



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING APRIL 11, 2022

**8:30 AM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Notice is hereby given to all interested parties that if any person should decide to appeal any decision made at the aforementioned meeting of the P&Z Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose he or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the City Clerk, City of Daytona Beach Shores, at least five working days prior to the meeting.

1. OPENING REMARKS

2. MINUTES

A. Planning & Zoning Minutes March 14, 2022

3. QUASI-JUDICIAL HEARING

A. Zoning Variance ZV12022008: Blue Coast Shop Rebuild - 3110 S. Atlantic Avenue

4. ACTION ITEMS

A. Ordinance 2022-11: Extension of Nonconforming Freestanding Sign Compliance Amortization Period

5. OTHER

A. Nomination of Chairman and Vice-Chair for the upcoming year

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
March 14, 2022
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Rose Ann Tornatore, Member Jeni Groot-Begnaud, Member Chuck Horion, Member James Lilly, Member Rick Delange, Member Tony Rembiszewski.

Excused: Member John Schmitz

Staff: City Clerk Cheri Schwab, Board Attorney Garrett Olsen, City Planner Stewart Cruz,

2. MINUTES

A. Planning & Zoning Minutes February 14, 2022

MEMBER CHUCK HORION moved, seconded by MEMBER RICK DELANGE to Approve the Planning & Zoning Minutes of February 14, 2022.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose Ann Tornatore, Jeni Groot-Begnaud

3. QUASI-JUDICIAL HEARING

A. Sign Variance Application ZV 12021031: Holiday Inn Express - 3301 S. Atlantic Avenue

The hearing opened at 8:31 am and the Board Attorney swore in the witnesses. City Planner Stewart Cruz explained that the agenda item had been continued from the last meeting. He briefly reviewed the details on the subject property and made note that all due public notice had been met. The variance being requested is for a sign that would be taller and wider than our current code allowed. The proposed sign would be 12 feet or 2.5 feet higher and 10 feet or 2 feet wider than the maximum allowed. In order to grant a variance, at least one of the three criteria must be met and it was the staff's opinion that only the first criterion was partially met. Mr. Cruz stated that the item had been continued from the February meeting in the hope that the applicant could provide more information regarding Holiday Inn Express sign requirements. A letter from the COO was received and it was provided to the board. The sign manual for Holiday Inn Express was also submitted. On page 5 it stated that a monument sign must be at least 6 feet in height. Staff recommended a denial of the variance as presented.

Ray Webb from Kenco sign spoke on behalf of the applicant. Bill Meetax, Vice President of Operations for the hotel was also in attendance. They stated that the sign must be visible by Holiday Inn standards at a height of 12 feet. It was his opinion that if the sign were reduced in

size, they could lose their franchise. The board had no questions for the applicant. The board held a brief discussion stating that other hotels and businesses had been able to comply with the new sign standards without obtaining a variance to do so.

MEMBER RICK DELANGE moved, seconded by MEMBER JAMES LILLY to Deny the Sign Variance Application ZV 12021031 on the basis that it does not comply with the sign regulations.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose Ann Tornatore, Jeni Groot-Begnaud

- B. Ordinance 2022-08: Rezoning Application RZ12021040, Colby & Jennifer Caldwell - 6 Carter Terrace, Annexed Property

City Planner Stewart Cruz explained that after an annexation occurs, the city also has to rezone the property to comply with the City's Land Development Code. If approved, the zoning would stay single-family residential. Staff recommended approval. The board had no questions for staff.

MEMBER CHUCK HORION moved, seconded by MEMBER RICK DELANGE to recommend approval of Ordinance 2022-08 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose Ann Tornatore, Jeni Groot-Begnaud

- C. Ordinance 2022-09: Rezoning Application RZ12021043; Larry & Barbara Pollack - 3102 Liberty Street, Annexed Property

City Planner Stewart Cruz explained that after an annexation occurs, the city also has to rezone the property to comply with the City's Land Development Code. If approved, the zoning would stay single-family residential. Staff recommended approval. The board had no questions for staff.

MEMBER CHUCK HORION moved, seconded by JENI GROOT-BEGNAUD to recommend approval of Ordinance 2022-09 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose Ann Tornatore, Jeni Groot-Begnaud

4. ACTION ITEMS

- A. Ordinance 2022-06: Future Land Use Map Amendment CPA12021041; Colby & Board of Adjustments 3/14/2022

City Planner Stewart Cruz stated that this process was also a result of the property annexing into the city. This is a requirement of Florida Law to assign a future land use designation. Staff recommended approval. There were no questions from the board.

JENI GROOT-BEGNAUD moved, seconded by MEMBER CHUCK HORION to recommend approval of Ordinance 2022-06 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose Ann Tornatore, Jeni Groot-Begnaud

B. Ordinance 2022-07: Future Land Use Map Amendment CPA12021044; Larry & Barbara Pollack - 3102 Liberty Street, Annexed Property

City Planner Stewart Cruz stated that this process was also a result of the property annexing into the city. This is a requirement of Florida Law to assign a future land use designation. Due to the size of this lot, there could be three single family homes. Staff recommended approval. There were no questions from the board.

MEMBER CHUCK HORION moved, seconded by JENI GROOT-BEGNAUD to recommend approval of Ordinance 2022-07 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose Ann Tornatore, Jeni Groot-Begnaud

C. Ordinance 2022-10: Townhome Minimum Development Area Amendment

City Planner Stewart Cruz explained that this was an administrative ordinance to update the city's code. If approved, it would amend the minimum area required for the construction of townhomes between the RMF-2 and RMF-3 districts to be more fair and equitable. Currently, the minimum area required in the RMF-2 district is the same as in RMF-3, which is a lower density area. The minimum area for RMF-2 district would become 2,420 square feet and that would allow up to 18 townhomes per acre. Staff recommended approval.

MEMBER RICK DELANGE moved, seconded by MEMBER JAMES LILLY to recommend approval of Ordinance 2022-10 to the City Council.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose Ann Tornatore, Jeni Groot-Begnaud

5. OTHER

6. BOARD COMMENTS

Board member Rick Delange inquired about the site where the Blue Coast store burnt down 2 years ago. Mr. Cruz explained that there had been a delay with the insurance company, but a site plan is being reviewed in the office. Board member Rose Ann Tornatore asked for an update on the Treasure Island property. Mr. Cruz informed the board that bids for the demolition had been received by the owner. A permit had been submitted that was in the process of being reviewed.

7. ADJOURNMENT

The meeting ended at 9:21 am.

