



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA PLANNING & ZONING BOARD MEETING MAY 13, 2024

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

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

1. OPENING REMARKS

2. MINUTES

A. Planning & Zoning Minutes March 11, 2024

3. QUASI-JUDICIAL HEARING

A. Ordinance 2024-11: Rezoning Application For Recently Annexed Property Located At 3635 Cardinal Boulevard

B. Ordinance 2024-12: Rezoning Application For Recently Annexed Property Located At 110 Van Avenue

C. Ordinance 2024-13: Rezoning Application For Recently Annexed Property Located At 129 Esmeralda Avenue

4. ACTION ITEMS

A. Ordinance 2024-14: Comprehensive Plan Future Land Use Map Amendment For Recently Annexed Property Located At 3635 Cardinal Boulevard

- B. Ordinance 2024-15: Comprehensive Plan Future Land Use Map Amendment For Recently Annexed Property Located At 110 Van Avenue
- C. Ordinance 2024-16: Comprehensive Plan Future Land Use Map Amendment For Recently Annexed Property Located At 129 Esmeralda Avenue
- D. Development Agreement Application 12024010: Daytona Ocean Investment Corporation & Hotel Motel, Inc, 2601 - 2613 S. Atlantic Avenue

5. OTHER

6. BOARD COMMENTS

7. ADJOURNMENT

MINUTES
PLANNING & ZONING BOARD MEETING
March 11, 2024
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, Member Jeni Groot-Begnaud. Alternate Members Guy Desai and Chris Pollard.

Staff: City Clerk Cheri Schwab, City Attorney Paul Waters and Community Services Director Stewart Cruz.

2. MINUTES

A. Planning & Zoning Minutes January 8, 2024

MEMBER JENI GROOT-BEGNAUD moved, seconded by MEMBER ROSE ANN TORNATORE to Approve the Planning & Zoning Minutes of January 8, 2024.

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

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

3. Nominations

A. Nomination for Chair and Vice Chair

MEMBER ROSE ANN TORNATORE MOVED, SECONDED BY MEMBER CHUCK HORION TO NOMINATE RICK DELANGE FOR CHAIR AND JENI GROOT-BEGNAUD AS VICE CHAIR.

VOTE: MOTION CARRIED BY UNANIMOUS ROLL CALL VOTE (SUMMARY: YES = 5 NO = 0).

YES: MEMBER RICK DELANGE, MEMBER CHUCK HORION, MEMBER JAMES LILLY, MEMBER ROSE ANN TORNATORE, MEMBER JENI GROOT-BEGNAUD

4. QUASI-JUDICIAL HEARING

A. Ordinance 2024-07: Rezoning application for recently annexed property located at 3215 La Paloma Avenue

The board members declared there was no ex-parte communication. Community Services Director Stewart Cruz explained the proposed ordinance would rezone the recently annexed property as required per Florida Statutes. The zoning would change from the county's R9 designation to the city's RSF2 (single family residential). Aerial views of the property and surrounding neighborhood were shown. All the criteria for the application have been met and all due public notice was satisfied. Staff recommended approval.

MEMBER CHUCK HORION moved, seconded by MEMBER ROSE ANN TORNATORE to recommend Approval of Ordinance 2024-07 to the City Commission.

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

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

5. ACTION ITEMS

- A. Ordinance 2024-06: Comprehensive Plan Future Land Use Map amendment for recently annexed single-family residential property located at 3215 La Paloma Avenue

Director Cruz explained that this was a recently annexed property and state law requires that the city assign a future land classification use. The property is a single-family residence. The current county designation is county urban low intensity. The proposed city designation is residential low intensity. All due public notice had been met and staff recommended approval.

MEMBER ROSE ANN TORNATORE moved, seconded by MEMBER CHUCK HORION to recommend Approval of Ordinance 2024-06 to the City Commission.

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

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

6. OTHER

7. BOARD COMMENTS

The board requested and received updates on a few properties in the city.

8. ADJOURNMENT

The meeting ended at 8:48 am.

Cheri Schwab, Recording Secretary

Rick DeLange, Chairman



PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 13, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Ordinance 2024-11: Rezoning Application For Recently Annexed Property Located At 3635 Cardinal Boulevard

SYNOPSIS:

Ordinance 2024-11, if adopted, would amend the City's Official Zoning Map by assigning the "RSF-2 Urban Single-Family Residential Detached District" to the recently annexed single-family residential property located at 3635 Cardinal Boulevard (Exhibit A). The application (Exhibit B) was submitted by the Storch Law Firm on behalf of IGS HOLDINGS, LLC, owner of the subject property. The local rezoning of an annexed property is a requirement of Florida Law. The property is +/-0.24 acres and is occupied by a four-unit residential structure. The proposed amendment is compatible with the current Volusia County zoning district (R-6, Urban Two-Family Residential District). It should be noted the property's current use is legal nonconforming and shall comply with Chapter 14, Article 6 of the Daytona Beach Shores Land Development Code.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 3635 Cardinal Boulevard, was recently annexed into the corporate limits of the City of Daytona Beach Shores. However, Section 171.062, Florida Statutes limits regulatory and development control over annexed property if the area annexed was subject to a county land use plan and county zoning such that said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment and zoning change that includes the annexed area. The purpose of this application is to realize the latter. The property owners have also submitted an application to amend the future land use classification of the property in question to Residential Low Intensity, consistent with the existing and surrounding land uses and current Volusia County Urban Low Intensity future land use classification. The zoning change will be adopted subsequent to the formal future land use amendment of the subject property.

B. PLANNING ANALYSIS

See Exhibit C for planning analysis.

C. PUBLIC NOTICE

Evidence of due public notice has been submitted to the City Clerk's Office.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-11 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follows:

1. "I move to recommend approval of Ordinance 2024-11 as presented."

OR

2. "I move to recommend denial of Ordinance 2024-11, on the basis of the following..."

- ATTACHMENT:**
1. Ord. 2024-11-3635 Cardinal - RZ
 2. Exhibit A-Location Map-3635 Cardinal
 3. Exhibit B- RZ Application - 3635 Cardinal
 4. Exhibit C-Rezoning Staff Report-3635 Cardinal

ORDINANCE NO. 2024-11

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, ASSIGNING THE RSF-2 URBAN SINGLE-FAMILY RESIDENTIAL DETACHED DISTRICT ZONING CLASSIFICATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED AT 3635 CARDINAL BOULEVARD, SHORT TAX PARCEL ID 6302-05-09-0041; PROVIDING MODIFICATION OF THE OFFICIAL ZONING MAP; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR NON-CODIFICATION; PROVIDING FOR 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 property described in Section One herein was annexed into the City of Daytona Beach Shores on April 23, 2024, and an appropriate City zoning classification must be assigned to the real property in accordance with the requirements of controlling law; and

WHEREAS, the City Commission of the City of Daytona Beach Shores has received recommendation from staff and the Planning and Zoning Board for the assignment of zoning classification to said annexed property and has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, the City Commission of the City of Daytona Beach Shores finds such rezoning consistent with the *City of Daytona Beach Shores Comprehensive Plan* and deems it in the best interest of the inhabitants of said City to amend the Official Zoning Map as hereinafter set forth,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, as follows:

SECTION ONE: REZONING OF REAL PROPERTY. The property described hereinafter which was annexed into the City of Daytona Beach Shores pursuant to Ordinance No. 2024-08 is hereby rezoned and assigned the Daytona Beach Shores zoning classification as follows:

Short Tax Parcel ID #6302-05-09-0041, as described in Exhibit “A” as attached, is assigned the RSF-2, Urban Single-Family Residential Detached District Zoning Classification.

SECTION TWO: AMENDMENT OF OFFICIAL ZONING MAP. The Official City Zoning Map is hereby amended to conform with the rezoning assigned herein.

SECTION THREE. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designee, is authorized to take any and all required administrative actions to

implement the provisions of this Ordinance including, but not limited to, providing notice of this rezoning to the Volusia County Council in accordance with applicable law.

SECTION FOUR. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shores* or the *Land Development Code of the City of Daytona Beach Shores*; provided, however, that the actions taken herein shall be depicted on the Official Zoning Map of the City of Daytona Beach Shores by the City Manager, or designee.

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

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER **CHERI SCHWAB, CITY CLERK**

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

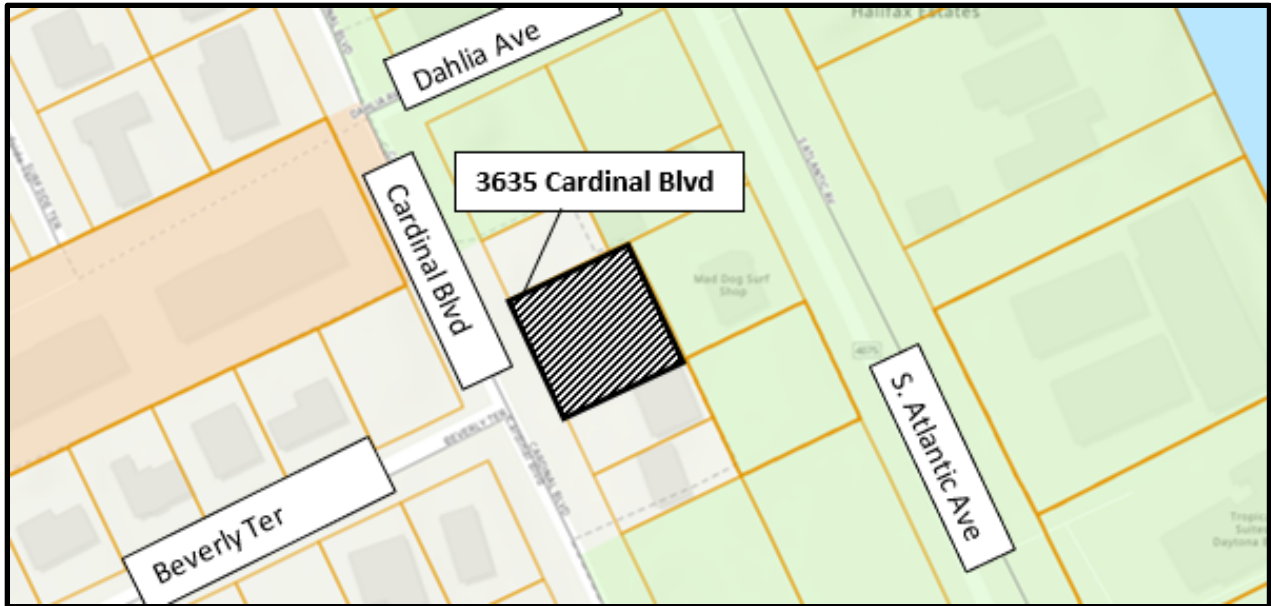
DESCRIPTION:

THE WEST 1/2 OF LOTS 4 AND 5, BLOCK 9, LYING EASTERLY OF CARDINAL DRIVE, MAP OF OCEAN VIEW SECTION OF HALIFAX ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 11, 1

TOGETHER WITH THE EASTERLY 1/2 OF CARDINAL DRIVE LYING SOUTHERLY OF THE NORTH LINE OF LOT 4 AND LYING NORTHERLY OF THE SOUTH LINE OF LOT 5, SAID BLOCK 9, MAP OF OCEAN VIEW SECTION OF HALIFAX ESTATES, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE NORTH LINE OF SAID LOT 4 AND THE CENTERLINE OF CARDINAL DRIVE, A 70 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 4 TO THE EAST LINE OF THE WEST 1/2 OF LOT 4; THENCE SOUTHERLY ALONG EAST LINE OF THE WEST 1/2 OF LOT 4 AND EAST LINE OF THE WEST 1/2 OF LOT 5 TO THE SOUTH LINE OF LOT 5; THENCE WESTERLY ALONG SAID SOUTH LINE TO THE SAID CENTERLINE OF CARDINAL DRIVE; THENCE NORTHERLY ALONG SAID CENTERLINE TO THE POINT OF BEGINNING.

CONTAINING 0.316 ACRES, MORE OR LESS.





City of Daytona Beach Shores
Community Services Department
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377

150036

RECEIVED

JAN 04 2024

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

12024003

APPLICATION TO AMEND ZONING MAP

The Undersigned Applicant requests the Planning and Zoning Board and City Council to decide upon this application in accordance with Section 14-66 and 14-67 of the Land Development Code.

FEES MUST BE PAID AT THE TIME THE APPLICATION IS SUBMITTED

Date Submitted: ___/___/___

Current Zoning: County R-6

Requested Zoning: City RSF-2

Applicant's Name: A. Joseph Posey, Jr. / Storch Law Firm

Address: 420 South Nova Road, Daytona Beach, FL 32114 Phone #: 386-238-8383

Representative: Same as Applicant

Address: Same as Applicant Phone #: Same as Applicant

Property Address & Parcel ID: Parcel No. 6302-05-09-0041

Property Owner: IGS Holdings Limited Liability Company, a Kentucky limited liability company

NOTE: If applicant is not property owner, attach a notarized statement of authorization

Legal Description of Property:

The West 1/2 of Lots 4 and 5, Block 9, Map of Ocean View Section of Halifax Estates

according to the map or plat thereof as recorded in Plat Book 11, Page 100, Public

Records of Volusia County, Florida

Applicant's Signature

12/18/2023
Date

THE PLANNING & ZONING BOARD WILL APPLY THE CRITERIA IN SECTION 14-66(4) OF THE LAND DEVELOPMENT CODE WHEN CONSIDERING ZONING MAP AMENDMENTS. PLEASE EXPLAIN HOW YOUR REQUEST MEETS THE FOLLOWING CRITERIA: (YOU MAY ATTACH ADDITIONAL SHEETS)

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The new zoning will not change the existing condition of the property. If anything, the new zoning will have a favorable impact since the property would be in the jurisdiction of the City.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

Annexation of the property will have a favorable impact since the new zoning will be consistent with the area.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

Yes.

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

Yes.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

Yes. The new zoning will not change the existing condition of the property.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

Yes, and the new zoning is consistent with the area development pattern.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

Yes, the property will be annexed into the City, which necessitates this request.

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

No, however, the current zoning is County, which needs to be changed to a compatible City designation.

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

Yes, the new zoning is consistent with the area development pattern and existing City zoning.

10. Would the proposed changes constitute "spot zoning"?

No.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

No.

12. Is the change solely for the benefit of the owner and to the detriment of the community?

No. This request will put a consistent City zoning in place for the property.

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

No. This request will put a consistent City zoning in place for the property.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

No. This request does not change the existing condition of the property.

NOTARIZED AUTHORIZATION OF OWNER

I, Cornelius Harper, as Manager of IGS HOLDINGS LIMITED LIABILITY COMPANY, a Kentucky limited liability company (hereinafter "Owner"), the owner of Parcel No. 6302-05-09-0041 (the "Property"), hereby authorize STORCH LAW FIRM, as agent for owner, to represent me in annexation, rezoning, and future land use amendment application for the Property, and all other actions necessary to necessary to accomplish same, and to act as applicant, representing me in City of Daytona Beach Shores public hearings regarding same.

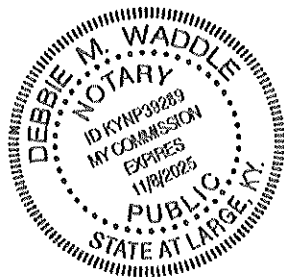


IGS HOLDINGS LIMITED LIABILITY COMPANY

By: Cornelius Harper
Its: Manager

STATE OF ~~FLORIDA~~ KENTUCKY
COUNTY OF ~~YONKERS~~ JEFFERSON

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this 6TH day of NOVEMBER 2023, by Cornelius Harper, as Manager of IGS HOLDINGS LIMITED LIABILITY COMPANY, a Kentucky limited liability company, who is ☐ personally known to me or ☒ who has produced KENTUCKY DRIVER'S LICENSE identification and who did not take an oath.


NOTARY PUBLIC

Type or print name: **DEBBIE M. WADDLE**
Commission No.: **11/08/2025**

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2024-11

A. INTRODUCTION

The proposed application/ordinance if approved would change the zoning district classification of the annexed residential property located at 3635 Cardinal Boulevard from Volusia County *R-6 Urban Two-Family Residential District* to Daytona Beach Shores *RSF-2 Urban Single-Family Residential Detached District*. The subject property contains an acreage of approximately 0.24 and has a four-unit residential structure on site.

B. EXISTING ZONING AND CURRENT LAND USE

Table 1 below provides a narrative description of the zoning district classifications and current land uses (i.e., existing development) for the subject property and surrounding area while **Figure 1** provides an aerial view of the subject property and surrounding land uses and **Figure 2** is a zoning map of the same while **Figure 3** provides a street view of the property in question.

Table 1: Zoning and Land Use Area Description

Location	Zoning	Current Land Use
Subject Property	R-6*	Four Unit Residential
North	R-6*	Single Family Residence
South	R-6*	Single Family Residence
East	GC-2	Retail/Service Commercial
West	R-4**	Single Family Residence

Notes: *R-6= Volusia County Urban Two Family Residential District; R-4**=Volusia County Urban Single Family Residential District

Figure 1: Aerial View-3635 Cardinal Boulevard and Surrounding Neighborhood



Source: GoogleMaps 2024

Figure 2: 3635 Cardinal Boulevard – Zoning Map

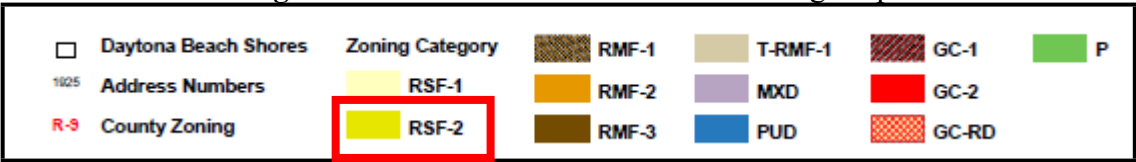


Figure 3: Street View - 3635 Cardinal Blvd



As noted in **Table 1** above, the subject property is currently zoned Volusia County R-6 Urban Two-Family Residential District. According to the Volusia County Land Development Code, the purpose, intent and permitted uses of the existing zoning district is as follows:

“R-6 Urban Two-Family Residential District”:

Purpose and intent: The purpose and intent of the R-6 Urban Two-Family Residential Classification is to provide for a mixture of one- and two-unit dwellings where that mixture of land use exists or is proposed.

