



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COUNCIL MEETING APRIL 12, 2022

**6:00 PM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118**

Upon being recognized, a member of the public shall proceed to the podium and give his or her name and address and may, thereafter, speak for a maximum of three minutes on any matter relevant to a specific agenda item. During "Audience Comments," a member of the public may speak on any matter relevant to City business which is not on the agenda, for a maximum of three minutes in accordance with Section 2-1.1(d) and 2-2 of the City Code. In accordance with Section 2-2, during periods set aside for public discussion any person desiring to speak shall secure a form located at the agenda table, complete the form and present it to the City Clerk so the speaker can be recognized by the presiding officer. The use of profanity, obscene language, threats or any violent or abusive conduct by any person shall constitute a violation of this section. It shall be the duty of the Director of Public Safety, upon the order of the presiding officer at any such meeting, to forcibly, if necessary, evict any person violating the provisions of this section from the Council Meeting Hall. Any such violation shall subject the offender, upon conviction thereof, to a fine and/or imprisonment as prescribed by Section 1-8.

- 1. CALL TO ORDER BY MAYOR**
- 2. ROLL CALL BY CITY CLERK**
- 3. PRAYER**
- 4. PLEDGE OF ALLEGIANCE**
- 5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:**
 - A. Presentation of Public Safety Officers
- 6. APPROVAL OF MINUTES**
 - A. City Council Minutes March 22, 2022
- 7. CONSENT AGENDA:**

- A. Approval to spend forfeiture monies

8. REPORTS OF THE CITY ATTORNEY:

- A. City Attorney Report

9. REPORTS OF THE CITY MANAGER:

- A. City Manager Report April 12, 2022

10. OLD BUSINESS:

- A. Ordinance 2022-10: Minimum Lot Size Requirement For Townhomes In The RMF-2 District
- B. Ordinance 2022-11: Extension of Nonconforming Freestanding Sign Compliance Amortization Period

11. NEW BUSINESS:

- A. City Manager Contract
- B. Reinstitution of the Nonconforming Sign Removal Incentive Grant Program
- C. Oceans 25 Plat (Subdivision): 2900 S. Atlantic Avenue

12. COUNCIL COMMENTS:

13. AUDIENCE REMARKS/PUBLIC COMMENTS:

14. QUASI-JUDICIAL HEARING

15. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

16. ADJOURNMENT:

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC

AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-7635364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 711 or 1 8009558771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

MINUTES
CITY COUNCIL MEETING
March 22, 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, Councilmember Michael Politis

Staff: City Manager Michael T. Booker, City Clerk Cheri Schwab, City Attorney Becky Vose, Community Services Director Fred Hiatt, City Planner Stewart Cruz, Finance Director Kurt Swartzlander, Economic Development and Public Affairs Director Nancy Maddox, and Public Safety Director Stephan Dembinsky.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

Director Dembinsky introduced SGT. Jessica Long who was the recipient of the Officer of the Year for Daytona Beach Shores from the Port Orange South Daytona Chamber of Commerce.

6. APPROVAL OF MINUTES

A. City Council Minutes March 8, 2022

VICE MAYOR MEL LINDAUER moved, seconded by COUNCILMEMBER RICHARD FRIZALONE to Approve the City Council Minutes of March 8, 2022.

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

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

7. CONSENT AGENDA:

- A. Public Safety February Monthly report
- B. February 2022 Finance Report
- C. Community Service February Monthly report
- D. Building & Codes February Monthly report

- E. Application for Non-Exclusive Franchise - C. Wright Landscaping, Inc.

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

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

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

8. REPORTS OF THE CITY ATTORNEY:

- A. City Attorney Report

Attorney Vose reviewed her report for the council. There were no additional questions.

9. REPORTS OF THE CITY MANAGER:

- A. City Manager Report March 22, 2022

City Manager Michael Booker reviewed his report to the council. He noted that the tentative date for the demolition at Treasure Island was pushed to March 28th. Mayor Miller announced there would be a small celebration across the street beginning at 11:00 am. He also provided an update on the FPL charging station that is being installed. Once the project is complete, use of the station is no longer free.

10. OLD BUSINESS:

A. Bank of America Property Purchase

Finance Director Kurt Swartzlander informed the council that the city's bid came in fourth place. They will allow the city to submit a best and final bid. He was told that there were two bids worth over \$1 million. The city bid \$850,000. Bank of America had an appraisal done that came in at \$1,340,000. The city had an appraisal done ten months ago and the market has greatly increased. Both Vice Mayor Lindauer and CMBR Frizalone thought it strange that BOA had originally stated they would allow the top three bids to resubmit. If the city was number 4, why are they allowing us to resubmit? After a brief discussion, council approved staff to resubmit the original bid.

COUNCILMEMBER RICHARD FRIZALONE moved, seconded by VICE MAYOR MEL LINDAUER to submit another bid in the amount of \$850,000 to purchase the Bank of America Property.

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

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

11. Quasi-Judicial Hearings

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

Attorney Vose read the ordinance by title. The City Clerk swore in the witnesses for both hearings. City Planner Stewart Cruz gave a short PPT presentation showing the location of the property and the zoning designation. The property was recently annexed and this ordinance is the next step in the process to apply zoning regulations. Both staff and the Planning & Zoning Board recommended approval.

COUNCILMEMBER MICHAEL POLITIS moved, seconded by COUNCILMEMBER RICHARD BRYAN to Approve Ordinance 2022-08 on first reading.

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

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

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

Attorney Vose read the ordinance by title. City Planner Stewart Cruz gave a short PPT presentation showing the location of the property and the zoning designation. The property was recently annexed and this ordinance is the next step in the process to apply zoning regulations. Both staff and the Planning & Zoning Board recommended approval.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Approve Ordinance 2022-09 on first reading.

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

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

12. NEW BUSINESS:

- A. Ordinance 2022-06: Future Land Use Map Amendment CPA12021041; Colby & Jennifer Caldwell - 6 Carter Terrace, Annexed Property

Attorney Vose read the ordinance by title. This is also a part of the annexation process. It is a requirement by the Florida Statutes to enforce land development regulations. Both staff and the Planning & Zoning Board recommend approval.

VICE MAYOR MEL LINDAUER moved, seconded by COUNCILMEMBER RICHARD BRYAN to Approve Ordinance 2022-06 on first reading.

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

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

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

Attorney Vose read the ordinance by title. This is also a part of the annexation process. It is a requirement by the Florida Statutes to enforce land development regulations. Mr. Cruz pointed out that this property is larger and could potentially have three units built on it. The zoning that is being assigned would limit it to just one single family home. Both staff and the Planning & Zoning Board recommend approval.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Approve Ordinance 2022-07 on first reading.

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

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

- C. Ordinance 2022-10: Minimum Lot Size Requirement For Townhomes In The RMF-2 District

City Planner Stewart Cruz informed the council that this was an administrative amendment to the city's code. There is a current townhome project being developed in the southern end of

the city. After a review, it was discovered that both the medium and low density residential districts allowed the same number of townhome units to be constructed per acre but allowed a greater number of condo units. In order to correct the discrepancy, staff proposed allowing 18 townhome units per acre in the medium density district.

COUNCILMEMBER RICHARD BRYAN moved, seconded by VICE MAYOR MEL LINDAUER to Approve Ordinance 2022-10 on first reading.

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

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

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

Attorney Vose read the ordinance by title. City Planner Stewart Cruz provided background on the updated sign ordinance. In 2012, the city council created the monument sign ordinance as a way to complement the recent underground utility project. At that time, businesses had up to 10 years to bring their signs into compliance. All property owners were noticed. Currently, there are 69 signs that are still non-compliant. If this proposed ordinance is adopted, it would extend the deadline one year, until April 2023. This will go before the Planning & Zoning Board for their recommendation in April. Staff has proposed this amendment due to the pandemic the past two years. Businesses have faced monetary issues and there are supply chain issues.

COUNCILMEMBER MICHAEL POLITIS moved, seconded by VICE MAYOR MEL LINDAUER to Approve Ordinance 2022-11 on first reading.