Cheri Schwab, Recording Secretary

John Schmitz, Chairman



PLANNING & ZONING BOARD AGENDA MEMORANDUM APRIL 11, 2022 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Zoning Variance ZV12022008: Blue Coast Shop Rebuild - 3110 S. Atlantic Avenue

SYNOPSIS:

The subject property, located at 3110 S. Atlantic Avenue, experienced a destructive fire event in the summer of 2020, which destroyed the structure occupying the premises at that time. The structure was built in 1956 and was occupied by the Blue Coast Shop, which is a tourist oriented business, and a conditionally approved residential apartment. On February 22, 2022, a completed site development plan application to redevelop the property was submitted to the City for review. The site development plan proposed to rebuild the structure within the same development footprint as prior to the destruction of the structure. However, since the previous structure was destroyed beyond 50% of the fair market value of the structure, pursuant to Sec. 14-11.3.(2) of the Daytona Beach Shores Land Development Code (LDC), the structure cannot be rebuilt unless in conformity with the LDC (**Exhibit A**). Staff identified several deficiencies in the site plan and advised the owner's agent on March 2, 2022 of the aforesaid requirements (**Exhibit B**). Consequently, on March 16, 2022, a variance application on behalf of the property owner was submitted to the City. The variance application (**Exhibit C**) contains five (5) variance requests. If approved, the variances would permit the redevelopment of the property similar to its pre-fire condition and the Blue Coast Shop structure could then be rebuilt within the same development footprint and site improvements as originally constructed in 1956.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. ANALYSIS

Staff's analysis of the application (**Exhibit D**) is attached.

B. COMMUNITY SUPPORT

At the time of writing this report, 26 letters of support from the community and customers have been submitted to the record. These letters of support are available for review upon request.

C. PUBLIC NOTICE

Evidence of due public notice has been submitted to the record.

LEGAL REVIEW:

Approve if the Board finds that all variance criteria are met.

RECOMMENDATION:

Based on the staff analysis (**Exhibit D**) provided, staff recommends approval of Variance ZV12022008 as presented.

SUGGESTED MOTION:

A Board member may motion one of the following:

- 1) "I move to approve Variance ZV12022008 as presented."
OR
- 2) "I move to approve Variance ZV12022008, with the following conditions..."
OR
- 3) I move to deny Variance ZV12022008, on the basis of..."

- ATTACHMENT:**
1. Exhibit A-Sec. 14-11.3
 2. Exhibit B-SASP12021026-Blue Coast Rebuild-3110 S. Atlantic Ave-1st Review-3-2-22
 3. Exhibit C-Blue Coast Variance Application
 4. EXHIBIT D-Staff Variance Analysis

14-11.3. Nonconforming Structures.

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity;

2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its fair market value at the time of destruction, at the expense of the owner it shall not be reconstructed, except in conformity with the provisions of this ordinance. This provision shall not apply to structures that have become nonconforming as a result of the maximum building height Ordinance No. 98-22.

3. Should any such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.



City of Daytona Beach Shores

Community Services Department

2990 South Atlantic Avenue

Daytona Beach Shores, FL 32118

Telephone (386) 763 -5377

Fax (386) 763 -5370

March 2, 2022

Herman Stoll
Stoll Construction, Inc.
1686 N. Stone St.
Deland, FL 32720

**RE: Staff Administrative Site Plan #SASP12021026 / Review #1
Blue Coast Rebuild – 3110 S. Atlantic Avenue**

Dear Mr. Stoll:

The City has completed its first review of the abovementioned subject application. Please find below staff comments. If you have any questions or need any clarification please feel free to contact me at your earliest convenience.

Planning/Community Services

1. A letter of authorization is required.
2. Per Sec. 14-22.5, *Daytona Beach Shores Land Development Code* (LDC), a 20-foot yard (west) setback is required.
3. Per Sec. 14-46.6.3, LDC, the landscape plan shall indicate the location of sprinklers or water outlets.
4. Per Sec. 14-46.5.2.a(1)(b), LDC “*Each row of parking spaces shall be terminated by landscaped islands that measure not less than five (5) feet in width and not less than eighteen (18) feet in length. At least one (1) tree shall be planted in each terminal landscaped island.*”
5. Per Sec. 14-46.5.4.a, LDC, Perimeter Landscape Strips Separating Vehicular Use Areas from Abutting Rights-of-Way are required.
6. Per Sec. 14-46.5.4.b, LDC, Perimeter Landscape Strips Separating a Vehicular Use Area from the Interior Lot Line of an Abutting Property are required.
7. Per Sec. 14-48.5.4, LDC, “*Maneuvering areas shall be sufficient to permit vehicles to enter and leave the parking area in a forward motion. Where vehicle backup areas are necessary, they shall be designed with a minimum fifteen (15) foot turning radius and fifteen (15) feet in width.*”

8. Please advise if the onsite nonconforming freestanding identification sign will remain. April 9, 2022 is the deadline to remove or alter into conformity the sign in question per Sec. 6-7.5 LDC.
9. Add notation on plans that construction parking and staging shall occur on site.
10. Per Sec. 5-11 of the City's LDC construction sand fencing is required during construction. However, the aforementioned section also provides for a waiver authorized by the Building Official. If the waiver is requested please provide letter addressed to the Building Official requesting such and identify proposed mitigative measures to ensure sand control on site.
11. Please advise if plans will be amended accordingly or whether a variance pursuant to Sec. 14-63.8, LDC will be sought. The next available public hearing date for a variance application before the Planning and Zoning Board is April 11, 2022 at 8:30am. Per the February 28, 2022 email provided please be advised due public notice requirements are the responsibility of the applicant.
12. Confirm whether there will be any change in topography or earth movement conducted on site.
13. Attached is the LDC standards for a stormwater permit waiver certification. This shall be executed by the civil engineer on behalf of the property owner.
14. During plan permit review provide a copy of the state approved stormwater general permit.
15. PDF versions of final plans are required subsequent to formal site plan approval.

Public Safety Department (Tel. 386-763-5337)

1. Ensure means of egress is not hindered with the addition of the balcony.

Sincerely,



Stewart Cruz, AICP
City Planner

Encl.:

cc: Fred Hiatt, Director / Building Official
Lt. Medders, Public Safety Department

ec. 9-5. - Permit requirements.

9-5.1. Permit Waivers.

The permit requirements of this chapter may be waived by the building official for certain small projects as given herein which by their nature do not substantially change the total rate, volume or quality of stormwater runoff within a drainage basin.

1. *Applicability.* The permit requirements of the chapter may be waived by the building official for the following site development activities:
 - a. Single-family and duplex residences and accessory structures on parcels of record.
 - b. The one time construction or addition of any structure or pavement not exceeding five thousand (5,000) square feet of impervious area on or parallel to the ground.
2. *Stormwater Certifications.* The permit requirements of this chapter may be waived by the building official for those development activities meeting the criteria given in section 9-5.1(1) provided the owner/developer files a notice of intent with the building permit application and files a stormwater certificate of occupancy with the city which contains the following:
 - a. The name, address and telephone number of the developer and owner(s).
 - b. A description of the improvement.
 - c. The street address and legal description of the development.
 - d. A statement signed by the owner/developer which certifies that the development activity will:
 - (1) Not obstruct the natural flow of stormwater runoff.
 - (2) Not drain stormwater runoff onto adjacent lands not now receiving runoff from the project area.
 - (3) Not concentrate the discharge of runoff onto adjacent lands in such a manner as to present a flooding hazard or cause soil erosion.
 - (4) Not adversely affect adjacent lands and structures.
 - (5) Provide a positive drainage outlet from the site.
 - (6) Not adversely impact adjacent wetlands and/or water courses.
 - (7) Employ measures to control soil erosion on the site.
 - e. Such other information as may be required by the city engineer.

