



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING SEPTEMBER 9, 2019

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

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

1. OPENING REMARKS

2. MINUTES

- A. Planning & Zoning Minutes July 8, 2019

3. DISCUSSION ITEMS

- A. Development Agreement Application DA12019025: 109 Dunlawton Boulevard, Shores 109, LLC
- B. Comprehensive Plan Amendment CPA12019026: Amending the Future Land Use Element to establish a Transfer of Development Rights Program.

4. OTHER

5. BOARD COMMENTS

6. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
July 8, 2019
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

Staff: City Clerk Cheri Schwab, Board Attorney Lonnie Groot, City Planner Stewart Cruz and Community Services Director Fred Hiatt

2. MINUTES

A. Planning & Zoning Board minutes May 13, 2019

MEMBER JAMES LILLY moved, seconded by MEMBER RICK DELANGE to Approve Planning & Zoning Board minutes May 13, 2019.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly, Member Rose ann Tornatore

3. DISCUSSION ITEMS

4. OTHER

A. Special Exception Application SPEX12019016: Donald Banker Nonconforming Single-Family Residential Garage Expansion-3839 S. Atlantic Avenue

City Planner Stewart Cruz provided details from his staff report. In April, the applicant owner submitted a special exception application. He requested to renovate the garage to add a second story within the existing building footprint. The property is a single-family home that is located in the zoning district T-RMF-1 (Hotel/Motel-Multifamily Residential (high density)), and was originally built in the 1970's. It is a nonconforming structure that has been grandfathered in since 1991. It is allowed to exist unless the property is redeveloped. Staff has relied on the Future Land Use Classification policies for interpretation and there is no mention of a single-family use. The Comprehensive Plan Policy 1-1.1.3 states that all new development and redevelopment activities shall be required to be consistent with zoning district classifications. The proposed garage expansion would be inconsistent with this. It is staff's view that a single-family home is not permitted in this district and there is no mention of expansion of non-conforming structures in that district. Furthermore, the code calls for high intensity density in this future land use designation. He noted that in the Code of Ordinances, Chapter 5 Coastal Management policy 5-1.5.9 that reads: voluntary redevelopment within the coastal high hazard area, or to build back existing residential development destroyed in a disaster shall be limited to the pre-disaster density. It is

staff's view that there has been no disaster that impacted the property. The structure itself does not fall within the coastal high hazard area. Exhibits were shown of the area and the classification districts in which the property is located. City Planner Cruz stated that Florida Statutes 163.3194 states that comprehensive plans shall have a most important legal status and that no public or private development may be permitted except in conformity with the goals, objectives and policies of the pertinent comprehensive plan. It is staff's opinion that the proposed expansion of the second story above the garage is inconsistent with the city's comprehensive plan and recommends denial of the application.

Board Attorney Lonnie Groot reminded the board that before the application can be approved, it must meet the comprehensive plan.

Board members discussed whether the property owners knew before they purchased it that they could not make certain changes.

Attorney James Stowers spoke for the applicant. The property was purchased years ago and it is a non-conforming single family structure. It was explained that the owner had the option to request a development agreement with the city in order to move forward with the expansion. He chose not to proceed in that direction because a DA is a very extensive process that includes providing public benefits and there are none. Attorney Stowers stated that the property was unique. There are four single family homes in the area that are on very narrow lots. After reviewing the code, he found section 14.29 that mentioned non-conforming small lot special exception. He felt it met some of the criteria for a small lot. He noted that the property was posted and they had provided notice as required. Section 14-69 4-f was also noted for details on a development agreement. It was his view that the expansion would not impact the public negatively and that the Florida Statutes would agree with him. He explained that the structure already has a second story and the owner just wanted to round out the building. It was a reasonable decision.

The board questioned Attorney Stowers as to when the property was purchased and why the owner waited this long to renovate/expand. The property was purchased in 2010 and he also owns the property directly north.

Community Services Director Fred Hiatt explained that Section 14.29 of the code was put in place to develop a small hotel or condo as a permitted use, not a single-family home. It provides a leniency with setbacks. It was his opinion that the owner should have done his due diligence when he purchased the property. City Planner Cruz added that Attorney Stowers was the second or third attorney hired by the owner to work on this case.

MEMBER CHUCK HORION moved, seconded by MEMBER JAMES LILLY to deny the Special Exception Application SPEX12019016 based on the facts of it being inconsistent with the Comprehensive Plan.

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

Yes: Member Rick Delange, Member Chuck Horion, Member James Lilly **No:** Rose Ann Tornatore

5. BOARD COMMENTS

Board Attorney Groot discussed the changes that the board would be seeing. The Board of Adjustments is no longer an active board and their items will now be heard by this board. It provides for more jurisdiction and a broader base of knowledge. This is the current trend seen in other Florida municipalities. It was noted, that the board could expand to seven regular members if the City Council desired.

Mr. Lilly requested an update on the Treasure Island property. Director Hiatt explained that it was allowed to exist in its current state as long as it remains safe for up to ten years. There are annual inspections and reports that are filed. This is the sixth year of the agreement. Staff has recently met with new property owners and they are trying to get funding for their project. They hope to renovate the building to become a Marriott Autograph Hotel. Peck Construction is now working onsite with concrete restoration.

6. ADJOURNMENT

The meeting ended at 9:38 am.

Cheri Schwab, Recording Secretary

John Schmitz, Chairman



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PLANNING & ZONING BOARD AGENDA MEMORANDUM SEPTEMBER 9, 2019 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Development Agreement Application DA12019025: 109 Dunlawton Boulevard, Shores 109, LLC

SYNOPSIS:

Applicant/owner Shores 109, LLC is applying to enter into a development agreement with the City to allow the use and redevelopment of the vacant commercial property located at 109 Dunlawton Boulevard in a manner that is beneficial to the City's Dunlawton gateway. The subject property was last occupied by a business in 2004. If approved, the development agreement will: (a) create seven (7) benefits to the public; (b) permit five (5) deviations from the City's Land Development Code; (c) permit the applicant to utilize that portion of the public alley that is adjacent to Dunlawton Boulevard as part of the site's redevelopment; and (d) provide economic incentives to the applicant.

FISCAL IMPACT STATEMENT:

The development of this gateway property has the potential to spur on more development and enhance the economic stature of the City. The City has developed and is in the course of implementing an innovative and aggressive economic development program and this development should further that effort.

BACKGROUND:

OVERVIEW

On August 5, 2019 owner/applicant 109 Shores, LLC submitted development agreement application DA12019025, which is a proposed land use contract between the property owner and the City. The agreement would facilitate the redevelopment of the commercial property located at 109 Dunlawton Boulevard, which has been unoccupied by a business since 2004. Section Four (6) of the agreement outlines five (5) deviations from the Daytona Beach Shores Land Development Code (LDC) development standards while Section Four (4) lists the public benefits provided to the community at large. The City's contribution is listed in Section Four (8) of the agreement.

AUTHORIZATION OF DEVELOPMENT AGREEMENT

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

DEVELOPMENT AGREEMENT CONTENT REQUIREMENTS

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

DEVELOPMENT AGREEMENT NOTICE REQUIREMENTS

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

PLANNING ANALYSIS

To be provided under separate cover.

LEGAL REVIEW:

The City Attorney has reviewed the above provisions of this agenda item prepared by City staff and the attached development agreement and exhibit and has prepared the attached ordinance which enacts the development agreement as a legislative act. The City Attorney has reviewed the proposed development agreement and finds it legally sufficient and in accordance with the provisions of controlling law.

The notice provisions of the *City Code* implement the statutory provisions providing for statutory development agreements such as the one proposed.

For the purposes of evaluating conflicts of interests, etc., it should be noted that Brendan R. Galbreath and Shannon M. Galbreath are the members of Shores 109, LLC.

Although this approval process is configured as a legislative approval, the City Attorney recommend that any *ex parte* communications which may have occurred be disclosed.

Implementation of the development agreement, post the approval process, will be essential in order to protect the interests of the City.

RECOMMENDATION:

Staff recommends **approval** of Development Agreement DA12019025 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follow:

1. "I move to approve Development Agreement DA12019025 as presented;"

OR

2. "I move to approve Development Agreement DA12019025 with the following conditions..."

OR

3. "I move to deny Development Agreement DA12019025 on the basis of..."

- ATTACHMENT:**
1. Shores 109 LLC DA Ordinance-LNG-9-1-19
 2. 109 Dunlawton Development Agreement 8-30-19-SC
 3. 109 Dunlawton Development Agreement Exhibits-PZ

ORDINANCE 2019-XX

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA RELATING TO APPROVAL OF A DEVELOPMENT AGREEMENT PERTAINING TO PROPERTY OWNED BY SHORES 109, LLC IN ACCORDANCE WITH THE PROVISIONS OF THE “FLORIDA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT” AS SET FORTH AT SECTIONS 163.3220 - 163.3243, *FLORIDA STATUTES*; ; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS, PROVIDING FOR A SAVINGS PROVISION AND THE EFFECT OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER’S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Shores 109, LLC and the City of Daytona Beach Shores has considered and processed and the City Council of the City of Daytona Beach Shores hereby approves and enacts the Development Agreement, as set forth in the Exhibit to this Ordinance (which Exhibit is incorporated herein by this reference thereto as if fully set forth herein verbatim), all of said actions occurring pursuant to the *Florida Local Government Development Agreement Act* as set forth at Sections 163.3220 through 163.3243, *Florida Statutes*; and

WHEREAS, Brendan R. Galbreath and Shannon M. Galbreath are the members of Shores 109, LLC; 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*.

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

SECTION ONE: LEGISLATIVE FINDINGS AND INTENT.

(a). The City Council of the City of Daytona Beach Shores hereby adopts and incorporates into this Ordinance the City staff report and City Council agenda memorandum relating to the application relating to the proposed land use approvals and authorization of zoning entitlements pertaining to the property referenced in the Development Agreement as well as the recitals (whereas clauses) to this Ordinance.

(b). The findings of the provisions of the subject Development Agreement between the City of Daytona Beach Shores and Shores 109, LLC are hereby adopted, ratified and affirmed.

SECTION TWO: APPROVAL AND ENACTMENT OF DEVELOPMENT AGREEMENT.

The Development Agreement between the City of Daytona Beach Shores and Shores 109, LLC, as set forth in the Exhibit to this Ordinance is hereby approved and enacted. The said Exhibit attached to this Ordinance is hereby ratified and affirmed and incorporated into this Ordinance as a substantive part of this Ordinance

SECTION THREE: SAVINGS; EFFECT OF ORDINANCE.

The prior actions of the City of Daytona Beach Shores relating to the regulation of lands and development activities within the City including, but not limited to, the property which is the subject of the Development Agreement between the City of Daytona Beach Shores and Shores 109, LLC, Inc. as set forth in the Exhibit to this Ordinance, and involving the subject property, are hereby ratified and affirmed.

SECTION FOUR: CODIFICATION AND IMPLEMENTATION; SCRIVENER'S ERRORS.

- (a). The provisions of this Ordinance shall be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida*.
- (b). The City Manager, or designee(s), is hereby authorized to take any and all actions necessary to implement the provisions of this Ordinance.
- (c). The City Attorney shall assist the City Manager in the implementation of this Ordinance as may be necessary and required.
- (d). The sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.
- (e). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

SECTION FIVE: CONFLICTS.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

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 J. MILLER, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this ___ day of _____, 2019.