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

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

13. COUNCIL COMMENTS:

CMBR Bryan provided an update on the state's legislative efforts. The smoking bill has passed and is waiting for the Governor to sign it. Both the bill regarding increased financial statements for elected officials and the bill for increased building codes for high rise structures died with no votes taken. Mayor Miller reminded the citizens of the upcoming free concert on Friday night. She announced the speakers for the upcoming "Coffee with the Mayor" April - Senator Tom Wright, May- City Manager Michael Booker, and June - an evening event to introduce the new executive staff. CMBR Frizalone thanked the staff for their hard work and determination for the upcoming Treasure Island demolition. CMBR Politis commented that most of the businesses who still need to correct their signs were family owned. He hoped that the council could assist while still being good stewards of the city finances.

14. AUDIENCE REMARKS/PUBLIC COMMENTS:

Tony Rembiszewski spoke about the increase in homeowner insurance. He was upset that

the state legislators did nothing to alleviate the increase during their recent session. He encouraged everyone to reach out to their representatives and voice their concerns.

15. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Introduction of new Public Safety Officers

16. ADJOURNMENT:

The meeting ended at 7:02 pm.

**MAYOR
NANCY MILLER**

**CITY MANAGER
MICHAEL T. BOOKER**

ATTEST:

CITY CLERK, CHERI SCHWAB

**DAYTONA BEACH SHORES PUBLIC
SAFETY DEPARTMENT**

**CONTRABAND FORFEITURE
EXPENDITURE REQUEST**

March 29, 2022
File: PS22-03-03

FUNDING REQUEST

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

Training

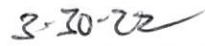
The Department of Public Safety would like to utilize \$500 from the state contraband forfeiture account for a donation to the annual kids fishing tournament.

Certification of Compliance:

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



Stephan Dembinsky
Public Safety Director



Date



Article II, Section 8, *Constitution of the State of Florida*: ***“Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse.”***

“LIFE IS BETTER HERE.”

**CITY COUNCIL AGENDA MEMORANDUM
APRIL 12, 2022 AGENDA**

TO: Honorable Mayor and Members of the City Council
COPIES TO: Mike Booker, City Manager
Cheri Schwab, City Clerk
FROM: John Cary, City Attorney
DATE: April 6, 2022
SUBJECT: ***City Attorney Report***

The following is intended as my written report to the City Council for matters arising subsequent to its last meeting of March 22, 2022. Please advise if you have any questions, comments or concerns relative to these matters.

(1) *Oceans 25 Plat*

Spoke with multiple surveyors, staff, and the title attorney in order to resolve issues with the legal description and easements for the Oceans 25 plat.

(2) *City Manager Contract*

Completed negotiations with the designated city manager and finalized contract for Council approval.

(3) *Non-exclusive Hauler Agreement Franchises*

Met in person with city staff to review forms and applications and potentially to update the non-exclusive franchises for construction and debris removal.

(4) *El Caribe*

Met with developer and city staff regarding possible development agreement or

rezoning.

(5) *Animal Control*

Provided legal advice to staff regarding animal control issues relating to Public Safety and the Halifax Humane Society.

Respectfully, submitted,

/s/ John Cary, City Attorney



CITY OF DAYTONA BEACH SHORES

"Life Is Better Here"

Office of the City Manager

Phone (386) 763-5373 Fax (386) 763-5360

MEMORANDUM

DATE: April 5, 2022

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

FROM: Michael T. Booker, City Manager 

SUBJECT: City Manager's Report – April 12, 2022

Peck Park:

- We are still waiting for the completion of the playground equipment and the Grand Opening. The parking lot is open for use by the public.

Treasure Island:

- Many thanks to everyone involved in bringing the demolition of the structure about. Also, we are all looking forward to the redevelopment of this iconic property.

Armed Forces Day:

- For a few years now, we have been trying to get one of the branches of service bands to perform at our annual celebration. This year, thanks to Nancy Maddox, an ensemble from the Navy Band will be performing. Armed Forces Day is Saturday, May 21.



CITY COUNCIL AGENDA MEMORANDUM

APRIL 12, 2022 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Stewart Cruz, City Planner

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Ordinance 2022-10: Minimum Lot Size Requirement For Townhomes In The RMF-2 District

SYNOPSIS:

Ordinance 2022-10 would amend Section 14-19.4 of the Daytona Beach Shores Land Development Code to reduce the minimum lot size per unit requirement for townhome development in the RMF-2 Multi-Family Residential (Medium Density) District. The current standard is restrictive and does not allow property owners in the RMF-2 District to optimize townhome development when compared to the RMF-3 Multi-Family Residential (Low Density) District standard. Townhome development in the latter district results in 12 units per acre, while in the RMF-2 District, which is the higher density district, only 12 units per acre are allowed. This amendment is an administrative amendment proposed by staff consistent with Objective A.2 of the City of Daytona Beach Shores Strategic Plan which calls for the removal of land development regulations that are obstacles to desired redevelopment and to enable or promote desired redevelopment. If approved, the proposed minimum area for townhome development would permit property owners/developers to realize the midpoint within the permitted density range as opposed to the lower end of the density range.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. Background

The density range permitted in the RMF-2 District is 12.1 units per acre up to 35 units per acre. Currently, the minimum area required for the construction of each townhome unit in the RMF-2 District is 3,630 square feet. This means only 12 townhomes can ever be built per acre in the RMF-2 District. Whereas multifamily residential units (apartments/condos), which are also permitted in the RMF-2 District, are required to have a minimum area of 1,244.57 square feet per unit or up to 35 apartments/condos per acre. The difference in units permitted within the acceptable density range in the same district creates an equity and entitlement imbalance.

Furthermore, the RMF-3 Multi-Family Residential (Low Density) District has the exact minimum area

required at 3,630 square feet per townhome unit, which results in 12 units per acre. The maximum density permitted in the RMF-3 District is 12 units per acre. This suggests the minimum area required for townhome development in the RMF-2 District currently codified is a mistake. Regardless, having the same unit per acre results in additional equity and entitlement imbalance. Hence, the proposed administrative amendment proposed by staff to reduce the minimum area required for townhome development to 2,420 square feet. If approved, the new minimum area requirement per townhome unit would permit 18 townhome units per acre in the RMF-2 District, which is the midpoint in the density range permitted for RMF-2 District. The 2,420 square feet requirement was selected to account for amenities and site improvements needed in a typical townhome development.

B. Planning and Zoning Board

On March 14, 2022, the Daytona Beach Shores Planning and Zoning Board unanimously recommended approval of the subject ordinance.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2022-10 as presented.

SUGGESTED MOTION:

A City Council member may motion as follows:

1. "I move to approve Ordinance 2022-10 as presented."
OR
2. "I move to approve Ordinance 2022-10, with the following amendments..."
OR
3. "I move to deny Ordinance 2022-10, on the basis of the following..."

ATTACHMENT: 1. Ord 2022-10-RMF-2 Townhome Min Development Area

ORDINANCE 2022-10

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO TOWNHOME DEVELOPMENT; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-19 ENTITLED “RMF-2 MULTIFAMILY RESIDENTIAL DISTRICT (MEDIUM DENSITY),” TO AMEND THE MINIMUM LOT SIZE REQUIRED FOR TOWNHOME DEVELOPMENT; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the Daytona Beach Shores Land Development Code minimum lot size requirement for the development of townhomes in the RMF-2 Multi-Family Residential District (Medium Density) is outdated and excessive; and

WHEREAS, the Daytona Beach Shores Land Development Code minimum lot size requirement for the development of townhomes in the RMF-2 District restricts property owners from achieving the entitled density permitted by the district regulations; and

WHEREAS, the Objective A.2 of the City of Daytona Beach Shores Strategic Plan calls for the removal of land development regulations that are obstacles to desired redevelopment and to enable or promote desired redevelopment; and

WHEREAS, townhome development is a desired form of redevelopment in Daytona Beach Shores; and

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

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

WHEREAS, 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 14-19, *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “RMF-2 Multi-family Residential District (Medium Density) ,” is amended to read as follows:

Sec. 14-19. – RMF-2 Multi-Family Residential District (Medium Density).

14-19.1. Purpose and Intent.

The purpose and intent of the RMF-2 Multi-Family Residential District is to provide for multifamily residential living, catering to the needs of the citizens of the city desiring a well-maintained and natural on-site environment for multifamily living.

14-19.2. Permitted Principal Uses and Structures.

Townhouses, multifamily dwellings and adult congregate living units.

