



City of Daytona Beach Shores

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AGENDA

CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING

DECEMBER 1, 2021

9:00 AM, Shores Community Center, 3000 Bellemead Drive

Daytona Beach Shores, FL 32118

Notice is hereby given to all interested parties that if a person should decide to appeal any decision made at the aforementioned meeting of the Code Enforcement Special Magistrate, such person will need a recording of the proceedings conducted at such meeting, and for such purpose 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. NOTE: individuals covered by the American with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the Office of the City Clerk at the City Hall of Daytona Beach Shores or by telephone at 763-5353 at least seven working days prior to the meeting.

1. CALL TO ORDER

- A. Opening Statement by Special Magistrate deLaroche
- B. Swearing in Witnesses

2. OPENING REMARKS

- A. Indication of any items being removed from agenda

3. MINUTES

- A. Code Enforcement Special Magistrate Minutes October 20, 2021

4. ADVANCED HEARINGS (Post-Initial Hearings)

- A. Property Owners: Ngoc-Hung N. Phan & Nhu-y T. Le
Property Address: 2416 S. Atlantic Avenue

Code Enforcement Case #: CDEF2021-03
Volusia County Parcel ID #: 5322-04-14-0180

- B. Property Owner: Richard D. Merkel
Violation Address: 2944 Sea Oats Circle in Daytona Beach Shores, FL
Code Enforcement Case #: PCDEF2021-20
Volusia County Tax Parcel ID #: 5327-14-12-0640

5. INITIAL HEARINGS

- A. Property Owner: SS 2500, LLC
Violation Address: 2504 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2021-55
Volusia County Tax Parcel ID #: 5322-01-00-0266
- B. Property Owners: David Campbell & Marjorie Yappow
Violation Address: 3226 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2021-30
Volusia County Tax Parcel ID #: 5335-01-06-0010

6. CLOSING REMARKS

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Wednesday, January 19, 2022, at 9:00 a.m.
- B. The February meeting is scheduled for Wednesday, February 16, 2022, at 9:00 a.m.
- C. The March meeting is scheduled for Wednesday, March 16, 2022, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
October 20, 2021
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. CALL TO ORDER

- A. Opening Statement by Special Magistrate deLaroche

The Special Magistrate called the meeting to order at 9:00 am.

- B. Swearing in Witnesses

2. OPENING REMARKS

- A. Indication of any items being removed from agenda

There were no cases removed from the agenda.

3. MINUTES

- A. Code Enforcement Special Magistrate Minutes Sept. 15, 2021

SM deLaroche approved the minutes from September 15, 2021.

4. ADVANCED HEARINGS (Post-Initial Hearings)

5. INITIAL HEARINGS

- A. Property Owners: David Campbell & Marjorie Yappow
Violation Address: 3226 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2021-30
Volusia County Tax Parcel ID #: 5335-01-06-0010

Code Enforcement Coordinator Gwyn Herstein explained that she had received a motion to continue the case on October 13th. Mr. Campbell had retained a new attorney and he was

currently out of state. This case was continued from the September 15th hearing. Both the attorney and the Respondent will be present for the hearing on December 1. Special Magistrate deLaroche granted the motion to continue. For the record, this continuance was agreed upon earlier as Attorney Lapinski called the SM deLaroche in his car to discuss the case. Going forward, this will not happen again. Respondents and their legal representatives are able to call in by phone for the hearing. The SM will not allow any pre-hearing pleadings, motions, or requests to occur, everything will be done during the hearing to prevent any Sunshine violations.

6. CLOSING REMARKS

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Wednesday, December 1, 2021, at 9:00 a.m.

- B. The January meeting is scheduled for Wednesday, January 19, 2022, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

Ms. Herstein requested the SM re-approve the statutorily optional methods of providing notice to respondents. The Florida Statutes Chapter 162 provides a list of methods and the city follows those methods. Special Magistrate deLaroche re-approved the secondary methods of publication or posting as the Florida Statutes allow.