Enacted on second reading this ___ day of _____, 2019.

DEVELOPER SIGNATURE BLOCK FOLLOWS:

PLENARY CONCURRENCE OF DEVELOPER

The undersigned developer concurs in each and every respect to the provisions of the subject amendment to the subject Development Agreement and the provisions of this Ordinance.

SHORES 109, LLC, a Florida limited liability company.

Brendan R. Galbreath
Date: _____, 2019

Shannon M. Galbreath
Date: _____, 2019

WITNESSES:

Signature of Witness

Printed Name of Witness

Signature of Witness

Printed Name of Witness

STATE OF FLORIDA)

COUNTY OF VOLUSIA)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Brendan R. Galbreath and Shannon M. Galbreath, and they acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily and they are personally known to me or provided _____ as identification.

Witness my hand and official seal in the County and State last aforesaid this ____ day of _____, 2019.

(Affix Notary Seal)

Notary Public; State of Florida
Print Name: _____

This Instrument Prepared By:

Brendan Galbreath
109 Shores LLC
4190 Halifax Drive
Port Orange, Florida 32127

Return To:

Ms. Cheri Schwab
City Clerk
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32118
Tax Parcel Identification Number: 533503070260

**SHORES 109 LLC/CITY OF DAYTONA BEACH SHORES
DEVELOPMENT AGREEMENT PERTAINING TO RE-DEVELOPMENT OF 109
DUNLAWTON AVENUE PROPERTY**

THIS DEVELOPMENT AGREEMENT is made and entered into on the Effective Date described below, between 109 Shores LLC, a Florida Limited Liability Company, registered and authorized to conduct business in the State of Florida, whose address is 4190 Halifax Dr., Port Orange, Florida 32127, the legal and equitable owner, hereinafter referred to as the “PROPERTY OWNER”, and the City of Daytona Beach Shores, Florida, a municipal corporation of the State of Florida, (the “PROPERTY OWNER”), holding tax exempt status, whose mailing address is 2990 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, hereinafter referred to as “CITY”.

W I T N E S S E T H:

WHEREAS, the PROPERTY OWNER is the owner of real property located at 109 Dunlawton Avenue in Daytona Beach Shores (Exhibit “A”) (referred to from time to time as the “premises” in this Development Agreement and which is the subject of the conceptual site plan referenced herein and attached as Exhibit “B” to this Development Agreement); and

WHEREAS, the PROPERTY OWNER and the CITY have a great interest in developing and re-developing an active and vibrant commercial business on the premises and to benefit the economy and well-being of the CITY as a general matter; and

WHEREAS, the CITY desires to provide economic and other benefits to the citizens and visitors of the CITY in order that they may enjoy a high quality of life with convenient services; and

WHEREAS, Section 163.3202, Florida Statutes, provides that the CITY 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, pursuant to the Florida Local Government Development Agreement Act as set forth at Sections 163.3220 through 163.3243, *Florida Statutes*, local governments are authorized to adopt, by ordinance, procedures and requirements whereby a local government may consider and enter into a development agreement with any person having a legal or equitable interest in real property located within the local government's jurisdiction and the CITY enacted Ordinance 2013-10 (now codified at Chapter 15, Appendix "G", Land Development Code, Code of Ordinances of the City of Daytona Beach Shores) to implement the provisions of the referenced statutory provisions; and

WHEREAS, the lack of certainty in the approval of development can result in a waste of economic and land resources; discourage sound capital improvement planning and financing; escalate the cost of housing and development; and discourage commitment to comprehensive planning and the CITY and the PROPERTY OWNER desire to engage in sound and long range planning with regard to the premises in a manner that protects the investment backed expectations and rights of the PROPERTY OWNER while providing for an array of benefits to the citizens of the CITY; and

WHEREAS, development agreements entered into pursuant to the Florida Local Government Development Agreement Act, strengthen the public planning process, encourage sound capital improvement, planning and financing; assist in assuring that there are adequate capital facilities to support development; encourage private participation in comprehensive planning; and reduce the economic cost of a development by providing assurances to a developer that, upon receipt of a development permit, the developer may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement; and

WHEREAS, development agreements are contracts negotiated between project proponents and public agencies that govern the land uses that may be allowed in a particular project and, although subject to negotiation, allowable land uses must be consistent with the local planning policies formulated by the legislative body (the CITY's City Council) through its Comprehensive Plan, and consistent with any applicable specific plan; and

WHEREAS, neither the PROPERTY OWNER nor the CITY, as the local government with land use regulatory authority over lands located within the CITY, is required to enter into a development agreement and, when entered, the allowable land uses and other terms and conditions of approval are negotiated between the parties, subject to the CITY's ultimate approval, but while a development agreement must advance the CITY's local planning policies, it may also contain provisions that vary from otherwise applicable zoning standards and land use requirements; and

WHEREAS, development agreements are, essentially, a planning tool that

allows public agencies greater latitude to advance local planning policies, sometimes in new and creative ways and, as such, development agreements may be viewed as an alternative to the traditional development approval process which, in practice, it is commonly used in conjunction with; and

WHEREAS, the City Council of the CITY finds it is in the best interest and welfare of the citizens of the CITY to approve this Development Agreement with the terms and conditions set forth herein; and

WHEREAS, the City Council of the CITY has determined that the terms and conditions of this Development Agreement are in the best interests of the public health, safety and welfare of the citizens of the CITY and provide for specific public benefits; and

WHEREAS, the City Council of the CITY hereby finds and concludes that the provisions of this Development Agreement are consistent with the CITY's Comprehensive Plan and will result in the provision of enhanced economic development within the CITY and is consistent with the general purpose and intent of the land development regulations of the CITY and no amendments are required to the CITY's Comprehensive Plan or land development regulations in order to approve the development set forth in this Development Agreement; and

WHEREAS, the PROPERTY OWNER and the CITY have complied with all requirements and procedures of Florida law in processing and advertising this Development Agreement; and

WHEREAS, this Development Agreement is consistent with the goals, objectives and policies of the Comprehensive Plan of the City Daytona Beach Shores.

NOW, THEREFORE, in consideration of the foregoing, and the premises and the promises, covenants and agreements herein contained, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties the PROPERTY OWNER and CITY agree as follows:

SECTION 1. RECITALS/FINDINGS.

(a). The recitals, set forth above, are true and correct and form a material part of this Development Agreement upon which the parties have relied.

(b). The findings, set forth above, are, and constitute, the legislative, administrative and quasi-judicial findings of the City Council of the CITY and form a material part of this Development Agreement upon which the parties have relied.

SECTION 2. PREMISES.

(a). The PROPERTY OWNER hereby designates, and the CITY hereby accepts, the following described tract of real property as the legal description for the premises for the purposes of this Development Agreement:

(LEGAL DESCRIPTION) – See attached Exhibit “A”.

(b). The legal entity having legal or equitable ownership of the premises is the PROPERTY OWNER.

SECTION 3. SITE PLAN FOR DEVELOPMENT.

The attached conceptual site plan for development of the premises (Exhibit “B”) is hereby approved by the terms and conditions of this Development Agreement.

SECTION 4. TERMS AND CONDITIONS RELATIVE TO THE PREMISES.

In addition to all other covenants, obligations, duties and responsibilities set forth herein, the PROPERTY OWNER is approved for the following development on the premises:

(1). The development uses, including off-street parking, driveways and landscaping, as set forth on the conceptual site plan approved in Section 3 and attached as Exhibit “B”.

(2). The development uses, including off-street parking, driveways and landscaping, as set forth on the conceptual site plan attached as Exhibit “B” and approved in Section 3 comply with criteria for development approved in this Development Agreement and the applicable provisions cited in the land development regulations of the CITY applicable to the development project on the premises.

(3). The public facilities that will service the development of the premises shall continue as the premises are currently served. All necessary public facilities shall be available concurrent with the impacts of the development.

(4). The public purposes and benefits that are derived and provided by the development of the premises as set forth in this Development Agreement include the following:

(a) The PROPERTY OWNER shall grant a permanent utility and access easement to the CITY for that portion of the premises where the existing CITY pump station currently sits for the benefit of the CITY and its citizens as depicted on Exhibit “C” attached and approved in Section 3.

(b) The PROPERTY OWNER shall grant a permanent cross access and a grant of easement to the CITY for the provision of public access to adjoining rights-of-way through the premises for the benefit of the CITY and its citizens as depicted on Exhibit "C" attached and approved in Section 3 above.

(c). The PROPERTY OWNER's plan of development provides a significant amount of additional green area for the benefit of the CITY and its citizens as depicted in Exhibit "D".

(d). The PROPERTY OWNER shall incorporate Commemorative Signage on the premises, at a location and of a type, style and nature set forth in the sign plan attached as Exhibit "E" to this Development Agreement, identifying the CITY and its established/incorporated date for the benefit of the CITY and its citizens. This portion of signage located on the premises shall not count towards the allowable square footage of signage allowed for the premises by city code.

(e) The PROPERTY OWNER shall provide architectural enhancements to the building located on the premises for the benefit of the CITY and its citizens as depicted on Exhibit "E" attached and approved in Section 3.

(f) The development of the premises as set forth in this Development Agreement provides for an additional commercial opportunity for the benefit of CITY and its citizens by creating a new destination for dining and entertainment within the CITY, which will further enhance the economic and tourism development of the CITY.

(g) The development of the premises as set forth in this Development Agreement provides for and encourages the redevelopment and beautification of an abandoned, outmoded and unsightly commercial property at the CITY's Dunlawton Boulevard gateway for the benefit of the CITY and its citizens.

(h) All easements to be granted pursuant to this Section shall be in a form approved by the City Attorney.

(5). All development permits normatively needed to be approved for the development of the premises shall be subject to the review and approval processes during the course of the development of the premises; provided, however, that, it is noted that no Comprehensive Plan amendments or changes in land use designations or changes in zoning classifications/districts assigned to property are necessitated by the development approved for the premises nor any required submissions to or approvals from Volusia County; the State of Florida, Departments of Economic Opportunity, Environmental Protection, Transportation, or such other department or agency of the State as may be applicable; the United States Army Corps of Engineers; the St. Johns River Water Management District; the United States Environmental Protection Agency or any other federal

departments or agencies with competent jurisdiction over any aspect of the approved development, but such requirements are not precluded by this Development Agreement.

(6). The following deviations have been granted by the CITY with regard to the provisions of the CITY's land development regulations:

(a). The PROPERTY OWNER shall be permitted to have up to forty (40) dining seats in an outdoor dining patio area as depicted in Exhibit "B" and Exhibit "F".

(b). The PROPERTY OWNER shall be permitted to exceed the allowable square footage for signage by the exact amount of square feet of the Commemorative Signage on the premises.

(c). The PROPERTY OWNER shall not be required to provide landscape buffers on the site and terminal landscape island adjacent to vehicular use areas as depicted in Exhibit "B".

(d). The PROPERTY OWNER shall not be required to provide the minimum fifteen (15) feet wide and fifteen (15) foot turning radius in back up areas as depicted in Exhibit "B".

(e). The PROPERTY OWNER shall be permitted to have a two (2) foot front yard setback for the construction of an outdoor dining patio as depicted in Exhibit "B".