Telecommunication towers and antennas, subject to compliance with [section 14-60.1](#) et seq.

14-19.3. Permitted Accessory Uses and Structures.

Accessory uses or structures customarily incidental to the permitted principal use or structure.

14-19.4. Dimensional Requirements.

1. *Townhouses:*

Minimum lot size:

Area: ~~Three thousand six hundred thirty (3,630)~~ Two thousand four hundred twenty (2420) square feet for each dwelling unit.

Width: Seventy-five (75) feet.

Maximum lot coverage: The total area covered with principal and accessory buildings shall not exceed thirty-five (35) percent of the total lot area.

Minimum floor area:

Studio or efficiency: Five hundred (500) square feet.

One bedroom: Six hundred fifty (650) square feet.

Two (2) bedrooms: Eight hundred (800) square feet.

Three (3) bedrooms: Nine hundred fifty (950) square feet.

Each additional bedroom: One hundred twenty (120) square feet.

Minimum building setback from streets, drives and parking lots: No building shall be located closer than twenty (20) feet from any interior street or drive and no closer than ten (10) feet from any parking lot.

Maximum building height: Thirty-five (35) feet.

Minimum yard size:

Front yard: Twenty (20) feet.

Rear yard: Twenty (20) feet.

Side yard:

Interior lot: Ten (10) feet.

Abutting any street: Twenty (20) feet.

2. Multifamily Dwellings:

Minimum lot size:

Area: One thousand two hundred forty-four point fifty-seven (1,244.57) square feet per dwelling unit.

Width: Seventy-five (75) feet.

Minimum yard size:

Front yard: Twenty (20) feet.

Rear yard: Ten (10) feet plus one (1) foot of rear and side yard for each additional three (3) feet of building height over twenty (20) feet.

Side yard:

Interior lot: Seven (7) feet.

Abutting any street: Twenty (20) feet.

Maximum building height: Sixty-five (65) feet.

Maximum lot coverage: The total area covered with principal and accessory buildings shall not exceed thirty-five (35) percent of the total lot area.

Minimum floor area per unit:

Studio or efficiency: Five hundred (500) square feet.

One (1) bedroom: Six hundred fifty (650) square feet.

Two (2) bedrooms: Eight hundred (800) square feet.

Three (3) bedrooms: Nine hundred fifty (950) square feet.

Each additional bedroom: One hundred twenty (120) square feet.

Minimum building spacing requirements:

Fifty (50) feet between any combination of fronts or rears of adjacent buildings.

A separation requirement of twenty-two (22) feet minimum shall be maintained between buildings exceeding thirty (30) feet in height when more than one (1) building is erected on a recorded lot.

Minimum building setback from streets, drives and parking lots: No building shall be located closer than twenty (20) feet from any interior street or drive and no closer than ten (10) feet from any parking lot.

Density: Greater than twelve (12) and a maximum of thirty-five (35) units per acre.

14-19.5. Site Plan Requirement.

A site plan shall be submitted and approved as required by [section 14-56](#).

(Ord. No. 98-07, § 2, 4-8-98)

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.



CITY COUNCIL AGENDA MEMORANDUM APRIL 12, 2022 AGENDA

TO: Honorable Mayor and Members of the City Council

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 22, 2022, the City Council voted on first reading to approve a one (1) year extension of the compliance deadline for nonconforming freestanding signs. 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 (**Exhibit A**).

B. PLANNING AND ZONING BOARD

The Planning and Zoning Board will hear this item at its April 11, 2022 meeting. The Board's recommendation will be provided to the City Council thereafter.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Staff recommends approval of Ordinance 2022-11 as presented.

SUGGESTED MOTION:

A City Council member may motion as follows:

1. "I move to approve Ordinance 2022-11 as presented."
- OR
2. "I move to approve Ordinance 2022-11, with the following amendments..."
- OR
3. "I move to deny 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



CITY COUNCIL AGENDA MEMORANDUM APRIL 12, 2022 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Becky Vose, City Attorney
PREPARED BY: Kurt Swartzlander, Finance Director
SUBJECT: City Manager Contract

SYNOPSIS:

On January 11th 2022, current City Manager Michael Booker announced his intended retirement date of June 3rd, 2022, having faithfully served the City of Daytona Beach Shores for almost 23 years. At the following regularly scheduled council meeting on January 25th, 2022, the City Council voted to select Kurt Swartzlander, current Finance Director and Assistant City Manager, as the next City Manager for the City of Daytona Beach Shores. After unanimously selecting Mr. Swartzlander, the council directed the Vose Law Firm to enter into negotiations with Mr. Swartzlander. Tonight the City Council will take action on the proposed contract as attached.

FISCAL IMPACT STATEMENT:

Dependent upon council action.

BACKGROUND:

The contract provides language appointing Kurt Swartzlander as the City Manager in accordance with the Charter of the City of Daytona Beach Shores. The contract provides that he serves at the pleasure of the City Council and requires a 60-day notice if he resigns, and provides 20 weeks of severance pay if he is terminated, except that he would not receive the severance pay if he is terminated as a result of a criminal conviction or misconduct. The annual salary is \$153,000 and is subject to increases as deemed appropriate by the City Council based on the annual evaluation. The contract also provides that the city provides health and dental insurance, as well as liability insurance and a term life insurance policy, and requires the city to pay 3% of his base salary into a deferred compensation plan. The contract also provides a \$700 per month vehicle allowance and annual and sick leave. Finally, the contract requires the city to pay for dues and travel for professional development as a City Manager.

The contract significantly changes the performance evaluation requirement as compared to the current city manager. This contract follows the charter requirement to review and evaluate the City Manager by June 1st of every year, beginning in 2023, and to jointly define goals and performance

objectives. The contract was negotiated by the City Attorney and the City Manager Designee, as well as the Mayor, who began negotiations on salary and other substantive terms.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

Recommend Approval of attached contract

SUGGESTED MOTION:

Motion to approve the contract to hire Kurt Swartzlander as the next City Manager of the City of Daytona Beach Shores and authorize the Mayor to execute the contract on behalf of the city.

ATTACHMENT: 1. CM contract Proposed - Final Draft

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into on the date provided hereafter, by and between the **CITY OF DAYTONA BEACH SHORES**, Florida, a municipal corporation, hereinafter referred to as “Employer” or “City”, and **KURT D SWARTZLANDER**, hereinafter referred to as “Employee” or “City Manager”, both hereinafter collectively referred to as “the parties”, and agree as follows:

WITNESSETH:

WHEREAS, Employer desires to employ the services of said Employee as City Manager of the City of Daytona Beach Shores as provided for in the Charter of the City of Daytona Beach Shores; and

WHEREAS, it is the desire of the City to provide certain benefits, to establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the City to (1) secure and retain the services of Employee, and to provide inducement for him to remain in such employment, (2) to make possible full work productivity, and (3) to provide a means for terminating Employee's services at such time that Employer may desire to terminate his employ; and

WHEREAS, Employee desires to accept employment as City Manager of the City of Daytona Beach Shores;

NOW, THEREFORE, In consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Powers and Duties of the City Manager.

A. The City hereby agrees to employ KURT D. SWARTZLANDER as City Manager of the City of Daytona Beach Shores to perform the functions and duties specified in Section 3.05 of the City Charter, and to perform other legally permissible and proper duties and functions as the City shall from time-to-time assign, subject to this agreement. Employment shall commence on June 3, 2022.

B. The City Manager shall be the Chief Administrative Officer of the City of Daytona Beach Shores and shall be responsible to the City for the proper administration of all affairs of the City of Daytona Beach Shores as defined in the City Charter.

Section 2. Term.

A. The City Manager shall serve at the pleasure of the City Council as the governing body for an indefinite term and nothing herein shall be construed to prevent, limit, or otherwise interfere with the right of the City to terminate the services of the City Manager at any time subject only to the provisions of Section 3 this Agreement, as applicable. All references to the "term" of this Agreement, the use of dates and of time frames shall be construed as goals of the parties and shall not be binding upon either party.

B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Manager to resign at any time from his position with Employer. In the event Employee voluntarily resigns as City Manager before expiration of the term of this Agreement, then Employee shall give the City a minimum of 60 calendar days advance notice unless the parties agree otherwise.