A certificate of occupancy for any development activity may be withheld by the city in cases where the owner/developer fails to provide the stormwater certifications given above or where it can be shown by the city engineer that the owner/developer has not completed the construction consistent with the statements contained in the certifications.

CC # 4501 3/14/22
✓ 220.00

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



RECEIVED

MAR 16 2022

12022008

VARIANCE APPLICATION BEFORE THE PLANNING AND ZONING BOARD

PLANNING AND ZONING BOARD
CITY OF DAYTONA BEACH SHORES

773723

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."

14-22.5, 14-46.5.2.a(1)(b)
14-46.5.4.a, 14-46.5.4.b &
14-46.5.4

Date Submitted: ___/___/___

Applicable Section of Code:

Fees must be paid at the time the application is submitted

Applicant's Name: Michael J. Woods, Esq./Cobb Cole Email: Michael.Woods@cobbcole.com

Address: 231 N. Woodland Blvd., DeLand, FL 32720 Phone #: (386) 736-7700

Property Address: 3110 S. Atlantic Ave., Daytona Beach Shores, FL 32118

Representing Attorney (if any): same as applicant

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:

A portion of Lot 6, Block 9, NORTH ORITA, lying westerly of South Atlantic Avenue, according to

plat thereof, recorded in Map Book 1, Page 115 of the Public Records of Volusia County, Florida.

Description of your request:

See attached page for request description.

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.

Please see the attached sheet.

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

Please see the attached sheet.

- 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.

Please see the attached sheet.

- 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.

Please see the attached sheet.

- e. The variance sought will not authorize or extend any nonconforming use or other nonconformity with respect to the land or structures in question.

Please see the attached sheet.

- 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.

Please see the attached sheet.

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

Please see the attached sheet.

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: _____

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: _____

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.

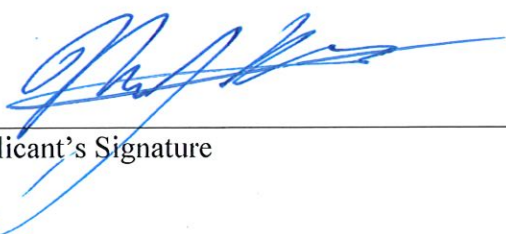
Agree (X) Disagree ()

Explanation: _____

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: _____



Applicant's Signature

3/14/2022

Date

NINETY-NINE FORTY LLC
VARIANCE REQUEST DESCRIPTION

RECEIVED

MAR 16 2022

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

Description of Request:

The variances requested seek relief related to landscaping and buffering requirements for the reconstruction of the subject property following a catastrophic fire in July of 2020. Specifically, the variances are as follows:

77 3 72 3

1. A variance from 14-22.5 Daytona Beach Shores LDC reducing the western setback requirement from 20 feet to no less than **14.5** feet.
2. A variance from 14-46.5.2.a(1)(b) DBS LDC eliminating the requirement that the row of parking at the front of the building be terminated by landscaped islands no less than 5 ft x 18 ft in size and containing at least one tree.
3. A variance from 14-46.5.4.a removing the requirement to locate a vegetative strip between the Vehicle Use Areas and the abutting Right-of-way.
4. A variance from 14-46.5.4.b removing the requirement to provide Perimeter Landscape strips between the Vehicle Use Areas and the interior lot line of an adjacent parcel.
5. A variance from 14-46.5.4 removing the requirement to provide adequate space to permit vehicles to enter and leave the parking area in a forward motion and designing the vehicle back up area with a minimum of 15 feet turning radius and 15 feet in width.

These variances are necessary to allow for the re-establishment of the structure to its pre-fire status. While these conditions were in place prior to the fire, it is necessary to formally secure variances for these conditions to continue with the construction on the site.

**NINETY-NINE FORTY, LLC
EXPLANATION OF MEETING VARIANCE CRITERIA**

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.

Response: The subject parcel is approximately 50 feet wide by 100 feet deep and contains approximately 5000 square feet of total area. The GC-1 Tourist Oriented Commercial District presumes a minimum lot size of 7500 square feet and a minimum lot width of 65 feet. This works out to a default lot dimension closer to 65 ft x 115 ft. While the primary structure retains its pre-fire footprint, the size of the parcel makes it impossible to accommodate all the design standards required (as they were intended to be applicable to a larger lot size). If the lot was 15 feet deeper (115 feet instead of 100 feet), the project would likely be able to accommodate the western setback requirement of 20 feet, provide a vegetative strip adjacent to the right-of-way and better accommodate the turning radius requirement. Similarly, if the lot was 15 feet wider (65 feet instead of 50 feet), we'd be able to accommodate both of the landscaped islands on the terminus of the parking row, the perimeter landscape strips and the turning radius requirement.

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

Response: These variances are necessary due to the 2020 fire and the need to reconstruct the structure to prior dimensions.

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.

Response: If the reconstruction of the site does not receive the requested variances, the business will not be able to rebuild and reopen. Said business is of the nature and intended use within the zoning district, but the lot's dimension creates unavoidable challenges to construct without relief via variance.

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.

Response: Given the smaller size of the subject property, any development on the site would likely require variances of some kind. The design as proposed will improve

the property beyond pre-fire conditions where possible and the variances requested focus on pre-fire conditions, minimizing impacts to the surrounding area and retain site conditions that have always been on the property. The variances requested avoid the need for further on-site demolition and are the minimum necessary to reconstruct the business.

e. The variance sought will not authorize or extend any nonconforming use or other nonconformity with respect to the land or structures in question.

Response: The community is eager to re-open the business as the use is in keeping with the underlying zoning. The relief sought does reflect nonconformities that have been in place for some time. However, this is a function of the zoning category's default lot size and cannot be resolved without variances or the acquisition of additional lot width (unlikely) and depth (impossible without ROW vacation).

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.

Response: The variances are in harmony with the area and intent of the ordinance and are not injurious to the surrounding area. To the contrary, the community will be benefitted by the reconstruction and reopening of the business on site.

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

Response: Nothing contained within the variances requested are in violation of the City's Comprehensive Plan.

AUTHORIZATION OF OWNER
(Must be notarized)

RECEIVED

MAR 09 2022

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

I/We, Ninety-Nine Forty, LLC
(PRINT OWNER'S NAME)

as the sole or joint fee simple title holder(s) of the property described as:

Parcel ID No. 5334-02-09-0060

(LEGAL DESCRIPTION AND/OR PARCEL NUMBER)

authorize Michael J. Woods, Esq./Cobb Cole to act as my agent
(PRINT AGENT'S NAME)

to seek all applications needed for development on the above property.
(TYPE OF APPLICATION)

Shannon Burk
OWNER'S SIGNATURE

OWNER'S SIGNATURE

3/9/22
DATE

DATE

*If additional Owner's names are required, attach additional signature pages.