(7). The failure of this Development Agreement to address a particular permit, condition, term or restriction shall not relieve the PROPERTY OWNER of the necessity of complying with the laws governing said permitting requirements, conditions, terms or restrictions.

(8). The following items will be the CITY's participation for the Development Agreement:

(a). The CITY shall enter into a right-of-way use agreement with the PROPERTY OWNER as approved by the City Attorney, to permit the desired mix of private and public use within the adjoining alleyways as depicted in Exhibit "B" attached and approved in Section 3.

(b). The CITY shall not assess against the Developer CITY impact fees and shall waive site plan and development agreement fees.

(c). The CITY shall provide to the PROPERTY OWNER a 10% reimbursement of \$37,500 for the purchase of the subject property at the issuance of a building permit and a \$20,000 reimbursement for facade improvements at the

issuance of a certificate of occupancy for a total reimbursement amount of \$57,500. Additionally, the CITY shall provide a three (3) year lease subsidy, per the CITY's 30%/20%/10% lease subsidy program, to the tenant that the PROPERTY OWNER enters into a lease with upon completion of construction for a lease rate of up to \$4,500 per month.

SECTION 5. REASONABLE APPROVAL.

In those instances in this Development Agreement in which a party's approval, consent or satisfaction is required, then it shall be implied that such action shall be exercised in a reasonable manner and within a reasonable time frame.

SECTION 6. REMEDIES.

Each party shall have any and all remedies as permitted by law; provided, however, that the parties agree to provide for positive dialogue and communications if disputes or disagreements arise as to the interpretation or implementation of this Development Agreement.

SECTION 7. TIME IS OF THE ESSENCE.

Time is of the essence of the lawful performance of the duties and obligations contained in this Development Agreement. The parties covenant and agree that they shall diligently and expeditiously pursue their respective obligations set forth in this Development Agreement.

SECTION 8. HEADINGS/CAPTIONS.

All sections and descriptive headings in this Development Agreement are inserted for convenience only, and shall not affect the construction or interpretation hereof.

SECTION 9. FORCE MAJEURE.

No party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by Force Majeure. Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, terrorism, hurricane, explosion, any law, proclamation, regulation, or ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Section is beyond the control and without the fault or negligence of the party seeking relief under this Section.

SECTION 10 DEVELOPMENT AGREEMENT BINDING; RUNS WITH THE LAND.

(a). This Development Agreement shall be binding upon and inure to the benefit and burden of the successors in interest, transferees and assigns of the parties. Each party hereto represents to the other that it has undertaken all necessary actions to execute this Development Agreement, and that it has the legal authority to enter into this Development Agreement and to undertake all obligations imposed on it. The signatories hereof represent that they have the requisite and legal authority to execute this Development Agreement and bind the respective parties herein.

(b). This Development Agreement touches and concerns the premises and shall run with the land and shall be binding upon and inure to the benefit and burden of the parties hereto and their respective successors and assigns.

SECTION 11. EXHIBITS.

All exhibits to this Development Agreement are hereby incorporated into this Development Agreement by this reference thereto.

SECTION 12. PUBLIC RECORDS.

(a). The PROPERTY OWNER shall allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, Florida Statutes, and other controlling law and which have been made or received by the PROPERTY OWNER in conjunction with this Development Agreement and shall adhere to the controlling provisions of State law relating to public records.

(b). **IF THE PROPERTY OWNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE PROPERTY OWNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS; CHERI SCHWAB, CITY CLERK, (386) 763-5353, CSCHWAB@CITYOFDBS.ORG, 2990 SOUTH ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118.**

SECTION 13. EQUAL OPPORTUNITY.

The PROPERTY OWNER agrees that it will not discriminate against any employee or applicant for employment for work relating to the services provided under this Development Agreement because of race, color, religion, sex, age, national origin or disability and will take affirmative steps to ensure that applicants

are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demoting or transfer; recruitment advertising; layoff or termination; rates of pay or their forms of compensation; and selection for training, including apprenticeship.

SECTION 14. CONFLICT OF INTEREST.

The PROPERTY OWNER agrees that it will not commit any act that would cause or create a conflict of interest as defined by Chapter 112, Florida Statutes, to exist or occur in the performance of its obligations pursuant to this Development Agreement with the CITY.

SECTION 15. COMPLIANCE WITH LAWS AND REGULATIONS.

In performing pursuant to this Development Agreement, the PROPERTY OWNER shall abide by all statutes, ordinances, rules, and regulations pertaining to, regulating the acts contemplated to be performed herein, including those now in effect and hereafter adopted. This provision shall include, but not be limited to, the provisions of the CITY's land development regulations and the codes and ordinances of the CITY. Any violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this Development Agreement.

SECTION 16. NOTICES.

(a). Whenever either party desires to give notice unto the other, notice may be sent to:

For the CITY:

Mr. Mike Booker
City Manager
City of Daytona Beach Shores
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32771

For the PROPERTY OWNER:

Brendan Galbreath
109 Shores LLC
4190 Halifax Drive
Port Orange, Florida 32127

(b). Either party may change the address for notification by providing notice of such change to the other party.

SECTION 17. INTERPRETATION; APPLICABLE LAW; VENUE.

The laws of the State of Florida shall govern this Development Agreement. Any legal action necessary arising out of the Development Agreement will have its venue in Volusia County and the Development Agreement will be interpreted according to the laws of Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other further exercise thereof. Waiver of a default shall not be deemed a waiver of any subsequent defaults. In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees and court costs. The specific provisions of this Development Agreement shall prevail over the generality of the foregoing. In any action or proceeding required to enforce or interpret the terms of this Development Agreement, venue shall be in the Seventh Judicial Circuit Court in and for Volusia County, Florida.

SECTION 18. CONSTRUCTION OR INTERPRETATION OF THE DEVELOPMENT AGREEMENT.

This Development Agreement is the result of bona fide arms length negotiations between the parties and all parties have contributed substantially and materially to the preparation of the Development Agreement. Accordingly, this Development Agreement shall not be construed or interpreted more strictly against either party than against any other party both parties having participated in the drafting of this Development Agreement. Whenever a decision is provided for herein which is to be made by the CITY, such decision must be in writing in order to be binding upon the CITY.

SECTION 19. ENTIRE DEVELOPMENT AGREEMENT/MODIFICATION.

(a). This Development Agreement constitutes the complete, integrated and entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements, arrangements, contracts or understandings, whether oral or written, between the parties relating thereto, all of which have been integrated herein. This Development Agreement may not be amended, changed, or modified and material provisions hereunder may not be waived, except by a written document, of equal dignity herewith and signed by all parties to this Development Agreement.

(b). If the City Council of the CITY finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of this Development Agreement, this Development Agreement may be revoked or modified by the City Council upon affording the PROPERTY OWNER administrative due process rights in accordance with controlling law.

(c). A substantial modification of this Development Agreement shall, in the CITY's sole discretion, require approval by the City Council in accordance with the procedures set forth in Chapter 15, Appendix "G", Land Development Code, Code of Ordinances of the City of Daytona Beach Shores. This Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest; provided, however, that a substantial modification of this Development Agreement shall, in the CITY's sole discretion, require approval by the City Council in accordance with the procedures set forth in Chapter 15, Appendix "G", Land Development Code, Code of Ordinances of the City of Daytona Beach Shores.

(d). If State or Federal laws are enacted after the execution of this Development Agreement, which are applicable to and preclude the parties' compliance with the terms of this Development Agreement, this Development Agreement shall be modified or revoked as is necessary to comply with the relevant State or Federal laws.

SECTION 20. THIRD PARTY BENEFICIARIES/TRANSFERABILITY.

(a). The CITY shall not be liable to any person, firm or corporation who contracts with or provides goods or services to the PROPERTY OWNER in connection with services provided by the PROPERTY OWNER to the CITY; and there is no contractual relationship, either expressed or implied, between the CITY and any other person, firm, or corporation supplying any work, labor, services, goods or materials to the PROPERTY OWNER as a result of its services to the CITY hereunder. This Development Agreement is solely for the benefit of the formal parties to this Development Agreement, and no right or cause of action shall accrue by reason hereof to or for the benefit of any other third party not a formal party hereto. Nothing in this Development Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Development Agreement or any provisions or conditions hereof, other than the parties hereto and their respective representatives, successors and assigns as set forth herein.

(b). This Development Agreement is transferable. However, so long as the land or structure or any portion thereof covered under the development agreement continues to be used for the purposes for which it was issued, then no person (including successors and assigns of the person(s) or entity(ies) who obtained the development agreement) may make use of the land except in accordance with the conditions and requirements of this Development Agreement. The provisions of this Development Agreement run with and burden the real property to which it relates until release or amended in accordance with formal action of the CITY.

SECTION 21. ATTORNEYS FEES AND COSTS.

In the event of any action to enforce the terms of this Development Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, paralegals' fees, and costs incurred, whether the same be incurred in pre-litigation negotiation, litigation at the trial level, or upon appeal.

SECTION 22. SEVERABILITY.

If any one or more of the covenants or provisions of this Development Agreement shall be held to be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall, for any reason whatsoever, be held invalid, then such covenants or provisions shall be null and void, shall be deemed separable from the remaining covenants or provisions of this Development Agreement, and shall, in no way, affect the validity of the remaining covenants or provisions of this Development Agreement.

SECTION 23. EFFECTIVE DATE/TERMINATION; PERIODIC REVIEW OF DEVELOPMENT AGREEMENT.

(a). This Development Agreement shall take effect on the date that this Development Agreement is fully executed by the parties and is recorded in the Official Records (Land Records) of Volusia County, Florida.

(b). This Development Agreement shall be in effect for a period of five (5) years, but may be extended by mutual consent of the CITY and the PROPERTY OWNER. Any request for an extension shall be subject to the public hearing process necessary for the initial approval of said Development Agreement; provided, however, that the CITY has concluded that the vested rights of the PROPERTY OWNER and the investment backed expectations of the PROPERTY OWNER warrant a renewal and continuation of the development approved for the premises herein.

(c). Prior to the completion of the project and at the issuance of a certificate of occupancy by the CITY, the CITY shall review this Development Agreement as well as at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the Development Agreement.

SECTION 24. COUNTERPARTS.

This Development Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document. SIGNATURE PAGES

FOLLOW:

IN WITNESS WHEREOF, the parties have executed this Development Agreement on the date stated below their signature.

Attest:

CITY OF DAYTONA BEACH SHORES

Cheri Schwab, City Clerk

Nancy J. Miller, Mayor
Date: _____

Michael T. Booker, City Manager

Approved as to form and legality:

Lonnie Groot, City Attorney

ADDITIONAL SIGNATURE PAGE FOLLOWS:

Witnesses:

PROPERTY OWNER/SHORES 109 LLC

Printed Name

By: _____
Brendan Galbreath
Managing Member

Printed Name

Acknowledgment

State of Florida)

County of Volusia)

I Hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Brendan Galbreath, acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily and they are personally known to me or provided _____ as identification.