C. The City Manager agrees to remain in the exclusive employ of the City of Daytona Beach Shores. The term "employed" however, shall not be construed to include occasional teaching, writing, speaking, or consulting performed on his time off, even if outside compensation is provided for such services. Said activities are expressly allowed, provided that in no case is any activity allowed which would present a conflict with the City Manager's performance of his duties for the Employer, City of Daytona Beach Shores, nor shall such activities be performed during normal business hours without the express approval of the City Council. In the event overnight travel is required for such non-Employer related business, the City shall be notified in advance. Use of Employer-owned equipment for such purposes must be authorized in advance by the City Council.

Section 3. Termination and Severance Pay.

A. In the event the City Manager is terminated by the City Council as the governing body, then in that event the City agrees to pay the City Manager, a lump sum cash payment equal to twenty (20) weeks of the annual base salary (severance pay). The City Manager shall also be compensated for all earned sick leave, vacation, personal leave, holidays, other accrued time, and benefits to date (severance benefits) calculated at the rate of pay and at the level of accruals in effect upon termination. Accrued benefits shall not continue to accrue after termination.

B. In the event the City Manager voluntarily resigns or is terminated for the following reasons: (1) felony or misdemeanor conviction of any crime involving personal gain to himself; or (2) misconduct as defined in Florida Statute Section 215.425., then in that event Employer shall have no obligations to pay the aggregate lump sum severance pay defined in Section 3, Paragraph A. All accrued benefits shall remain payable in full.

C. Should the City Manager be permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued leave, the City shall have the right to terminate this agreement subject to the severance provisions of Section 3A above. Disabled means

because of injury or sickness, Employee cannot perform each of the essential functions of the position after appropriate accommodations have been made by Employer.

Section 4. Salary.

A. Employer agrees to pay the City Manager for his services rendered pursuant hereto as City Manager an annual base salary of \$153,000.00, payable in installments at the same time as other employees of the City of Daytona Beach Shores are paid.

B. Employee's base salary shall be increased in accordance with any increase granted across-the-board to all salaried city employees for any market-based, or cost-of-living wage adjustments (excluding the existing city merit pay increase plan). In addition, the City agrees to increase the base salary and/or benefits of Employee in such amounts and to such extent as the City Council determines desirable on the basis of an annual salary and benefits review of Employee or upon renewal of the term of this Agreement. In the event of an increase of salary or benefits under this paragraph, this Agreement shall be deemed amended to reflect the increased salary and/or benefits.

Section 5. Retirement and Deferred Compensation

A. Employer agrees to pay on behalf of the City Manager all costs of participation in the Florida Retirement System in the Senior Management Service Classification. The Employee is responsible for any required employee contribution to the plan.

B. City agrees to contribute for the Employee 3% of base salary into a deferred compensation plan of employees choosing and employee shall be fully vested in the plan.

Section 6. Insurance Coverages

A. The City Manager shall be covered by the same health and dental plans as all other employees except that Employer shall pay the City Manager's employee share of premiums for the City Manager and his dependents, unless covered by another employer.

B. Employer agrees to purchase and pay the required premiums for term life insurance policies, providing coverage equal in an amount to two times the total annual salary of the City Manager, with the beneficiary to be designated by the City Manager.

Section 7. Automobile

Employer shall provide a vehicle allowance of \$700 per month to the City Manager, payable on or about the first paycheck of each month. Said vehicle allowance shall be intended to reimburse him for local travel only, defined as travel within Volusia County. All travel outside of Volusia County shall be reimbursed as per city policy covering all employee travel.

Section 8. Other Benefits.

All provisions of the City Charter, ordinances, rules and regulations of Employer relating to fringe benefits and working conditions uniformly applicable to City employees as they now exist or hereafter may be amended, shall also apply to the City Manager as they would to the other employees of Employer, in addition to said benefits enumerated specifically for the benefit of the City Manager herein.

- A. Annual Leave – Employee shall be eligible to accrue Annual Leave at a level of 20 years' and one month's experience (216 hours annually) and be eligible to receive a payout of a maximum of 720 hours upon either resignation or termination. Upon adoption of this agreement the employee shall be credited with one year's accrual at the 20 year and one month's accrual level (216 Hours).
- B. Sick Leave – Employee shall be eligible to accrue sick leave and shall be eligible for all sick leave benefits as described in the city's employee manual. Upon adoption of this agreement the employee shall be credited with 328 hours Sick Leave. For purposes of sick leave calculations, the employee shall be treated as an employee accruing at a service level of 20 plus years of service. Employee is eligible to receive a payout of any accrued but unused hours upon either resignation or termination.
- C. Personal Leave – Employee shall no longer accrue Personal Leave, but existing leave balances shall be converted to sick leave and added to the new leave balance.

Section 9. Professional Development.

Employer agrees to budget for and to pay the professional dues, subscriptions, travel, and subsistence expenses of the City Manager for professional participation and travel, meetings, and occasions adequate to continue his professional development. Said participation on City time to include, but not be limited to the International City/County Management Association, Florida League of Cities, Florida City/County Manager's Association, and such other national, regional, state and local governmental groups and committees, short courses, institutes, and seminars budgeted by the City.

Section 10. Performance Evaluation.

- A. The City Council shall review and evaluate the performance of the City Manager no later than June 1 of each year (beginning in 2023). Said review shall be in accordance with the requirements of the City Charter, Section 3.03.
- B. Annually, the City Council and the City Manager shall jointly define such goals and performance objectives that they determine necessary for the proper operation of the City of Daytona Beach Shores and in the attainment of the City's policy objectives; and shall further establish a relative priority among those various goals and objectives; said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified, and the annual operation budget and capital budget and appropriations provided.

Section 11. Liability Insurance.

- A. The City agrees that Employee shall be insured in the City's general liability insurance program.
- B. Indemnification. Beyond that required under Federal, State or Local Law, City shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission is in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The Employee may request and the City shall not unreasonably refuse to provide independent legal representation at the City's expense. Legal representation, provided by City for Employee, shall extend until a final determination of the legal action including any appeals brought by either Party. The City will not be required to pay attorney's fees for Employee's independent legal representation that the City deems to be "clearly excessive" as defined in Florida Bar Rule 4-1.5. Any settlement of any claim must be made with prior approval of the City in order for indemnification, as provided in this Section, to be available. Any indemnification or agreement to defend or hold harmless by City specified in the Agreement shall not be construed as a waiver of City's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by City in the Agreement in derogation hereof shall be void and of no force or effect.

Section 12. General Provisions.

- A. The text herein shall constitute the entire Agreement between the parties. Any amendments to this Agreement must be in writing, approved and executed with the same formality as this original Agreement.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the City Manager.
- C. This Agreement shall become effective June 3, 2022 after approval by the City Council of the City of Daytona Beach Shores
- D. This Agreement shall be enforced and governed by the laws of the State of Florida. If one or more provisions, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.
- E. The parties agree that each has carefully read and fully understand all the provisions of this Employment Agreement, which sets forth the entire Agreement between the City and the Employee. KURT D. SWARTZLANDER, as the Employee, acknowledges that he has not relied upon any representation or statement, written or oral, not set forth in this document. Employee acknowledges that he has entered into this Employment Agreement voluntarily.

IN WITNESS THEREOF, the City of Daytona Beach Shores has caused this Agreement to be signed and executed in its behalf by its mayor and duly attested by its City Clerk, and the Employee has signed and executed this Agreement, both in duplicate.

CITY OF DAYTONA BEACH SHORES

_____	_____
Nancy Miller, Mayor	Date

EMPLOYEE

_____	_____
Kurt D. Swartzlander, Employee	Date

CITY CLERK

_____	_____
Cheri Schwab, City Clerk	Date



CITY COUNCIL AGENDA MEMORANDUM APRIL 12, 2022 AGENDA

TO: Honorable Mayor and Members of the City Council

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Reinstitution of the Nonconforming Sign Removal Incentive Grant Program

SYNOPSIS:

At its March 8, 2022 meeting, the City Council by means of a voice vote agreed to reinstitute the nonconforming sign removal incentive grant program (**Exhibit A**). The proposed grant program, if approved, would be used to assist property owners with the costs associated with altering, removing and replacing freestanding nonconforming signs with new conforming monument-style signs. The grant program would terminate concurrently with the one (1) year extended nonconforming sign removal deadline approved in Ordinance 2022-11. The proposed sign grant program is similar to the original in that it is a reimbursable matching dollar-for-dollar program targeting Daytona Beach Shores businesses (**Exhibit B**). All grants are subject to City Council approval and compliance with City codes.