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization this March 9, 2022 (Date)
by Shannon Burk (Name of Person),
who is personally known ☐ OR produced Identification ☒
Type of Identification Produced FL driver license



Lori A. Kunsman
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG938091
Expires 12/9/2023

Lori A. Kunsman
NOTARY PUBLIC, STATE OF FLORIDA

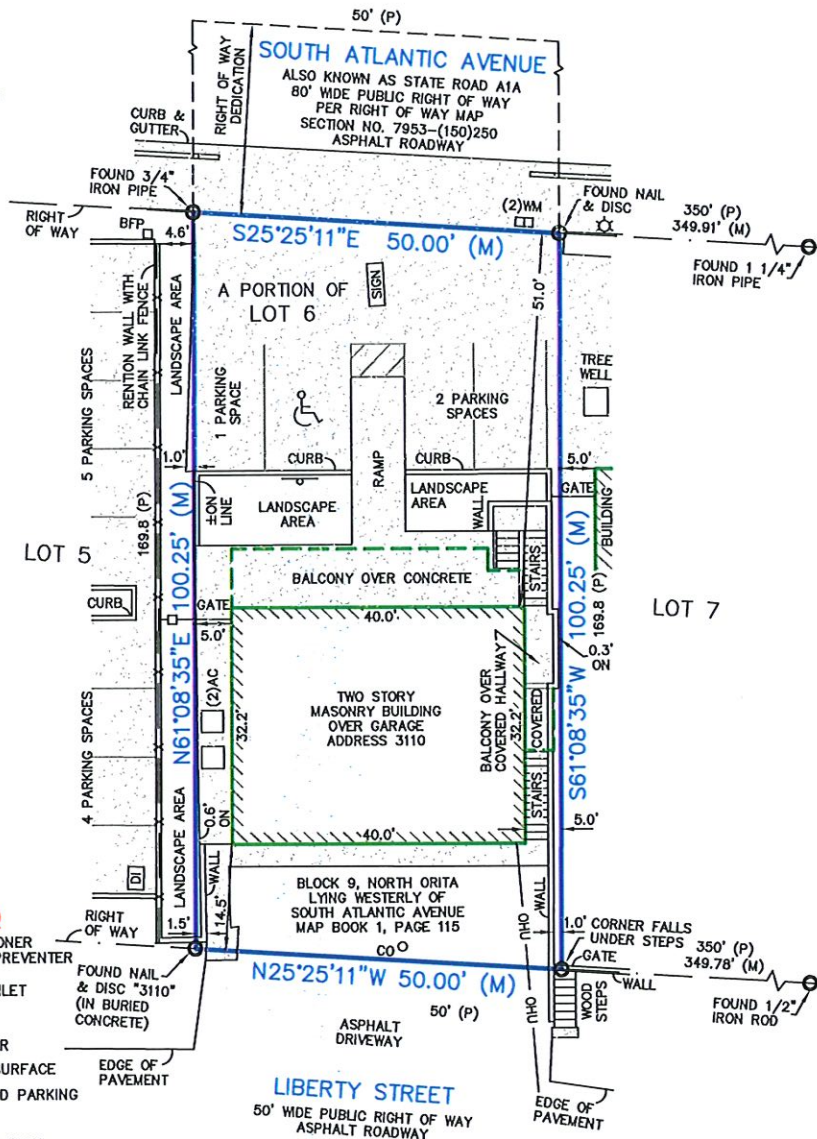
Type or Print Name: Lori A Kunsman

Commission No.: GG938091

My Commission Expires: 12/09/2023

MAP OF SURVEY

THAT PORTION OF LOT 6, BLOCK 9, NORTH ORITA, LYING WESTERLY OF SOUTH ATLANTIC AVENUE, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 1, PAGE 115, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



LEGEND

- AC AIR CONDITIONER
- BFP BACKFLOW PREVENTER
- CO CLEANOUT
- DI DRAINAGE INLET
- (M) MEASURED
- (P) PLAT
- WM WATER METER
- CONCRETE SURFACE
- HANDICAPPED PARKING
- LIGHT POLE
- NO PARKING AREA
- OVERHEAD UTILITY
- SIGN

SITE PICTURE



CERTIFIED TO

NINETY NINE FORTY LLC
STOLL CONSTRUCTION, INC.

GENERAL NOTES

1. THIS IS A BOUNDARY SURVEY AS DEFINED IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE.
2. THIS SURVEY WAS PREPARED UTILIZING THE DESCRIPTION PROVIDED BY THE VOLUSIA COUNTY RECORDER (BOOK 7107, PAGE 2554).
3. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN DATUM 1983, FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE. THE REFERENCE WAS ESTABLISHED USING A TOPCON HIPER VR, G.P.S. RECEIVER WITH LENSEMAN'S REAL TIME KINEMATIC NETWORK, "L-NET."
4. ALL DISTANCES ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.
5. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
6. ADDITIONS OR DELETIONS TO THIS SURVEY MAP OR REPORT BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY.
7. THIS SURVEY IS CERTIFIED TO AND PREPARED FOR THE SOLE BENEFIT OF THE ENTITIES LISTED.
8. UNDERGROUND FOUNDATIONS AND UTILITIES WERE NOT LOCATED AS PART OF THIS SURVEY.
9. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT OF WAYS AND/OR EASEMENTS OF PUBLIC RECORD.
10. FENCE AND WALL OWNERSHIP IS NOT DETERMINED.

I CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS AND MAPPERS IN CHAPTER 5J-17.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.



Digitally signed
by Benjamin
Deviese
Date:
2020.11.19
14:19:15 -05'00'

SITE ADDRESS

3110 SOUTH ATLANTIC AVENUE
DAYTONA BEACH SHORES
FLORIDA 32118

SURVEY DATE: 11/18/2020
PROJECT #: 201109
SCALE: 1" = 20'

FLOOD NOTE

BASED ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AVAILABLE ONLINE AT WWW.MSC.FEMA.GOV, AND BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED IN ZONE "X" ON FLOOD INSURANCE RATE MAP NUMBER 12127C0386J, WHICH BEARS AN EFFECTIVE DATE OF 09/29/2017.

ALTAPRO SURVEYORS

1322 PINE SONG DRIVE
DELTONA, FL 32725
PHONE: (386) 837-0244
EMAIL: BENOALTAPROSURVEYORS.COM
WEB: ALTAPROSURVEYORS.COM

BENJAMIN S. DEVIESE, PSM
FOR THE FIRM OF
ALTAPRO SURVEYORS
LS #6807 LB #8216
DATE: 11/19/2020

REVISIONS	BY

JEFFREY LAU, INC.