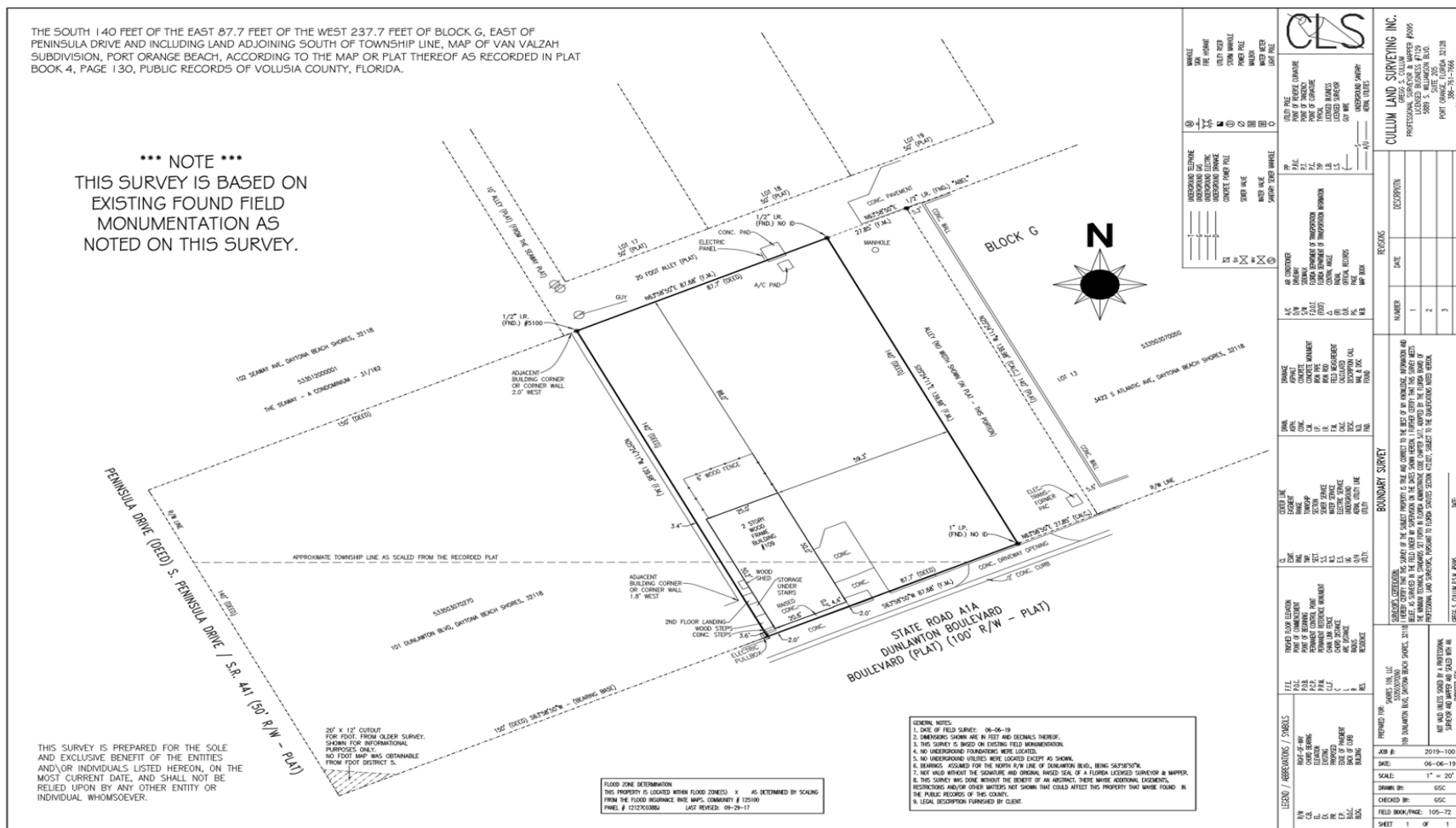
Witness my hand and official seal in the County and State last aforesaid this ____ day of _____, 2019.

(Affix Notary Seal)

Notary Public; State of Florida

Print name: _____

Exhibit "A"
LEGAL DESCRIPTION



THE SOUTH 140 FEET OF THE EAST 87.7 FEET OF THE WEST 237.7 FEET OF BLOCK G, EAST OF PENINSULA DRIVE AND INCLUDING LAND ADJOINING SOUTH OF TOWNSHIP LINE, MAP OF VAN VALZAH SUBDIVISION, PORT ORANGE BEACH, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 130, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

Exhibit "B"

CONCEPT SITE PLAN

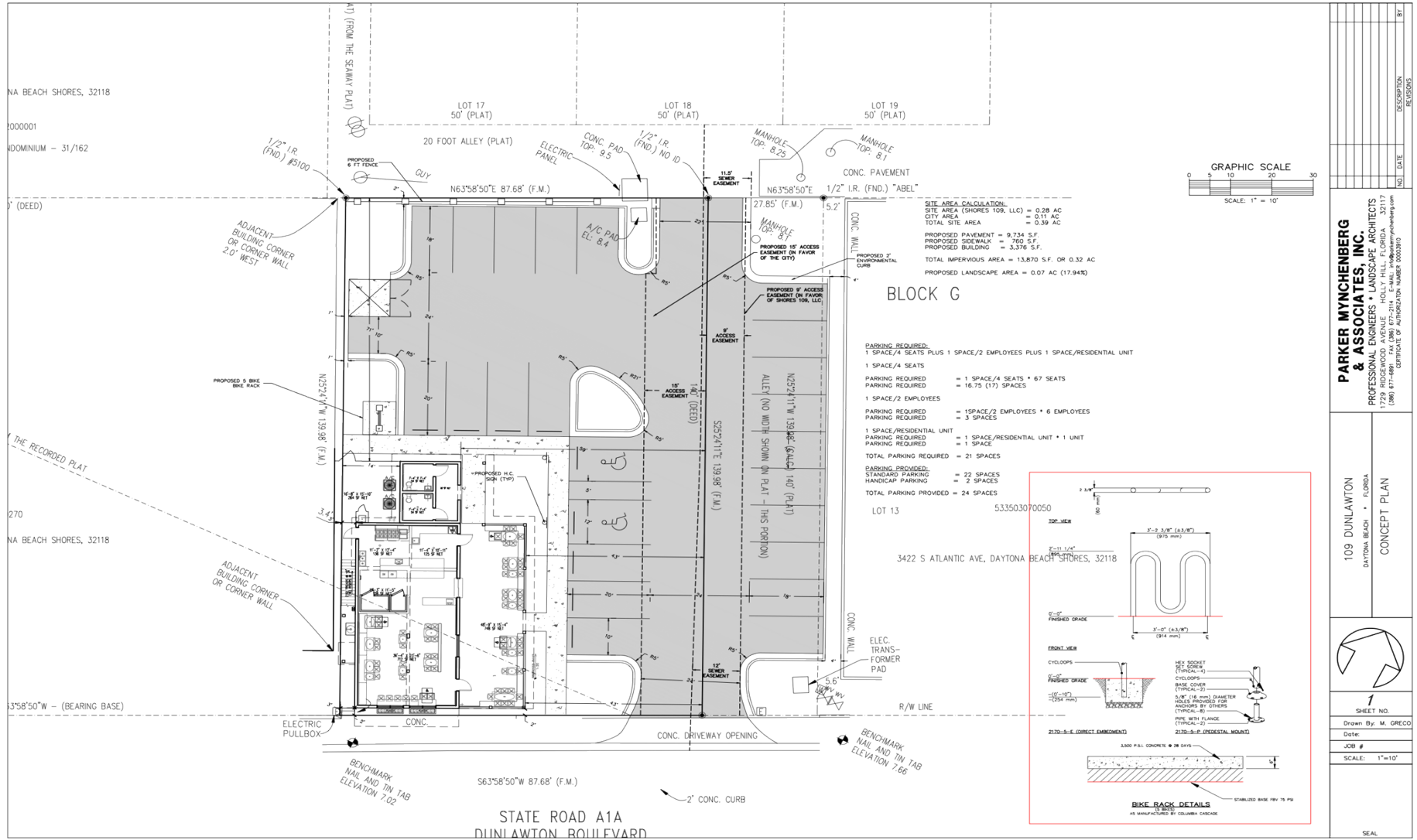


Exhibit "C"
EASEMENT AND ROW USE PLAN

To be provided under separate cover

Exhibit "D"