FISCAL IMPACT STATEMENT:

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.

NOTE: In the final fiscal year of the grant program, one grant was issued in the amount of \$1,300. Since the end of the grant program, three new monument signs have been built to replace nonconforming pole signs and an additional three are currently in permitting.

LEGAL REVIEW:

Council discretion

RECOMMENDATION:

Staff recommends approval of the grant program as presented and requests guidance from the City Council regarding the grant disbursement cap.

SUGGESTED MOTION:

A City Council Member may motion as follows:

"I move to approve the reinstitution of the nonconforming sign removal incentive grant program as presented with a grant disbursement cap of XXXX dollars."

- ATTACHMENT:**
1. Exhibit A-3-8-22 cc minutes
 2. Exhibit B-Non Conforming Sign Removal Incentive Grant Program-2022-2023
 3. SIGN GRANTS 2019-2022

**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

Daytona Beach Shores

Non-conforming Sign Removal Incentive Grant Program 2022-2023

Goal

To enhance the Daytona Beach Shores South Atlantic Avenue/Dunlawton Boulevard Streetscape.

Purpose

To provide financial assistance to property owners and businesses of non-conforming, freestanding pole/ground signs with costs associated in replacing, eliminating or altering non-conforming, freestanding signs into conformity.

Overview

Considering the economic impact and supply chain issues experienced by local businesses, on April 12, 2022, the Daytona Beach Shores City Council adopted Ordinance 2022-11, which extended the deadline for sign owners to bring their non-conforming freestanding pole/ground signs into conformity with the City's monument sign ordinance. The grant program shall terminate upon the expiration date of the aforementioned extended deadline.

Eligibility Requirements

1. The sign shall not be an abandoned sign.
2. The sign shall be a freestanding pole/ground sign made non-conforming as a result of Ordinance 2012-02.
3. Temporary and exempt signs per Ord. 2012-02 do not qualify for this program.
4. Qualifying non-conforming pole/ground signs shall either be altered into conformity or removed and replaced with a new conforming sign.
5. The subject property shall be located in the GC-1, GC-2, GC-RD or T zoning district.
6. The sign shall be located on a property directly abutting S. Atlantic Avenue/SR A1A or Dunlawton Boulevard.
7. The signs shall serve to advertise an onsite business. For the purposes of this grant, a business shall be defined as a retail/service/office commercial, hotel/motel or any other business approved by the Daytona Beach Shores City Council.
8. There shall be an active/operating bona fide business on the subject qualifying property. The business shall possess a valid Business Tax Receipt and Certificate of Use permit.
9. Any work initiated, or costs incurred, prior to receiving City Council grant approval shall not be grant eligible.
10. Sign design and plan shall conform to all applicable City standards.
11. Property/business owner shall be current on all accounts payable to the City.
12. Properties subject to Code Enforcement action shall not qualify for this grant.

Program Description

Applications shall be reviewed on a first-come-first-served basis from the time a complete submittal is received until all budgeted grant funding is allocated. Incomplete applications will not be considered.

The Non-Conforming Sign Removal Incentive Grant Program is a reimbursable dollar-for-dollar matching grant, capped as follows:

<u>Land Use & Sign Type</u>	<u>Year</u>	<u>Maximum Award</u>
All Types	2022	???
All Types	2023	???

Program Requirements

The following grant applications will be given priority in the evaluation process: applications with signs that are more egregious in nonconformity; applications with signs that will be altered into conformity; and applications with signs that do not require any variances.

1. Grant application submission deadline is November 12, 2022. New grant applications and/or incomplete grant applications submitted after this date shall not be considered.
2. Grant applications shall be reviewed by staff for completeness and presented to the City Council for consideration.
3. The City Council may make binding conditions regarding the application under consideration, including, but not limited to, design and location of sign.
4. Grants shall only pay for sign costs associated with design/engineering, sign making, installation, and/or alteration.
5. Applications shall have at least two (2) quotes from licensed sign contractors.
6. Property owner shall obtain relevant City permits prior to the start of construction.
7. Grant reimbursement will be made upon completion of a project as determined solely by the City and a successful inspection by the City's Building Department, including a demonstration that the constructed sign meets the terms of applicable codes and grant conditions, if any.
8. To qualify for grant reimbursement, on site sign construction shall not commence until after City Council approval.
9. Completion of work and a successful inspection is required no later than 120 days subsequent to City Council approval.
10. Written extensions may be awarded by the City Manager for a period not exceeding 120 days.

Year	Amount	Business	Address
2022	\$ 1,300.00	PIRATES ISLAND	3420 S. ATLANTIC AVE.
2021	\$ -		
2020	\$ 3,900.00	DINO PASPALAKIS	3500 S. ATLANTIC AVE.
	\$ 3,900.00	GRAND PRIX	2015 S. ATLANTIC AVE.
2019	\$ 3,900.00	WATER'S EDGE APTS	3226 S. ATLANTIC AVE.
	\$ 3,900.00	ISLAND BEACHWEAR III INC	3154 S. ATLANTIC AVE.
	\$ 3,900.00	FLAMINGO INN	2011 S. ATLANTIC AVE.
	\$ 5,200.00	SAND AND SURF RESORT	2535 S. ATLANTIC AVE.
	\$ 5,200.00	FANTASY ISLAND	3205 S. ATLANTIC AVE.
	\$ 5,200.00	MILTON HOWARD, PRESIDENT (BIGGINS)	2324 S. ATLANTIC AVE.
	\$ 6,500.00	BEACH QUARTERS RESORT	3711 S. ATLANTIC AVE.
	\$ 42,900.00		10

Outstanding Non-Conforming		69
Proposed Grant:	\$2,500	\$ 172,500.00



CITY COUNCIL AGENDA MEMORANDUM APRIL 12, 2022 AGENDA

TO: Honorable Mayor and Members of the City Council
FROM: Stewart Cruz, City Planner
PREPARED BY: Stewart Cruz, City Planner
SUBJECT: Oceans 25 Plat (Subdivision): 2900 S. Atlantic Avenue

SYNOPSIS:

The Oceans 25 Townhome Development, located at 2900 S. Atlantic Avenue, is nearing completion. Pursuant to Sec. 177.071, *Florida Statutes*, the Plat (legal subdivision plans) shall be reviewed and approved by the governing body prior to formal recordation with the Volusia County Clerk of Court. The platting (subdivision) process enables the developer/property owner to convey property to private parties and dedicate necessary easements for the benefit of the public pursuant to Chapter 177, Part 1, *Florida Statutes*.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The Oceans 25 development consists of a 25 townhome development, approved by the City Council in 2020. According to Sec. 177.031, *Florida Statutes*, a "Plat or replat" means *a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable sections of this part and of any local ordinances*. The City of Daytona Beach Shores does not have any platting or subdivision regulations. Therefore, the review and analysis conducted was solely for consistency with the state statute and the approved site plan. The statute requires a third party surveyor to review the plat to ensure consistency with the statutory platting requirements and approval by the City Council prior to recordation and eventual sale of units and general conveyance and dedication of property.

B. SUMMARY ANALYSIS

The plat depicts a private roadway named "Oceans Circle" and several common areas, all of which will be conveyed to the homeowners association through the platting process. The plat also dedicates utility easements to the City, Port Orange and other utility interests, while an access easement on the roadway will be dedicated to the City for emergency and other government

services. Staff, the City Attorney and the City's surveying consultant (Sliger & Associates) have all reviewed and approved the plat pursuant to Chapter 177, Part 1, *Florida Statutes*. Staff has also concluded the plat is consistent with the approved Oceans 25 Townhomes site plan.

LEGAL REVIEW:

Approved as to form and legality.

RECOMMENDATION:

The City's surveying consultant has reviewed the Oceans 25 Plat (**Exhibit A**) and has opined consistency with Chapter 177, Part 1, *Florida Statutes* (**Exhibit B**). Staff recommends approval as presented.

SUGGESTED MOTION:

A City Council Member may move as follows:

"I move to approve the Oceans 25 Plat as presented."

