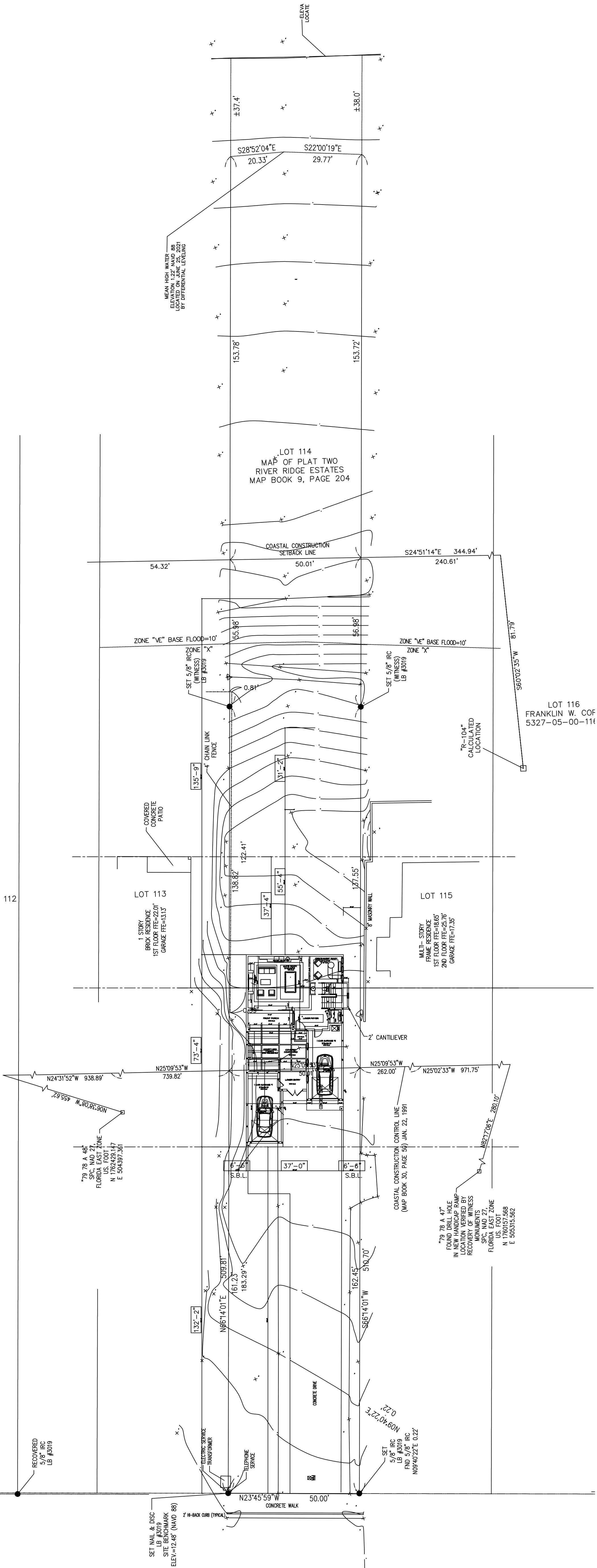


SOUTH ATLANTIC AVENUE (A-1-A)
(80' R/W PER F.D.O.T. R/W MAP SECTION 7953-(150)250)

FIRST FLOOR LAYOUT
1"=250'

LOT 112

LOT 116
FRANKLIN W. CORY
5327-05-00-1160



SOUTH ATLANTIC AVENUE (A-1-A)
(80' R/W PER F.D.O.T. R/W MAP SECTION 7953-(150)250)

BASEMENT LAYOUT
1"=250'

2711 S. Atlantic Avenue: Artist Rendering