LANDSCAPE PLAN

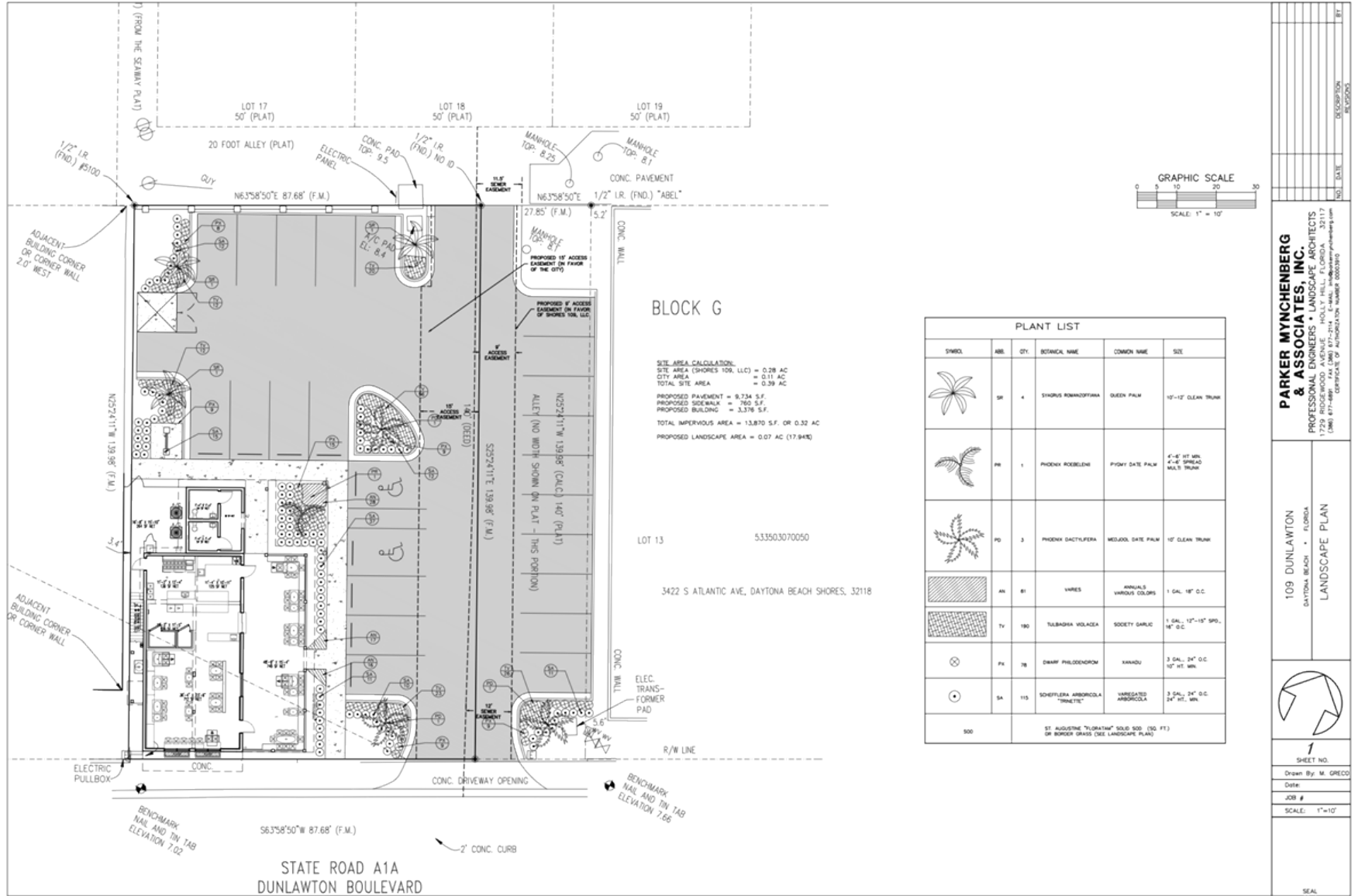
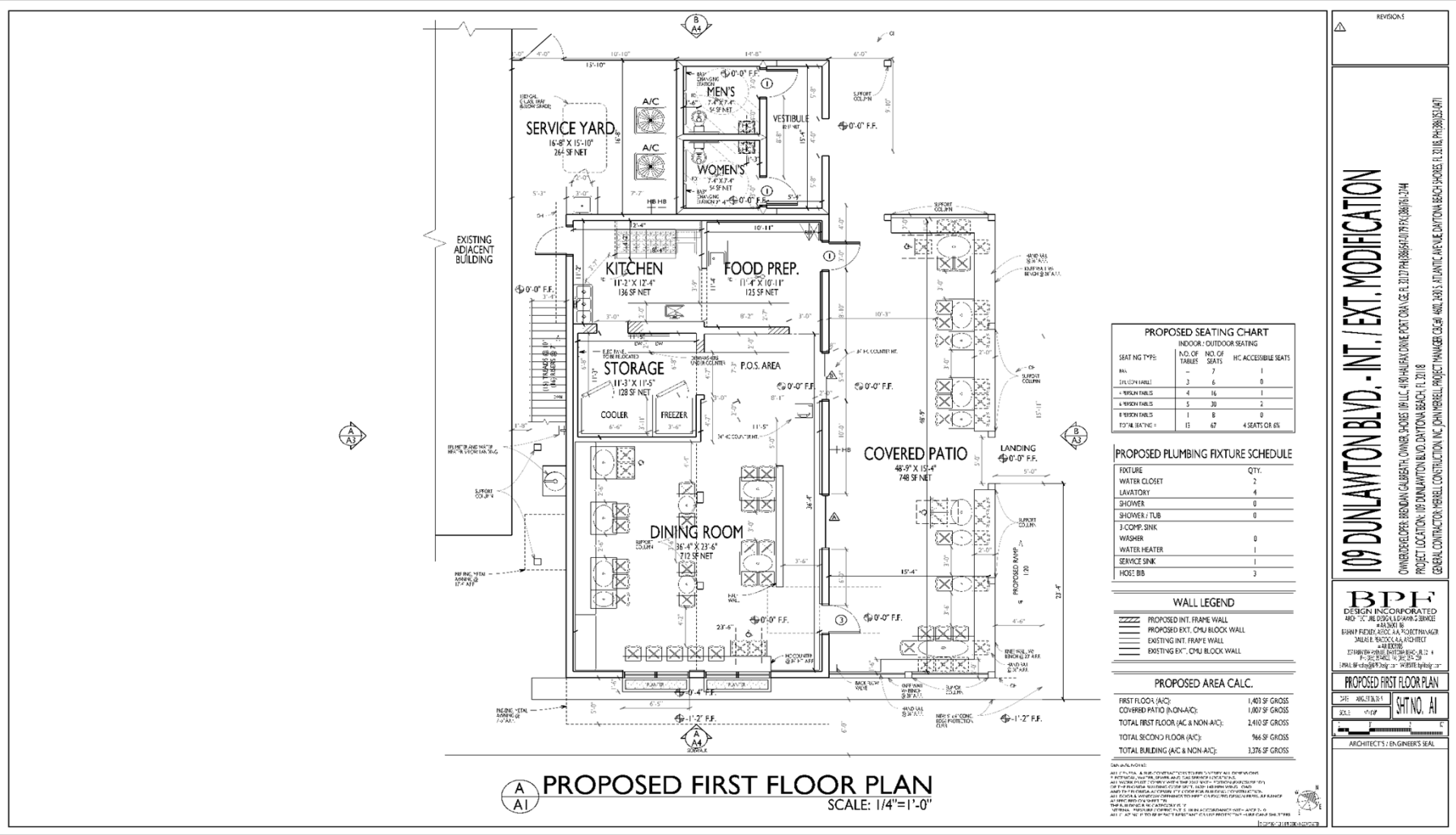


Exhibit "E"
COLOR RENDERING



Exhibit "F"
FLOOR PLAN





City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING SEPTEMBER 9, 2019

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

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

PLANNING & ZONING BOARD AGENDA MEMORANDUM SEPTEMBER 9, 2019 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, City Planner

PREPARED BY: Stewart Cruz, City Planner

SUBJECT: Comprehensive Plan Amendment CPA12019026: Amending the Future Land Use Element to establish a Transfer of Development Rights Program.

SYNOPSIS:

If approved, the proposed ordinance will amend the City's Comprehensive Plan Future Land Use Element to create a Transfer of Development Rights (TDR) program. The TDR amendment concept was borne out of the City's ad hoc Economic Development Team. The overall goal of the TDR program is to encourage and promote development and the efficient use of land within the City by enabling the transfer of unused and/or unwanted density from one parcel of property to another. Transfers shall be density neutral, therefore, the overall density within the City will not be increased as a result of this ordinance. In addition, the City's adequate public facilities requirement, including transportation, for all development, continues to exist. A subsequent Land Development Code amendment will be required to enact the Comprehensive Plan TDR objective and policies.

FISCAL IMPACT STATEMENT:

The Fiscal Year 2019/2020 budget has sufficient funds to implement all administrative and technical functions associated with the transmittal, adoption and implementation of this Ordinance.

BACKGROUND:

The Daytona Beach Shores ad hoc Economic Development Team's primary goal is to create opportunities for development and redevelopment in the City. Over the many weeks of research and consultation, the Team has developed several key initiatives to achieve the aforementioned goal. These initiatives include, but are not limited to, the development of Transfer of Development Rights (TDR), Alternative Tax Relief and Business Loyalty and Economic Development grant programs. Ordinance 2019-TDR, if approved, will create the framework for establishing a TDR program that would complement other programs aimed at attracting quality businesses and development to serve City residents and visitors.

PROPOSAL/ANALYSIS:

Among other things, Ordinance 2019-TDR would amend the Daytona Beach Shores Comprehensive Plan (2030) Future Land Use Element by adding the objective and policies found in Exhibit A of the ordinance (attached). In summary, the amendment would achieve the following:

Require an amendment to the City's land development regulations to create a TDR program that, at a minimum would (Policy 1-1.7.1):

- a. Enable the transfer of density from one parcel of property to another parcel of property within City limits.
- b. Establish sending and receiving areas.
- c. Establish density transfer limits and a quantification methodology for the determination of vested density.
- d. Establish a process and the procedures for transferring density, including, but not limited to, the recordation of a deed of transfer in the official records of Volusia County, Florida.

The transfer of rights would be density neutral, meaning that the sum of the total density of both sending and receiving properties will remain the same before and after the density transfer has occurred (Policy 1-1.7.2). Therefore, the impact on Citywide public facilities, including transportation, will remain unchanged as no new entitlement is created. To ensure this however, the provision of adequate public facilities consistent with controlling law is also required (Policy 1-1.7.3)

PLANNING ANALYSIS:

See Attached.

LEGAL REVIEW:

The City's Economic Development Team is being spearheaded by Council Member Rick Frizalone as the City Council's Economic Development Liaison. Council Member Mel Lindauer is the Local Business Relations Liaison.

The City's current economic development incentives are as follows:

RECENT ECONOMIC INCENTIVES APPROVED BY THE DAYTONA BEACH SHORES CITY COUNCIL

A. LAND PURCHASE ECONOMIC DEVELOPMENT PROGRAM:

To encourage the renovation, development, redevelopment and productive use of lands and buildings within the City, the City Council may enter development agreements, which may relate to either City-owned property (an RFP is currently issued for a parcel) or non-City-owned real property and provide the purchaser of the land with a grant of up to a 10% of the purchase price to allow the purchaser to use the funds to assist in the development of the real property or in order to assist in the build out of the property in a high quality plan of development.

B. ECONOMIC DEVELOPMENT COMMERCIAL LEASE SUBSIDY PROGRAM:

This Program will provide a subsidy, under appropriate circumstances, to subsidize leases relating to new businesses within the City over a 3 year period of time in order to assist selected businesses to commence economic activity and remain a going concern. Leases may be subsidized up to 30% for the first year of the lease, up to 20% for the second year of the lease, and up to 10% for the third year of the lease. Existing businesses which desire to relocate to a larger space in the City which relocation will result in enhanced business operations or employment and businesses which extend a lease for a longer term of at least 3 years when the extension will result in enhanced business operations or employment shall also be eligible for the same benefits. The total amount of this incentive may not exceed \$20,000.00.

C. ALTERNATIVE GRANT PROGRAM:

In the event that an owner of real property has engaged in or entered a business relationship in a manner which the City determines is not conducive to a lease subsidy being granted by the City, the City may enter grant agreements with such applicants such as, by way of example, facade or beautification grant agreements; provided that the City is attaining substantially or more of the same economic and other benefits that are substantially the same or greater than that the City would enjoy under a lease subsidy award. Such grants may be awarded under conditions that address the unique nature of the business arrangement within which context the real property is held or the business operated. The total amount of the grant under an agreement may not exceed \$20,000.00.

D. BUSINESS LOYALTY PROGRAM:

The owner of an eligible business may receive a reimbursement of part of its certificate of use fee and a reduction in its local business tax for a period of time.

On September 9 the City Council will have second reading on an ordinance that provides for alternative tax relief by providing for potential agreements which provide for rebates of paid ad valorem taxes for property owners who develop their properties and increase the tax value of their properties (increase the City's tax base).

The proposed TDR program is a very good one which replicates the efforts of other local government jurisdictions as they implement sound land use planning and regulatory practices and principles. The proposed TDR programs relates to density (residential transfers) which is the norm, but the program could be expanded to intensity (commercial) which is not the norm.

RECOMMENDATION:

Staff recommends approval of the ordinance as proposed.

SUGGESTED MOTION:

A Planning and Zoning Board member may move as follows:

1. "I move to recommend approval of Ordinance 2019-TDR as presented."
- OR
2. "I move to recommend approval of Ordinance 2019-TDR with the following changes..." OR
3. "I move to recommend denial of Ordinance 2019-TDR on the basis of the following..."