- ATTACHMENT:**
1. Exhibit A-Oceans 25 Plat 3-15-2022
 2. Exhibit B - Ocean 25 plat review 4-4-22 Zapert

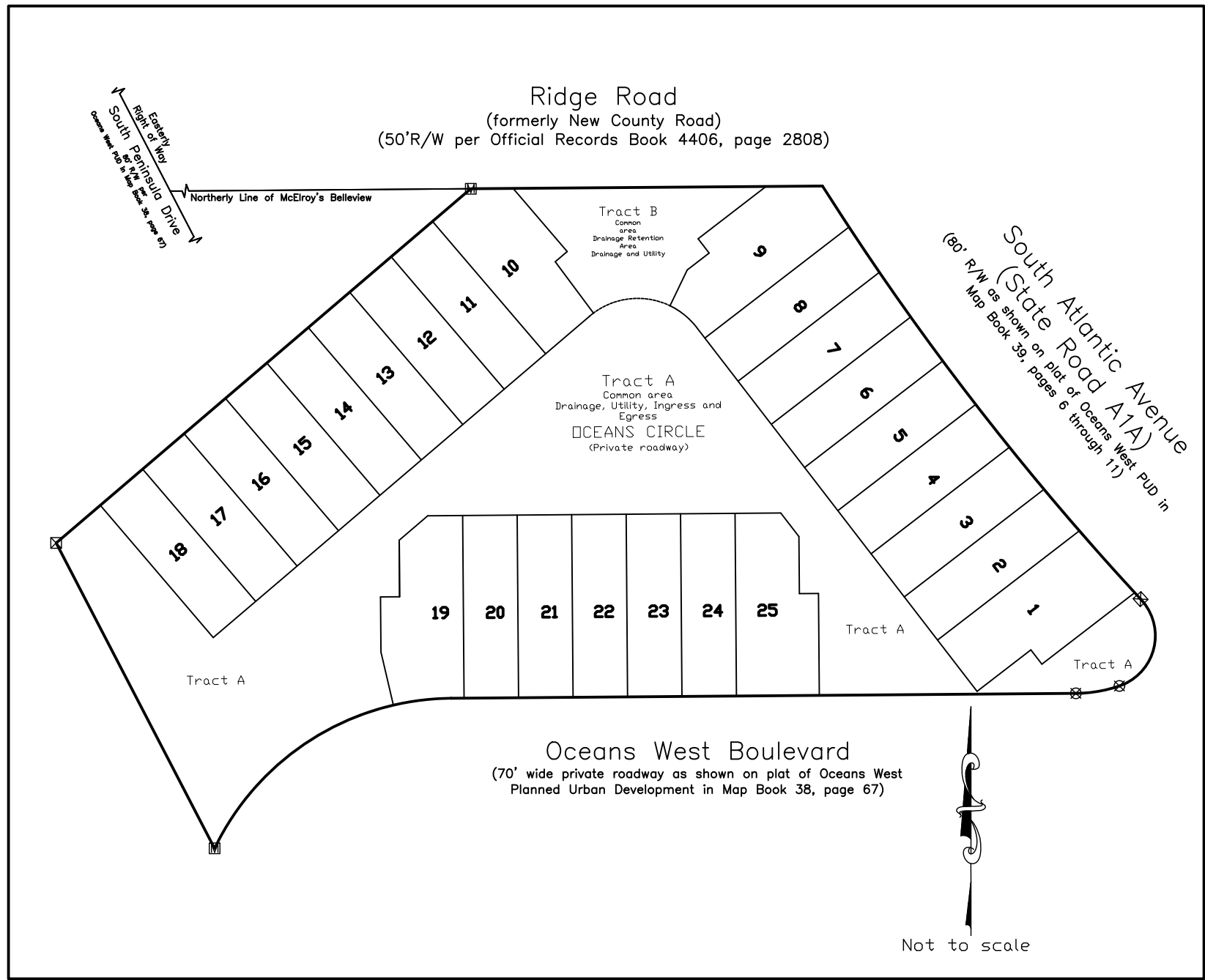
OCEANS 25

A PARTIAL REPLAT OF BLOCKS D AND E OF MCELROY'S BELLEVUE A SUBDIVISION RECORDED IN MAP BOOK 11, PAGE 98 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST IN THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA

LEGAL DESCRIPTION:

PART OF BLOCKS D AND E, MCELROY'S BELLEVUE SUBDIVISION, AS RECORDED IN MAP BOOK 11, PAGE 98, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE, SAID POINT BEING THE INTERSECTION OF THE NORTHERLY LINE OF MCELROY'S BELLEVUE WITH THE EASTERLY LINE OF SOUTH PENINSULA DRIVE, AN 80 FOOT RIGHT-OF-WAY AS PRESENTLY ESTABLISHED; THENCE NORTH 89°33'11" EAST ALONG THE NORTHERLY LINE OF THE AFORESAID MCELROY'S BELLEVUE A DISTANCE OF 951.56 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°33'11" EAST ALONG SAID NORTHERLY LINE OF MCELROY'S BELLEVUE A DISTANCE OF 165.72 FEET TO A POINT ON A CURVE CONCAVE EASTERLY, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY OF SOUTH ATLANTIC AVENUE, AN 80 FOOT RIGHT-OF-WAY AS PRESENTLY ESTABLISHED; THENCE ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 1349.46 FEET, AND A CENTRAL ANGLE OF 10°26'41", AN ARC LENGTH OF 246.00 FEET, AND A CHORD DISTANCE OF 245.66 FEET, BEARING SOUTH 37°35'54" EAST, TO A POINT OF INTERSECTION WITH A CURVE, CONCAVE NORTHWESTERLY, SAID POINT BEING THE INTERSECTION OF THE AFORESAID WESTERLY RIGHT-OF-WAY OF SOUTH ATLANTIC AVENUE AND THE NORTHERLY RIGHT-OF-WAY OF OCEANS WEST BLVD.; A 70 FOOT RIGHT-OF-WAY AS SHOWN ON PLAT OF OCEANS WEST, A PLANNED UNIT DEVELOPMENT, AS RECORDED IN MAP BOOK 38, PAGE 67, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE ALONG SAID CURVE AND NORTHERLY RIGHT-OF-WAY TO THE RIGHT HAVING A RADIUS OF 2500 FEET, A CENTRAL ANGLE OF 114°52'26", AN ARC LENGTH OF 501.2 FEET, AND A CHORD DISTANCE OF 421.4 FEET, SOUTH 13°42'12" WEST, TO A POINT OF INTERSECTION WITH A CURVE, CONCAVE NORTHERLY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AND CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 6500 FEET, A CENTRAL ANGLE OF 18°24'17", AN ARC LENGTH OF 20.88 FEET, AND A CHORD DISTANCE OF 20.79 FEET, SOUTH 80°21'06" WEST TO THE POINT OF TANGENCY; THENCE SOUTH 89°33'11" WEST ALONG AFORESAID NORTHERLY RIGHT-OF-WAY 294.32 FEET TO A POINT OF CURVATURE CONCAVE SOUTHEASTERLY; THENCE ALONG SAID CURVE AND AFORESAID NORTHERLY RIGHT-OF-WAY SAID CURVE HAVING A RADIUS OF 125.00 FEET, A CENTRAL ANGLE OF 63°47'22", AN ARC LENGTH OF 139.17 FEET TO A POINT ON THE EASTERLY LINE OF OCEANS WEST, A PLANNED UNIT DEVELOPMENT AFORESAID; THENCE NORTH 27°22' WEST ALONG SAID EASTERLY LINE OF OCEANS WEST 162.05 FEET, THENCE NORTH 49°23'06" EAST, A DISTANCE OF 236.83 FEET TO THE NORTHERLY LINE OF MCELROY'S BELLEVUE, AFORESAID, AND THE POINT OF BEGINNING. CONTAINS 2.13 ACRES MORE OR LESS.



