



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING DECEMBER 12, 2022

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

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

1. OPENING REMARKS

2. MINUTES

A. Planning & Zoning Minutes November 7, 2022

3. QUASI-JUDICIAL HEARING

4. ACTION ITEMS

A. Ordinance 2022-29: Temporary relocation of businesses with non-conforming uses that have incurred substantial damage as a result of Hurricane Ian in the "GC-RD" General Commercial Redevelopment District

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
November 7, 2022
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. OPENING REMARKS

Present: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose ann Tornatore, Jeni Groot-Begnaud

Staff: City Clerk Cheri Schwab, City Attorney Garrett Olsen, Community Services Director Stewart Cruz, and City Planner Noel Eaton.

2. MINUTES

A. Planning & Zoning Minutes October 10, 2022

MEMBER CHUCK HORION moved, seconded by JENI GROOT-BEGNAUD to Approve Planning & Zoning Minutes of October 10, 2022.

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

Yes: None

3. QUASI-JUDICIAL HEARING

A. Ordinance 2022-24: Rezoning application for recently annexed property located at 2822 S. Atlantic Avenue

All witnesses were sworn in by the City Clerk for the three hearings. Board Attorney Garret Olsen read the Ordinance by title only. City Planner Noel Eaton explained that the property had recently been annexed into the City. The property now needs to be given a city zoning designation of RSF-2, single-family residential which is compatible with the current county zoning designation. All due public notice has been met and staff recommends approval.

There were no comments from either the audience or the board for or against the property.

MEMBER ROSE ANN TORNATORE moved, seconded by MEMBER CHUCK HORION to recommend approval of Ordinance 2022-24 to the City Council.

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

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

B. Ordinance 2022-26: Rezoning application for recently annexed property located at

Board Attorney Garret Olsen read the Ordinance by title only. City Planner Noel Eaton explained that the property had recently been annexed into the City. The property now needs to be given a city zoning designation of RSF-2, single-family residential which is compatible with the current county zoning designation. All due public notice has been met and staff recommends approval. There were no comments from either the audience or the board for or against the property.

JENI GROOT-BEGNAUD moved, seconded by MEMBER ROSE ANN TORNATORE to recommend approval of Ordinance 2022-26 to the City Council.

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

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

C. Ordinance 2022-28: Rezoning application for recently annexed property located at 105 Broad Avenue

Board Attorney Garret Olsen read the Ordinance by title only. City Planner Noel Eaton explained that the property had recently been annexed into the City. The property now needs to be given a city zoning designation of RSF-2, single-family residential which is compatible with the current county zoning designation. All due public notice has been met and staff recommends approval. There were no comments from either the audience or the board for or against the property.

MEMBER CHUCK HORION moved, seconded by MEMBER JAMES LILLY to recommend approval of Ordinance 2022-28 to the City Council.

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

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

4. ACTION ITEMS

A. Ordinance 2022-23: Comprehensive Plan Future Land Use Map amendment for recently annexed single-family residential property located at 2822 S. Atlantic Avenue

Board Attorney Garret Olsen read the ordinance by title. City Planner Noel Eaton provided background for the item. The property was recently annexed to the city and requires an amendment to the Comprehensive Plan for land use designation. This is a requirement by state statute and the proposed land use designation would be Residential Low Intensity. All due public notice has been met and staff recommended approval.

MEMBER CHUCK HORION moved, seconded by MEMBER JAMES LILLY to recommend approval of Ordinance 2022-23 to the City Council.

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

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

- B. Ordinance 2022-25: Comprehensive Plan Future Land Use Map amendment for recently annexed single-family residential property located at 3615 Cardinal Boulevard

Board Attorney Garret Olsen read the ordinance by title. City Planner Noel Eaton provided background for the item. The property was recently annexed to the city and requires an amendment to the Comprehensive Plan for land use designation. This is a requirement by state statute and the proposed land use designation would be Residential Low Intensity. All due public notice has been met and staff recommended approval.

JENI GROOT-BEGNAUD moved, seconded by MEMBER CHUCK HORION to recommend approval of Ordinance 2022-25 to the City Council.