Permitted principal uses and structure:

Cluster and zero lot line subdivisions

Communication towers not exceeding 70 feet in height above ground level.

Essential utility services.

Exempt excavations

Exempt landfills

Fire stations.

Home-based business

Houses of worship.

Parks and recreational areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

Single-family standard or modular dwellings.

Two-family dwellings.

Zero lot line residential subdivisions

C. PROPOSED ZONING

The proposed zoning for the subject property is RSF-2 Urban Single-Family Residential Detached District. According to the Daytona Beach Shores Land Development Code, the purpose, intent and permitted uses of the proposed zoning district is as follows:

“RSF-2 Urban Single-Family Residential Detached District”:

Purpose and Intent: The purpose and intent of the RSF-2 Urban Single-Family Residential Detached District is to provide medium residential density for the purpose of preserving the character of existing residential neighborhoods and generally implementing the city's land use plan within, but not necessarily limited to, those areas shown for single-family use.

14-17.2. Permitted Principal Uses and Structures:

Single-family dwelling.

Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq.

14-17.3. Permitted Accessory Uses and Structures.

Home occupations regulated by section 14-45 and other accessory uses or structures customarily incidental to the permitted principal use or structure.

D. COMPREHENSIVE PLAN

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question. Therefore, the existing acreage and proposed zoning will restrict the use to one (1) single-family residential unit should the subject existing use be abandoned for a period of six months or more or subject to the Nonconforming Provisions of Chapter 14, Article 6 of the Daytona Beach Shores Land Development Code.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

E. REVIEW AND COMMENTS

The subject application was initiated by the property owner. The subject property is located at 3215 La Paloma Avenue and has an acreage of +/-0.24. The site has vehicular and pedestrian access to the abutting Cardinal Boulevard which directly connects to Dunlawton Boulevard (SRA1A).

The proposed zoning change will be consistent with the previous Volusia County zoning and adjacent residential zoning district classifications. Although the property is currently occupied with a four-unit residential structure, the proposed change is density neutral.

The proposed zoning change for the existing residential property does not substantially impact any of the City's public facilities or infrastructure. Further, adequate potable water, sewer, solid waste, recreation, public school and transportation facility capacities are currently available and serve the subject property.

F. FINDING OF FACTS

When considering a request to change zoning, the Planning and Zoning Board shall consider the following criteria pursuant to Section 14-66 of the Land Development Code. Below are staff's findings considering each criterion outlined in the aforementioned section of the Code.

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The proposed zoning change will not provide an unfavorable impact on the environment or natural resources of the area. The property in question is currently developed with a four-unit residential structure recently annexed into the city. If redeveloped, consistency with the City's Land Development Code will be required. Further, the proposed zoning change would not permit

hazardous uses such as industry, which could have an unfavorable impact on the environment and natural resources of the area.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

The proposed zoning will generally have a neutral impact on the economy of the area as the property is currently developed and no redevelopment or change in entitlement is sought. The zoning is also consistent with the Volusia County Zoning District classification and the proposed zoning change is density and use neutral.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

The subject property is currently developed as a four-unit residence. This existing use will not unduly burden public facilities. The subject property is currently being served with or has access to transportation, public schools, water, sewer, and solid waste disposal services. All existing public facilities have adequate capacity and the proposed rezoning will not provide any more impact on said facilities than the current Volusia County Zoning currently permits (see **Table 2** below).

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	1	1	None
Population ¹	1.6	1.6	None
AM / PM Peak Hour Trips ²	0.75/1.01	0.75/1.01	None
Sanitary Sewer (gallons/day) ³	250	250	None
Potable Water (gallons/day) ⁴	176	176	None
Solid Waste (lbs./person) ⁵	16	16	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.396	0.396	None

Notes:

1. Population: 1.6 persons per dwelling unit in DBS
2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = 0.396 per single-family unit.

Sources:

2020 US Census

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

The proposed zoning will not unduly burden transportation facilities. There is already adequate vehicular access from the abutting Cardinal Boulevard and the existing system of local, collector and arterial road network. The adjacent transportation network currently operates above the adopted level of services.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

The proposed zoning change involves a former Volusia County residential property being rezoned to a Daytona Beach Shores compatible single-family residential zoning district classification. Hence, the rezoning will not impact the ability of people to find adequate housing since the change will neither create new housing nor eliminate existing housing stock.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The existing single-family residence proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

The physical, economic or environmental conditions relative to the property in question and the surrounding area have not changed so as to require a zoning change. However, the subject property was annexed into the City through the voluntary annexation process pursuant to Section 171.044, *Florida Statutes*. However, Section 171.062, *Florida Statutes* limits regulatory and development control over an annexing property if the area annexed was subject to a county land use plan and county zoning and said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment that includes the annexed area, hence, the purpose of this application to amend the zoning classification of the subject property.

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

There was no mistake made in the original zoning of the property. The property was annexed into the City from unincorporated Volusia County; therefore the appropriate City zoning classification must be assigned so that the City may provide developmental and regulatory control.

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

The proposed zoning change is consistent with the existing Volusia County zoning district classification and is density and use neutral. Therefore, the proposed change will maintain a stabilizing effect on the surrounding areas.

10. Would the proposed changes constitute "spot zoning"?

Spot zoning generally occurs when an individual parcel is assigned a zoning classification that is incompatible with the surrounding area. However, the proposed zoning change is consistent with the existing Volusia County zoning district classification in the area and the amendment is density and use neutral. Further, the proposed zoning classification will provide an existing use that is identical to the City's and County's zoning classification in the neighborhood. Therefore, the proposed change does not constitute spot zoning.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

The proposed change involves rezoning one individual property which was annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhoods use, future land use and zoning classifications. Therefore, the proposed change is not the singling out of a small parcel of land allowing a use that is totally different from that of the surrounding area.

12. Is the change solely for the benefit of the owner and to the detriment of the community?

The proposed change involves rezoning one individual property which was annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhood uses, future land use and zoning classifications. Therefore, the proposed change would not be solely for the benefit of the owner and to the detriment of the community but instead the change would benefit the entire community by maintaining the existing land use of the property and the integrity of the neighborhood.

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

The proposed change is consistent with the neighborhood existing and future land uses and therefore serves the entire community by maintaining the neighborhood's residential characteristics.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

The rezoning will not materially diminish the value of the surrounding properties or substantially alter the characteristics of the neighborhood since the proposed rezoning will ensure the residential nature of the community is maintained.



PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 13, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Ordinance 2024-12: Rezoning Application For Recently Annexed Property Located At 110 Van Avenue

SYNOPSIS:

Ordinance 2024-12, if adopted, would amend the City's Official Zoning Map by assigning the "RSF-2 Urban Single-Family Residential Detached District" to the recently annexed single-family residential property located at 110 Van Avenue (Exhibit A). The application (Exhibit B) was submitted by Tom Cooper, authorized member of Three RE Holdings, LLC, which owns the subject property. The proposed zoning amendment is a requirement of Florida Law when a property is annexed. The property is +/-0.26 acres and is occupied by a 2,111 square foot residential structure. The proposed amendment is compatible with the current Volusia County zoning district (R-9, Urban Single-Family Residential District).

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 110 Van Avenue, was recently annexed into the corporate limits of the City of Daytona Beach Shores. However, Section 171.062, Florida Statutes limits regulatory and development control over annexed property if the area annexed was subject to a county land use plan and county zoning such that said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment and zoning change that includes the annexed area. The purpose of this application is to realize the latter. The property owners have also submitted an application to amend the future land use classification of the property in question to Residential Low Intensity, consistent with the existing and surrounding land uses and current Volusia County Urban Low Intensity future land use classification. The zoning change will be adopted subsequent to the formal future land use amendment of the subject property.

B. PLANNING ANALYSIS

See Exhibit C for planning analysis.

C. PUBLIC NOTICE

Evidence of due public notice has been submitted to the City Clerk's Office.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-12 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follows:

1. "I move to recommend approval of Ordinance 2024-12 as presented."

OR

2. "I move to recommend denial of Ordinance 2024-12, on the basis of the following..."

- ATTACHMENT:**
1. Ord. 2024-12-110 Van Ave
 2. Exhibit A - Location Map - 110 Van
 3. Exhibit B - RZ Application - 110 Van
 4. Exhibit C - Rezoning Staff Report - 110 Van

ORDINANCE NO. 2024-12

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, ASSIGNING THE RSF-2 URBAN SINGLE-FAMILY RESIDENTIAL DETACHED DISTRICT ZONING CLASSIFICATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED AT 110 VAN AVENUE, SHORT TAX PARCEL ID 5334-02-05-0020; PROVIDING MODIFICATION OF THE OFFICIAL ZONING MAP; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR NON-CODIFICATION; PROVIDING FOR 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 property described in Section One herein was annexed into the City of Daytona Beach Shores on April 23, 2024, and an appropriate City zoning classification must be assigned to the real property in accordance with the requirements of controlling law; and

WHEREAS, the City Commission of the City of Daytona Beach Shores has received recommendation from staff and the Planning and Zoning Board for the assignment of zoning classification to said annexed property and has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, the City Commission of the City of Daytona Beach Shores finds such rezoning consistent with the *City of Daytona Beach Shores Comprehensive Plan* and deems it in the best interest of the inhabitants of said City to amend the Official Zoning Map as hereinafter set forth,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, as follows:

SECTION ONE: REZONING OF REAL PROPERTY. The property described hereinafter which was annexed into the City of Daytona Beach Shores pursuant to Ordinance No. 2024-10 is hereby rezoned and assigned the Daytona Beach Shores zoning classification as follows:

Short Tax Parcel ID #5334-02-05-0020, as described in Exhibit “A” as attached, is assigned the RSF-2, Urban Single-Family Residential Detached District Zoning Classification.

SECTION TWO: AMENDMENT OF OFFICIAL ZONING MAP. The Official City Zoning Map is hereby amended to conform with the rezoning assigned herein.

SECTION THREE. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designee, is authorized to take any and all required administrative actions to

implement the provisions of this Ordinance including, but not limited to, providing notice of this rezoning to the Volusia County Council in accordance with applicable law.

SECTION FOUR. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shores* or the *Land Development Code of the City of Daytona Beach Shores*; provided, however, that the actions taken herein shall be depicted on the Official Zoning Map of the City of Daytona Beach Shores by the City Manager, or designee.

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

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER **CHERI SCHWAB, CITY CLERK**

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

DESCRIPTION:

THE WEST 77.54 FEET OF LOTS 1, 2 AND 3, BLOCK 5, LYING EASTERLY OF ESPERANZA STREET AND SOUTHERLY OF VAN AVENUE, PLAT OF ORITA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 1, PAGE 115, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE EASTERLY 1/2 OF ESPERANZA STREET LYING NORTHERLY OF THE SOUTH LINE OF LOT 3 AND LYING SOUTHERLY OF THE CENTERLINE OF VAN AVENUE, AND THE SOUTHERLY 1/2 OF VAN AVENUE LYING EASTERLY OF THE CENTERLINE OF ESPERANZA STREET AND WESTERLY OF THE EASTERLY LINE OF THE WESTERLY 77.54 FEET OF LOTS 1, 2 AND 3 SAID BLOCK 5, PLAT OF ORITA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 3 AND THE CENTERLINE OF ESPERANZA STREET, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE NORTHERLY ALONG SAID CENTERLINE TO THE CENTERLINE OF VAN AVENUE A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE EASTERLY ALONG SAID CENTERLINE TO THE EASTERLY LINE OF THE WESTERLY 77.54 FEET OF SAID LOT 1; THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND ALONG EASTERLY LINE OF THE WESTERLY 77.54 FEET OF LOTS 2 AND 3 TO THE SOUTHERLY LINE OF LOT 3; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 3 TO THE POINT OF BEGINNING. CONTAINING 0.412 ACRES, MORE OR LESS.





City of Daytona Beach Shores
Community Services Department
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377

APPLICATION TO AMEND ZONING MAP

The Undersigned Applicant requests the Planning and Zoning Board and City Council to decide upon this application in accordance with Section 14-66 and 14-67 of the Land Development Code.

FEES MUST BE PAID AT THE TIME THE APPLICATION IS SUBMITTED

Date Submitted: 1/18/24

Current Zoning: Volusia County

Requested Zoning: Daytona Beach Shores

Applicant's Name: Torn Cooper

Address: 5927 Arana Dr. Port Orange Phone #: 386 316 5965

Representative: _____

Address: _____ Phone #: _____

Property Address & Parcel ID: 110 Van Ave, Daytona Beach, FL 32118, 5334-02-05-0020

Property Owner: Three RE Holdings, LLC / Thomas Cooper, AMBR

NOTE: If applicant is not property owner, attach a notarized statement of authorization

Legal Description of Property:

W 77.54 FT OF LOTS 1 & 3 BLK 5 ROGERS
NORTH ORITA PER OR 5081 PG 4864 PER
UNREC D/C PER OR 8412 PG 0905


Applicant's Signature

1/25/2024
Date

THE PLANNING & ZONING BOARD WILL APPLY THE CRITERIA IN SECTION 14-66(4) OF THE LAND DEVELOPMENT CODE WHEN CONSIDERING ZONING MAP AMENDMENTS. PLEASE EXPLAIN HOW YOUR REQUEST MEETS THE FOLLOWING CRITERIA: (YOU MAY ATTACH ADDITIONAL SHEETS)

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

10. Would the proposed changes constitute "spot zoning"?

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

12. Is the change solely for the benefit of the owner and to the detriment of the community?

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2024-12

A. INTRODUCTION

The proposed application/ordinance if approved would change the zoning district classification of the annexed single-family residential property located at 110 Van Avenue from Volusia County *R-9 Urban Two-Family Residential District* to Daytona Beach Shores *RSF-2 Urban Single-Family Residential Detached District*. The subject property contains an acreage of approximately 0.26 and has a single-family residential structure on site.

B. EXISTING ZONING AND CURRENT LAND USE

Table 1 below provides a narrative description of the zoning district classifications and current land uses (i.e., existing development) for the subject property and surrounding area while **Figure 1** provides an aerial view of the subject property and surrounding land uses and **Figure 2** is a zoning map of the same while **Figure 3** provides a street view of the property in question.

Table 1: Zoning and Land Use Area Description

Location	Zoning	Current Land Use
Subject Property	R-9*	Single Family Residence
North	R-9	Single Family Residence
South	RSF-2 **	Single Family Residence
East	RSF-2	Single Family Residence
West	RSF-2	Single Family Residence

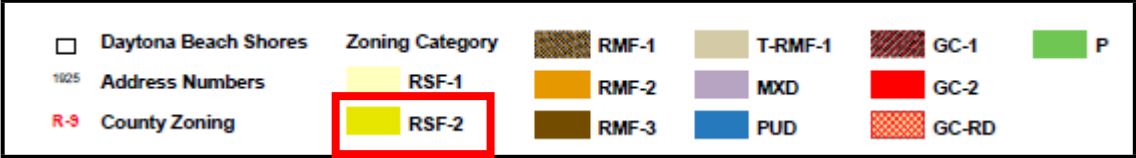
Notes: *R-9= Volusia County Urban Single-Family Residential District; RSF-2**=DBS Urban Single-Family Residential District

Figure 1: Aerial View-110 Van Avenue and Surrounding Neighborhood



Source: Volusia County Property Appraiser, 2021

Figure 2: Zoning Map-110 Van Ave.



Source: DBS Zoning Map GIS Database, 2024

Figure 3: Street View: 110 Van Avenue



Source: City of Daytona Beach Shores, 2024

As noted in **Table 1** above, the subject property is currently zoned Volusia County R-9 Urban Single-Family Residential District. According to the Volusia County Land Development Code, the purpose, intent and permitted uses of the existing zoning district is as follows:

“R-9 Urban Single-Family Residential District”:

Purpose and intent: The purpose and intent of the R-9 Urban Single-Family Residential classification, is to provide for continued medium-density single-family dwelling residential development on existing platted lots.

Permitted principal uses and structure: In the R-9 Urban Single-Family Residential Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Communication towers not exceeding 70 feet in height above ground level.

Essential utility services.

Exempt excavations (refer to subsection 72-293(15)) or those which comply with division 8 of the Land Development Code of Volusia County [article III] or final site plan review procedures of this article.

Exempt landfills (refer to subsection 72-293(16)).

Fire stations.

Home-based business (refer to section 72-283).

Houses of worship.

Parks and recreational areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

Single-family standard or modular dwelling.

C. PROPOSED ZONING

The proposed zoning for the subject property is RSF-2 Urban Single-Family Residential Detached District. According to the Daytona Beach Shores Land Development Code, the purpose, intent and permitted uses of the proposed zoning district is as follows:

“RSF-2 Urban Single-Family Residential Detached District”:

Purpose and Intent: The purpose and intent of the RSF-2 Urban Single-Family Residential Detached District is to provide medium residential density for the purpose of preserving the character of existing residential neighborhoods and generally implementing the city's land use plan within, but not necessarily limited to, those areas shown for single-family use.

14-17.2. Permitted Principal Uses and Structures:

Single-family dwelling.

Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq.

14-17.3. Permitted Accessory Uses and Structures.

Home occupations regulated by section 14-45 and other accessory uses or structures customarily incidental to the permitted principal use or structure.