See Sheet 2 for detail



GENERAL NOTES

- Monumentation
 - Denotes Permanent Reference Monument Found stamped RLS2860.
 - Denotes 1/2" Iron Rod and Cap set stamped Myer LB6877
 - Denotes 4x4 concrete monument stamped stamped Myer LB6877
 - Denotes Permanent Control Point set
 - Magnetic Nail and Metal disk stamped Myer LB6877
- R or (Radial) - Denotes a line radial relative to adjacent curve.
(NR) - Denotes a line not radial relative to adjacent curve.
N-North
S-South
E-East
W-West
- Dimensions shown are in feet and decimals thereof.
- Accuracy
The boundary linear error of closure does not exceed 1/10,000.
The boundary angular error of closure does not exceed 15 seconds multiplied by the square root of the number of angles turned.
- Bearing basis is S 89°33'11" assumed along the northerly right of way of Oceans West Boulevard as called in the legal description.
- NOTE: All measurements refer to horizontal plane in accordance with the definition of the U.S. Survey foot adopted by the National Institute of Standards and Technology.
- NOTICE: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplant in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.
- This plat is subject to all easements of record and reservations of easements, including but not limited to drainage and utility easements dedicated hereon.
- Utilities include but are not limited to sanitary sewer, potable water, reclaimed water, storm drainage, electric, telephone, cable television, security, and natural gas.
- Utility easements provided on this plat include easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services shall interfere with the facilities and services of an electric, telephone, gas, or other public utility.
- All common areas are subject to drainage, ingress/egress and utility easements dedicated to the OCEANS 25 HOMEOWNERS ASSOCIATION, INC.
- The common areas granted to the OCEANS 25 HOMEOWNERS ASSOCIATION, INC. by this plat shall be subject to easements as shown, noted or described hereon or granted in accordance with the Oceans 25, LLC Homeowner Association's covenants and restrictions. The granting of such common areas is not intended to grant any right to the general public.
- The OCEANS 25 HOMEOWNERS ASSOCIATION, INC. shall be responsible for the operation and maintenance of the drainage system serving the area within the boundaries of this plat, as depicted on the Stormwater Management Plan, approved for this Development by the City of Daytona Beach Shores, Florida.
- The OCEANS 25 HOMEOWNERS ASSOCIATION, INC. shall be responsible for maintaining all private roads granted to the Association by this plat.
- The OCEANS 25 HOMEOWNERS ASSOCIATION, INC. shall be responsible for maintaining all landscaping and irrigation in common areas.
- The articles of incorporation for the OCEANS 25 HOMEOWNERS ASSOCIATION, INC. are recorded in Official Records Book ----, Pages ---- through ---- of the Public Records of Volusia County, Florida. The declaration of covenants and restrictions for the Oceans 25, LLC Homeowner Association, Inc. are recorded in Official Records Book ----, Pages ---- through ---- of the Public Records of Volusia County, Florida.
- All of Lots 1 through 25 are subject to an underground electrical utility easement for the specific purpose of supplying electric service to the individual units.
- Tract A is subject to a blanket easement for ingress/egress and utility easements including but not limited to sanitary sewer, potable water, reclaimed water, storm drainage, electrical, telephone, cable television, security, and natural gas transmission, bike paths and sidewalk.
- Tract B is subject to a blanket easement for drainage and utility easements including but not limited to sanitary sewer, potable water, reclaimed water, storm drainage, electrical, telephone, cable television, security, and natural gas transmission, bike paths and sidewalk.
- The parcel is subject to easements recorded at Official Records Book (ORB) 3372, page (p) 1627 (Florida Power & Light Company), ORB 3847, p 1396 (Bellsouth Communications, Inc), ORB 6048, p 4817, (City of Daytona Beach Shores), ORB 7967, p 2858, (Bellsouth Communications, LLC), and ORB 8128, p 3327, (Florida Power & Light Company) according to American Land Title Association Consent, Chicago Title Insurance Company File No. 81465.008 issued 11/28/2021. The above referenced easements fall within the blanket of the dedicated easements shown on the record plat.
- The Oceans 25, LLC and City of Daytona Beach Shores, Land Development Agreement Ordinance No. 2020-01 is recorded at Official Records Book 7837, page 4663.
- The Oceans 25, LLC and City of Daytona Beach Shores, Land Development Agreement is recorded at Official Records Book 7837, page 4668 and Official Records Book 7863, page 4378.

CITY COUNCIL CERTIFICATE OF APPROVAL

This statement hereby certifies that the plat entitled OCEANS 25 was approved by the Daytona Beach Shores City Council on -----

Mayor of the
City of Daytona Beach Shores

City Clerk of the
City of Daytona Beach Shores

CERTIFICATE OF CLERK

I hereby certify that I have examined the foregoing plat and found that it complies, in form, with all requirements stated in Chapter 177, Florida Statutes, and that it was filed for record on ----- at ----- a.m. / p.m.

----- File No. -----
Clerk of Circuit Court
Volusia County, Florida

SHEET 1 OF 2

MAP BOOK:-----

PAGE:-----

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS, that Oceans 25, LLC, a Florida limited liability company, being the owner in fee simple of the lands shown and described hereon as the replat entitled OCEANS 25 located in the City of Daytona Beach Shores, Volusia County, Florida, hereby dedicates and conveys said lands and replat for the uses and purposes hereon expressed. All drainage, utility, and access easements shown or described on the replat are, unless otherwise indicated, are dedicated to the City of Daytona Beach Shores, Florida and conveyed to the Oceans 25 Homeowners Association, Inc. Potable water mains are hereby dedicated to the City of Port Orange, Florida. The Common Area shown on the replat is hereby granted and conveyed to the Oceans 25 Homeowners Association Inc.

All private roadways are hereby granted to the OCEANS 25 HOMEOWNERS ASSOCIATION, INC. Access easements on and across all private roadways are hereby granted to each lot owner for ingress and egress and dedicated to the City of Daytona Beach Shores, Florida for emergency vehicles and government services. Utility easements across, on, over, through, and under all private roadways are hereby dedicated to the City of Daytona Beach Shores, Florida and Franchise utility companies for the construction and maintenance of utilities.

In witness whereof, Oceans 25, LLC, has caused these presents to be signed, attested, in witness whereof Oceans 25, LLC, a Florida limited liability company has caused these presents to be signed, attested and sealed by Patrick Sullivan as manager this ___ day of March, 2022.

ATTEST:-----

Manager
Oceans 25, LLC

ATTEST:-----

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was signed and attested to before me by means of

() physical presence or () online notarization this ----- day of -----,

2022, by Patrick Sullivan, Manager

(Seal)

Signature of Notary Public
Print, Type/Stamp Name of Notary

Personally known:-----

OR Produced Identification:-----

Type of Identification Produced:-----

Joinder and Consent:

Intracoastal Bank, a Florida banking institution, hereby certifies that it is the holder of a mortgage lien or other encumbrance upon the property shown and described on the attached replat entitled Oceans 25 located in the City of Daytona Beach Shores, Volusia County, Florida, and hereby joins in and consents to the dedication shown on the replat of lands described herein and agrees that its mortgage as recorded in Official Records Book 7942 Page 3518, Public Records of Volusia County, Florida shall be subordinated to said dedication.

In witness whereof, Intracoastal Bank, a Florida banking institution, has caused these presents to be executed this ___ day of March of 2022.

INTRACASTAL BANK

BY:-----

Print Name:-----

Title:-----

APPROVALS

This statement hereby certifies that the plat entitled OCEANS 25

was approved by the Daytona Beach Shores City Engineer on -----

BY:----- ATTEST:-----

This statement hereby certifies that the plat entitled OCEANS 25

was approved by the Daytona Beach Shores City Attorney on -----

BY:----- ATTEST:-----

CERTIFICATE OF SURVEYOR AND MAPPER

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a licensed and registered Florida Surveyor and Mapper, does hereby certify that the plat shown and described hereon entitled OCEANS 25, was prepared under their direction and supervision, and that the plat complies to the best of their knowledge and belief with all of the survey requirements of Chapter 177, Florida Statutes, and that all the monumentation shown hereon or required per Chapter 177, Florida Statutes, has been or will be properly placed.

----- DATE:-----

Michael M. Myer, P.L.S. No: 4006
Myer Land Surveying, Inc.
LB 6877
316 Ridgewood Avenue,
Holly Hill, FL 32117

REVIEW BY SURVEYOR AND MAPPER FOR THE CITY

I hereby certify that I have reviewed the foregoing plat for compliance with the requirements of Chapter 177, Florida Statutes, and that I have provided both the City and the Surveyor and Mapper of Record a list of deviations, if any, from such requirements.