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

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

- C. Ordinance 2022-27: Comprehensive Plan Future Land Use Map amendment for recently annexed single-family residential property located at 105 Broad Avenue

Board Attorney Garret Olsen read the ordinance by title. City Planner Noel Eaton provided background for the item. The property was recently annexed to the city and requires an amendment to the Comprehensive Plan for land use designation. This is a requirement by state statute and the proposed land use designation would be Residential Low Intensity. All due public notice has been met and staff recommended approval.

MEMBER CHUCK HORION moved, seconded by MEMBER JAMES LILLY to recommend approval of Ordinance 2022-27 to the City Council.

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

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

5. OTHER

Boardmember Tornatore spoke on the potential of condominiums having their assessment prices and insurance costs rise due to the recent state legislation that passed. It stems from the collapse of the building in the City of Surfside. Community Services Director Stewart Cruz and the Board Attorney advised that owners get with their condo managers and attorneys for guidance on how to navigate the new rules.

6. BOARD COMMENTS

7. ADJOURNMENT

The meeting ended at 9:01 am.

Cheri Schwab, Recording Secretary

Rick DeLange, Chairman



PLANNING & ZONING BOARD AGENDA MEMORANDUM DECEMBER 12, 2022 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Noel Eaton, Planner

PREPARED BY: Noel Eaton, Planner

SUBJECT: Ordinance 2022-29: Temporary relocation of businesses with non-conforming uses that have incurred substantial damage as a result of Hurricane Ian in the "GC-RD" General Commercial Redevelopment District

SYNOPSIS:

Ordinance 2022-29 would authorize businesses with existing non-conforming uses located in the "GC-RD" General Commercial Redevelopment District that were substantially damaged as a direct result of impacts from Hurricane Ian, such that occupancy of the business space is infeasible and prohibitive, to temporarily relocate to another property located in the GC-RD District under certain conditions. This Ordinance shall sunset two (2) years after its effective date, meaning within two years, the business shall return to its original location or cease to operate at the temporary location. There is only one business that would qualify to temporarily relocate under the conditions listed below.

FISCAL IMPACT STATEMENT:

BACKGROUND:

Hurricane Ian struck the City of Daytona Beach Shores on September 28th and 29th causing damage throughout. The commercial plaza at 2518 S. Atlantic Avenue known as Pappas Plaza sustained substantial damage that prohibited its occupancy. The owner of Jet Set Tattoos and Body Piercing Co., which is located in Pappas Plaza, has requested the City temporarily allow the relocation of his business in the GC-RD District until adequate repairs can be made at the commercial plaza to allow occupancy once again (Exhibit A). This ordinance would authorize businesses with existing non-conforming uses located in the GC-RD that were substantially damaged from impacts of Hurricane Ian, such that occupancy of the business space is infeasible and prohibitive, to temporarily relocate to another property in the GC-RD District under the conditions listed below and shall sunset/expire two years after its effective date.

1. The subject business was a bonafide business established in the GC-RD zoning district at the time of impact from Hurricane Ian.
2. The business space or building is substantially damaged enough to prohibit occupancy.

3. The business is not an Adult Entertainment Establishment as defined in Sec. 2½-3 of the Daytona Beach Shores Code of Ordinances.
4. The new temporary business location is located in the GC-RD zoning district.
5. The business owner applies for and receives a Business Tax Receipt with the City of Daytona Beach Shores for the proposed location.
6. The business owner applies for and receives a Certificate of Use with the City of Daytona Beach Shores for the proposed location.
7. Within the two-year sunset period, the business may be reestablished at its original location in the GC-RD District and maintain its nonconformity.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2022-29 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may make a motion as follows:

1. "I move to recommend approval of Ordinance 2022-29 as presented."
- OR
2. "I move to recommend approval of Ordinance 2022-29, with the following amendments..."
- OR
3. "I move to recommend denial of Ordinance 2022-29, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2022-29
 2. Exhibit A-Jet Set Tattoos and Body Piercing Co-Gad Benchetrit Letter for CC