D. COMPREHENSIVE PLAN

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question. Therefore, the existing acreage and proposed zoning will restrict the use to one (1) single-family residential unit.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

E. REVIEW AND COMMENTS

The subject application was initiated by the property owner, Three RE Holdings, LLC. The subject property is located at 110 Van Avenue and has an acreage of +/-0.26. The site has vehicular and pedestrian access to the abutting Van Avenue which directly connects to S. Atlantic Avenue and S. Peninsula Drive.

The proposed zoning change will be consistent with the previous Volusia County zoning and adjacent zoning district classifications. The property is currently occupied with a single-family

residential structure. Therefore, the proposed change is density neutral consistent with the zoning designation.

Since the application in question regards a single-family residential property, it is exempt from the City's Concurrency Review Process as it does not substantially impact any of the City's public facilities or infrastructure. Further, adequate potable water, sewer, solid waste, recreation, public school and transportation facility capacities are currently available and serve the subject property.

F. FINDING OF FACTS

When considering a request to change zoning, the Planning and Zoning Board shall consider the following criteria pursuant to Section 14-66 of the Land Development Code. Below are staff's findings considering each criterion outlined in the aforementioned section of the Code.

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The proposed zoning change will not provide an unfavorable impact on the environment or natural resources of the area. The property in question is currently developed with a single-family residential structure. If redeveloped, consistency with the City's Land Development Code will be required. Further, the proposed zoning change would not permit hazardous uses such as industry, which could have an unfavorable impact on the environment and natural resources of the area.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

The proposed zoning will generally have a neutral impact on the economy of the area as the property is currently developed and no redevelopment or change in entitlement is sought. The zoning is also consistent with the Volusia County Zoning District classification and the proposed zoning change is density and use neutral.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

The subject property is currently developed as a single-family residence. This existing use will not unduly burden public facilities. The subject property is currently being served with or has access to transportation, public schools, water, sewer, and solid waste disposal services. All existing public facilities have adequate capacity and the proposed rezoning will not provide any more impact on said facilities than the current Volusia County Zoning currently permits (see **Table 2** below).

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	1	1	None
Population ¹	1.6	1.6	None
AM / PM Peak Hour Trips ²	0.75/1.01	0.75/1.01	None
Sanitary Sewer (gallons/day) ³	250	250	None
Potable Water (gallons/day) ⁴	176	176	None
Solid Waste (lbs./person) ⁵	16	16	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.396	0.396	None

Notes:

1. Population: 1.6 persons per dwelling unit in DBS
2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = 0.396 per single-family unit.

Sources:

- 2020 US Census
- ITE Trip Generation Manual, 8th Edition
- Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

The proposed zoning will not unduly burden transportation facilities. There is already adequate vehicular access from the abutting Van Avenue and the existing system of local, collector and arterial road network. The adjacent transportation network currently operates above the adopted level of services.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

The proposed zoning change involves a single-family residential property being rezoned to a Daytona Beach Shores compatible single-family residential zoning district classification. Hence, the rezoning will not impact the ability of people to find adequate housing since the change will neither create new housing nor eliminate existing housing stock.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The existing single-family residence proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

The physical, economic or environmental conditions relative to the property in question and the surrounding area have not changed so as to require a zoning change. However, the subject property was annexed into the City through the voluntary annexation process pursuant to Section 171.044, *Florida Statutes*. However, Section 171.062, *Florida Statutes* limits regulatory and development control over an annexing property if the area annexed was subject to a county land use plan and county zoning and said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment that includes the annexed area, hence, the purpose of this application to amend the zoning classification of the subject property.

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

There was no mistake made in the original zoning of the property. The property was annexed into the City from unincorporated Volusia County; therefore, the appropriate City zoning classification must be assigned so that the City may provide developmental and regulatory control.

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

The proposed zoning change is consistent with the existing Volusia County zoning district classification and is density and use neutral. Therefore, the proposed change will maintain a stabilizing effect on the surrounding areas.

10. Would the proposed changes constitute "spot zoning"?

Spot zoning generally occurs when an individual parcel is assigned a zoning classification that is incompatible with the surrounding area. However, the proposed zoning change is consistent with the existing Volusia County zoning district classification in the area and the amendment is density and use neutral. Further, the proposed zoning classification will provide an existing use that is identical to the City's and County's zoning classification in the neighborhood. Therefore, the proposed change does not constitute spot zoning.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

The proposed change involves rezoning one individual property which was annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhoods use, future land use and zoning classifications. Therefore, the proposed change is not the singling out of a small parcel of land allowing a use that is totally different from that of the surrounding area.

12. Is the change solely for the benefit of the owner and to the detriment of the community?

The proposed change involves rezoning one individual property which was annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhood uses, future land use and zoning classifications. Therefore, the proposed change would not be solely for the benefit of the owner and to the detriment of the community but instead the change would benefit the entire community by maintaining the existing land use of the property and the integrity of the neighborhood.

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

The proposed change is consistent with the neighborhood existing and future land uses and therefore serves the entire community by maintaining the neighborhood's single-family residential characteristics.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

The rezoning will not materially diminish the value of the surrounding properties or substantially alter the characteristics of the neighborhood since the proposed rezoning will ensure the single-family nature of the community is maintained.



PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 13, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Ordinance 2024-13: Rezoning Application For Recently Annexed Property Located At 129 Esmeralda Avenue

SYNOPSIS:

Ordinance 2024-13, if adopted, would amend the City's Official Zoning Map by assigning the "RSF-2 Urban Single-Family Residential Detached District" to the recently annexed single-family residential property located at 129 Esmeralda Avenue (Exhibit A). The application (Exhibit B) was submitted by Anne Bressan Harrington Trust, which owns the subject property. The proposed zoning amendment is a requirement of Florida Law when a property is annexed. The property is +/-0.18 acres and is occupied by a 1,580 square foot residential structure. The proposed amendment is compatible with the current Volusia County zoning district (R-9, Urban Single-Family Residential District).

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 129 Esmeralda Avenue, was recently annexed into the corporate limits of the City of Daytona Beach Shores. However, Section 171.062, Florida Statutes limits regulatory and development control over annexed property if the area annexed was subject to a county land use plan and county zoning such that said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment and zoning change that includes the annexed area. The purpose of this application is to realize the latter. The property owners have also submitted an application to amend the future land use classification of the property in question to Residential Low Intensity, consistent with the existing and surrounding land uses and current Volusia County Urban Low Intensity future land use classification. The zoning change will be adopted subsequent to the formal future land use amendment of the subject property.

B. PLANNING ANALYSIS

See Exhibit C for planning analysis.

C. PUBLIC NOTICE

Evidence of due public notice has been submitted to the City Clerk's Office.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-13 as presented

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follows:

1. "I move to recommend approval of Ordinance 2024-13 as presented."
- OR
2. "I move to recommend denial of Ordinance 2024-13, on the basis of the following..."

- ATTACHMENT:**
1. Ord. 2024-13-129 Esmeralda - RZ
 2. Exhibit A-Location Map - 129 Esmeralda
 3. Exhibit B-RZ Application - 129 Esmeralda
 4. Exhibit C-Rezoning Staff Report-129 Esmeralda

ORDINANCE NO. 2024-13

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, VOLUSIA COUNTY, FLORIDA, ASSIGNING THE RSF-2 URBAN SINGLE-FAMILY RESIDENTIAL DETACHED DISTRICT ZONING CLASSIFICATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED AT 129 ESMERALDA AVENUE, SHORT TAX PARCEL ID 5335-01-05-0360; PROVIDING MODIFICATION OF THE OFFICIAL ZONING MAP; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR NON-CODIFICATION; PROVIDING FOR 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 property described in Section One herein was annexed into the City of Daytona Beach Shores on April 23, 2024, and an appropriate City zoning classification must be assigned to the real property in accordance with the requirements of controlling law; and

WHEREAS, the City Commission of the City of Daytona Beach Shores has received recommendation from staff and the Planning and Zoning Board for the assignment of zoning classification to said annexed property and has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, the City Commission of the City of Daytona Beach Shores finds such rezoning consistent with the *City of Daytona Beach Shores Comprehensive Plan* and deems it in the best interest of the inhabitants of said City to amend the Official Zoning Map as hereinafter set forth,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, as follows:

SECTION ONE: REZONING OF REAL PROPERTY. The property described hereinafter which was annexed into the City of Daytona Beach Shores pursuant to Ordinance No. 2024-09 is hereby rezoned and assigned the Daytona Beach Shores zoning classification as follows:

Short Tax Parcel ID #5335-01-05-0360, as described in Exhibit “A” as attached, is assigned the RSF-2, Urban Single-Family Residential Detached District Zoning Classification.

SECTION TWO: AMENDMENT OF OFFICIAL ZONING MAP. The Official City Zoning Map is hereby amended to conform with the rezoning assigned herein.

SECTION THREE. IMPLEMENTING ADMINISTRATIVE ACTIONS. The City Manager, or designee, is authorized to take any and all required administrative actions to

implement the provisions of this Ordinance including, but not limited to, providing notice of this rezoning to the Volusia County Council in accordance with applicable law.

SECTION FOUR. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shores* or the *Land Development Code of the City of Daytona Beach Shores*; provided, however, that the actions taken herein shall be depicted on the Official Zoning Map of the City of Daytona Beach Shores by the City Manager, or designee.

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

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER **CHERI SCHWAB, CITY CLERK**

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

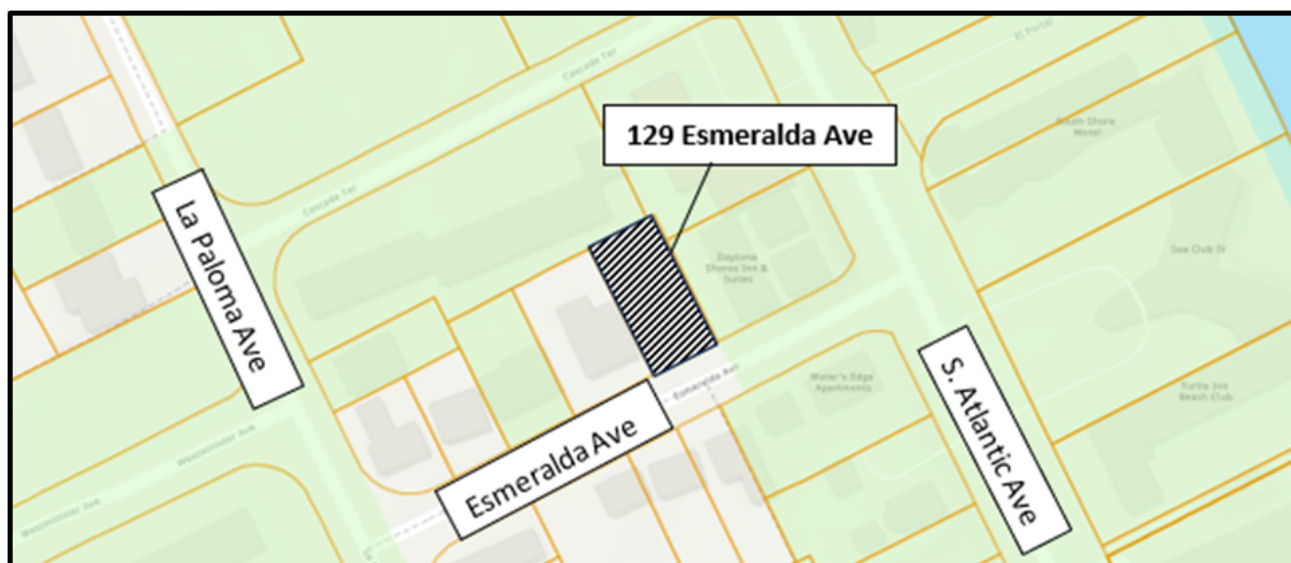
DESCRIPTION:

THE EASTERLY 14-1/3 FEET OF LOT 35 AND ALL OF LOTS 36 AND 37, BLOCK E, RIOMAR BEACHES, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 95, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE NORTHERLY 1/2 OF ESMERALDA AVENUE LYING EASTERLY OF THE EAST LINE OF EAST 14-1/3 FEET OF LOT 35 AND LYING WESTERLY OF THE EAST LINE OF LOT 37, SAID BLOCK E, RIOMAR BEACHES, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 37 AND THE CENTERLINE OF ESMERALDA AVENUE, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE WESTERLY ALONG

SAID CENTERLINE TO THE WESTERLY LINE OF THE EASTERLY 14-1/3 FEET OF LOT 35; THENCE NORTHERLY ALONG SAID WESTERLY LINE OF THE EASTERLY 14-1/3 FEET OF LOT 35 TO THE NORTHERLY LINE OF LOT 35; THENCE ALONG THE SAID NORTHERLY LINE OF LOT 35 AND THE NORTH LINE OF LOTS 36 AND 37 TO THE EASTERLY LINE OF LOT 37; THENCE SOUTHERLY ALONG THE SAID EASTERLY LINE OF LOT 37 TO THE POINT OF BEGINNING. CONTAINING 0.244 ACRES, MORE OR LESS.





City of Daytona Beach Shores
Community Services Department
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118
Telephone (386) 763-5377

250112

RECEIVED

JAN 17 2024

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

12024008
APPLICATION TO AMEND ZONING MAP

The Undersigned Applicant requests the Planning and Zoning Board and City Council to decide upon this application in accordance with Section 14-66 and 14-67 of the Land Development Code.

FEES MUST BE PAID AT THE TIME THE APPLICATION IS SUBMITTED

+ Date Submitted: 1/17/2024 Current Zoning: County

Requested Zoning: RSF-2

Applicant's Name: Anne Bressan-Harrington

x Address: 129 Esmeralda Ave Phone #: 719-351-8378

Representative: _____

Address: _____ Phone #: _____

x Property Address & Parcel ID: 53501050360

x Property Owner: Anne Bressan-Harrington

NOTE: If applicant is not property owner, attach a notarized statement of authorization

Legal Description of Property:

✓
Applicant's Signature

1/17/2024
Date

THE PLANNING & ZONING BOARD WILL APPLY THE CRITERIA IN SECTION 14-66(4) OF THE LAND DEVELOPMENT CODE WHEN CONSIDERING ZONING MAP AMENDMENTS. PLEASE EXPLAIN HOW YOUR REQUEST MEETS THE FOLLOWING CRITERIA: (YOU MAY ATTACH ADDITIONAL SHEETS)

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

10. Would the proposed changes constitute "spot zoning"?

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

12. Is the change solely for the benefit of the owner and to the detriment of the community?

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2024-13

A. INTRODUCTION

The proposed application/ordinance if approved would change the zoning district classification of the annexed single-family residential property located at 129 Esmeralda Avenue from Volusia County *R-9 Urban Two-Family Residential District* to Daytona Beach Shores *RSF-2 Urban Single-Family Residential Detached District*. The subject property contains an acreage of approximately 0.18 and has a single-family residential structure on site.

B. EXISTING ZONING AND CURRENT LAND USE

Table 1 below provides a narrative description of the zoning district classifications and current land uses (i.e., existing development) for the subject property and surrounding area while **Figure 1** provides an aerial view of the subject property and surrounding land uses and **Figure 2** is a zoning map of the same while **Figure 3** provides a street view of the property in question.

Table 1: Zoning and Land Use Area Description

Location	Zoning	Current Land Use
Subject Property	R-9*	Single Family Residence
North	RMF-2**	Cascade Apartments
South	R-9*	Single Family Residence
East	GC-1+	Daytona Shores Inn & Suites
West	R-9*	Single Family Residence

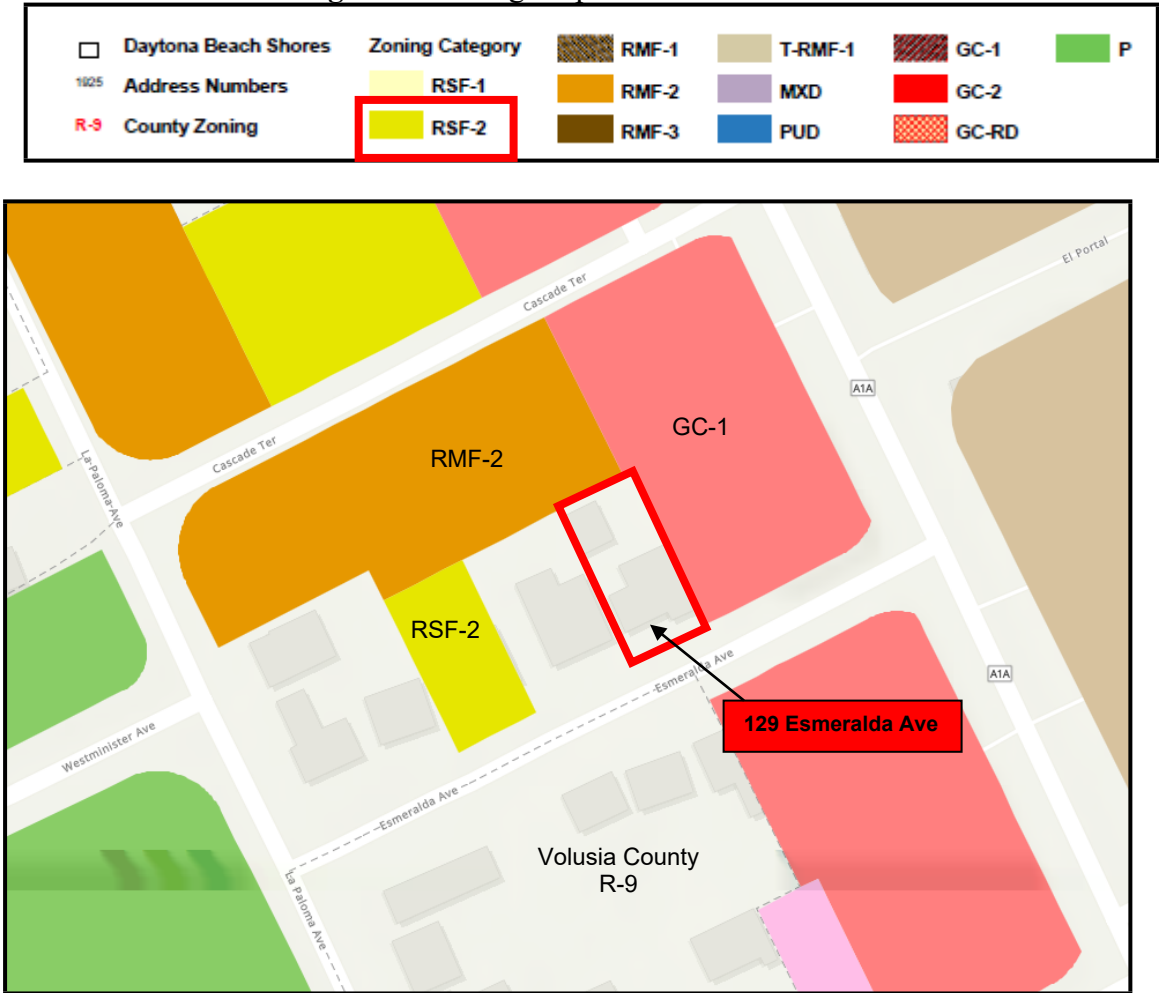
Notes: *R-9= Volusia County Urban Single-Family Residential District; RMF-2**=DBS Multifamily Residential (Medium Density) District; GC-1+=DBS Tourist Oriented Commercial District

Figure 1: Aerial View-129 Esmeralda Avenue and Surrounding Neighborhood



Source: Volusia County Property Appraiser, 2021

Figure 2: Zoning Map – 129 Esmeralda Ave.