CREATIVE DESIGNS THAT MAKE SENSE

768 VAIL RD.
DAYTONA BEACH, FL 32224
385-479-1428

DATE

BY

CHKD

APP'D

SCALE

PROJECT

SHEET

BLUE COAST SURF SHOP

3110 S. ATLANTIC AVE.

DAYTONA BEACH SHORES

DATE

BY

CHKD

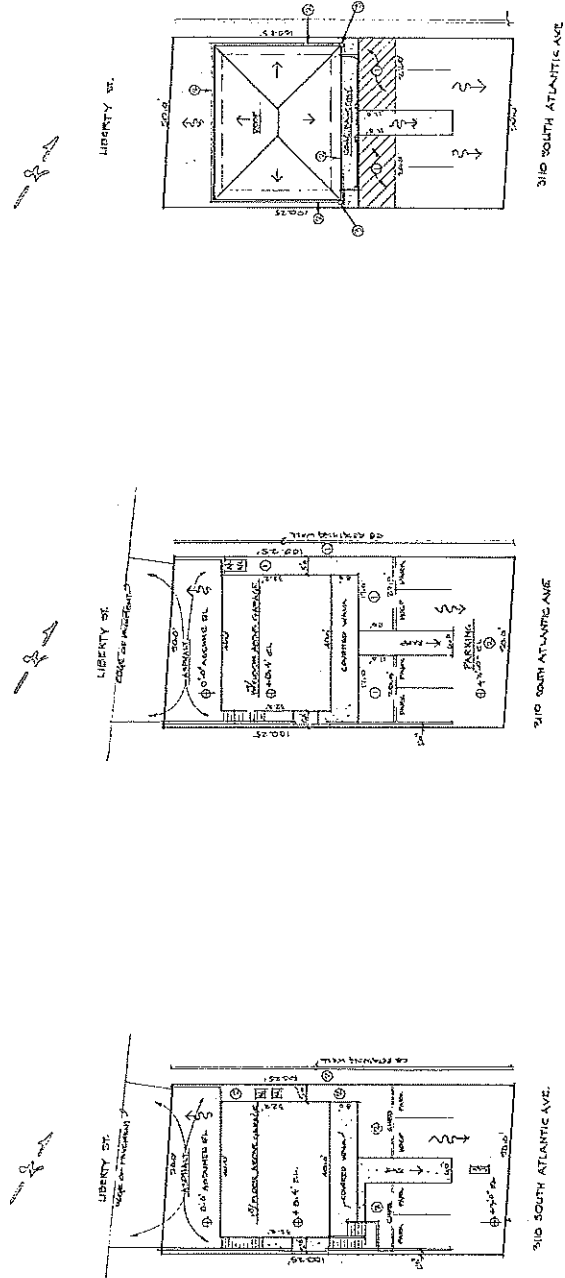
APP'D

SCALE

PROJECT

SHEET

REVISIONS	BY



- PROPOSED ROOF DRAINAGE & WATER RETENTION SITE PLAN NOTES**
1. Proposed drainage retention and plant area approximately 2'-0" deep. The total of water retention areas is 445.50 s.f.
 2. Provide rain gutters entire perimeter of roof.
 3. Provide down spouts w/ underground piping to drainage retention area.
 4. THESE DRAWINGS REPRESENT A "GOOD FAITH EFFORT" TO IMPROVE THE EXISTING WATER RETENTION CAPABILITY ON THIS SITE.

- PROPOSED SITE PLAN NOTES**
1. Refer to the proposed landscaping plan for details of the type, number, and location of plants provided by landscape architect ZEV COHEN AND ASSOCIATES, INC. of Ormond Beach, FL.
 2. Remove concrete's sign and permit parking lot.

- PRE-DEMOLITION SITE PLAN NOTES**
1. This site plan is based on a survey provided by STOLL CONSTRUCTION, INC. of Daytona Beach, FL.
 2. Existing plan area.

RECEIVED
 MAR 16 2022
 BUILDING AND CODES DIVISION
 CITY OF DAYTONA BEACH SHORES
 773723
 MAR 16 2022

PROPOSED ROOF DRAINAGE & WATER RETENTION PLAN

PROPOSED SITE PLAN

PRE-DEMOLITION SITE PLAN SCALE: 1"=20'