ORDINANCE NO. 2022-29

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA RELATED TO THE TEMPORARY RELOCATION OF BUSINESSES WITH NONCONFORMING USES THAT HAVE INCURRED SUBSTANTIAL DAMAGE AS A RESULT OF HURRICANE IAN IN THE “GC-RD” GENERAL COMMERCIAL REDEVELOPMENT DISTRICT; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SUNSET PROVISION; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION; 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 September 23, 2022, the Governor of the State of Florida issued **Executive Order 22-218** to declare a state of emergency for all counties in the state of Florida, including Volusia County, due to the impending effects of Hurricane Ian; and

WHEREAS, on September 24, 2022, the Governor of the State of Florida issued **Executive Order 22-219**, amending **Executive Order 22-218**; and

WHEREAS, on September 27, 2022, the City Manager of the City of Daytona Beach Shores issued a **Declaration of Local Emergency** for Hurricane Ian, consistent with Section 2-9(b) of the Charter of the City of Daytona Beach Shores; and

WHEREAS, Hurricane Ian struck the City of Daytona Beach Shores on September 28 and September 29; and

WHEREAS, on September 29, 2022 the President of the United States declared a major disaster for the State of Florida as a result of Hurricane Ian, which was noticed in the Federal Register as FEMA-4673-DR; and

WHEREAS, Hurricane Ian has passed and recovery efforts have begun in the City of Daytona Beach Shores; and

WHEREAS, the commercial plaza at 2518 S. Atlantic Avenue sustained substantial damages that prohibited its occupancy due to the impacts of Hurricane Ian; and

WHEREAS, the commercial plaza at 2518 S. Atlantic Avenue is located in the “GC-RD” General Commercial Redevelopment District; and

WHEREAS, the commercial plaza at 2518 S. Atlantic Avenue has a bonafide business with a nonconforming use; and

WHEREAS, the owner of the business with a nonconforming use located in the commercial plaza at 2518 S. Atlantic Avenue has requested the City temporarily allow the relocation of his business in the GC-RD District until adequate repairs can be made at the plaza; 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, on December 12, 2022 the Planning and Zoning Board of the City of Daytona Beach Shores heard and recommended approval of 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 City Commission of the City of Daytona Beach Shores finds that it is in the best interest of the businesses, citizens and visitors of the city adopt this Ordinance; and

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

SECTION ONE. RECITALS. The “WHEREAS” clauses are hereby incorporated by reference herein.

SECTION TWO. The City Commission of the City of Daytona Beach Shores hereby authorizes businesses with existing non-conforming uses located in the “GC-RD” General Commercial Redevelopment District to temporarily relocate to another property located in the GC-RD District, provided however the business was substantially damaged as a direct result of impacts of Hurricane Ian such that occupancy of the business space is infeasible and prohibitive and providing as follows:

1. The subject business was a bonafide business established in the GC-RD zoning district at the time of impact from Hurricane Ian.

2. The business space or building is substantially damaged enough to prohibit occupancy.
3. The business is not an Adult Entertainment Establishment as defined in Sec. 2½-3 of the Daytona Beach Shores Code of Ordinances.
4. The new temporary business location is located in the GC-RD zoning district.
5. The business owner applies for and receives a Business Tax Receipt with the City of Daytona Beach Shores for the proposed location.
6. The business owner applies for and receives a Certificate of Use with the City of Daytona Beach Shores for the proposed location.
7. Within the two-year sunset period, the business may be reestablished at its original location in the GC-RD District and maintain its nonconformity.

SECTION THREE. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions.

SECTION FOUR. SUNSET. This authorization granted herein shall expire two (2) years subsequent to the effective date of this ordinance.

SECTION FIVE. SAVINGS. The prior actions of the City of Daytona Beach Shores relating to nonconforming uses, as well as any and all related actions and activities, are hereby ratified and affirmed.

SECTION SIX. CONFLICTS. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION SEVEN. SEVERABILITY. If any Section or portions of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION EIGHT. NON-CODIFICATION. This Ordinance shall not be codified in the *City Code of the City of Daytona Beach Shores* or, the *Land Development Code of the City of Daytona Beach Shores*.