Source: DBS Zoning Map GIS Database, 2024

Figure 3: Street View: 129 Esmeralda Avenue



Source: City of Daytona Beach Shores, 2024

As noted in **Table 1** above, the subject property is currently zoned Volusia County *R-9 Urban Single-Family Residential District*. According to the Volusia County Land Development Code, the purpose, intent and permitted uses of the existing zoning district is as follows:

“R-9 Urban Single-Family Residential District”:

Purpose and intent: The purpose and intent of the R-9 Urban Single-Family Residential classification, is to provide for continued medium-density single-family dwelling residential development on existing platted lots.

Permitted principal uses and structure: In the R-9 Urban Single-Family Residential Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Communication towers not exceeding 70 feet in height above ground level.

Essential utility services.

Exempt excavations (refer to subsection 72-293(15)) or those which comply with division 8 of the Land Development Code of Volusia County [article III] or final site plan review procedures of this article.

Exempt landfills (refer to subsection 72-293(16)).

Fire stations.

Home-based business (refer to section 72-283).

Houses of worship.

Parks and recreational areas accessory to residential developments.
Public schools.
Publicly owned parks and recreational areas.
Publicly owned or regulated water supply wells.
Single-family standard or modular dwelling.

C. PROPOSED ZONING

The proposed zoning for the subject property is RSF-2 Urban Single-Family Residential Detached District. According to the Daytona Beach Shores Land Development Code, the purpose, intent and permitted uses of the proposed zoning district is as follows:

“RSF-2 Urban Single-Family Residential Detached District”:

Purpose and Intent: The purpose and intent of the RSF-2 Urban Single-Family Residential Detached District is to provide medium residential density for the purpose of preserving the character of existing residential neighborhoods and generally implementing the city's land use plan within, but not necessarily limited to, those areas shown for single-family use.

14-17.2. Permitted Principal Uses and Structures:

Single-family dwelling.

Telecommunication towers and antennas, subject to compliance with section 14-60.1 et seq.

14-17.3. Permitted Accessory Uses and Structures.

Home occupations regulated by section 14-45 and other accessory uses or structures customarily incidental to the permitted principal use or structure.

D. COMPREHENSIVE PLAN

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question. Therefore, the existing acreage and proposed zoning will restrict the use to one (1) single-family residential unit.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

E. REVIEW AND COMMENTS

The subject application was initiated by the property owner, Anne Bressan Harrington Trust. The subject property is located at 129 Esmeralda Avenue and has an acreage of +/-0.18. The site has vehicular and pedestrian access to the abutting Esmeralda Avenue which directly connects to S. Atlantic Avenue.

The proposed zoning change will be consistent with the previous Volusia County zoning and adjacent zoning district classifications. The property is currently occupied with a single-family residential structure. Therefore, the proposed change is density neutral consistent with the zoning.

Since the application in question regards a single-family residential property, it is exempt from the City's Concurrency Review Process as it does not substantially impact any of the City's public facilities or infrastructure. Further, adequate potable water, sewer, solid waste, recreation, public school and transportation facility capacities are currently available and serve the subject property.

F. FINDING OF FACTS

When considering a request to change zoning, the Planning and Zoning Board shall consider the following criteria pursuant to Section 14-66 of the Land Development Code. Below are staff's findings considering each criterion outlined in the aforementioned section of the Code.

1. The proposed zoning will have a favorable or unfavorable impact on the environment and natural resources of the area affected.

The proposed zoning change will not provide an unfavorable impact on the environment or natural resources of the area. The property in question is currently developed with a single-family residential structure. If redeveloped, consistency with the City's Land Development Code will be required. Further, the proposed zoning change would not permit hazardous uses such as industry, which could have an unfavorable impact on the environment and natural resources of the area.

2. The proposed zoning will have a favorable or unfavorable impact on the economy of the area affected.

The proposed zoning will generally have a neutral impact on the economy of the area as the property is currently developed and no redevelopment or change in entitlement is sought. The zoning is also consistent with the Volusia County Zoning District classification and the proposed zoning change is density and use neutral.

3. The proposed zoning will efficiently use or unduly burden water, sewer, solid waste disposal or other necessary public facilities, including schools.

The subject property is currently developed as a single-family residence. This existing use will not unduly burden public facilities. The subject property is currently being served with or has access to transportation, public schools, water, sewer, and solid waste disposal services. All existing public facilities have adequate capacity and the proposed rezoning will not provide any

more impact on said facilities than the current Volusia County Zoning currently permits (see **Table 2** below).

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	1	1	None
Population ¹	1.6	1.6	None
AM / PM Peak Hour Trips ²	0.75/1.01	0.75/1.01	None
Sanitary Sewer (gallons/day) ³	250	250	None
Potable Water (gallons/day) ⁴	176	176	None
Solid Waste (lbs./person) ⁵	16	16	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.396	0.396	None

Notes:

1. Population: 1.6 persons per dwelling unit in DBS
2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = 0.396 per single-family unit.

Sources:

- 2020 US Census
- ITE Trip Generation Manual, 8th Edition
- Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)

4. The proposed zoning will efficiently use or unduly burden transportation facilities.

The proposed zoning will not unduly burden transportation facilities. There is already adequate vehicular access from the abutting Esmeralda Avenue and the existing system of local, collector and arterial road network. The adjacent transportation network currently operates above the adopted level of services.

5. The proposed zoning will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

The proposed zoning change involves a single-family residential property being rezoned to a Daytona Beach Shores compatible single-family residential zoning district classification. Hence, the rezoning will not impact the ability of people to find adequate housing since the change will neither create new housing nor eliminate existing housing stock.

6. The proposed zoning is basically consistent with the comprehensive land use plan.

The City is in the process of amending its Adopted Comprehensive Plan (2030) Future Land Use Map to assign the City's *Residential Low Intensity* future land use (FLU) classification to the subject property. This FLU classification allows up to four (4) residential units per acre, which is same as the current Volusia County *Urban Low Intensity* FLU for the property in question.

Objective 1-1.4 of the Comprehensive Plan states that land uses which are inconsistent with the character and overall Future Land Use Plan of the City shall be discouraged through the prohibition of objectionable uses such as industries and warehousing. The existing single-family residence proposed future land use and proposed zoning are not objectionable or inconsistent with the future land use map and surrounding neighborhood. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030) and proposed FLU classification.

7. Have conditions relative to the property in question and the surrounding area so changed as to require zoning classification boundaries be amended to reflect new conditions?

The physical, economic or environmental conditions relative to the property in question and the surrounding area have not changed so as to require a zoning change. However, the subject property was annexed into the City through the voluntary annexation process pursuant to Section 171.044, *Florida Statutes*. However, Section 171.062, *Florida Statutes* limits regulatory and development control over an annexing property if the area annexed was subject to a county land use plan and county zoning and said regulations remain in full force and effect until the municipality adopts a comprehensive plan amendment that includes the annexed area, hence, the purpose of this application to amend the zoning classification of the subject property.

8. Was there a mistake in the original zoning of the property so that such zoning does not properly reflect the actual or developing conditions of the area?

There was no mistake made in the original zoning of the property. The property was annexed into the City from unincorporated Volusia County; therefore the appropriate City zoning classification must be assigned so that the City may provide developmental and regulatory control.

9. Will the proposed change promulgate or encourage a physical benefit or have a stabilizing effect on the surrounding areas?

The proposed zoning change is consistent with the existing Volusia County zoning district classification and is density and use neutral. Therefore, the proposed change will maintain a stabilizing effect on the surrounding areas.

10. Would the proposed changes constitute "spot zoning"?

Spot zoning generally occurs when an individual parcel is assigned a zoning classification that is incompatible with the surrounding area. However, the proposed zoning change is consistent with the existing Volusia County zoning district classification in the area and the amendment is density and use neutral. Further, the proposed zoning classification will provide an existing use that is identical to the City's and County's zoning classification in the neighborhood. Therefore, the proposed change does not constitute spot zoning.

11. Is the proposed change a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, and would such use violate the integrity of the zoning classification?

The proposed change involves rezoning one individual property which was annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhoods use, future land use and zoning classifications. Therefore, the proposed change is not the singling out of a small parcel of land allowing a use that is totally different from that of the surrounding area.

12. Is the change solely for the benefit of the owner and to the detriment of the community?

The proposed change involves rezoning one individual property which was annexed into the City's corporate limits. The proposed zoning classification is consistent with the existing neighborhood uses, future land use and zoning classifications. Therefore, the proposed change would not be solely for the benefit of the owner and to the detriment of the community but instead the change would benefit the entire community by maintaining the existing land use of the property and the integrity of the neighborhood.

13. Will the proposed change especially suit the applicant's own special purpose rather than serve the community?

The proposed change is consistent with the neighborhood existing and future land uses and therefore serves the entire community by maintaining the neighborhood's single-family residential characteristics.

14. Would the requested change materially diminish the value of surrounding properties or substantially alter the characteristics of the neighborhood?

The rezoning will not materially diminish the value of the surrounding properties or substantially alter the characteristics of the neighborhood since the proposed rezoning will ensure the single-family nature of the community is maintained.



PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 13, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Ordinance 2024-14: Comprehensive Plan Future Land Use Map Amendment For Recently Annexed Property Located At 3635 Cardinal Boulevard

SYNOPSIS:

Ordinance 2024-14, if adopted, would amend the City's Adopted Comprehensive Plan Update (2030) Future Land Use Map by assigning the residential low intensity future land classification to the recently annexed single-family residential property located at 3635 Cardinal Boulevard (Exhibit A). The application (Exhibit B) was submitted by the Storch Law Firm on behalf of the property owner, IGS Holdings, LLC. Applying a City future land use designation is a requirement of Florida Law whenever a property is annexed. The property is +/-0.24 acres and is occupied by a 6,800 square foot four-unit residential structure. The proposed amendment is compatible with the current Volusia County future land use category and as such, the amendment will remain density neutral.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 3635 Cardinal Boulevard, was recently annexed into the corporate limits of the City of Daytona Beach Shores pursuant to the voluntary annexation process outlined in Section 171.044, Florida Statutes. However, Section 171.062, Florida Statutes limits regulatory and development control over an annexed property if the area annexed was subject to a county land use plan and county zoning and the municipality does not adopt a comprehensive plan and zoning amendment that includes the annexed area. Therefore, the County land use plan and zoning regulations will remain in full force and effect until the City changes the future land use classification and zoning designation of the subject property. The purpose of this application is to realize the former. Additionally, the property owner has also submitted an application to rezone the property to the City's RSF-2 Urban Single-Family Residential Detached District, consistent with the existing and surrounding land uses and current Volusia County R-6 District zoning classification. The rezoning will occur subsequent to the future land use amendment associated with the subject property.

B. PLANNING ANALYSIS

See Exhibit C for planning analysis.

C. DUE PUBLIC NOTICE

Evidence of Due Public Notice have been submitted to the City Clerk's Office.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-14 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follows:

1. "I move to recommend approval of Ordinance 2024-14 as presented."

OR

2. "I move to recommend approval of Ordinance 2024-14, with the following amendments..."

OR

3. "I move to recommend denial of Ordinance 2024-14, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2024-14-FLUMA-3635 Cardinal
 2. Exhibit A-Location Map1-3635 Cardinal
 3. Exhibit B-FLUMA Application-3635 Cardinal
 4. Exhibit C-Planning Analysis-FLUMA-3635 Cardinal

ORDINANCE NO: 2024-14

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”, BY AMENDING MAP L-4 ENTITLED, “GENERALIZED FUTURE LAND USE MAP (2030)” ASSIGNING THE RESIDENTIAL LOW INTENSITY FUTURE LAND USE DESIGNATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED AT 3635 CARDINAL BOULEVARD, SHORT TAX PARCEL ID 6302-05-09-0041; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-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 small scale development activities as provided in Section 163.3187(1)(c), *Florida Statutes*; and

WHEREAS, the Volusia County Growth Management Commission 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*; and

WHEREAS, the Planning and Zoning Board, which is the local planning agency of the City, and City Commission 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, IGS HOLDINGS, LLC, owner of the real property with short tax Parcel ID 6302-05-09-0041 and generally located at 3635 Cardinal Boulevard, submitted an owner initiated future land use map amendment application to the City of Daytona Beach Shores; and

Ordinance 2024-14

Page No.1

WHEREAS, IGS HOLDINGS, LLC, owner of the subject property, is requesting the City of Daytona Beach Shores amends the future land use classification of the subject real property to Residential Low Intensity; and

WHEREAS, the City Commission 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 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 Commission 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 COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AS FOLLOWS:

SECTION ONE: CHANGE IN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP. Chapter 1, “Future Land Use Element,” containing the Official Future Land Use Map (Map L-4) of the *City of Daytona Beach Shores Comprehensive Plan* is hereby amended to change the Future Land Use Designation of a +/-0.24 acre property from Volusia County Urban Low Intensity to Daytona Beach Shores Residential Low Intensity as to property as described in Exhibit “A” as follows:

Location Address	Short Tax Parcel ID	Daytona Beach Shores Future Land Use Designation
3635 Cardinal Boulevard	6302-05-09-0041	Residential Low Intensity

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 163.3187(1)(c)2.b, *Florida Statutes* and *Volusia Growth Management Rules*.

SECTION THREE: 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 FOUR: 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 FIVE. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shore* or, the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted in the *City of Daytona Beach Shores Comprehensive Plan* and on the Future Land Use Map of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION SIX: EFFECTIVE DATE. This Ordinance shall become effective, in accordance with the provisions of Section 163.3187, *Florida Statutes*, thirty-one (31) days after enactment; provided, however, if this Ordinance is challenged within thirty (30) days after enactment, this Ordinance shall not become effective until the Florida Department of Economic Opportunity, acting as the State Land Planning Agency, or the Administration Commission, respectively, issues a final order determining that the small scale development amendment to the *City of Daytona Beach Shores Comprehensive Plan* set forth in this Ordinance is in compliance.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

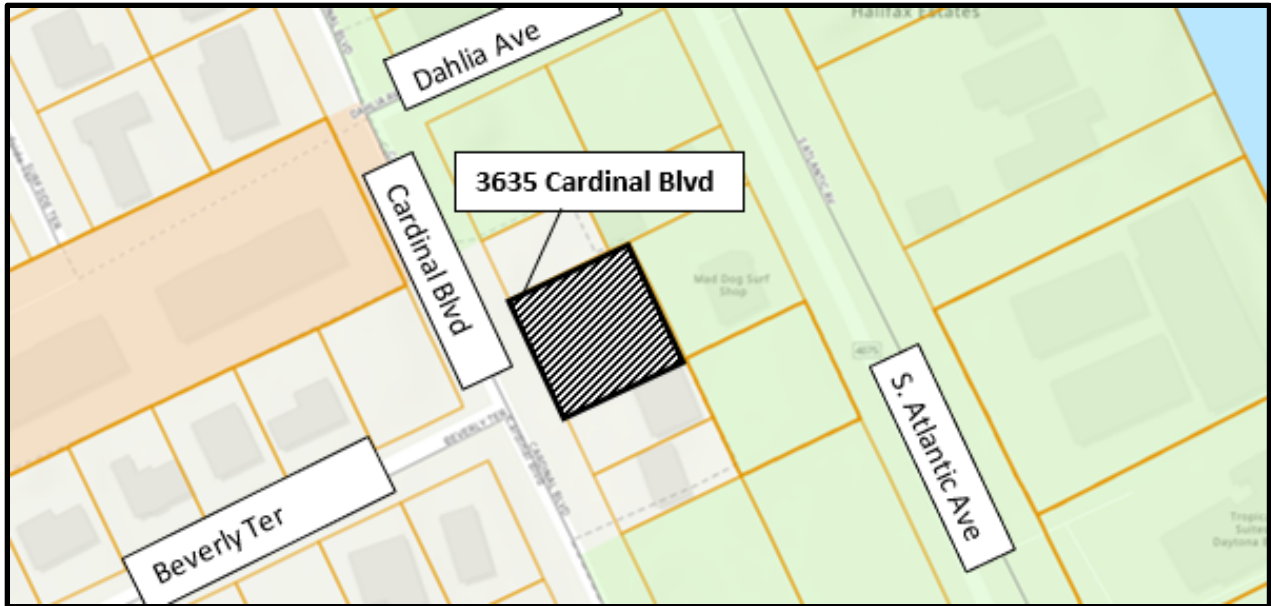
DESCRIPTION:

THE WEST 1/2 OF LOTS 4 AND 5, BLOCK 9, LYING EASTERLY OF CARDINAL DRIVE, MAP OF OCEAN VIEW SECTION OF HALIFAX ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 11, 1

TOGETHER WITH THE EASTERLY 1/2 OF CARDINAL DRIVE LYING SOUTHERLY OF THE NORTH LINE OF LOT 4 AND LYING NORTHERLY OF THE SOUTH LINE OF LOT 5, SAID BLOCK 9, MAP OF OCEAN VIEW SECTION OF HALIFAX ESTATES, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE NORTH LINE OF SAID LOT 4 AND THE CENTERLINE OF CARDINAL DRIVE, A 70 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 4 TO THE EAST LINE OF THE WEST 1/2 OF LOT 4; THENCE SOUTHERLY ALONG EAST LINE OF THE WEST 1/2 OF LOT 4 AND EAST LINE OF THE WEST 1/2 OF LOT 5 TO THE SOUTH LINE OF LOT 5; THENCE WESTERLY ALONG SAID SOUTH LINE TO THE SAID CENTERLINE OF CARDINAL DRIVE; THENCE NORTHERLY ALONG SAID CENTERLINE TO THE POINT OF BEGINNING.