SITE PLAN



Image capture: Jan 2021 © 2022 Google

← 3110 S Atlantic Ave

All Street View & 360°



Image capture: Jun 2016 © 2022 Google

Daytona Beach Shores, Florida

Google

Street View - Jun 2016





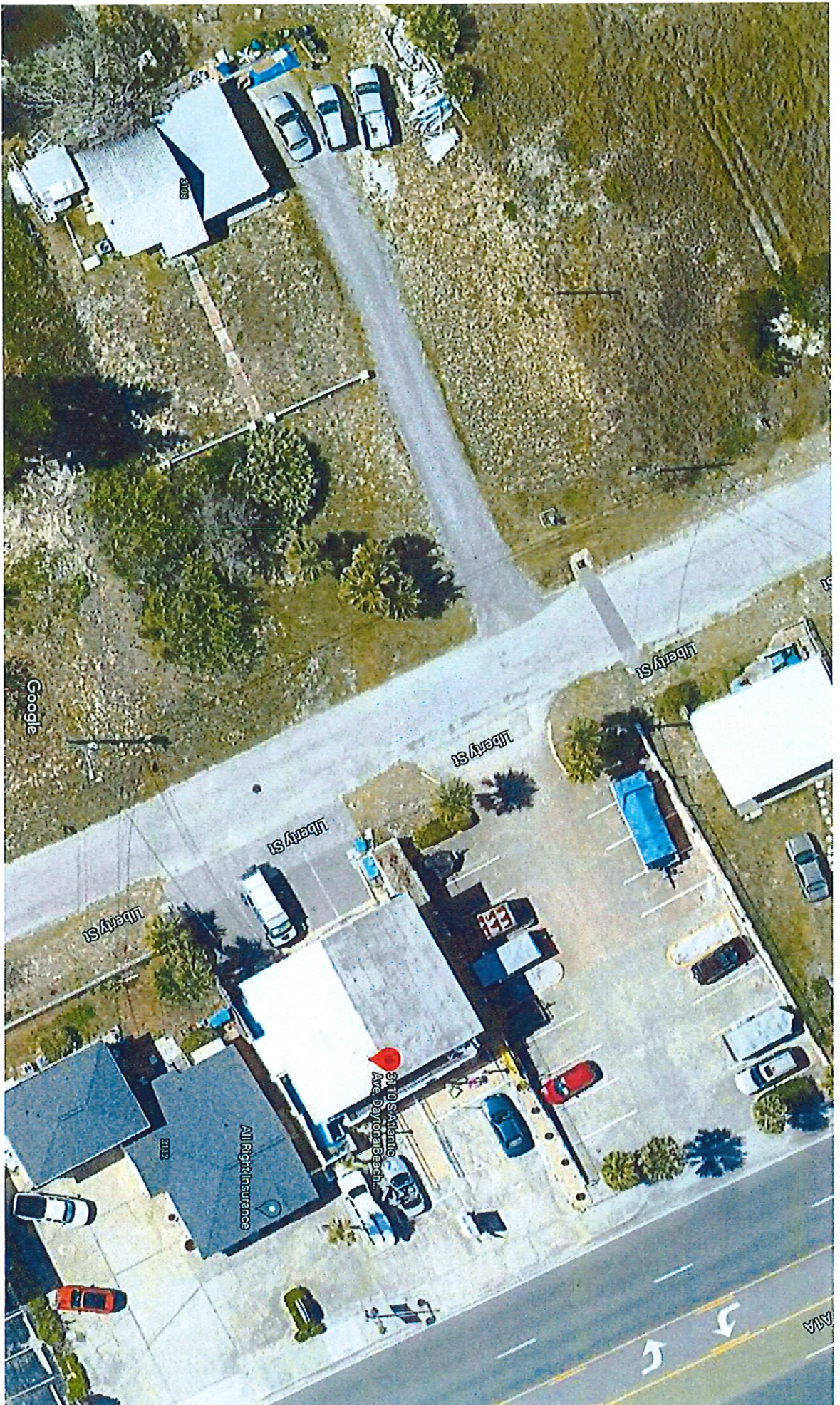
Google

Image capture: Jun 2016 © 2022 Google

Daytona Beach Shores, Florida

Google

Street View - Jun 2016



Map data ©2022, Map data ©2022 20 ft

EXHIBIT B
ZV12022008 STAFF ANALYSIS

I. Background

The subject property is located 3110 S. Atlantic Avenue (**Exhibit 1**) and occupies the “GC-1” Tourist Oriented Commercial District. The property previously housed a commercial structure and residence (**Exhibit 2**). The structure was originally built in 1956 per the Volusia County Property Appraiser (2022), while the plat (land subdivision) of the property occurred in the late 1880s. The structure was destroyed by a fire in 2020 and the owner is seeking redevelopment of the property within the previous building footprint with essentially no new site improvements.

Pursuant to Chapter 4 of the *Daytona Beach Shores Land Development Code* (LDC), site development plan review and approval is required for all commercial development and redevelopment occurring within City limits. The site development plan is required to meet the applicable zoning district and other relevant LDC standards.

Based on staff’s analysis of the site development plan (**Exhibit B**), the following deficiencies were identified:

1. Sec. 14-22.5, LDC, requires a 20-foot front yard (west) setback. The proposed front yard (west) setback is 14.5 feet.
2. Sec. 14-46.5.2.a(1)(b), LDC, requires that “*Each row of parking spaces shall be terminated by landscaped islands that measure not less than five (5) feet in width and not less than eighteen (18) feet in length. At least one (1) tree shall be planted in each terminal landscaped island.*” The proposed parking rows do not meet this requirement.
3. Sec. 14-46.5.4.a, LDC, requires 10-foot perimeter landscape strips (landscape buffer) separating vehicular use areas from abutting rights-of-way. No perimeter landscape strip is proposed as required.
4. Sec. 14-46.5.4.b, LDC, requires perimeter landscape strips separating vehicular use areas from the interior lot line of an abutting property. No perimeter landscape strip is proposed as required.
5. Sec. 14-48.5.4, LDC, requires “*Maneuvering areas shall be sufficient to permit vehicles to enter and leave the parking area in a forward motion. Where vehicle backup areas are necessary, they shall be designed with a minimum fifteen (15) foot turning radius and fifteen (15) feet in width.*” No turning radius is proposed as required, therefore, vehicles would not be able to leave the site in a forward facing motion as required.

Typically, when a development project cannot meet the LDC standards, the applicant has to either revise the plans to meet the code, take no action, or, apply for relief through the variance process. The owner has elected to utilize the latter, hence the application being considered.

Consequently, the owner is requesting (i) relief from Sec. 14-22.5 of the LDC to permit a 14.5-foot front yard setback on the west side of the property and (ii) elimination of the requirements prescribed by sections 14-46.5.2.a(1)(b), 14-46.5.4.a, 14-46.5.4.b and 14-48.5.4 of the LDC.

II. Evaluation Criteria

Section 14-63.8.a of the City's Land Development Code (LDC) 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 is indicated in *italics*; for applicant's response and justification see variance application (**Exhibit C**)]:

- 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.*

Applicant's Summary Response: The subject property is 50 feet wide and 100 feet in depth which produces an area of 5,000 square feet. The GC-1 District requires a minimum area of 7,500 square feet in area and a minimum lot width of 65 feet. This results in a default dimension of approximately 65' x 115'. Consequently, if the property was 15' longer in depth, the actual building front yard (west) setback, utilizing the existing building footprint, would be 29.5 feet, thereby meeting the required setback while likely providing the required vegetative strip and provide the necessary turning radius. In addition, if the property was 15 feet wider it would be able to accommodate the terminal landscape island and perimeter landscape strips and turning radius needed.

Staff Comment: Staff agrees with the applicant's response and has concluded that the property is nonconforming. In addition, as noted in the background section of this staff report, the original plat of the area was performed in late 1880s, while the City's LDC was adopted in the 1990s. Therefore, the property does not meet the minimum area and combination of dimensions that would provide the minimum required 7,500 square feet. In addition, staff utilized the Volusia County Property Appraiser mapping measurement tool to survey the area and dimensions of all the west side properties in the GC-1 District north from Van Avenue south to the Drive-In Christian Church, or approximately 875 feet within the vicinity of the subject property. The average width of the properties is 92 feet while the average depth is 109 feet. Further, the average area for these properties was 10,146 square feet. This means that the subject property is almost 50 percent less in area, 42 feet narrower and 9 feet shorter than the surveyed properties in the same zoning district.

Considering the above facts, the subject property is below average in dimension and area and is therefore unique when compared to the properties surveyed in the area. These special conditions are peculiar to the subject property and are not generally applicable to other properties surveyed in the same zoning district.

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

Staff Comment: As noted in subsection (i) above, the property is part of a subdivision that was platted in the 1880s. The owner purchased the property in 2015, over a hundred and twenty-five years subsequent to the platting (subdivision) of the area in question. Therefore, the special conditions do not result from the actions of the applicant and are not primarily economic or financial in nature.

- 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.*

Staff Comment: Due to the special condition and circumstances articulated in the application and this report, the literal interpretation or enforcement of the provisions of this Ordinance (LDC) would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification due to the nonconforming nature of the property as noted in subsection (i) and (ii) above.

- 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.*

Staff Comment: Based on staff's site development plan analysis (**Exhibit B**), it appears that 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.

- 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.*

Staff Comment: Based on the information provided in the site development plan and analysis thereof, 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.*

Staff Comment: The granting of the variance, if authorized, would be in harmony with the general intent and purpose of the Ordinance (LDC). Additionally, if approved, the variance will not authorize a use of the property not permitted by the zoning classification. Lastly, it appears that the variance, if authorized, would not be injurious to the area involved or the surrounding properties as the new structure is required to meet applicable land development, building and fire codes.