8. ADJOURNMENT

The meeting ended at 9:14 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab



CODE ENFORCEMENT CASE SUMMARY DECEMBER 1, 2021 AGENDA

TO: The Code Enforcement Special Magistrate
FROM: Gwyn Herstein, Code Enforcement Coordinator
PREPARED BY: Gwyn Herstein, Code Enforcement Coordinator
SUBJECT: Property Owners: Ngoc-Hung N. Phan & Nhu-y T. Le
Property Address: 2416 S. Atlantic Avenue
Code Enforcement Case #: CDEF2021-03
Volusia County Parcel ID #: 5322-04-14-0180

TYPE OF HEARING:

First & Second Compliance Hearings

CODE(S) CITED:

The Code of Ordinances of the City of Daytona Beach Shores, Chapter 13, Section 13-5.; Appendix "G" - *Land Development Code*, Chapter 14, Section 14-52.9.(B)(16) and (D)(1), (2), (3), (7), (9), & (12); Appendix "G" - *Land Development Code*, Chapter 5, Section 5-6. *Building Code adopted*. which refers, in part, to the *Florida Building Code - Sixth Edition (2017)* & *Florida Building Code – Seventh Edition (2020)*, Chapter 1, Section 105.1 *Required.*; and *City of Daytona Beach Shores Ordinances* Numbered 2019-09 and 2019-14, Part III, Section 14-61.1.(b).

VIOLATION(S) FOUND:

- a) *Grass/weeds over 12" high in places on property (Corrected by Ordered date)*
- b) **Stucco is delaminating in places on most vertical parapet surfaces (Compliant November 2, 2021 - 11 fined days)**
- c) **Paint is faded, streaked, and deteriorated, contributing to stucco delamination on vertical parapet surfaces (Compliant November 3, 2021 - 12 fined days)**
- d) *Concrete spalling on northwest corner of building, upward from grade (Corrected by Ordered date)*
- e) **Building paint peeling, streaked, and discolored in places (Compliant November 9, 2021 - 18 fined days)**
- f) *Two electrical boxes rusting through and deteriorating, near northwest corner of building (Corrected by Ordered date)*
- g) **Ceiling of drive-through is delaminating in places (Compliant November 2, 2021 - 11 fined days)**
- h) *Ceiling hatches at drive-through and front entrance are rusting and deteriorating (Corrected by Ordered date)*
- i) *Rusty drop box on south building face is a non-functional element (Corrected by Ordered date)*

j) *Violation rectified before Initial Hearing*

k) Two sets of clear tubes and call boxes at drive-through window are non-functional elements (Compliant November 2, 2021 - 11 fined days)

l) Concrete pad (formerly supporting pole sign) at southeast corner of property is a non-functional element (Corrected by Ordered date)

m) Junction box (formerly feeding pole sign) at southeast corner of property is a non-functional element (Corrected by Ordered date)

n) Bollard near southeast exit driveway is rust-covered (Corrected by Ordered date)

o) Sections of pole light are rusty and in disrepair, north side of property, especially at pole cap and hand hole cover (Corrected by Ordered date)

p) Shrubs near north property line and at northwest corner are not "in a neat and well-maintained condition" (Corrected by Ordered date)

q) ATM removed and wall boarded without a building permit, west building face (Compliant November 2, 2021 - 11 fined days)

r) Two lighted wall signs removed without an electrical permit to properly cap connections, east and north building faces (Corrected by Ordered date)

s) Pole sign removed without an electrical permit to properly cap connections, wires exposed (Corrected by Ordered date)

t) Building remains vacant longer than 60 days without obtaining a Certificate of Compliance - Vacant Property (Compliant November 9, 2021 - 18 fined days)

REQUESTED ORDER(S):

11. First Compliance Hearing, not compliant by Ordered date

&

12. OR # 13. Second Compliance Hearing, impose entire fine OR reduce or rescind fine

POSSIBLE ORDERS:

1. Continuance

10. First Compliance Hearing, compliant by Ordered date

11. First Compliance Hearing, not compliant by Ordered date

12. Second Compliance Hearing, impose entire fine

13. Second Compliance Hearing, reduce or rescind fine

SUPPLEMENTARY INFORMATION:

Initial Hearing Date: April 21, 2021

Ordered Compliance Date: October 21, 2021 (184 days from the Initial Hearing)

Ordered Fine: \$250.00 per day

Actual Compliance Date: November 9, 2021 (18 fined days)

Total Accrued Fines: \$4,500.00

Special Magistrate Approved Administration Fees: \$162.89 (IH) *not paid as of November 23, 2021*

Additional Administrative Fees Requested: \$149.09 (FSCH)

Please see supplementary document packet

ATTACHMENT: None



CODE ENFORCEMENT CASE SUMMARY DECEMBER 1, 2021 AGENDA

TO: The Code Enforcement Special Magistrate
FROM: Gwyn Herstein, Code Enforcement Coordinator
PREPARED BY: Gwyn Herstein, Code Enforcement Coordinator
SUBJECT: Property Owner: Richard D. Merkel
Violation Address: 2944 Sea Oats Circle in Daytona Beach Shores, FL
Code Enforcement Case #: PCDEF2021-20
Volusia County Tax Parcel ID #: 5327-14-12-0640

TYPE OF HEARING:

First Compliance Hearing

CODE(S) CITED:

The Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" - Land Development Code, Chapter 5, Section 5-6., which refers, in part, to the Florida Building Code - Sixth Edition (2017) & Seventh Edition (2020), Chapter 1, Section 105.1. Required.