CONTAINING 0.316 ACRES, MORE OR LESS.





City of Daytona Beach Shores
COMMUNITY SERVICES DEPARTMENT
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Phone (386) 763-5377 Fax (386) 763-5370

150036

RECEIVED

12024002
APPLICATION FOR COMPREHENSIVE PLAN/FUTURE LAND USE MAP
AMENDMENT

JAN 04 2024

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

The Undersigned Applicant requests the Planning and Zoning Board AND City Council to hear and decide upon this application in accordance with Sec. 2-2 of the Land Development Code and Florida Law.

Date Submitted: ____ / ____ / ____

Applicable Section of the Comprehensive Plan: _____

Fees must be paid at the time the application is submitted.

Applicant's Name: A. Joseph Posey, Jr. / Storch Law Firm

Address: 420 South Nova Road, Daytona Beach, FL 32114 Phone #: 386-238-8383

Property Address: 3635 Cardinal Blvd / Parcel No. 6302-05-09-0041

Existing Property Use: Multi-family building

Representing Attorney (if any): Same as Applicant

Address: Same as Applicant Phone #: Same as Applicant

NOTES: 1) Nolarized letter of authorization from owner MUST be submitted if application is filed by anyone other than the owner. 2) A completed application MUST be submitted at least 45 days prior to the anticipated Planning and Zoning hearing date.

Legal description of the property:

The West 1/2 of Lots 4 and 5, Block 9, Map of Ocean View Section of Halifax Estates

according to the map or plat thereof as recorded in Plat Book 11, Page 100, Public

Records of Volusia County, Florida

Description of your request:

Adoption of consistent City future land use designation for annexed property

Request adoption of City Low Intensity future land use designation for property

Applicant's Signature

12, 18, 2023
Date

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2024-14

A. INTRODUCTION

The proposed amendment seeks to change the future land use designation of a residential property, recently annexed into the City, from Volusia County *Urban Low Intensity* (0.2-4.0 units/acre) to Daytona Beach Shores *Residential Low Intensity* (0-4.0 units/acre). The +/- 0.24-acre property is located at 3635 Cardinal Boulevard. The subject application, if approved, would result in the second small-scale comprehensive plan amendment for the City of Daytona Beach Shores in accordance with Section 163.3187, *Florida Statutes*.

B. PROPOSED AMENDMENT ITEM(S)

Item 1: Map Amendment - Chapter 1, Future Land Use Element: amending Map L-4 entitled, “Generalized Future Land Use Map (2030),” to change the future land use classification of the annexing property located at 3635 Cardinal Boulevard. from Volusia County *Urban Low Intensity* to Daytona Beach Shores *Residential Low Intensity*:

Overview:

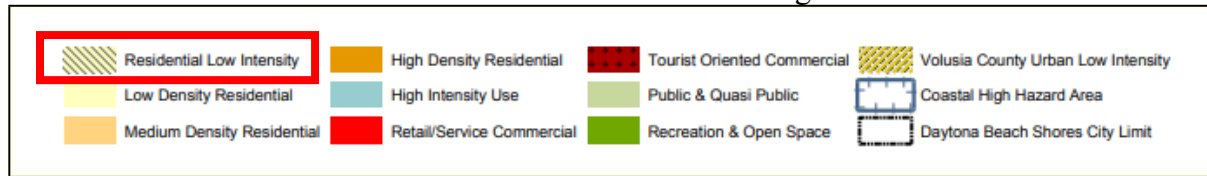
The property is currently occupied by a four-unit residential structure (6,800sf). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-6” (Urban Two-Family Residential District), respectively. The surrounding future land use designations and zoning classifications are depicted in **Table 1** below while the future land use is illustrated in **Figure 1**. The subject request is to change the FLU designation to Daytona Beach Shores *Residential Low Intensity* (0-4 units/acre).

Table 1: Abutting Zoning and Future Land Use Classification

Location	Zoning		Future Land Use	
	Existing	Proposed	Existing	Proposed
Subject Property	R-6*	RSF-2	Volusia County Urban Low Intensity	Residential Low Intensity
North	R-6*		Volusia County Urban Low Intensity	
South	R-6*		Volusia County Urban Low Intensity	
East	GC-2		Retail/Service Commercial	
West	R-4**		Volusia County Urban Low Intensity	

Notes: *R-6= Volusia County Urban Two Family Residential District; R-4**=Volusia County Urban Single Family Residential District

FIGURE 1: 3635 Cardinal Boulevard- Surrounding Future Land Use



Description, Data and Analysis:

The analysis conducted below demonstrates the amendment's compliance with the City's Comprehensive Plan and the Florida Administrative Code for future land use map amendments. Therefore, the analysis shows that there will not be any significant impacts on the environment, roadways, public schools and utilities as the allowable densities and use will remain the same.

I. IMPACTS OF PROPOSED AMENDMENT

The current Volusia County *Urban Low Intensity* Future Land Use (FLU) classification allows a maximum density of four (4) units per acre. Under the proposed Daytona Beach Shores FLU designation, *Residential Low Intensity*, the maximum density allowed is also four (4) units per acre. Therefore, the proposed land use amendment would not result in any change in residential density permitted. Given the +/-0.24-acre size of the property, the proposed amendment would allow only one (1) residential unit on site, which is the same as currently allowed under the Volusia County FLU classification. Therefore, this is a density neutral amendment.

The property is currently occupied by a four-unit residential structure. Additionally, the proposed Daytona Beach Shores zoning for this property, RSF-2 Urban Single-Family Residential Detached District, would permit only one residential dwelling unit on site. So, from a practical and planning perspective the proposed future land use change will result in no net change in density and impacts despite the number of existing units on the site.

In accordance with the Daytona Beach Shores Comprehensive Plan Update (2030) and standard practice from the Florida Department Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the current future land use designation versus the designation proposed (**Table 2** below). The following seven public facilities and services were examined and discussed briefly below: (1) Transportation, (2) Sanitary Sewer, (3) Potable Water, (4) Solid Waste, (5) Stormwater Drainage, (6) Recreation, and (7) Public Schools.

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	1	1	None
Population ¹	1.6	1.6	None
AM / PM Peak Hour Trips ²	0.75/1.01	0.75/1.01	None
Sanitary Sewer (gallons/day) ³	250	250	None
Potable Water (gallons/day) ⁴	176	176	None
Solid Waste (lbs./person) ⁵	16	16	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.396	0.396	None

Notes:

1. Population: 1.6 persons per dwelling unit in DBS
2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = 0.396 per single-family unit.

Sources:

2020 US Census
ITE Trip Generation Manual, 8th Edition
Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)

Transportation:

The subject property is a residential lot with pedestrian and vehicular transportation access to the abutting Cardinal Boulevard, which is a county minor collector road that eventually connects to Dunlawton Boulevard (SRA1A), which is a principal arterial road leading to the interstate system. The aforementioned roads are currently operating at acceptable levels of service per the 2021 Volusia County AADT Table. There will be no net change in vehicular trips as demonstrated in **Table 2** above and the allowed LOS standard will continue to be maintained.

Sanitary Sewer:

The City's adopted LOS standard for sanitary sewer is 250 gallons per dwelling unit per day. Using this standard, the proposed land use would theoretically generate a demand of 250 gallons per day consistent with the current future land use. However, since no increase in the number of entitled dwelling units would occur there is no net change in theoretical demand. Regardless, it should be noted that the City of Port Orange sewer treatment facility is currently operating at an acceptable level of service.

Potable Water:

The City's adopted LOS standard for potable water is 110 gallons per capita per day. Using this standard, the proposed land use would theoretically create a demand of 176 gallons of water per day. No increase in number of theoretical dwelling units or demand will occur. In addition, the current potable water usage is already accounted for in Port Orange's current consumptive use permit (CUP).

Solid Waste Collection:

The proposed land use allows for one (1) residential unit that would be expected to support a population of 1.6 persons, which together would theoretically generate 16 pounds of solid waste per day. Solid waste generated within the City of Daytona Beach Shores is collected by Waste Pro, which delivers it to the Volusia County landfill. The 3,000-acre landfill is a Class I facility with a projected life span to the year 2050.

Stormwater Drainage:

The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan requires that there be no net loss of stormwater retention function as a result of development. Therefore, if the property is developed the parcel must have the same ability to store and discharge water after development as it does before development occurs. The applicants would be required to address stormwater retention on the property in accordance with these City standards.

Recreation and Open Space:

The proposed amendment would theoretically add 1.6 residents to the City of Daytona Beach Shores. The City's most recent population count was 5,179 (2020 US Census). Policy 7-1.2.1 and Policy 9-1.3.1 in the City's Comprehensive plan establish the LOS standards for recreation facilities within the City. Considering the City's population and the City's recreational LOS standards, it is easy to conclude that Daytona Beach Shores currently has adequate capacity for all recreational facilities as required by the City's Adopted Comprehensive Plan and seen in **Table 3** below.

Table 3: Recreation Facilities Analysis

Type of Park/ Recreational Facility	Unit of Measure/LOS Standard	Current LOS (Facilities)	Deficit
Playgrounds	one per 10,000 people	1	None
Neighborhood Park	one per 10,000 people	5	None
Community Park	one per 25,000 people	1	None
Children's Play Areas	one per 10,000 people	1	None
Baseball/Softball Field	one per 15,000 people	1	None
Tennis Courts	one per 2,000 people	11	None
Community Center	one per 20,000 people	1	None

Exercise Trail	one per 14,000 people	1	None
Nature Study Trail	one per 14,000 people	1	None

Public Schools:

Based on the Volusia County School District's student generation rate for a single-family dwelling unit, the proposed land use could generate at least one (1) full time student. This is exactly the same that could be generated by the existing Volusia County future land use due to the residential density neutrality of the proposed change. Therefore, no increase impact on existing public school facilities is expected. Further, due to the aforementioned, the FLU amendment is exempt from the School District review.

II. LAND USE COMPATIBILITY

The FLU of the surrounding area is primarily residential low intensity (single-family) in character (**Figure 1**). The subject property is located in a single-family neighborhood **Figure 2**.

Figure 2: Aerial View: 3635 Cardinal Boulevard and Surrounding Neighborhood



Source: Volusia County Property Appraiser, 2021

Considering the above along with **Table 1** contained in the body of this staff report, it is clear that the proposed land use, which is a density neutral land use request, is consistent with the existing and future land use of the surrounding neighborhood.

III. APPLICABLE PLANS, CODES AND REGULATIONS

Future Land Use Element (Daytona Beach Shores Comprehensive Plan):

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.

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.

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 3 above

IV. REVIEW CRITERIA AND STAFF FINDINGS

1. 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 land use amendment is density neutral. Consequently, no increase in traffic is anticipated as a result of the proposed change, therefore: (a) there will be no decrease in the adopted LOS Standard for Cardinal Blvd and Dunlawton

Boulevard; and (b) considering the aforementioned, the hurricane evacuation clearance time shall remain the same for the subject roads in question.

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: The proposed land use amendment is density neutral and the site is already developed. Therefore, no increase in demand is anticipated and no written assurances are needed from service providers since services are already being provided for at the accepted LOS standard.

3. The amendment shall not result in objectionable land use designations inconsistent with the character of the overall future land use plan.

Staff finding: The proposed amendment will not result in an incompatible land use designation with adjacent parcels, the neighborhood or overall character of the future land use plan. The proposed *Residential Low Intensity* (0-4 units/acre) designation will provide for a single-family residential use and is therefore compatible with the surrounding residential low-density (single-family) land uses.

4. The amendment shall not decrease the LOS Standards for public facilities adopted in Policy 9-1.3 of the City's Comprehensive Plan.

Staff finding: The proposed land use amendment is density neutral, therefore, no increase demand on public facilities is anticipated.

V. CONCLUSION:

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



PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 13, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Ordinance 2024-15: Comprehensive Plan Future Land Use Map Amendment For Recently Annexed Property Located At 110 Van Avenue

SYNOPSIS:

Ordinance 2024-15, if adopted, would amend the City's Adopted Comprehensive Plan Update (2030) Future Land Use Map by assigning the residential low intensity future land classification to the recently annexed single-family residential property located at 110 Van Avenue (Exhibit A). The application (Exhibit B) was submitted by Tom Cooper, authorized member of Three RE Holdings, LLC, owner of the subject property. Applying a City future land use designation is a requirement of Florida Law whenever a property is annexed. The property is +/-0.26 acres and is occupied by a 2,111 square foot residential structure. The proposed amendment is compatible with the current Volusia County future land use category and as such, the use will remain as single-family residential and the amendment is density neutral.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 110 Van Avenue, was recently annexed into the corporate limits of the City of Daytona Beach Shores pursuant to the voluntary annexation process outlined in Section 171.044, Florida Statutes. However, Section 171.062, Florida Statutes limits regulatory and development control over an annexed property if the area annexed was subject to a county land use plan and county zoning and the municipality does not adopt a comprehensive plan and zoning amendment that includes the annexed area. Therefore, the County land use plan and zoning regulations will remain in full force and effect until the City changes the future land use classification and zoning designation of the subject property. The purpose of this application is to realize the former. Additionally, the property owner has also submitted an application to rezone the property to the City's RSF-2 Urban Single-Family Residential Detached District, consistent with the existing and surrounding land uses and current Volusia County R-9 District zoning classification. The rezoning will occur subsequent to the future land use amendment associated with the subject property.

B. PLANNING ANALYSIS

See Exhibit C for planning analysis.

C. DUE PUBLIC NOTICE

Evidence of Due Public Notice have been submitted to the City Clerk's Office.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-15 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follows:

1. "I move to recommend approval of Ordinance 2024-15 as presented."

OR

2. "I move to recommend approval of Ordinance 2024-15, with the following amendments..."

OR

3. "I move to recommend denial of Ordinance 2024-15, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2024-15-FLUMA-110 Van Ave
 2. Exhibit A-Location Map - 110 Van
 3. Exhibit B-FLUMA Application-110 Van
 4. Exhibit C-Planning Analysis-FLUMA-110 Van

ORDINANCE NO: 2024-15

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”, BY AMENDING MAP L-4 ENTITLED, “GENERALIZED FUTURE LAND USE MAP (2030)” ASSIGNING THE RESIDENTIAL LOW INTENSITY FUTURE LAND USE DESIGNATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED AT 110 VAN AVENUE, SHORT TAX PARCEL ID 5334-02-05-0020; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-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 small scale development activities as provided in Section 163.3187(1)(c), *Florida Statutes*; and

WHEREAS, the Volusia County Growth Management Commission 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*; and

WHEREAS, the Planning and Zoning Board, which is the local planning agency of the City, and City Commission 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, THREE RE HOLDINGS, LLC, owner of the real property with short tax Parcel ID 5334-02-05-0020 and generally located at 110 Van Avenue, submitted an owner initiated future land use map amendment application to the City of Daytona Beach Shores; and

WHEREAS, THREE RE HOLDINGS, LLC, owner of the subject property, are requesting the City of Daytona Beach Shores amends the future land use classification of the subject real property to Residential Low Intensity; and

WHEREAS, the City Commission 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 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 Commission 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 COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AS FOLLOWS:

SECTION ONE: CHANGE IN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP. Chapter 1, “Future Land Use Element,” containing the Official Future Land Use Map (Map L-4) of the *City of Daytona Beach Shores Comprehensive Plan* is hereby amended to change the Future Land Use Designation of a +/-0.26 acre property from Volusia County Urban Low Intensity to Daytona Beach Shores Residential Low Intensity as to property as described in Exhibit “A” as follows:

Location Address	Short Tax Parcel ID	Daytona Beach Shores Future Land Use Designation
110 Van Avenue	5334-02-05-0020	Residential Low Intensity

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 163.3187(1)(c)2.b, *Florida Statutes* and *Volusia Growth Management Rules*.