- ATTACHMENT:**
1. ORD 2019-TDR-8-29-19-ADA
 2. Exhibit A-Proposed TDR CPA-8-29-2019
 3. PLANNING ANALYSIS Attachment

ORDINANCE NO: 2019-TDR

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY FLORIDA, RELATING TO COMPREHENSIVE PLANNING; AMENDING *THE CITY OF DAYTONA BEACH SHORES COMPREHENSIVE PLAN*, AMENDING CHAPTER 1, “FUTURE LAND USE ELEMENT”, PROVIDING FOR THE CREATION OF A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM; PROVIDING FOR A SAVINGS AND RATIFICATION PROVISION; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

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

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

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

WHEREAS, the City Council of the City of Daytona Beach Shores desires that the economy of the City of Daytona Beach Shores be one that is vibrant, creative, flexible, dynamic,

and modern as well as an economy that attracts and retains high quality businesses and economic generators to the City of Daytona Beach Shores; and

WHEREAS, Section 166.021(8), *Florida Statutes*, provides as follows:

“(8) (a) The Legislature finds and declares that this state faces increasing competition from other states and other countries for the location and retention of private enterprises within its borders. Furthermore, the Legislature finds that there is a need to enhance and expand economic activity in the municipalities of this state by attracting and retaining manufacturing development, business enterprise management, and other activities conducive to economic promotion, in order to provide a stronger, more balanced, and stable economy in the state, to enhance and preserve purchasing power and employment opportunities for the residents of this state, and to improve the welfare and competitive position of the state. The Legislature declares that it is necessary and in the public interest to facilitate the growth and creation of business enterprises in the municipalities of the state.

(b) The governing body of a municipality may expend public funds to attract and retain business enterprises, and the use of public funds toward the achievement of such economic development goals constitutes a public purpose. The provisions of this chapter which confer powers and duties on the governing body of a municipality, including any powers not specifically prohibited by law which can be exercised by the governing body of a municipality, shall be liberally construed in order to effectively carry out the purposes of this subsection.

(c) For the purposes of this subsection, it constitutes a public purpose to expend public funds for economic development activities, including, but not limited to, developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants, leasing or conveying real property, and making grants to private enterprises for the expansion of businesses existing in the community or the attraction of new businesses to the community.

(d) A contract between the governing body of a municipality or other entity engaged in economic development activities on behalf of the municipality and an economic development agency must require the agency or entity receiving municipal funds to submit a report to the governing body of the municipality detailing how the municipal funds are spent and detailing the results of the economic development agency’s or entity’s efforts on behalf of the municipality. By January 15, 2011, and annually thereafter, the municipality shall file a copy of the report with the Office of Economic and Demographic Research and post a copy of the report on the municipality’s website.

(e)1. By January 15, 2011, and annually thereafter, each municipality having annual revenues or expenditures greater than \$250,000 shall report to the Office of Economic and Demographic Research the economic development incentives in excess of \$25,000 given to any business during the municipality’s previous fiscal year. The Office of Economic and Demographic Research shall compile the information from the municipalities into a report and provide the report to the President of the Senate, the Speaker of the House of Representatives, and the Department of Economic Opportunity. Economic development incentives include:

a. Direct financial incentives of monetary assistance provided to a business from the municipality or through an organization authorized by the municipality. Such incentives include,

but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies.

b. Indirect incentives in the form of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investment or development.

c. Fee-based or tax-based incentives, including, but not limited to, credits, refunds, exemptions, and property tax abatement or assessment reductions.

d. Below-market rate leases or deeds for real property.

2. A municipality shall report its economic development incentives in the format specified by the Office of Economic and Demographic Research.

3. The Office of Economic and Demographic Research shall compile the economic development incentives provided by each municipality in a manner that shows the total of each class of economic development incentives provided by each municipality and all municipalities.

(f) This subsection does not limit the home rule powers granted by the State Constitution to municipalities.”

; and

WHEREAS, Section 187.201(21), *Florida Statutes*, (part of the *State Comprehensive Plan*) provides as follows:

“(21) **THE ECONOMY.**—

(a) Goal.—Florida shall promote an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income for its residents.

(b) Policies.—

1. Attract new job-producing industries, corporate headquarters, distribution and service centers, regional offices, and research and development facilities to provide quality employment for the residents of Florida.

2. Promote entrepreneurship and small and minority-owned business startup by providing technical and information resources, facilitating capital formation, and removing regulatory restraints which are unnecessary for the protection of consumers and society.

3. Maintain, as one of the state’s primary economic assets, the environment, including clean air and water, beaches, forests, historic landmarks, and agricultural and natural resources.

4. Strengthen Florida’s position in the world economy through attracting foreign investment and promoting international banking and trade.

5. Build on the state’s attractiveness to make it a leader in the visual and performing arts and in all phases of film, television, and recording production.

6. Promote economic development for Florida residents through partnerships among education, business, industry, agriculture, and the arts.

7. Provide increased opportunities for training Florida’s workforce to provide skilled employees for new and expanding business.

8. Promote economic self-sufficiency through training and educational programs which result in productive employment.

9. Promote cooperative employment arrangements between private employers and public sector employment efforts to provide productive, permanent employment opportunities for

public assistance recipients through provisions of education opportunities, tax incentives, and employment training.

10. Provide for nondiscriminatory employment opportunities.

11. Provide quality child day care for public assistance families and others who need it in order to work.

12. Encourage the development of a business climate that provides opportunities for the growth and expansion of existing state industries, particularly those industries which are compatible with Florida's environment.

13. Promote coordination among Florida's ports to increase their utilization.

14. Encourage the full utilization by businesses of the economic development enhancement programs implemented by the Legislature for the purpose of extensively involving private businesses in the development and expansion of permanent job opportunities, especially for the economically disadvantaged, through the utilization of enterprise zones, community development corporations, and other programs designed to enhance economic and employment opportunities."

; and

WHEREAS, the City Council of the City of Daytona Beach Shores has the desire to ensure that the City of Daytona Beach Shores and its environs are desirable for economic development of a positive nature for the benefit of the citizens of the City of Daytona Beach Shores; and

WHEREAS, numerous academic and other studies from one conducted by the World Bank to one conducted by the University of Florida show that transfer of development rights programs provide an array of public benefits and economic opportunities; and

WHEREAS, the City Council of the City of Daytona Beach Shores has concluded that a positive means and method to economically develop the City of Daytona Beach Shores in the aforescribed effective and beneficial manner would be to implement a system whereby development rights associated with parcels may be transferred to other parcels in order to enhance the developability of parcels or make better uses available for parcels all such actions being in the public interest and for the general welfare of the City and its citizens; and

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

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

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

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

SECTION ONE: CHANGE IN TEXT OF FUTURE LAND USE ELEMENT. The text of Chapter 1, “Future Land Use Element,” of the *City of Daytona Beach Shores Comprehensive Plan* is hereby amended to create a Transfer of Development Rights Program as depicted in Exhibit “A”.

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

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

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

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

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

SECTION SEVEN: EFFECTIVE DATE. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the State Land Planning Agency (the Florida Department of Economic Opportunity) notifies the local government that the plan

CITY OF DAYTONA BEACH SHORES, FLORIDA

ATTEST:

Cheri Schwab, City Clerk

Adopted on second reading this day of , 2019.

EXHIBIT A

CHAPTER 1: FUTURE LAND USE ELEMENT

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

Objective 1-1.1: Future growth will be managed through the preparation, adoption and implementation of land development regulations that are compatible with this Element and coordinated with the availability of public facilities and services. The City shall discourage urban sprawl through the designation of appropriate densities (see Policy 2 under this Objective) that will retain the compact development already in place and other land use strategies, such as transfer of development rights and associated regulatory provisions. All future development in the City shall maintain at least a 50-foot setback from the Coastal Construction Control Line (CCCL). With this requirement, as well as adherence to controlling provisions of Federal and State law, such as the regulations of the Florida Department of Environmental Protection, new development shall be protected from any storm surge that occurs as a result of tropical storms. This objective shall be measured through the implementation of the following policies.

Policy 1-1.1.1 The City shall enact and enforce land development regulations that, at a minimum:

- a. Regulate the quality of new development through appropriate site plan review and other land use criteria;
- b. Provide for recreational lands and facilities to meet the Level of Service standards contained in the Recreation and Open Space Element of this Comprehensive Plan;
- c. Provide for adequate off-street parking and loading facilities;
- d. Provide that all new development with regard to on-site drainage and stormwater management facilities meet the minimum standards set forth in the Stormwater Management Sub-Element of this Comprehensive Plan;
- e. Regulate signage;
- f. Provide that building permits shall not be issued that result in the reduction of service levels below the standards set forth in this Comprehensive Plan;
- g. Require that all new development maintain a minimum setback of 50 feet from the Coastal Construction Control Line (CCCL), and require, through inclusion in the City's land development regulations, that all new development take into account the potential for storm surges from the ocean;
- h. Require that, prior to the issuance of a development order or building permit, written assurances shall be obtained from any municipal or County agency providing infrastructure or services, that available capacity exists to support the proposed development at the adopted Level of Service standard for the relevant facility or service to be provided.
- i. Regulate erosion control and beach and dune stabilization; ~~and~~
- j. Require the preservation of any significant on-site historical, cultural or archaeological features meeting the National Register Eligibility Criteria; and
- k. Encourage the use of innovative planning tools which include provisions such as transfer of development rights, planned unit development to preserve the natural environment and encourage and promote economic development and efficient use of land.

Standard/Measure: Enact and enforce land development regulations.

Time Frame: Continuous

Policy 1-1.1.2: Enact and enforce land development regulations consistent with the following density standards:

1. Residential

- a. Low Intensity: up to 4 units per gross acre
- b. Low Density: up to 12.0 units per gross acre
- c. Low Density-Riverside: between 12.1 and 15 units per gross acre. Properties shall be developed as a planned unit development (PUD) and meet the following criteria: (i) land shall abut the Halifax River, (ii) land shall have a minimum parcel size of three (3) acres, (iii) land must be served by public infrastructure including but not limited to potable water and wastewater lines, and (iv) land shall have direct access to a major thoroughfare as determined by the City.
- d. Medium Density: between 12.1 and 35.0 units per gross acre
- e. High Density: between 35.1 and 60 units per gross acre (site specific density to be controlled by land development regulations)

2. High Intensity Uses – Hotel, motel and timeshare developments shall have densities up to a maximum of 70 units per gross acre. Condominium, multi-family residential, and apartment developments shall have a maximum density of 60 units per gross acre (site specific density to be controlled by City’s land development regulations).

3. Commercial Facilities - Commercial intensities shall not exceed 35% lot coverage, a building height of 45 feet or a floor area ratio of 1.4.

4. Public Facilities – Public facilities shall be regulated by off-street parking requirements (approximately three off-street parking spaces shall be required for every 1,000 square feet of public facility use).

5. Recreational Facilities – Recreational facilities shall be provided in accordance with the Level of Service standards established within this Comprehensive Plan.

6. Building Height – Except for large lots, as defined in the City’s land development regulations, in PUDs (planned unit development), T (hotel/motel), and RMF-1 (multifamily residential-high density) districts, new buildings shall be limited to a height of 12 stories.

7. View Corridors – View corridors shall be preserved by limiting the north to south width of new buildings and the application of other appropriate land use planning practices and principles.

Standard/Measure: Ensure that adequate land development regulations are in effect to reasonably ensure public views while allowing reasonable development upon properties.

Time Frame: Continuous

Policy 1-1.1.3: ~~Maintain~~ Enact and enforce land development regulations consistent with the location and extent of land uses ~~as discussed within the this Element and indicated on the Future Land Use Map. To this end, the map that accompanies the new Land Development Regulations~~ land development regulations shall reflect the Future Land Use Plan Map 2030 2020, in terms of ensuring that zoning districts shall be consistent with the map. All new development and redevelopment activities shall be ~~required to be~~ consistent with the zoning district classifications and land use matrix to be established in the City’s Land Development Code.