VIOLATION(S) FOUND:

- a) No building permit was obtained for replacement of front entry door - not compliant as of November 23, 2021
- b) No building permit was obtained for drywall placement in various locations throughout the unit - not compliant as of November 23, 2021
- c) No electrical permit was obtained for work in the electrical panel and inside the unit - not compliant as of November 23, 2021

REQUESTED ORDER(S):

#11. First Compliance Hearing, not compliant by Ordered date

POSSIBLE ORDERS:

- # 1. Continuance
- # 10. First Compliance Hearing, compliant by Ordered date
- # 11. First Compliance Hearing, not compliant by Ordered date

SUPPLEMENTARY INFORMATION:

Initial Hearing Date: July 21, 2021

Ordered Compliance Date: October 19, 2021 (90 days from the Initial Hearing)

Ordered Fine: \$200.00 per day

Special Magistrate Approved Administration Fees: \$149.09 (*IH*) *paid on August 19, 2021*

Additional Administrative Fees Requested: \$85.53 (*FCH*)

Please see supplementary document packet

ATTACHMENT: None



CODE ENFORCEMENT CASE SUMMARY DECEMBER 1, 2021 AGENDA

TO: The Code Enforcement Special Magistrate

FROM: Gwyn Herstein, Code Enforcement Coordinator

PREPARED BY: Gwyn Herstein, Code Enforcement Coordinator

SUBJECT: Property Owner: SS 2500, LLC

Violation Address: 2504 S. Atlantic Ave. in Daytona Beach Shores, Florida

Code Enforcement Case #: CDEF2021-55

Volusia County Tax Parcel ID #: 5322-01-00-0266

TYPE OF HEARING:

Initial Hearing

CODE(S) CITED:

The Code of Ordinances of the City of Daytona Beach Shores, Chapter 19, Section 19-1.2.(k).(1) and Appendix "G" - *Land Development Code*, Chapter 14, Section 14-52.9.(B)(3), (14), & (17); Section 14-52.9.(D)(1), (3), (7), & (8); and Section 14-61.1.(b).

VIOLATION(S) FOUND:

- a) Vacant Building Registration and the associated fee (both due by April 1, 2021) have not been provided to the City of Daytona Beach Shores, though the property has been vacant longer than 60 days
- b) Mountains, a ship, a tunnel, and other former mini-golf props are unprotected and unsupervised attractive nuisances
- c) Standing water in at least one golf course water feature is an unprotected and unsupervised attractive nuisance
- d) Debris is present along the south and west property lines
- e) Palm fronds are scattered around the golf course and parking areas
- f) Standing water, present in at least one water feature pool, creates a breeding ground for mosquitoes
- g) Siding wood is missing from the accessory structure southwest of the main entrance building
- h) Roof thatch decor is missing from the accessory structure southwest of the main entrance building
- i) Mountains, a ship, a tunnel, and other former mini-golf course props are currently non-functional elements
- j) Missing light fixture, east side of property, makes existing post an unused element
- k) Wall along property line is discolored near southwest corner

- l) Dumpster enclosure doors are broken and/or missing and do not prevent the dumpster from being viewed from the street
- m) No application for a Certificate of Compliance - Vacant Property has been made to the City of Daytona Beach Shores, though the property has been vacant longer than 60 days
- n) Building and structures remain vacant longer than 60 days without obtaining a Certificate of Compliance - Vacant Property

REQUESTED ORDER(S):

#7. Initial Hearing, In Violation w/ fees
and possibly #4. Initial Hearing, No Fine Standing Order, currently compliant, w/out fees

POSSIBLE ORDERS:

- #1. Continuance
- #2. Dismissal
- #4. Initial Hearing, No Fine Standing Order, currently compliant, w/out fees
- #5. Initial Hearing, No Fine Standing Order, currently compliant, w/ fees
- #6. Initial Hearing, No Violations found
- #7. Initial Hearing, In Violation w/ fees

SUPPLEMENTARY INFORMATION:

Please see supplementary document packet

ATTACHMENT: None



CODE ENFORCEMENT CASE SUMMARY DECEMBER 1, 2021 AGENDA

TO: The Code Enforcement Special Magistrate

FROM: Gwyn Herstein, Code Enforcement Coordinator

PREPARED BY: Gwyn Herstein, Code Enforcement Coordinator

SUBJECT: Property Owners: David Campbell & Marjorie Yappow

Violation Address: 3226 S. Atlantic Ave. in Daytona Beach Shores, Florida

Code Enforcement Case #: CDEF2021-30

Volusia County Tax Parcel ID #: 5335-01-06-0010

TYPE OF HEARING:

Initial Hearing

CODE(S) CITED:

The Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" - Land Development Code, Chapter 5, Section 5-6. Building Code adopted. which refers, in part, to the Florida Building Code - Sixth Edition (2017) & Seventh Edition (2020)., Chapter 27, Section 2702.1.2 Electrical, which adopts by reference, NFPA 70 (which is also called the National Electric Code - NEC), Article 400, Section 400.8 Uses not Permitted. subsection (4).; and Appendix "G" - Land Development Code, and Chapter 14, Section 14-52.9.(D)(1), (2), (3), (6), & (7).

VIOLATION(S) FOUND:

EAST BUILDING:

a) *Violation rectified by requested date*

b) Doors are discolored, north and south building faces (*rectified by October 5, 2021*)

c) Building does not "present a neat and fresh appearance" in that paint is discolored in places, especially north building face (*rectified by November 19, 2021*)

d) A/C unit is deteriorated with rust, south building face (*rectified by October 5, 2021*)

e) Roof tile is cracked above Unit 2 (*rectified by November 19, 2021*)

f) *Violation rectified by requested date*

g) Soffit is deteriorated in places (soffit placed by November 19, 2021, permit not final-approved)

h) Fascia is deteriorated in places (fascia placed by November 19, 2021, permit not final-approved)

i) Wire/cord is no longer secured in places, near door to unit 4, south building face

j) Roof tile is cracked above Unit 2 (*rectified by November 19, 2021*)

k) Soffit is deteriorated in places (soffit placed by November 19, 2021, permit not final-approved)

l) Fascia is deteriorated in places (fascia placed by November 19, 2021, permit not final-approved)

m) Violation rectified by requested date

WEST BUILDING:

n) Violation rectified by requested date

o) Flexible cords are attached to building surfaces in multiple places, visible at all four building faces - subsection (4) (rectified by October 5, 2021)

p) Violation removed from list based on flexible cord being removed by Charter Communications, as per September 2, 2021 email

q) Violation removed from list based on flexible cord being removed by Charter Communications, as per September 2, 2021 email

r) Doors are discolored, north building face (rectified by October 5, 2021)

s) Building does not "present a neat and fresh appearance" in that paint is discolored in multiple places (rectified by November 19, 2021)

t) Roof tiles are deteriorated and discolored (rectified by November 19, 2021)

u) Fascia is deteriorated in places under added trim wood (fascia remains unpainted in places, permit not final-approved)

v) Door trim is deteriorated at Unit 8 (rectified by October 5, 2021)

w) Violation rectified by requested date

x) Soffit is deteriorated in places (soffit remains unpainted in places, permit not final-approved)

y) Fascia is deteriorated in places (soffit remains unpainted in places, permit not final approved)

z) Roof tiles are broken and wood underneath is exposed and unprotected in places (rectified by November 19, 2021)

aa) Roof tiles are deteriorated and discolored (rectified by November 19, 2021)

GROUNDS:

bb) Violation rectified by requested date

cc) Violation rectified by requested date

dd) Paint is deteriorated at stairs at retaining wall along east property line (rectified by November 19, 2021)

ee) Retaining wall along east property line is discolored in places (rectified by November 19, 2021)

ff) Retaining wall along north side of property is discolored in places (rectified by November 19, 2021)

gg) Retaining wall not structurally sound near northeast corner (rectified by November 19, 2021)

REQUESTED ORDER(S):

#7. Initial Hearing, In Violation w/ fees

and/or #4. Initial Hearing, No Fine Standing Order, currently compliant, w/out fees

and/or #5. Initial Hearing, No Fine Standing Order, currently compliant, w/ fees

POSSIBLE ORDERS:

#1. Continuance

#2. Dismissal

#4. Initial Hearing, No Fine Standing Order, currently compliant, w/out fees

#5. Initial Hearing, No Fine Standing Order, currently compliant, w/ fees

#6. Initial Hearing, No Violations found

#7. Initial Hearing, In Violation w/ fees

SUPPLEMENTARY INFORMATION:

Please see supplementary document packet

ATTACHMENT: None