SECTION THREE: 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 FOUR: 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 FIVE. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shore* or, the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted in the *City of Daytona Beach Shores Comprehensive Plan* and on the Future Land Use Map of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION SIX: EFFECTIVE DATE. This Ordinance shall become effective, in accordance with the provisions of Section 163.3187, *Florida Statutes*, thirty-one (31) days after enactment; provided, however, if this Ordinance is challenged within thirty (30) days after enactment, this Ordinance shall not become effective until the Florida Department of Economic Opportunity, acting as the State Land Planning Agency, or the Administration Commission, respectively, issues a final order determining that the small scale development amendment to the *City of Daytona Beach Shores Comprehensive Plan* set forth in this Ordinance is in compliance.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER **CHERI SCHWAB, CITY CLERK**

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

DESCRIPTION:

THE WEST 77.54 FEET OF LOTS 1, 2 AND 3, BLOCK 5, LYING EASTERLY OF ESPERANZA STREET AND SOUTHERLY OF VAN AVENUE, PLAT OF ORITA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 1, PAGE 115, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TOGETHER WITH THE EASTERLY 1/2 OF ESPERANZA STREET LYING NORTHERLY OF THE SOUTH LINE OF LOT 3 AND LYING SOUTHERLY OF THE CENTERLINE OF VAN AVENUE, AND THE SOUTHERLY 1/2 OF VAN AVENUE LYING EASTERLY OF THE CENTERLINE OF ESPERANZA STREET AND WESTERLY OF THE EASTERLY LINE OF THE WESTERLY 77.54 FEET OF LOTS 1, 2 AND 3 SAID BLOCK 5, PLAT OF ORITA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 3 AND THE CENTERLINE OF ESPERANZA STREET, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE NORTHERLY ALONG SAID CENTERLINE TO THE CENTERLINE OF VAN AVENUE A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE EASTERLY ALONG SAID CENTERLINE TO THE EASTERLY LINE OF THE WESTERLY 77.54 FEET OF SAID LOT 1; THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND ALONG EASTERLY LINE OF THE WESTERLY 77.54 FEET OF LOTS 2 AND 3 TO THE SOUTHERLY LINE OF LOT 3; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 3 TO THE POINT OF BEGINNING. CONTAINING 0.412 ACRES, MORE OR LESS.





City of Daytona Beach Shores
COMMUNITY SERVICES DEPARTMENT
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Phone (386) 763-5377 Fax (386) 763-5370

APPLICATION FOR COMPREHENSIVE PLAN/FUTURE LAND USE MAP
AMENDMENT

The Undersigned Applicant requests the Planning and Zoning Board AND City Council to hear and decide upon this application in accordance with Sec. 2-2 of the Land Development Code and Florida Law.

Date Submitted: 1/25/24

Applicable Section of the Comprehensive Plan: _____

Fees must be paid at the time the application is submitted.

Applicant's Name: Thomas Cooper

Address: 5927 Aruna Dr. Port Orange Phone #: 386 316 5965

Property Address: 110 Van Ave. Daytona Beach, FL 32118

Existing Property Use: Single family residence

Representing Attorney (if any): _____

Address: _____ Phone #: _____

NOTES: 1) Notarized letter of authorization from owner MUST be submitted if application is filed by anyone other than the owner. 2) A completed application MUST be submitted at least 45 days prior to the anticipated Planning and Zoning hearing date.

Legal description of the property:

W 77.54 FT OF LOTS 1 2 & 3 BLK 5 ROGERS
NORTH ORITA PER OR 5081 PG 4864 PER
UNREC D/C PER OR 8412 PG 0905

Description of your request:

Annexation from Volusia County to City
of Daytona Beach Shores

[Signature]
Applicant's Signature

1/25/2024
Date

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2024-15

A. INTRODUCTION

The proposed amendment seeks to change the future land use designation of a single-family residential property, recently annexed into the City, from Volusia County *Urban Low Intensity* (0.2-4.0 units/acre) to Daytona Beach Shores *Residential Low Intensity* (0-4.0 units/acre). The +/- 0.26-acre property is located at 110 Van Avenue. The subject application, if approved, would result in the third small-scale comprehensive plan amendment for the City of Daytona Beach Shores in accordance with Section 163.3187, *Florida Statutes*.

B. PROPOSED AMENDMENT ITEM(S)

Item 1: Map Amendment - Chapter 1, Future Land Use Element: amending Map L-4 entitled, “Generalized Future Land Use Map (2030),” to change the future land use classification of the annexing property located at 110 Van Avenue. from Volusia County *Urban Low Intensity* to Daytona Beach Shores *Residential Low Intensity*:

Overview:

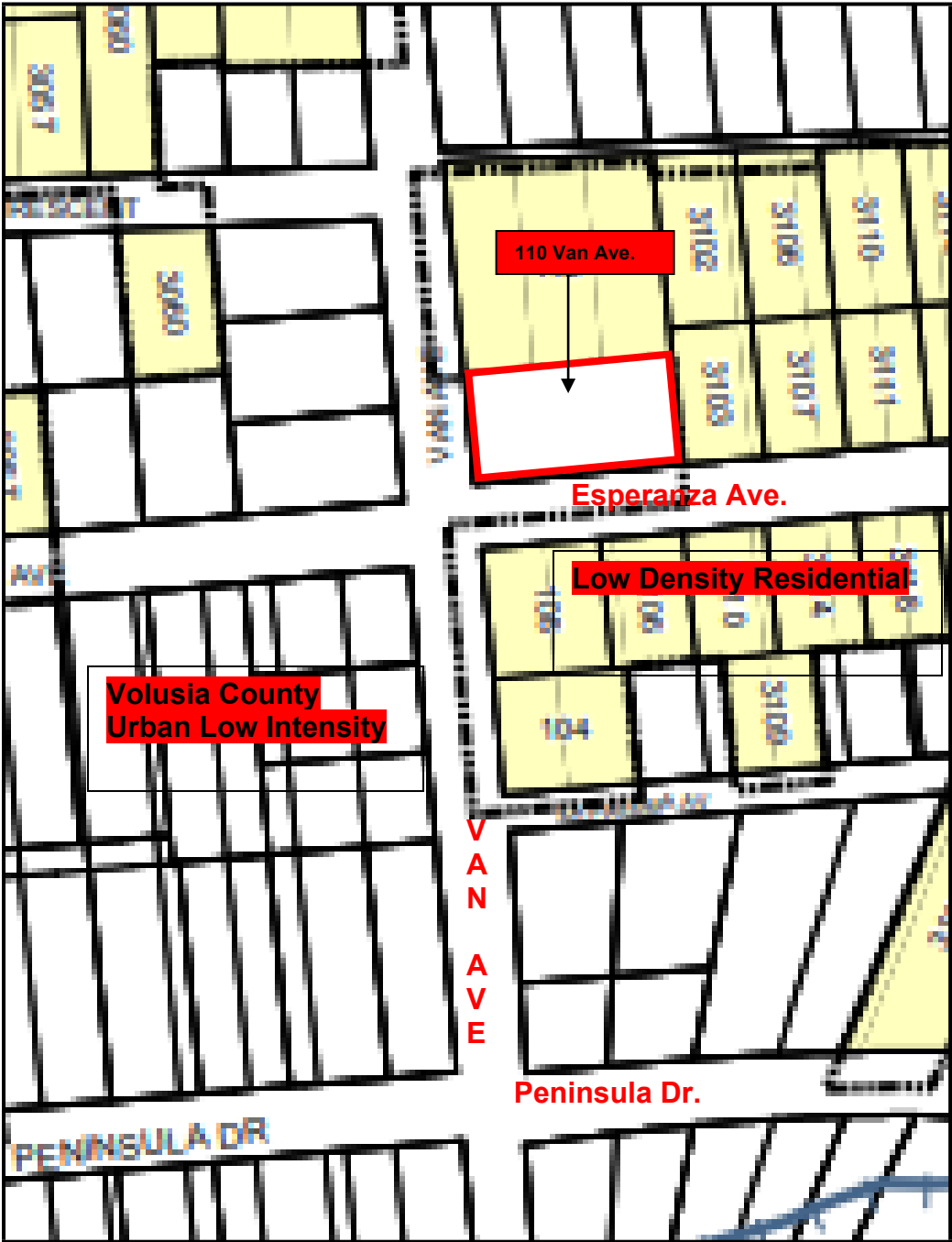
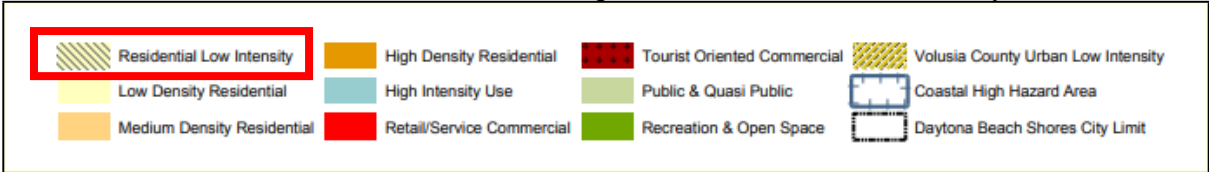
The property is currently occupied by a single-family residential structure (2,111sf). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-9” (Urban Single-Family Residential District), respectively. The surrounding future land use designations and zoning classifications are depicted in **Table 1** below while the future land use is illustrated in **Figure 1**. The subject request is to change the FLU designation to Daytona Beach Shores *Residential Low Intensity* (0-4 units/acre).

Table 1: Abutting Zoning and Future Land Use Classification

Location	Zoning		Future Land Use	
	Existing	Proposed	Existing	Proposed
Subject Property	R-9*	RSF-2	Volusia County Urban Low Intensity	Residential Low Intensity
North	R-9		Volusia County Urban Low Intensity	
South	RSF-2 **		Low Density Residential	
East	RSF-2		Low Density Residential	
West	RSF-2		Low Density Residential	

Notes: *R-9= Volusia County Urban Single-Family Residential District; RSF-2**=DBS Urban Single-Family Residential District

FIGURE 1: Future Land Use Map – 110 Van Avenue & Vicinity



Description, Data and Analysis:

The analysis conducted below demonstrates the amendment's compliance with the City's Comprehensive Plan and the Florida Administrative Code for future land use map amendments. Therefore, the analysis shows that there will not be any significant impacts on the environment, roadways, public schools and utilities as the allowable densities and use will remain the same.

I. IMPACTS OF PROPOSED AMENDMENT

The current Volusia County *Urban Low Intensity* Future Land Use (FLU) classification allows a maximum density of four (4) units per acre. Under the proposed Daytona Beach Shores FLU designation, *Residential Low Intensity*, the maximum density allowed is also four (4) units per acre. Therefore, the proposed land use amendment would not result in any change in residential density permitted. Given the +/-0.26-acre size of the property, the proposed amendment would allow only one (1) residential unit on site, which is the same as currently allowed under the Volusia County FLU classification.

The property is currently occupied by a single-family residential structure. Additionally, the proposed Daytona Beach Shores zoning for this property, RSF-2 Urban Single-Family Residential Detached District, would permit only one residential dwelling unit on site. So, from a practical and planning perspective the proposed future land use change will result in no net change in density and impacts.

In accordance with the Daytona Beach Shores Comprehensive Plan Update (2030) and standard practice from the Florida Department Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the current future land use designation versus the designation proposed (**Table 2** below). The following seven public facilities and services were examined and discussed briefly below: (1) Transportation, (2) Sanitary Sewer, (3) Potable Water, (4) Solid Waste, (5) Stormwater Drainage, (6) Recreation, and (7) Public Schools.

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	1	1	None
Population ¹	1.6	1.6	None
AM / PM Peak Hour Trips ²	0.75/1.01	0.75/1.01	None
Sanitary Sewer (gallons/day) ³	250	250	None
Potable Water (gallons/day) ⁴	176	176	None
Solid Waste (lbs./person) ⁵	16	16	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.396	0.396	None

Notes:

1. Population: 1.6 persons per dwelling unit in DBS
2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = 0.396 per single-family unit.

Sources:

2020 US Census
ITE Trip Generation Manual, 8th Edition
Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)

Transportation:

The subject property is a single-family lot with pedestrian and vehicular transportation access to the abutting Van Avenue (CR7865), which is a local county road connecting to S. Peninsula Drive (SR441) and S. Atlantic Avenue (SRA1A). The two roads connect to Dunlawton Boulevard (SR421) and International Speedway Boulevard (US92) which are both principal arterial roads leading to the interstate system. The aforementioned roads are currently operating at acceptable levels of service. Further, there will be no net change in vehicular trips as demonstrated in **Table 2** above and the allowed LOS standard will continue to be maintained.

Sanitary Sewer:

The City's adopted LOS standard for sanitary sewer is 250 gallons per dwelling unit per day. Using this standard, the proposed land use would theoretically generate a demand of 250 gallons per day consistent with the current future land use. However, since no increase in the number of entitled dwelling units would occur there is no net change in theoretical demand. Regardless, it should be noted that the City of Port Orange sewer treatment facility is currently operating at an acceptable level of service.

Potable Water:

The City's adopted LOS standard for potable water is 110 gallons per capita per day. Using this standard, the proposed land use would theoretically create a demand of 176 gallons of water per day. No increase in number of theoretical dwelling units or demand will occur. In addition, the current potable water usage is already accounted for in Port Orange's current consumptive use permit (CUP).

Solid Waste Collection:

The proposed land use allows for one (1) residential unit that would be expected to support a population of 1.6 persons, which together would theoretically generate 16 pounds of solid waste per day. Solid waste generated within the City of Daytona Beach Shores is collected by Waste Pro, which delivers it to the Volusia County landfill. The 3,000-acre landfill is a Class I facility with a projected life span to the year 2050.

Stormwater Drainage:

The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan requires that there be no net loss of stormwater retention function as a result of development. Therefore, if the property is developed the parcel must have the same ability to store and discharge water after development as it does before development occurs. The applicants would be required to address stormwater retention on the property in accordance with these City standards.

Recreation and Open Space:

The proposed amendment would theoretically add 1.6 residents to the City of Daytona Beach Shores. The City's most recent population count was 5,179 (2020 US Census). Policy 7-1.2.1 and Policy 9-1.3.1 in the City's Comprehensive plan establish the LOS standards for recreation facilities within the City. Considering the City's population and the City's recreational LOS standards, it is easy to conclude that Daytona Beach Shores currently has adequate capacity for all recreational facilities as required by the City's Adopted Comprehensive Plan and seen in **Table 3** below.

Table 3: Recreation Facilities Analysis

Type of Park/ Recreational Facility	Unit of Measure/LOS Standard	Current LOS (Facilities)	Deficit
Playgrounds	one per 10,000 people	1	None
Neighborhood Park	one per 10,000 people	5	None
Community Park	one per 25,000 people	1	None
Children's Play Areas	one per 10,000 people	1	None
Baseball/Softball Field	one per 15,000 people	1	None
Tennis Courts	one per 2,000 people	11	None
Community Center	one per 20,000 people	1	None

Exercise Trail	one per 14,000 people	1	None
Nature Study Trail	one per 14,000 people	1	None

Public Schools:

Based on the Volusia County School District's student generation rate for a single-family dwelling unit, the proposed land use could generate at least one (1) full time student. This is exactly the same that could be generated by the existing Volusia County future land use due to the residential density neutrality of the proposed change. Therefore, no increase impact on existing public school facilities is expected. Further, due to the aforementioned, the FLU amendment is exempt from the School District review.

II. LAND USE COMPATIBILITY

The FLU of the surrounding area is primarily residential low intensity (single-family) in character (**Figure 1**). The subject property is located in a single-family neighborhood **Figure 2**.

Figure 2: Aerial View: 110 Van Avenue & Vicinity



Source: Volusia County Property Appraiser, 2021

Considering the above along with **Table 1** contained in the body of this staff report, it is clear that the proposed land use, which is a density neutral land use request, is consistent with the existing and future land use of the surrounding neighborhood.

III. APPLICABLE PLANS, CODES AND REGULATIONS

Future Land Use Element (Daytona Beach Shores Comprehensive Plan):

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.

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.

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 3 above

IV. REVIEW CRITERIA AND STAFF FINDINGS

1. 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 land use amendment is density neutral. Consequently, no increase in traffic is anticipated as a result of the proposed change, therefore: (a) there will be no decrease in the adopted LOS Standard for Cardinal Blvd, Dunlawton Blvd or S

Atlantic Avenue; and (b) considering the aforementioned, the hurricane evacuation clearance time shall remain the same for the subject roads in question.

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: The proposed land use amendment is density neutral and the site is already developed. Therefore, no increase in demand is anticipated and no written assurances are needed from service providers since services are already being provided for at the accepted LOS standard.

3. The amendment shall not result in objectionable land use designations inconsistent with the character of the overall future land use plan.

Staff finding: The proposed amendment will not result in an incompatible land use designation with adjacent parcels, the neighborhood or overall character of the future land use plan. The proposed *Residential Low Intensity* (0-4 units/acre) designation will provide for a single-family residence and is therefore compatible with the surrounding residential low-density (single-family) space land uses.

4. The amendment shall not decrease the LOS Standards for public facilities adopted in Policy 9-1.3 of the City's Comprehensive Plan.

Staff finding: The proposed land use amendment is density neutral, therefore, no increase demand on public facilities is anticipated.

V. CONCLUSION:

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



PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 13, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Ordinance 2024-16: Comprehensive Plan Future Land Use Map Amendment For Recently Annexed Property Located At 129 Esmeralda Avenue

SYNOPSIS:

Ordinance 2024-16, if adopted, would amend the City's Adopted Comprehensive Plan Update (2030) Future Land Use Map by assigning the residential low intensity future land classification to the recently annexed single-family residential property located at 129 Esmeralda Avenue (Exhibit A). The application (Exhibit B) was submitted by Anne Bressan Harrington Trust, owner of the subject property. Applying a City future land use designation is a requirement of Florida Law whenever a property is annexed. The property is +/-0.18 acres and is occupied by a 1,580 square foot residential structure. The proposed amendment is compatible with the current Volusia County future land use category and as such, the use will remain as single-family residential and the proposed amendment is density neutral.