Standard/Measure: Maintain and enforce land development code.
Time Frame: Continuous

Policy 1-1.1.4: The land development regulations shall maintain and enforce performance standards that address buffering and open space requirements, especially between condominium and hotel/motel developments.

Standard/Measure: Maintain and enforce land development code.
Time Frame: Continuous

Policy 1-1.1.5: (a) The City shall maintain at least the Level of Service standards prescribed in Policy 2-1.1.1 at all times on its roadway network throughout the City. This shall include Dunlawton Boulevard, including the bridge. The maintenance of this Level of Service standard is important to ensure that an efficient flow of traffic can be maintained on these primary roads in the event of a hurricane threat. (b) Maintain the clearance time of the population in the Hurricane Vulnerability Zone at sixteen (16) hours based on a level of service standard “D” during the time of a category 5-storm event as measured on the Saffir-Simpson scale. This policy is consistent with the stated objectives contained in the Coastal Management Element of the Volusia County Comprehensive Plan regarding hurricane evacuation and Section 163.3178 (9) (b), F.S. and based on the most current East Central Florida Regional Planning Council hurricane study.

Standard/Measure: Monitoring of annual traffic counts from the Florida Department of Transportation for S.R. A1A, including the Dunlawton Boulevard.
Time Frame: Continuous

Policy 1-1.1.6: Coordinate Hazard Mitigation Reports with Development and Redevelopment. Should Daytona Beach Shores be included in a Presidential Disaster Declaration, the City shall use the interagency hazard mitigation report as the basis for prohibiting redevelopment of uses which are inconsistent with the report recommendations. Additionally, the City shall use the interagency hazard mitigation report to prevent new uses which are inconsistent with the report recommendations from locating in the area included in the Presidential Disaster Declaration. Finally, should an interagency hazard mitigation report be issued for Daytona Beach Shores, the City shall consider adopting a program for eliminating existing uses which are inconsistent with the report recommendations.

Policy 1-1.1.7: Condo-Hotels and Timeshares. The City of Daytona Beach Shores shall have adopted land development regulations governing condo-hotels and timeshares. These regulations shall include minimum standards for both new construction and the conversion of existing units to either condo-hotels or timeshares.

Policy 1-1.1.8: ~~By December 31, 2012 the~~ The City of Daytona Beach Shores shall establish ~~maintain~~ criteria allowing and regulating assisted living facilities within the City, including but not limited to the following:

1. Assisted living facilities shall only be permitted in the medium and low density residential future land use classifications.
2. Facilities shall not be permitted on parcels with an area less than one (1) acre.

Objective 1-1.2: Future redevelopment activities shall take the form of replacing the outmoded and inefficient existing hotels and motels that were built in the 1950s and early 1960s. These uses are found primarily on the east side of S.R. A1A, north of Florida Shores Boulevard to the City limits at the north end, and south of Van Avenue to the south City limits ending at the Wilbur-by-the-Sea area. These redevelopment activities shall be consistent with the goals, objectives, and policies set forth in this Element. Additionally, no land development shall be permitted that is detrimental to the natural resources of the City. In this context, no land development order shall be issued that denigrates existing topographic or soil conditions. Additionally, prior to the issuances of any development order, written assurances shall be obtained from the appropriate municipal agency providing infrastructure that available capacity exists to properly support the proposed development activity at the adopted Level of Service standard for the relevant facility or service to be provided.

Policy 1-1.2-1: The Land Development Regulations will maintain and enforce provisions for mixed land use development that allows for office, residential, hotel, and commercial designations. The City shall encourage mixed use development along the westside of A1A with Daytona Beach Shores.

Standard/Measure: Maintain and enforce mixed use regulations in the LDC.
Time Frame: Continuous

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

Standard/Measure: Maintain and enforce this policy in the Land Development Code.
Time Frame: Continuous

Policy 1-1.2.3: The City shall continue to enforce regulations that require that any new development protects and enhances all natural resources.

Standard/Measure: Maintain and enforce this policy in the Land Development Code.
Time Frame: Continuous

Policy 1-1.2.4: ~~By December 31, 2010 the~~ The City of Daytona Beach Shores shall ~~establish~~ maintain guidelines for the drafting of land development regulations that will encourage land uses that contribute to the economic vitality of the ~~redevelopment area within the~~ City, including but not limited to the following:

1. Adverse land uses such as body art, spirituals, mediums and palm readers, shall be prohibited.
2. Mixed uses shall be permitted in the town center.
3. Incentives shall be provided for the development of LEED certified facilities.
4. Establish a transfer of development rights program.

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

Policy 1-1.3.1: The above-mentioned land shall be designated in the new land development code.

Standard/Measure: Maintain and enforce this policy in the Land Development Code.
Time Frame: Continuous

Policy 1-1.3.2: The City administration, working in coordination and cooperation with the Chamber of Commerce, or any other entity shall initiate a promotional campaign to effectively market this land to private developers.

Standard/Measure: Development of marketing program.
Time Frame: Continuous

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

Policy 1-1.4.1: The City shall maintain and enforce land development regulations, including minimum requirements for parking, landscaping, open space, buffering, and lot coverage, to ensure consistency between land uses.

Standard/Measure: Maintain and enforce this policy in the Land Development Code.
Time Frame: Continuous

Policy 1-1.4.2: Location of Public/Quasi-Public Land Uses. The City of Daytona Beach Shores shall allow public/quasi-public land uses within all land use categories shown on the Future Land Use Map consistent with the policies of this Element. Public and quasi-public land uses include: governmental administration buildings; public schools and not-for-profit educational institutions; hospital facilities and supportive health care units; arts and cultural or civic facilities; essential public services and facilities; cemeteries; fire and emergency operation facilities; utilities; and religious institutions.

Policy 1-1.4.3: High Intensity Uses. The City of Daytona Beach Shores Future Land Use Map shall indicate a land use category of “High Intensity.” This land use category shall allow hotels/motels; condos; multi-family residential units; apartments; and timeshares. The maximum density for hotels/motels and timeshares shall be 70 units per gross acre, while condos, multi-family residential units, and apartments shall have a maximum density of 60 units per gross acre. The density of each specific development site shall be controlled by Land Development Code.

Policy 1-1.4.4: Future Land Use Map Designations for Public Schools. The City of Daytona Beach Shores shall allow elementary, middle and other similar low-intensity schools to be located within the Public and Quasi-Public, Low Density Residential, Medium Density Residential, High Density Residential, Retail/Service Commercial, and High Intensity Uses Land Use categories shown on the Future Land Use Map (FLUM). High schools and similar high-intensity schools shall be allowed in Public and Quasi-Public, Medium Density Residential, High Density Residential, Retail/Service Commercial, and High Intensity Uses Land Use categories shown on the FLUM. Due to the fact that the City of Daytona Beach Shores is located entirely within the Coastal High Hazard Area, it is unlikely that any new public schools would be located within the City.

Policy 1-1.4.5: Coordination with Volusia County School Board. The City will meet with the Volusia County School Board and staff to establish Policies and Standards for locating new schools.

Policy 1-1.4.6: School Siting Criteria. The following criteria shall be used in locating public schools within Daytona Beach Shores:

I. General Guidelines.

- A. Proposed school sites shall be located away from industrial uses, limited access roadways, railroads, and similar land uses to avoid noise, odors, dust, and traffic impacts and hazards.
- B. Disrupting influences caused by school yard noise and traffic indicate that schools be sensitive to adult communities, nursing homes and similar land uses through site design.
- C. Schools shall be designed to minimize the impacts to adjacent neighborhoods through control of site aspects including traffic access, landscaping, buffers, and site design and layout provided by the Volusia County School District.

II. Site Acceptability

- A. School size and land area requirements for elementary, middle, and high schools shall meet the minimum standards established by the Volusia County School Board.
- B. Schools should be centrally located within their intended attendance zones, to the maximum extent possible, and be consistent with walking and bus travel time standards of the school district. High schools shall be exempted from this provision due the large land area requirement.
- C. The site should be of sufficient size to ensure that buildings and ancillary facilities, and future expansions can be located away from floodplains, flood prone areas, wetlands and other environmentally sensitive areas, coastal high hazard areas and will not interfere with historic or archaeological resources.
- D. Public utilities (e.g., water, sewer, stormwater) must be available to the site.
- E. Access to the site should be from a collector road (local roads for elementary schools) and avoid the need for slow down zones, if possible.
- F. Ingress and egress should not create detrimental impacts on roads adjacent to the site.
- G. Approaches to the site should be safe for pedestrians, bicycles, cars and buses.
- H. A mass transit or bus stop should be located near the site.

III. School Specific Site Location Recommendations

- A. **Elementary Schools.** Elementary schools serve a neighborhood or group of neighborhoods where students have a short distance to walk. Land uses should be predominately residential and include housing types and densities sufficient to meet the school's enrollment capacity with students that are predominately within walking distance of the school.
- B. **Middle Schools.** Middle schools have a community orientation and the mix of land uses can include more commercial uses than would be allowed in a neighborhood. Enrollment comes from two or more elementary schools.
- C. **High Schools.** High schools should be buffered from residential areas. Enrollment for high schools comes from two or more middle schools. The campus should be large enough to encourage students to remain onsite and to ensure sufficient parking or parking controls to avoid disruptive offsite parking.

Policy 1-1.4.7: Collocation of Facilities. The City of Daytona Beach Shores shall seek to co-locate public facilities, such as parks, libraries, and community centers, with schools to greatest extent possible. In collocating facilities, the City shall use the following guidelines:

- **Elementary Schools.** Playgrounds can be collocated with elementary schools. In areas with densities high enough to support them, a neighborhood park with facilities for the elderly, a neighborhood recreation center, and a library sub-branch can be included.
- **Middle Schools.** A community park and athletic fields are appropriate to locate with middle schools. A community center, if the school will not be used for this purpose, and a library sub-branch or branch can be included depending on the school's location and the population served.
- **High School.** Community parks with a community center, if the school will not be used for this purpose, and athletic field can be collocated with high schools. A main or branch library is also appropriate. If justified by the population to be served, a district park could be collocated with the school.

Policy 1-1.4.8 Town Center (TC) Future Land Use Designation: The Town Center future land use category is intended to be a convenient and flexible special character district that authorizes horizontal and vertical mixed-use development within an existing redevelopment area where the comprehensive redevelopment of large tracts of land is envisioned.

Individual development within the TC shall follow consistent standards and coordinate with each other in order to create a cohesive area with a strong sense of place and identity. Development on land designated TC is intended to feature high quality architecture and well designed urban form that promotes pedestrian activity spread throughout the day which reduces transportation impacts and a-balances a mix of land uses.

Criteria for TC Designation

- 1) Lands designated TC must be in the South Atlantic Corridor Redevelopment Area.
- 2) The initial area designated TC must be no less than 25 acres in size to allow sufficient land for a functional mix of uses. Once established smaller tracts of lands contiguous to the Town Center may be added so long as the Town Center remains compact and functional.

- 3) Lands designated TC must be served by public infrastructure including but not limited to potable water and wastewater lines.
- 4) The land area designated TC shall be served by South Atlantic Avenue and at least one existing or proposed collector roadway.