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

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

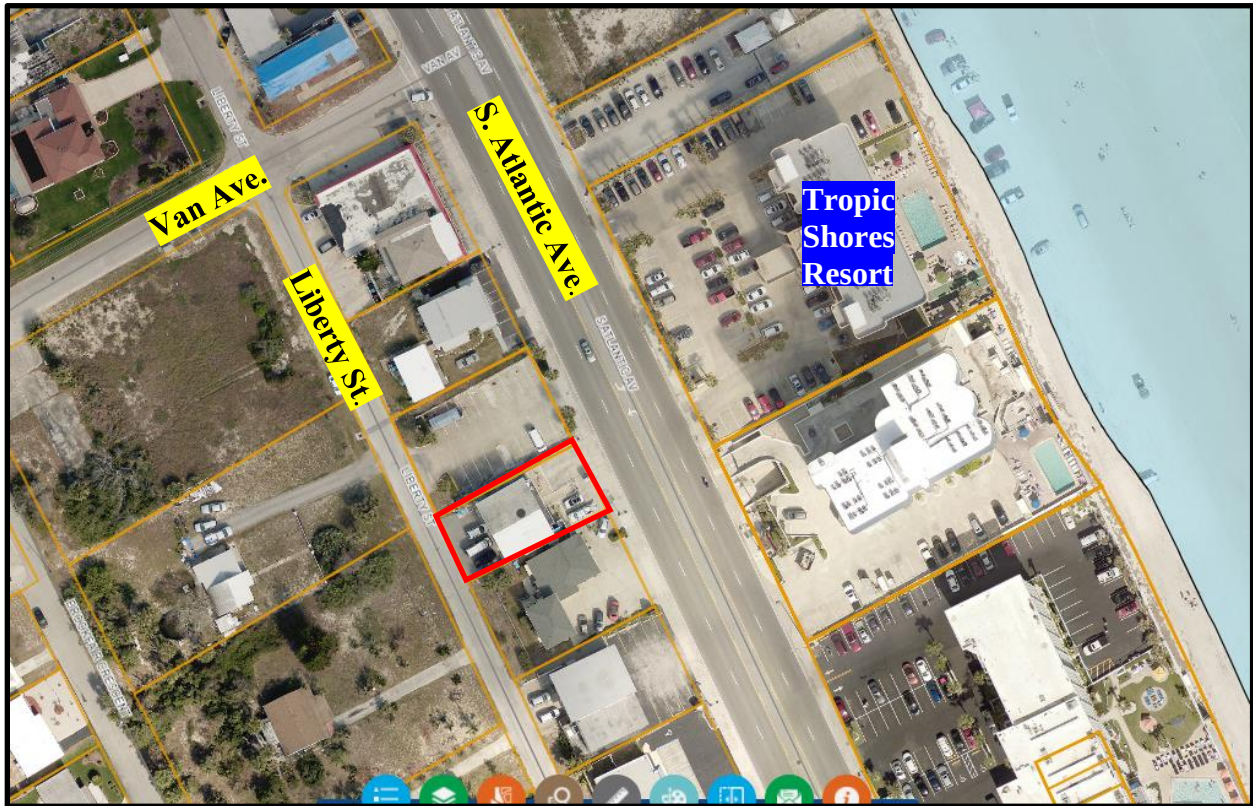
Based on staff's interpretation of the facts and evidence provided, **Table 1** below was derived to assist the Board's decision-making process:

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.

EXHIBIT 1
Aerial Map – 3110 S. Atlantic Avenue



Source: Volusia Property Appraiser (2022)

EXHIBIT 2
Street View – 3110 S. Atlantic Avenue (Pre-Fire)



Source: GoogleMaps (2021)



PLANNING & ZONING BOARD AGENDA MEMORANDUM

APRIL 11, 2022 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Ordinance 2022-11: Extension of Nonconforming Freestanding Sign Compliance Amortization Period

SYNOPSIS:

The deadline for removing nonconforming freestanding signs is April 9, 2022. On March 8, 2022, the City Council voted by voice to approve a one (1) year extension of the compliance deadline for nonconforming freestanding signs (**Exhibit A**). In making this decision, the City Council considered the duration and economic impact of the COVID-19 pandemic on local businesses and related supply chain issues. Ordinance 2022-11, if approved, would effectuate the City Council's intent and direction. In addition, the ordinance would allow ordinary maintenance and copy changes of said signs. However, repair and improvements would not be allowed unless these actions bring the sign into conformity.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

In 2006, the citizens of Daytona Beach Shores voted to implement a \$30 million citywide underground utility and streetscape project. The goals of this project were to improve hurricane resiliency within the city and to beautify the city's streetscape. Shortly after the project was completed in 2011 the City Council approved Ordinance 2012-02, which established monument sign standards. The ordinance was adopted in 2012 to complement and enhance the underground utility and streetscape project goals and benefits. The ordinance also created a 10 year period for property owners to alter, remove or replace existing nonconforming pole signs with shorter freestanding monument signs. To assist with the costs associated with meeting the new monument sign mandate, the City Council established the Nonconforming Sign Removal Incentive Grant Program (November 13, 2012), which was a 50-50 (dollar-for-dollar) matching grant capped at \$6,500 for hotels and shopping centers and \$3,500 for stand-alone commercial properties. In 2017 the program was updated to provide a declining grant award amount to hasten and incentivize the removal of nonconforming signs. The sign grant program expired in 2021 and the deadline for meeting the

nonconforming sign removal deadline is April 9, 2022. In 2012 there were 130 nonconforming signs. Sixty-one (61) nonconforming signs (47%) have been removed and 69 remain. Forty-one (41) of the removed signs received grants from the City totaling an amount of \$195,713.68.

The deadline for removing nonconforming freestanding signs is April 9, 2022. Considering the duration and economic impact of the COVID-19 pandemic on local businesses and supply chain issues, staff brought the subject to the City Council on March 8, 2022. The City Council by means of a voice vote approved extending the nonconforming freestanding sign compliance deadline and reinstituting the nonconforming sign removal grant program, which will be brought to the City Council concurrently with the second reading of this ordinance.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2022-11 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follows:

1. "I move to recommend approval of Ordinance 2022-11 as presented."
- OR
2. "I move to recommend approval of Ordinance 2022-11, with the following amendments..."
- OR
3. "I move to recommend denial of Ordinance 2022-11, on the basis of the following..."

- ATTACHMENT:**
1. Ord 2022-11-Monument Sign Compliance Deadline Extension
 2. Exhibit A-3-8-22 cc minutes

ORDINANCE 2022-11

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO FREESTANDING SIGNS; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, AMENDING CHAPTER 6 ENTITLED “SIGNS AND ADVERTISING,” BY AMENDING SECTION 6-7 ENTITLED “REMOVAL OF ABANDONED, DETERIORATED, AND OTHER NONCONFORMING SIGNS,” TO EXTEND THE AMORTIZATION PERIOD FOR NONCONFORMING GROUND AND POLE SIGNS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, on April 10, 2012 the City Council of the City of Daytona Beach Shores adopted Ordinance 2012-02 prohibiting ground, pole and low profile freestanding signs; and

WHEREAS, Ordinance 2012-02 established a 10-year amortization period for the removal, alteration or modification to conformity of nonconforming freestanding signs; and

WHEREAS, local businesses have suffered as a result of the direct and indirect effects of the COVID-19 Pandemic; and

WHEREAS, on March 8, 2022 the City Council of the City of Daytona Beach Shores, by means of a voice vote, approved a one (1) year extension of the amortization period for nonconforming freestanding signs compliance; and

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

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

WHEREAS, the recitals to this Ordinance (whereas clauses) are adopted as the legislative findings and intent of the City Council of the City of Daytona Beach Shores; and

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

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

SECTION ONE: Section 6-7, *Land Development Code*, Chapter 6, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Removal of abandoned, deteriorated, and other nonconforming signs,” is amended to read as follows:

Sec. 6-7. - Removal of abandoned, deteriorated, and other nonconforming signs.