FISCAL IMPACT STATEMENT:

BACKGROUND:

A. BACKGROUND

The subject property, located at 129 Esmeralda Avenue, was recently annexed into the corporate limits of the City of Daytona Beach Shores pursuant to the voluntary annexation process outlined in Section 171.044, Florida Statutes. However, Section 171.062, Florida Statutes limits regulatory and development control over an annexed property if the area annexed was subject to a county land use plan and county zoning and the municipality does not adopt a comprehensive plan and zoning amendment that includes the annexed area. Therefore, the County land use plan and zoning regulations will remain in full force and effect until the City changes the future land use classification and zoning designation of the subject property. The purpose of this application is to realize the former. Additionally, the property owner has also submitted an application to rezone the property to the City's RSF-2 Urban Single-Family Residential Detached District, consistent with the existing and surrounding land uses and current Volusia County R-9 District zoning classification. The rezoning will occur subsequent to the future land use amendment associated with the subject property.

B. PLANNING ANALYSIS

See Exhibit C for planning analysis.

C. DUE PUBLIC NOTICE

Evidence of Due Public Notice has been submitted to the City Clerk's Office.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-16 as presented.

SUGGESTED MOTION:

A Planning and Zoning Board member may motion as follows:

1. "I move to recommend approval of Ordinance 2024-16 as presented."

OR

2. "I move to recommend approval of Ordinance 2024-16, with the following amendments..."

OR

3. "I move to recommend denial of Ordinance 2024-16, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2024-16-FLUMA-129 Esmeralda
 2. Exhibit A-Location Map1-129 Esmeralda Ave
 3. Exhibit B-FLUMA Application-129 Esmeralda
 4. Exhibit C-Planning Analysis-FLUMA-129 Esmeralda

ORDINANCE NO: 2024-16

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”, BY AMENDING MAP L-4 ENTITLED, “GENERALIZED FUTURE LAND USE MAP (2030)” ASSIGNING THE RESIDENTIAL LOW INTENSITY FUTURE LAND USE DESIGNATION TO ANNEXED SINGLE-FAMILY RESIDENTIAL PROPERTY GENERALLY LOCATED AT 129 ESMERALDA AVENUE, SHORT TAX PARCEL ID 5335-01-05-0360; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-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 small scale development activities as provided in Section 163.3187(1)(c), *Florida Statutes*; and

WHEREAS, the Volusia County Growth Management Commission 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*; and

WHEREAS, the Planning and Zoning Board, which is the local planning agency of the City, and City Commission 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, Anne Bressan Harrington Trust, owner of the real property with Short Tax Parcel ID 5335-01-05-0360 and generally located at 129 Esmeralda Avenue, submitted an owner initiated future land use map amendment application to the City of Daytona Beach Shores; and

WHEREAS, Anne Bressan Harrington Trust, owner of the subject property, are requesting the City of Daytona Beach Shores amends the future land use classification of the subject real property to Residential Low Intensity; and

WHEREAS, the City Commission 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 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 Commission 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 COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AS FOLLOWS:

SECTION ONE: CHANGE IN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP. Chapter 1, “Future Land Use Element,” containing the Official Future Land Use Map (Map L-4) of the *City of Daytona Beach Shores Comprehensive Plan* is hereby amended to change the Future Land Use Designation of a +/-0.18 acre property from Volusia County Urban Low Intensity to Daytona Beach Shores Residential Low Intensity as to property as described in Exhibit “A” as follows:

Location Address	Short Tax Parcel ID	Daytona Beach Shores Future Land Use Designation
129 Esmeralda Avenue	5335-01-05-0360	Residential Low Intensity

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 163.3187(1)(c)2.b, *Florida Statutes* and *Volusia Growth Management Rules*.

SECTION THREE: 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 FOUR: 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 FIVE. NON-CODIFICATION. This Ordinance shall be not be codified in the *City Code of the City of Daytona Beach Shore* or, the *Land Development Code of the City of Daytona Beach Shores*, or the *City of Daytona Beach Shores Comprehensive Plan* provided, however, that the actions taken herein shall be depicted in the *City of Daytona Beach Shores Comprehensive Plan* and on the Future Land Use Map of the City of Daytona Beach Shores by the City Manager, or designee.

SECTION SIX: EFFECTIVE DATE. This Ordinance shall become effective, in accordance with the provisions of Section 163.3187, *Florida Statutes*, thirty-one (31) days after enactment; provided, however, if this Ordinance is challenged within thirty (30) days after enactment, this Ordinance shall not become effective until the Florida Department of Economic Opportunity, acting as the State Land Planning Agency, or the Administration Commission, respectively, issues a final order determining that the small scale development amendment to the *City of Daytona Beach Shores Comprehensive Plan* set forth in this Ordinance is in compliance.

CITY OF DAYTONA BEACH SHORES, FLORIDA

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER **CHERI SCHWAB, CITY CLERK**

Approved as to form and legality:

GRETCHEN R. H. VOSE, CITY ATTORNEY

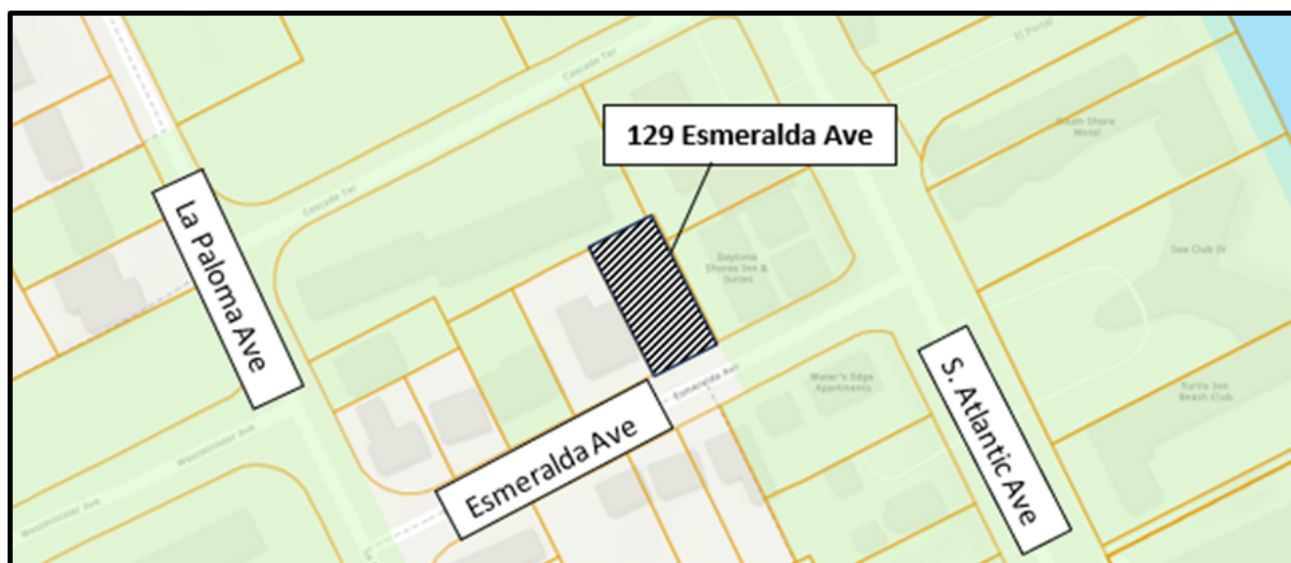
Passed on first reading this _____ day of _____, 2024.

Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

DESCRIPTION:

THE EASTERLY 14-1/3 FEET OF LOT 35 AND ALL OF LOTS 36 AND 37, BLOCK E, RIOMAR BEACHES, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 95, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. TOGETHER WITH THE NORTHERLY 1/2 OF ESMERALDA AVENUE LYING EASTERLY OF THE EAST LINE OF EAST 14-1/3 FEET OF LOT 35 AND LYING WESTERLY OF THE EAST LINE OF LOT 37, SAID BLOCK E, RIOMAR BEACHES, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 37 AND THE CENTERLINE OF ESMERALDA AVENUE, A 50 FOOT RIGHT OF WAY AS NOW LAID OUT; THENCE WESTERLY ALONG SAID CENTERLINE TO THE WESTERLY LINE OF THE EASTERLY 14-1/3 FEET OF LOT 35; THENCE NORTHERLY ALONG SAID WESTERLY LINE OF THE EASTERLY 14-1/3 FEET OF LOT 35 TO THE NORTHERLY LINE OF LOT 35; THENCE ALONG THE SAID NORTHERLY LINE OF LOT 35 AND THE NORTH LINE OF LOTS 36 AND 37 TO THE EASTERLY LINE OF LOT 37; THENCE SOUTHERLY ALONG THE SAID EASTERLY LINE OF LOT 37 TO THE POINT OF BEGINNING. CONTAINING 0.244 ACRES, MORE OR LESS.





City of Daytona Beach Shores
COMMUNITY SERVICES DEPARTMENT
2990 S. Atlantic Avenue
Daytona Beach Shores, FL 32118
Phone (386) 763-5377 Fax (386) 763-5370

12024009
APPLICATION FOR COMPREHENSIVE PLAN/FUTURE LAND USE MAP
AMENDMENT

250112

The Undersigned Applicant requests the Planning and Zoning Board AND City Council to hear and decide upon this application in accordance with Sec. 2-2 of the Land Development Code and Florida Law.

RECEIVED

JAN 17 2024

X Date Submitted: 1/17/2024

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

Applicable Section of the Comprehensive Plan: _____

Fees must be paid at the time the application is submitted.

X Applicant's Name: Anne Bressan-Harrington

X Address: 129 Esmeralda Ave X Phone #: _____

X Property Address: 129 Esmeralda Avenue

Existing Property Use: Single Family Residential

Representing Attorney (if any): _____

Address: _____ Phone #: _____

NOTES: 1) Notarized letter of authorization from owner MUST be submitted if application is filed by anyone other than the owner. 2) A completed application MUST be submitted at least 45 days prior to the anticipated Planning and Zoning hearing date.

Legal description of the property:

Description of your request:

FLUM Amendment from county to DBS Low Intensity FLA

X CW MA
Applicant's Signature

1/17/2024
Date

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2024-16

A. INTRODUCTION

The proposed amendment seeks to change the future land use designation of a single-family residential property, recently annexed into the City, from Volusia County *Urban Low Intensity* (0.2-4.0 units/acre) to Daytona Beach Shores *Residential Low Intensity* (0-4.0 units/acre). The +/- 0.18-acre property is located at 129 Esmeralda Avenue. The subject application, if approved, would result in the fourth small-scale comprehensive plan amendment for the City of Daytona Beach Shores in accordance with Section 163.3187, *Florida Statutes*.

B. PROPOSED AMENDMENT ITEM(S)

Item 1: Map Amendment - Chapter 1, Future Land Use Element: amending Map L-4 entitled, “Generalized Future Land Use Map (2030),” to change the future land use classification of the annexing property located at 129 Esmeralda Avenue. from Volusia County *Urban Low Intensity* to Daytona Beach Shores *Residential Low Intensity*:

Overview:

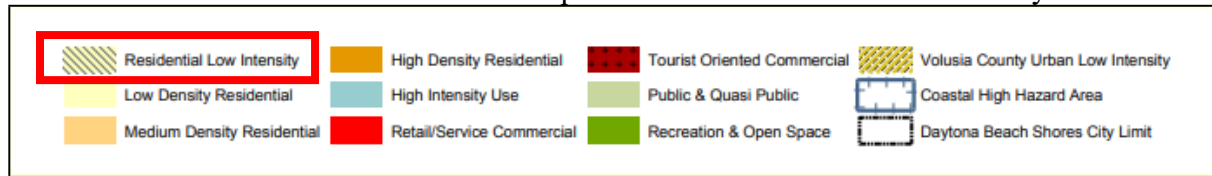
The property is currently occupied by a single-family residential structure (1,580sf). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-9” (Urban Single-Family Residential District), respectively. The surrounding future land use designations and zoning classifications are depicted in **Table 1** below while the future land use is illustrated in **Figure 1**. The subject request is to change the FLU designation to Daytona Beach Shores *Residential Low Intensity* (0-4 units/acre).

Table 1: Abutting Zoning and Future Land Use Classification

Location	Zoning		Future Land Use	
	Existing	Proposed	Existing	Proposed
Subject Property	R-9*	RSF-2	Volusia County Urban Low Intensity	Residential Low Intensity
North	RMF-2**		Low Density Residential	
South	R-9*		Volusia County Urban Low Intensity	
East	GC-1+		Low Density Residential	
West	R-9*		Volusia County Urban Low Intensity	

Notes: *R-9= Volusia County Urban Single-Family Residential District; RMF-2**=DBS Multifamily Residential (Medium Density) District; GC-1+=DBS Tourist Oriented Commercial District

FIGURE 1: Future Land Use Map - 129 Esmeralda Avenue & Vicinity



Description, Data and Analysis:

The analysis conducted below demonstrates the amendment's compliance with the City's Comprehensive Plan and the Florida Administrative Code for future land use map amendments. Therefore, the analysis shows that there will not be any significant impacts on the environment, roadways, public schools and utilities as the allowable densities and use will remain the same.

I. IMPACTS OF PROPOSED AMENDMENT

The current Volusia County *Urban Low Intensity* Future Land Use (FLU) classification allows a maximum density of four (4) units per acre. Under the proposed Daytona Beach Shores FLU designation, *Residential Low Intensity*, the maximum density allowed is also four (4) units per acre. Therefore, the proposed land use amendment would not result in any change in residential density permitted. Given the +/-0.18-acre size of the property, the proposed amendment would allow only one (1) residential unit on site, which is the same as currently allowed under the Volusia County FLU classification.

The property is currently occupied by a single-family residential structure. Additionally, the proposed Daytona Beach Shores zoning for this property, RSF-2 Urban Single-Family Residential Detached District, would permit only one residential dwelling unit on site. So, from a practical and planning perspective the proposed future land use change will result in no net change in density and impacts.

In accordance with the Daytona Beach Shores Comprehensive Plan Update (2030) and standard practice from the Florida Department Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the current future land use designation versus the designation proposed (**Table 2** below). The following seven public facilities and services were examined and discussed briefly below: (1) Transportation, (2) Sanitary Sewer, (3) Potable Water, (4) Solid Waste, (5) Stormwater Drainage, (6) Recreation, and (7) Public Schools.

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Future Land Use (0.2-4 units/acre)	Proposed Future Land Use (0.2-4 units/acre)	Change
Residential Units Allowed	1	1	None
Population ¹	1.6	1.6	None
AM / PM Peak Hour Trips ²	0.75/1.01	0.75/1.01	None
Sanitary Sewer (gallons/day) ³	250	250	None
Potable Water (gallons/day) ⁴	176	176	None
Solid Waste (lbs./person) ⁵	16	16	None
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space	See summary below	See summary below	None
Public School Student(s)	0.396	0.396	None

Notes:

1. Population: 1.6 persons per dwelling unit in DBS
2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
3. Sanitary Sewer: 250 gallons per dwelling unit per day
4. Potable Water: 110 gallons per capita per day
5. Solid Waste: 10 pounds per capita per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event. If property is redeveloped, drainage system will be designed to meet the requirements of the Land Development Code.
7. Public School: Generation rates = 0.396 per single-family unit.

Sources:

2020 US Census
ITE Trip Generation Manual, 8th Edition
Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)

Transportation:

The subject property is a single-family lot with vehicular transportation access to the abutting Esmeralda Avenue, which is a local road connecting to S. Atlantic Avenue (SRA1A). S. Atlantic Avenue connects to Dunlawton Boulevard (SR421) and International Speedway Boulevard (US92) which are both principal arterial roads leading to the interstate system. The aforementioned roads are currently operating at acceptable levels of service. There will be no net change in vehicular trips as demonstrated in **Table 2** above and the allowed LOS standard will continue to be maintained.

Sanitary Sewer:

The City's adopted LOS standard for sanitary sewer is 250 gallons per dwelling unit per day. Using this standard, the proposed land use would theoretically generate a demand of 250 gallons per day consistent with the current future land use. However, since no increase in the number of entitled dwelling units would occur there is no net change in theoretical demand. Regardless, it should be noted that the City of Port Orange sewer treatment facility is currently operating at an acceptable level of service.

Potable Water:

The City's adopted LOS standard for potable water is 110 gallons per capita per day. Using this standard, the proposed land use would theoretically create a demand of 176 gallons of water per day. No increase in number of theoretical dwelling units or demand will occur. In addition, the current potable water usage is already accounted for in Port Orange's current consumptive use permit (CUP).

Solid Waste Collection:

The proposed land use allows for one (1) residential unit that would be expected to support a population of 1.6 persons, which together would theoretically generate 16 pounds of solid waste per day. Solid waste generated within the City of Daytona Beach Shores is collected by Waste Pro, which delivers it to the Volusia County landfill. The 3,000-la landfill is a Class I facility with a projected life span to the year 2050.

Stormwater Drainage:

The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan requires that there be no net loss of stormwater retention function as a result of development. Therefore, if the property is developed the parcel must have the same ability to store and discharge water after development as it does before development occurs. The applicants would be required to address stormwater retention on the property in accordance with these City standards.

Recreation and Open Space:

The proposed amendment would theoretically add 1.6 residents to the City of Daytona Beach Shores. The City's most recent population count was 5,179 (2020 US Census). Policy 7-1.2.1 and Policy 9-1.3.1 in the City's Comprehensive plan establish the LOS standards for recreation facilities within the City. Considering the City's population and the City's recreational LOS standards, it is easy to conclude that Daytona Beach Shores currently has adequate capacity for all recreational facilities as required by the City's Adopted Comprehensive Plan and seen in **Table 3** below.