SECTION NINE. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption and may be extended as provided herein.

CITY OF DAYTONA BEACH SHORES, FLORIDA

By: _____
Nancy Miller, Mayor

ATTEST:

By: _____
Kurt Swartzlander, City Manager

Cheri Schwab, City Clerk

APPROVED AS TO FORM AND LEGALITY:

By: _____
Gretchen R. H. "Becky" Vose, City Attorney

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

Posted this _____ day of _____, 2022.



Jet Set Tattoos & Body Piercings

2522 S. Atlantic Ave

Daytona Beach Shores, FL 32118

Phone: (386)760-3073

Gad Benchetrit

Cell #: (386)589-3778

To whom it may concern at the City Council of Daytona Beach Shores,

My journey started in Daytona Beach Shores in 1994 where I opened my first business called Surf Outlet Inc. located at 2012 S. Atlantic Ave. I operated this business for 7 years, then moved to 2130 S. Atlantic Ave under the same name. From there in 1999 I opened Body Art Gallery dba Jet Set Tattoos where I've been operating for 22 years at the same location. Fortunately, for the last 22 years I've been able to do body piercings and tattoos as well as maintain a beautiful and sterile environment. Our last inspection from the Health Department, we even got a cudos from then Health Department leader Greg Thomas for keeping better records than most hospitals. And I thank the city for giving me the opportunity to keep and protect my license throughout the years. Through the years we have been hit and have taken on damage from other disasters like Hurricane Charlie in 2004 and Hurricane Mathew in 2016, but were lucky enough to get back up and running within a few months, unfortunately due to Hurricane Ian this time was not the case. The whole plaza, including myself took on catastrophe damage to where the whole plaza is not operational and will take a long time to rebuild. Fortunately for the other tenants they are able to pack up and move to other locations within Daytona Beach Shores, but for myself that is not the case because my license is grandfathered into that location especially with all the rules and regulations that have come along the way since I've been in business there. What I am asking from the Council is to please review this matter and to please allow me the opportunity to move my license temporarily to a different location until the plaza is rebuilt. I am a family man who is married with 3 children, I have expenses including mortgages, rents, private school payments and many more expenses. Since the hurricane passed I am struggling and losing income everyday. I do not know how long I can hold on. I have a total of nine employees that are out of work, some that have been with me for a few years that I would love to reemploy. This whole incident is taking its toll on my well-being and my financial stability. In the years that we've been in business, we've been able to provide these types of services to people from all corners of our country as well as internationally. You must understand that out of 22 years of business we've been able to build a clientele that have grown to become family that always make it a point to come back on their trips for more work or even just to say a happy hello. Being in this city for as long as I have, I've seen it flourish to being a beautiful paradise and I've only ever wanted my business to continue to represent that status, especially when I make sure my shop is ran properly and perfectly to the highest standards where we always kept it creative and fun but maintained a sterile environment. For the last 30 years I've been involved with Daytona Beach Shores whether it's through businesses I've operated in this beautiful city or residing at the Bella Vista Condominiums where I was president of the HOA for a period of time.

Daytona Beach Shores has been a part of at least half of my life and I'm hoping it will continue to be this way for a long period of time.

To finalize this letter, I am asking the City Council to please open your hearts and grant me the opportunity to continue operating my business in Daytona Beach Shores and to please give me the chance to relocate temporarily to another location so I can continue to serve our tattoo and piercing community. Please keep in mind there is a strong demand for my type of industry and I will always continue to keep doing an amazing job taking good care of my previous and future clients. On a different note I finally see a huge difference in our city since of Nancy Miller was elected Mayor. I personally think she's doing an amazing job bringing businesses back on track and attracting new businesses to want to operate in our city. I love the shores and hopefully you can please understand my situation. It is extremely hard to lose my main income and that shop was my baby.

Thank you very much for taking the time to read this letter and I am hopeful that I will hear some good news.

Sincerely,
Gad Benchetrit