5. Amortization Period for Nonconforming Ground and Pole Signs: All nonconforming ground, pole, or low profile signs shall be removed, modified, or altered to comply with this ordinance no later than ~~ten (10) years~~ one (1) year from the effective date of this ordinance. Notwithstanding the foregoing, the following signs lawfully located on the effective date of the ordinance from which this chapter derives at the following parcels shall not be subject to amortization; provided, however, that the signs shall not be enlarged or altered in any way to increase their nonconformity: the Aku Tiki, the Sun Viking Lodge and the Oceans PUD signs.

Sec. 6-7.1. - Repairs, maintenance, and improvements of nonconforming signs.

Nonconforming Signs. Repairs, ~~maintenance~~, and improvements of nonconforming signs are prohibited. Provided however, ordinary maintenance and sign copy changes are allowed ~~may be made to nonconforming signs throughout the amortization period established by this ordinance~~ so long as said the sign's nonconformity is not increased.

SECTION TWO: ENFORCEMENT AND PENALTIES.

(a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.

(b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law and Section 1.8 of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.

(c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

SECTION THREE: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of the matters and uses which are the subject of this Ordinance are hereby ratified and affirmed.

SECTION FOUR: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Two, Three, Four, Five, Six, and Seven shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION FIVE: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION SIX: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION SEVEN: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

JOHN CARY, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2022.

Adopted on second reading this _____ day of _____, 2022.

**MINUTES
CITY COUNCIL MEETING
March 8, 2022
3000 Bellemead Drive, Daytona Beach Shores, FL 32118**

1. CALL TO ORDER BY MAYOR

Present: Vice Mayor Mel Lindauer, Mayor Nancy Miller, Councilmember Richard Bryan, Councilmember Richard Frizalone **Excused:** Councilmember Michael Politis
Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney John Cary, Community Services Director Fred Hiatt, Finance Director Kurt Swartzlander, Economic Development and Public Affairs Director Nancy Maddox, and Public Safety Captain Michael Fowler.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

A. Employee Service Award - Ed Kastner 20 years

Community Services Director Fred Hiatt presented Ed Kastner with his 20-year service award.

B. Audit Presentation from James Moore & Co.

James Halloran from James Moore & Co. gave the council a brief presentation regarding the current audit. He explained that there were no material weaknesses in internal controls and no instances of non-compliance. The city is now debt free from any long-term debt and the investments are in compliance with Florida Statutes.

6. APPROVAL OF MINUTES

A. City Council Minutes February 22, 2022

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL

LINDAUER to Approve the City Council Minutes of February 22, 2022.

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

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

7. CONSENT AGENDA:

A. Finance Reports - Nov, Dec, Jan.

B. SCBA Purchase

C. Public Safety Outside Detail Rate Increase

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to Approve the consent agenda.

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

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

8. REPORTS OF THE CITY ATTORNEY:

A. City Attorney Report March 8, 2022

Attorney Cary reviewed the report submitted to council.

9. REPORTS OF THE CITY MANAGER:

A. City Manager Report March 8, 2022

City Manager Booker reviewed his submitted report. The owners of the Treasure Island property have selected a demolition company and plan to begin work next week. One addition to his written report was the request by St. Maartens Condo to use Andronopoulos Park while their parking area is resurfaced. It would be between 4-7 weeks. The council gave their consensus on this.

10. OLD BUSINESS:

A. Ordinance 2022-05 Daytona Beach Shores proposed charter amendments

Attorney Cary read the ordinance by title. It was explained that there was a minor revision on question number 4 between first and second reading. The word procedures was deleted from the ballot summary. The remaining questions had no change.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Adopt Ordinance 2022-05 on second reading.

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

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

11. NEW BUSINESS:

A. Nonconforming Freestanding Sign Removal Deadline

Finance Director Kurt Swartzlander explained that the ten-year period for businesses to comply with the adopted sign regulations would end on April 9th. Of the initial 130 nonconforming signs, 61 have been upgraded. Forty-one of those took advantage of the city's sign grant program which reimbursed a small portion. Staff recognizes that the last two years, businesses have struggled with the pandemic and are requesting a one-year extension. This would also include a minor grant program for that year. Letters will be mailed to those still not conforming with the newer sign regulations. After a brief discussion by the council, it was decided by a voice vote to allow the one year extension with the grant program capping at \$1,300 per business.

B. Bank of America Property Bid

Mayor Miller began the discussion by explaining why she would like the city to purchase the property. The close location to existing city properties, the need to allow classes and activities to be held in other locations and the ability to have the city control over what is built on the land were a few examples. Finance Director Kurt Swartzlander explained that the process to bid on the property was a modified sealed bid. The council would need to agree on a price for him to include in the Purchase Sale Agreement. CMBR Frizalone stated that he felt \$850,000 was fair. CMBR Bryan didn't want to offer more than the land was valued at. The remaining council felt the need to secure the property to ensure the city could control what was built there in the future.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to offer \$850,000.00 to purchase the Bank of America Property and to allow the Mayor to execute the agreement.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 3 No = 1).

Yes: Mayor Nancy Miller, Councilmember Richard Frizalone, Vice Mayor Mel Lindauer **No:** Richard Bryan

12. COUNCIL COMMENTS:

All the council members felt the recent food truck event and concert was a huge success. Mayor Miller reminded the residents of her upcoming Coffee With the Mayor. CMBR Bryan provided a brief legislative update on bills he has been following.

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

Allen Howard spoke to the council regarding the noise from the motorcycles. He inquired if the Public Safety officers were enforcing the noise ordinance. It was his opinion that many of the motorcycles had illegal exhaust on them that created the loud noise.

14. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

There were no additional items added to the next agenda.

15. ADJOURNMENT:

The meeting ended at 7:00 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB



**PLANNING & ZONING BOARD AGENDA MEMORANDUM
APRIL 11, 2022 AGENDA**

TO: The Members of the Planning & Zoning Board

FROM:

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Nomination of Chairman and Vice-Chair for the upcoming year

SYNOPSIS:

This is the annual nomination for Chairman and Vice-Chair.

FISCAL IMPACT STATEMENT:

BACKGROUND:

LEGAL REVIEW:

RECOMMENDATION:

SUGGESTED MOTION:

ATTACHMENT: None