(signature)----- DATE:-----

Joseph Edward Zapert, FL LS4046

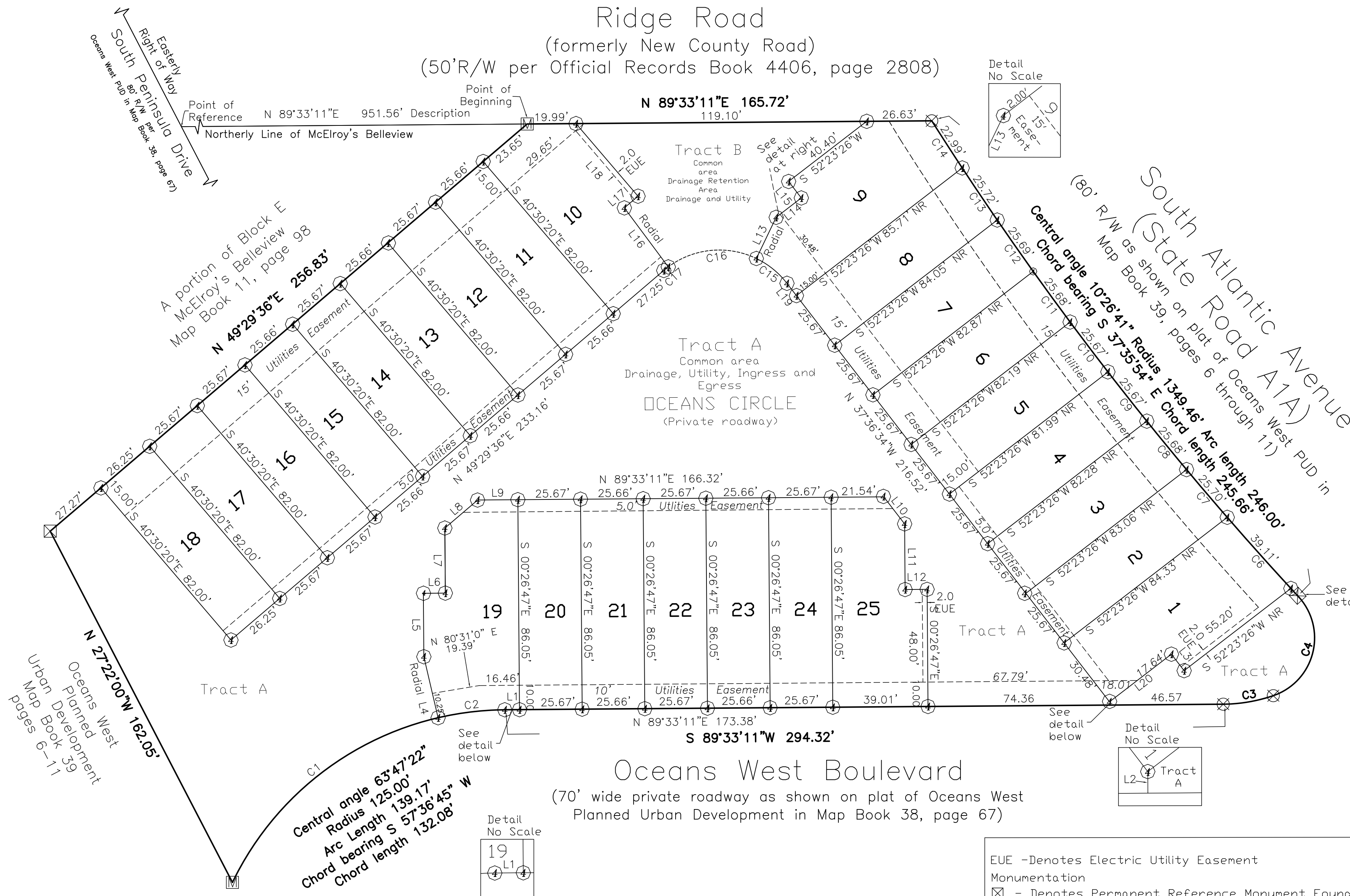
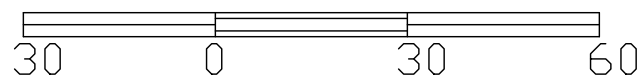
MYER LAND SURVEYING, INC.
LICENSED BUSINESS #6877
MICHAEL M. MYER #LS 4006
PROFESSIONAL LAND SURVEYOR
316 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
386 255-6304 Phone MyerLandSurveying@GMAIL.COM

OCEANS 25

A PARTIAL REPLAT OF BLOCKS D AND E OF MCELROY'S BELLEVUE A SUBDIVISION RECORDED IN MAP BOOK 11, PAGE 98 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, IN SECTION 27, TOWNSHIP 15 SOUTH, RANGE 33 EAST IN THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA



SCALE: 1"=30'



Course	Bearing	Distance
L1	N 89°33'11" E	6.05'
L2	N 37°36'34" W	1.33'
L3	N 37°36'34" W	8.52'
L4	N 13°07'29" W	25.67'
L5	N 00°26'47" W	26.00'
L6	N 89°33'11" E	9.00'
L7	N 00°26'47" W	26.66'
L8	N 49°29'36" E	17.70'
L9	N 89°33'11" E	16.45'
L10	S 37°36'34" E	14.01'
L11	S 00°26'49" E	26.89'
L12	N 89°33'11" E	9.01'
L13	N 25°42'20" E	18.72'
L14	N 52°23'26" E	13.00'
L15	N 37°36'34" W	8.52'
L16	N 36°38'52" W	30.15'
L17	N 49°29'36" E	7.38'
L18	N 40°30'24" W	39.14'
L19	N 37°36'34" W	6.35'
L20	N 52°23'26" E	32.00'

Curve	Radius	Length	Delta	Chord	Chord Bear.
C1	125.00'	111.60'	51°09'18"	107.93'	S 51°17'52" W
C2	25.00'	25.00'	120°44'49"	27.50'	S 83°11'24" W
C3	65.00'	20.68'	18°24'17"	20.73'	S 80°21'06" W
C4	25.00'	50.12'	114°52'26"	42.14'	S 13°42'12" W
C5	1349.46'	4.09'	0°10'26"	4.09'	S 42°44'02" E
C6	1349.46'	39.11'	1°39'37"	39.11'	S 41°49'00" E
C7	1349.46'	25.70'	1°05'28"	25.70'	S 40°26'27" E
C8	1349.46'	25.68'	1°05'25"	25.68'	S 39°21'01" E
C9	1349.46'	25.67'	1°05'23"	25.67'	S 38°15'37" E
C10	1349.46'	25.67'	1°05'23"	25.67'	S 37°10'13" E
C11	1349.46'	25.68'	1°05'25"	25.68'	S 36°04'48" E
C12	1349.46'	25.69'	1°05'27"	25.69'	S 34°59'23" E
C13	1349.46'	25.72'	1°05'31"	25.72'	S 33°53'54" E
C14	1349.46'	22.99'	0°58'35"	22.99'	S 32°51'51" E
C15	35.00'	16.30'	26°41'06"	16.15'	N 50°57'07" W
C16	35.00'	38.09'	62°21'12"	36.24'	S 84°31'44" W
C17	35.00'	2.35'	3°51'01"	2.35'	S 51°25'38" W
Intentionally left blank					
C20	1349.46'	246.00'	10°26'41"	245.66'	N 37°35'54" W

EUE -Denotes Electric Utility Easement
Monumentation
☒ - Denotes Permanent Reference Monument Found stamped RLS2860.
④ - Denotes 1/2" Iron Rod and Cap set stamped Myer LB6877
Ⓜ - Denotes 4x4 concrete monument stamped Myer LB6877
⊗ - Denotes Permanent Control Point set
Magnetic Nail and Metal disk stamped Myer LB6877

NOTICE: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.

"Celebrating 40 Years"

SLIGER & ASSOCIATES
surveyors



April 4, 2022

Mr. Stewart Cruz

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

Ph 386-763-5377

Delivered via email

Re: *Review No. 5 of the Preliminary Plat of Oceans 25. (Job No. 22-0253)*

It is my opinion that the plat is in compliance with Chapter 177, Part 1, Florida Statutes.

Joe Zapert, LS 4046