Mix of Uses

The Town Center shall incorporate a mixture of the following land uses up to the maximum units or gross square footages identified below:

Residential (up to 1250 units with no single site exceeding 70 units per acre)

Hotel (up to 500 rooms with no single site exceeding 70 units per acre)

Commercial (up to 250,000 square feet)

Office (up to 130,000 square feet)

Public/Quasi-Public (52,000 sq feet)

The land uses within the Town Center shall be mixed horizontally and/or vertically. The overall composition of the Town Center shall comply with the following ranges based on the gross aggregate area of the Town Center:

40% to 60% Residential

20% to 30% Commercial

10% to 40% All Other Uses

Character Guidelines

Development within the Town Center future land use designation shall meet the following guidelines intended to ensure that the character of the Town Center is high quality, urban, pedestrian-oriented and functional.

- The core of the Town Center will be oriented towards the intersection of existing or proposed collector roadways, not South Atlantic Avenue.
- The core street(s) shall be lined with buildings in order to create a consistent street wall.
- The core street(s) and South Atlantic Avenue shall feature sheltered transit stops.
- Street-level uses will be reserved for nonresidential development with active street fronts.
- The core streets of the Town Center shall feature wide sidewalks to encourage the development of a lively streetscape and accommodate sidewalk cafes and other similar activities.
- Onsite parking shall be placed either underground, in above ground parking structures wrapped by habitable structures or surface lots on the interior of properties screened by buildings.
- High quality architecture designed to help form a lively urban space and identify the Town Center as a distinctive place shall be required.

Objective 1-1.5: The City shall promote the compatibility of between low and higher density development. This Objective shall be achieved through the implementation of the following Policies.

Policy 1-1.5.1: Projects should be designed with special consideration given to compatibility with the surrounding uses and any adjacent developments. Compatibility is defined as a condition in

which dissimilar land uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is unduly negatively impacted by the other.

Policy 1-1.5.2: The City shall require planned unit developments for parcels three (3) acres or more undergoing future land use changes yielding a greater density.

Policy 1-1.5.3: The City shall require planned unit developments provide compatible architecture and adequate setbacks when adjacent to lower density development.

Policy 1-1.5.4: The City shall adopt a future land use – zoning compatibility matrix. The matrix shall be consistent with the comprehensive plan.

Policy 1-1.5.5: The City shall require compatibility between commercial areas and adjacent lower intensity uses through the use of landscape and open space buffering.

Objective 1-1.6: The City shall promote the compatibility of land use with that of adjoining jurisdictions. This Objective shall be achieved through the implementation of the following Policies.

Policy 1-1.6.1: The City shall consider adjoining existing land use and plans when reviewing development proposals adjacent to the City limits.

Policy 1-1.6.2: The City shall continue to participate in available intergovernmental coordination committees such as the Metropolitan Planning Organization (MPO), Volusia Council of Governments (VCOG), the Volusia Growth Management Commission (VGMC) and associated technical committees.

Policy 1-1.6.3: The City shall work with adjacent jurisdictions and intergovernmental coordination committees to develop and utilize a system of intergovernmental negotiation for siting locally unpopular public and private land uses. Such a system should consider the area of population served, the impact on land development patterns or important natural resources, and the cost-effectiveness of service delivery.

Policy 1-1.6.4: The City shall consider compatible architecture and setbacks when a new development is proposed adjacent to a lower density development in an adjoining jurisdiction.

Objective 1-1.7: The City shall create a Transfer of Development Rights (TDR) Program to encourage and promote economic development and the efficient use of land within City limits. This Objective shall be achieved through the implementation of the following policies.

Policy 1-1.7.1 The City shall enact and enforce land development regulations that, at a minimum:

- a. Enable the transfer of density from one parcel of property to another parcel of property within City limits.
- b. Establish sending and receiving areas.
- c. Establish density transfer limits and a quantification methodology for the determination of vested density.
- d. Establish a process and the procedures for transferring density, including, but not limited to, the recordation of a deed of transfer in the official records of Volusia County, Florida.

Policy 1-1.7.2 Subsequent to a transfer of density transaction, the sum of the development rights sent and received shall be density neutral.

Policy 1-1.7.3 Adequate public facilities shall be available for all new development consistent with controlling law.

Goal 1-2: To ensure that development patterns are energy efficient and reduce green house gas emissions by reducing the need to travel by private car, supporting public transit and promoting the development of renewable energy resources and use of holistic design principles.

Objective1-2.1: To promote compact, mixed-use, and energy efficient development to encourage pedestrian, bicycle and transit use, leading to a more energy efficient community and a reduction in greenhouse gas emissions.

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

Policy 1-2.1.2: The City shall develop land use policies that will encourage energy efficiency and the use of renewable energy sources.

Policy 1-2.1.3: The City shall encourage the maintenance, restoration and adaptive reuse of existing urban areas, including buildings, infrastructure and other assets, to reduce energy use and Vehicle Miles Traveled (VMTs).

Policy 1-2.1.4: The City shall encourage urban design strategies that maximize the use of renewable, sustainable, active and passive sources of energy design in architecture.

Policy 1-2.1.5: The City shall identify and remove obstacles to energy conservation and renewable energy systems in the City's Land Development Code.

ORD. 2019-TDR PLANNING ANALYSIS

I. IMPACTS OF PROPOSED AMENDMENT

In accordance with the Daytona Beach Shores Comprehensive Plan (2030) and standard practice from the Florida Department of Economic Opportunity (DEO) and other land use agencies, the following seven public facilities and services are generally examined with future land use map and general comprehensive plan amendments: (1) Transportation, (2) Sanitary Sewer, (3) Potable Water, (4) Solid Waste, (5) Stormwater Drainage, (6) Recreation, and (7) Public Schools. However, the proposed amendment does not impact a specific use or property therefore a site-specific impact analysis cannot be undertaken. However, proposed Policy 1-1.7.3 will ensure the provision of adequate public facilities consistent with controlling law for all new development. This typically occurs during the site development plan process.

II. LAND USE COMPATIBILITY

The usage of land will be governed by the existing and entitled underlying zoning and future land use classification in place. In addition, the proposed amendment does not impact the use of a specific use of land or a singular property. Therefore, the proposed amendment does not impact land use compatibility.

III. APPLICABLE PLANS, CODES AND REGULATIONS

B. COMPREHENSIVE PLAN

Future Land Use Element

Policy 1-1.1.5: (a) The City shall maintain at least a Level of Service standard "D" at all times on its roadway network throughout the City. This shall include Dunlawton Boulevard, including the bridge. The maintenance of this Level of Service standard is important to ensure that an efficient flow of traffic can be maintained on these primary roads in the event of a hurricane threat. (b) Maintain the clearance time of the population in the Hurricane Vulnerability Zone at sixteen (16) hours based on a level of service standard "D" during the time of a category 5-storm event as measured on the Saffir-Simpson scale. This policy is consistent with the stated objectives contained in the Coastal Management Element of the Volusia County Comprehensive Plan regarding hurricane evacuation and Section 163.3178 (9) (b), F.S. and based on the most current East Central Florida Regional Planning Council hurricane study.

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

Capital Improvement Element

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

- (a) **Sanitary Sewers:** 250 gallons per dwelling unit per day
- (b) **Solid Waste:** 10 pounds per capita per day
- (c) **Drainage:** 25-year, 24-hour design storm
- (d) **Potable Water:** 110 gallons/capita/day (gcd) for Port Orange Service Area
150 gcd for Daytona Beach Service Area
- (e) **Roadways:** Arterials: LOS "D" at peak hour
Collectors: LOS "C" at peak hour
- (f) **Recreation:** See Table A.2 in Recreation Element

REVIEW CRITERIA AND STAFF FINDINGS

1. The land use proposal is consistent with the overall goals, objectives, and policies of the adopted Daytona Beach Shores Comprehensive Plan (2030).

Staff finding: The proposed land use amendment is consistent with overall goals, objectives, and Policies of the Daytona Beach Shores Comprehensive Plan (2030).

2. Policy 1-1.1.5: (a) The amendment shall not decrease the LOS Standard for hurricane evacuation routes below LOS Standard D and (b) the amendment shall not increase the clearance time for evacuation of the population in the Hurricane Vulnerability Zone above 16 hours.

Staff finding: The proposed amendment does not apply to any specific future land use amendment proposal for a singular property. However, the City shall maintain the policy in question to ensure on a case-by-case basis that every land use amendment will generate negligible additional traffic relative to the policy and adopted LOS in question.

3. Policy 1-1.2.2: Written assurances from service providers for sewage treatment, potable water, and solid waste shall be provided when there is a future land use map amendment result in an increase in density or intensity.

Staff finding: Policy will be enforced during the site development plan process.

4. Policy 9-1.3: The amendment shall not decrease the LOS Standards for public facilities.

Staff finding: The impacts on public facilities and infrastructure will be evaluated on a case-by-case basis as projects are presented during the site development plan

process. Any required upgrade to the City's infrastructure and public facilities will be borne by the developer. However, the proposed amendment is density neutral within City limits.

B. EXPEDITED REVIEW REQUIREMENTS (Sec. 163.3184(3), Florida Statutes)

1. All proposed text in a strike-through/underline format (or similar easily identifiable format)
2. Staff, local planning agency, and local governing body recommendations
3. Support documents or summaries of the support documents on which the recommendations regarding the proposed plan amendment(s) are based
4. For future land use map amendments, color maps depicting:
 - The proposed future land use designation of the subject property
 - The boundary of the subject property and its location in relation to the surrounding street and thoroughfare network
 - The present future land use map designations of the subject properties and abutting properties
5. An existing land use map depicting:
 - The existing land use(s) of the subject property and abutting properties
 - The size of the subject property in acres or fractions thereof
6. A description of availability of and the demand on sanitary sewer, solid waste, drainage, potable water and water supply, traffic circulation, schools (if local government has adopted school concurrency), and recreation, as appropriate
7. Information regarding the consistency of the proposed land use amendments with the future land use element goals, objectives and policies, and those of other affected elements
8. If a local government relies on data and analysis from a previous amendment, a reference to the specific portions of the previously submitted data and analysis on which the local government relies to support the amendment
9. If previous data and analysis is no longer the best available existing data or no longer supports the plan, copies of updated and reanalyzed data and analysis to support the proposed amendment
10. A submittal cover letter transmitting the proposed amendment that includes the following:

- The date(s) the local planning agency and the commission held public hearings
- A statement certifying that the proposed amendment(s) have been submitted to the appropriate agencies identified above. Certification means that the letter must state that a copy of a complete amendment package including supporting data and analysis has been mailed to these agencies and the date it was mailed
- A summary of the plan amendment(s) including that the amendment is being submitted under the expedited state review process
- The month the local government anticipates the amendment will be adopted
- A statement indicating that the amendment is not applicable to an area of critical state concern
- The name, title, address, telephone, fax number, and e-mail of the local contact person

REVIEW CRITERIA AND STAFF FINDINGS

1. See Ordinance 2019-TDR Exhibit A.
2. Pending.
3. See staff memo and relevant attachments.
4. Not applicable.
5. Not applicable.
6. Not applicable.
7. See this planning analysis.
8. Not applicable.
9. Not applicable.
10. Pending.