Table 3: Recreation Facilities Analysis

Type of Park/ Recreational Facility	Unit of Measure/LOS Standard	Current LOS (Facilities)	Deficit
Playgrounds	one per 10,000 people	1	None
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Community Park	one per 25,000 people	1	None
Children's Play Areas	one per 10,000 people	1	None
Baseball/Softball Field	one per 15,000 people	1	None
Tennis Courts	one per 2,000 people	11	None
Community Center	one per 20,000 people	1	None

Exercise Trail	one per 14,000 people	1	None
Nature Study Trail	one per 14,000 people	1	None

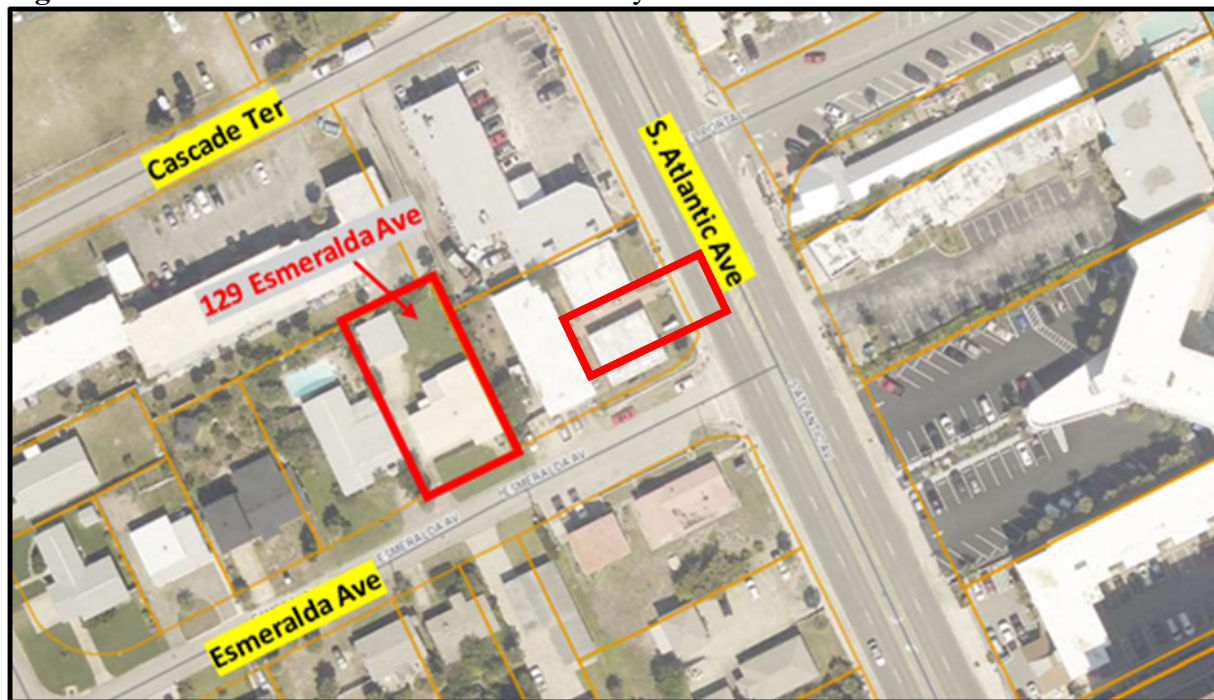
Public Schools:

Based on the Volusia County School District's student generation rate for a single-family dwelling unit, the proposed land use could generate at least one (1) full time student. This is exactly the same that could be generated by the existing Volusia County future land use due to the residential density neutrality of the proposed change. Therefore, no increase impact on existing public school facilities is expected. Further, due to the aforementioned, the FLU amendment is exempt from the School District review.

II. LAND USE COMPATIBILITY

The FLU of the surrounding area is primarily residential low intensity (single-family) in character (**Figure 1**). The subject property is located in a single-family neighborhood **Figure 2**.

Figure 2: Aerial View: 129 Esmeralda & Vicinity



Source: Volusia County Property Appraiser, 2021

Considering the above along with **Table 1** contained in the body of this staff report, it is clear that the proposed land use, which is a density neutral land use request, is consistent with the existing and future land use of the surrounding neighborhood.

III. APPLICABLE PLANS, CODES AND REGULATIONS

Future Land Use Element (Daytona Beach Shores Comprehensive Plan):

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.

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.

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 3 above

IV. REVIEW CRITERIA AND STAFF FINDINGS

1. 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 land use amendment is density neutral. Consequently, no increase in traffic is anticipated as a result of the proposed change, therefore: (a) there will be no decrease in the adopted LOS Standard for Cardinal Blvd, Dunlawton Blvd or S

Atlantic Avenue; and (b) considering the aforementioned, the hurricane evacuation clearance time shall remain the same for the subject roads in question.

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: The proposed land use amendment is density neutral and the site is already developed. Therefore, no increase in demand is anticipated and no written assurances are needed from service providers since services are already being provided for at the accepted LOS standard.

3. The amendment shall not result in objectionable land use designations inconsistent with the character of the overall future land use plan.

Staff finding: The proposed amendment will not result in an incompatible land use designation with adjacent parcels, the neighborhood or overall character of the future land use plan. The proposed *Residential Low Intensity* (0-4 units/acre) designation will provide for a single-family residence and is therefore compatible with the surrounding residential low-density (single-family) space land uses.

4. The amendment shall not decrease the LOS Standards for public facilities adopted in Policy 9-1.3 of the City's Comprehensive Plan.

Staff finding: The proposed land use amendment is density neutral, therefore, no increase demand on public facilities is anticipated.

V. **CONCLUSION:**

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



PLANNING & ZONING BOARD AGENDA MEMORANDUM MAY 13, 2024 AGENDA

TO: The Members of the Planning & Zoning Board

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

SUBJECT: Development Agreement Application 12024010: Daytona Ocean Investment Corporation & Hotel Motel, Inc, 2601 - 2613 S. Atlantic Avenue

SYNOPSIS:

If approved, Development Agreement Application 12024010 ("Agreement") between the City of Daytona Beach Shores and the Daytona Ocean Investment Corporation & Hotel Motel, Inc. would provide for the development of the properties located at 2601 – 2613 S. Atlantic Avenue (Exhibit A). The development would contain a 101-unit, 8-story Cambria Hotel with accessory uses, including, but not limited to, a restaurant open to the public. The Cambria Hotel will be built on the Seascape Motel property and the two southerly nonconforming vacant lots in between the Seascape Motel and the Emerald Shores Hotel. In addition, the northern property line of the Emerald Shores Hotel would also be shifted 11.7 feet south to accommodate the Cambria Hotel development. Among other things, the development agreement addresses the site development concept, entitlements and the grant of four Land Development Code deviations. The applicant is not seeking any economic development incentives from the City.

If the agreement is approved, the applicant will subsequently submit detailed site development plans to the City for review. These site development plans will require public hearings for a recommendation and approval by the Planning and Zoning Board and the City Commission, respectively.

FISCAL IMPACT STATEMENT:

BACKGROUND:

I. PROPERTY DESCRIPTION

The subject development agreement relates to four properties located at 2601 through 2613 S. Atlantic Avenue. These properties include the Seascape Motel property, two nonconforming vacant lots, each 25-feet wide, and the Emerald Shores Hotel. The Emerald Shores Hotel property has been developed since the 1990s while the Seascape Motel was a product of the 1970s. The City does not have any development records for the two vacant parcels. The entire site is 3+/- acres of real property with both the Cambria and Emerald Shores development containing 1.2 upland acres and

0.3 acres east of the seawall to the mean high watermark, respectively. (Exhibit A).

II. PROPOSED AGREEMENT

The highlights of the proposed Agreement are:

1. Development Permitted: The Agreement provides a general development framework that would facilitate removal of an outdated 1970s motel and replace it with a new 101-unit, 8-story Cambria Hotel and accessory uses, including, but not limited to, a restaurant open to the public. If approved, any substantial changes thereafter will require City Commission approval.
2. Density: Measured from the Mean High Water Line.
3. Agreement Duration: Three (3) years for building permit issuance and payment of permit fees for the development and five (5) years to receive a final certificate of occupancy.
4. Deviations: To realize number 1 above, four (4) deviations from the City's Land Development Code are requested for the Cambria Hotel. These deviations have been summarized in the Planning Analysis (Exhibit D).
5. Administrative Adjustment: City Staff may allow for modifications of up to 10% to any of the dimensional or landscaping requirements. This provision and staff authority excludes building height, density and other standards regulated by the Comprehensive Plan.
6. Waiver of Public Beach Access Requirement: Sec. 14-21.4 of the LDC requires that the breezeway/visual corridor shall include a seven-foot dedicated concrete public walkway, constructed by the applicant, from the sidewalks to the beach. Per Sec. 3.1.f of the Development Agreement, under the development of the Emerald Shores Hotel, a public beach access was previously dedicated to the City. This beach access immediately abuts the Emerald Shores Hotel to the south. The Emerald Shores Hotel property is subject to the proposed development.

III. ECONOMIC DEVELOPMENT INCENTIVES

No economic development incentives are requested.

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of the Development Agreement as presented.

SUGGESTED MOTION:

A Planning and Zoning Board Member may motion as follows:

1. "I move to approve Development Agreement Application 12024010 as presented."
OR
2. "I move to approve Development Agreement Application 12024010, with the following conditions..."
OR
3. "I move to deny Development Agreement Application 12024010, on the basis of ..."

- ATTACHMENT:**
1. Cambria Emerald Shores 5-7
 2. 3. Colored Building Elevations
 3. 4. Color Renderings
 4. 5. Construction Plans
 5. Exhibit D-Planning Analysis

This Instrument Prepared By:
Glenn D. Storch, Esq.
420 S. Nova Rd.
Daytona Beach, Florida 32114

Return To:
Ms. Cheri Schwab
City Clerk
2990 South Atlantic Avenue
Daytona Beach Shores, Florida 32118

CAMBRIA AND EMERALD SHORES HOTELS
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into on the Effective Date described below, between DAYTONA OCEAN INVESTMENT CORP, a Florida corporation, registered and authorized to conduct business in the State of Florida, hereinafter referred to as the “CAMBRIA HOTEL” and “HOTEL MOTEL, INC.” a Florida corporation, registered and authorized to conduct business in the State of Florida, hereinafter referred to as the “EMERALD SHORES HOTEL” or jointly as the “PROPERTY”, and the CITY OF DAYTONA BEACH SHORES, FLORIDA, a municipal corporation of the State of Florida, holding tax exempt status, hereinafter referred to as “CITY”.

W I T N E S S E T H:

WHEREAS, DAYTONA OCEAN INVESTMENT CORP, a Florida corporation, registered and authorized to conduct business in the State of Florida is the owner of real property located at 2601 and 2605 South Atlantic Avenue, Daytona Beach Shores, Florida identified as Volusia County Tax Parcel Identification Numbers 5322-00-04-0010, 5322-00-04-0031, 5322-00-04-0030 as further described on Exhibit “A” attached hereto (referred to from time to time as the “CAMBRIA HOTEL” in this Development Agreement and which is the subject of the exhibits referenced herein); and

WHEREAS, HOTEL MOTEL, INC., a Florida corporation, registered and authorized to conduct business in the State of Florida, is the owner of real property located at 2613 South Atlantic Avenue, Daytona Beach Shores, Florida identified as Volusia County Tax Parcel Identification Number 5322-00-04-0040, as further described on Exhibit “B” attached hereto (referred to from time to time as the “EMERALD SHORES HOTEL” in this Development Agreement and which is the subject of the exhibits referenced herein); and

WHEREAS, HOTEL MOTEL, INC., a Florida corporation, registered and authorized to conduct business in the State of Florida, and DAYTONA OCEAN INVESTMENT CORP, a Florida corporation, registered and authorized to conduct business in the State of Florida, jointly agree as the owners of adjoining property to request and agree to the following terms together as “PROPERTY OWNER” which affects both parcels provide herein and both parcels are now referred to as “the Property”; and

WHEREAS, the CITY has established an alternative tax relief program pursuant to the authority granted in Chapter 10, Article III of the Municipal Code of Ordinances that may apply to the to the Property and the economic benefit to the City created by the proposed development

WHEREAS the PROPERTY OWNER and the CITY wish to enter into a Development Agreement to allow for development of the Property for commercial hotel uses; and

WHEREAS, the PROPERTY OWNER and the CITY have a great interest in the development of the property in accordance with the CITY's comprehensive plan, official zoning map and *Land Development Code* to allow for commercial hotels and related uses; and

WHEREAS the CITY desires to provide for the orderly development of land within the CITY in order to maintain a high quality of life for residents and businesses; 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, codified as Chapter 15, *Land Development Code*, 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 Property 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 Commission) through its general 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 Commission 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 Commission 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 Commission 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; although some flexibility in the land development code provisions are required and waivers requested herein, 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, 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 findings of the City Commission of the CITY and form a material part of this Development Agreement upon which the parties have relied.

SECTION 2. PREMISES.

- a.) The property subject to this Agreement consists of real property described in Exhibit "A" (proposed Cambria hotel) and real property described in Exhibit "B" (existing Emerald Shores hotel), for a total land area of approximately 3.00+/- acres of real property attached hereto and by reference made a part hereof. The Cambria hotel site shows 1.2 upland acres west of the seawall and 0.3 acres east of the seawall to the Mean High Waterline for a total of 1.50 acres. The Emerald Shores hotel site shows 1.2 upland acres west of the seawall and 0.3 acres east of the seawall to the Mean High Waterline for a total of 1.50 acres.
- b.) The legal entity having legal or equitable ownership of the premises is the PROPERTY OWNER.

SECTION 3. DEVELOPMENT STANDARDS.

1. **Development Criteria.** The Property shall be developed in accordance with the City's Land Development Code (LDC), and the terms and provisions set forth in this Agreement. In the event of a conflict between this Agreement and the LDC or other ordinances, this Agreement shall control. If this Agreement fails to address a particular subject or requirement, the applicable requirements of the LDC or other City ordinances shall control.
 - a) The overall Property shall be developed consistent with the Construction Plans for Cambria Hotel Daytona Beach Shores, Florida June 2023 prepared by Mark Dowst and Associates, Inc, [which also provides a site plan for the Emerald Shores Hotel], as provided in the attached Exhibit "C" and in accordance with the following standards:

Density Lot area to be measured to the mean high-water line on the Property.	Cambria Hotel: 67.33 hotel rooms per acre of total property. Emerald Shores: 56.67 hotel rooms per acre of total property.
Building Height	Cambria Hotel: maximum 98 ft. Emerald Shores Hotel: 80'
Loading Zone	Cambria Hotel: Minimum of 1 stall Emerald Shores: Minimum of 1 stall [Existing Building]
Green Space	Cambria Hotel: 17% overall.
Minimum Setbacks	Cambria Hotel: Side (South): 11 ft. Emerald Shores Hotel:

	Rear (Oceanfront): Primary Structure 42'ft. [existing building] Side (North): 20 ft. [existing building] Side (South): 25 ft. [existing building]
Parking	Cambria Hotel: 75 parking spaces with an additional 20 parking spaces to be provided by parking lifts for a total of 95 parking spaces. All parking shall be required to be via Valet Parking for efficiency and safety.

b) Permitted Uses: Permitted uses for the Property shall include the following: Hotel, Parking Garage Use, and customary accessory uses for Hotel, including but not limited to restaurants, bars, conference and convention space, pool side structures, spas and health services, and related resort amenities, along with supporting retail or commercial services that do not exceed the intensity limitations set forth above. Such supporting retail or commercial services, such as a small store for hotel guests are only ancillary to the hotel use and not intended for standalone activities. An active roof is permitted, so long as any architectural feature or enclosed space shall not exceed 12'feet in height. Approximately one half of the roof area shall feature a bar and food service area overlooking the beach.

c) Parking:

1. Development of the Cambria Hotel shall include the provision of a minimum of 75 parking spaces to support the proposed development. This provision shall control over the language set forth in Section 14-48.6 of the City's Land Development Code. Hotel development shall provide a parking ratio of 0.74 spaces/room.
2. Development of the Emerald Shores Hotel shall include the provision of a minimum of 71 parking spaces to support the proposed development. This provision shall control over the language set forth in Section 14-48.6 of the City's Land Development Code. Hotel development shall provide a parking ratio of 0.83 spaces/room.
3. Any portion of the Property may be used for interim parking during construction of the necessary parking facilities designed to meet the requirements of the LDC, as modified herein. All unpaved and/or improved portions of the property used for interim parking during construction must be restored to a leveled, graded and hydro-seeded or sodded lot before final approval of the certificate of occupancy associated therewith will be granted.

- d) Development Footprint: The Property may be developed in multiple phases, so long as the development standards set forth in Section 3.1 are met.
- e) For density purposes, the parcels are measured to the Mean High-Water line and any other requirement for bulkhead use in calculations is specifically waived.
- f) An existing beach access has been built and is maintained on the south side of the property. Any additional requirement for an additional 7ft. public access is waived.

SECTION 4. PUBLIC BENEFITS.

Numerous public benefits derive from the terms and conditions of this Development Agreement, to include:

a) The development of the Property as set forth in this Development Agreement shall provide for additional hotel and commercial opportunities within Daytona Beach Shores that will result in greater tax revenue to the City, job production and revitalization and redevelopment of this portion of the City.

b) New hotel development supports dining, retail and entertainment for the area. The hotel, and the guests that it will generate, will provide much needed support for businesses on the west side of AIA and encourage additional businesses in this area.

c) The development will allow for the redevelopment and beautification of a currently underused property and will create a modern destination center for visitors with more rooms and activities.

d) The new Cambria hotel is an investment in the City of Daytona Beach that will be worth no less than 10 times the value of the current antiquated motel on the site.

e) The Emerald Shores hotel has built a beach access walkway and has worked with the city to maintain the walkway as a safe and convenient public access to the beach.

f) In addition, the proposed redevelopment of the Property is consistent with several of the Goals, Policies and Objectives of the Comprehensive Plan, as outlined below. This Development Agreement will allow development of the property to allow for additional residential uses within a growing sector of the City.

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.

Finding: The proposed project allows for flexibility in development for properties located in appropriate areas for urban development. The proposed project will direct additional growth to areas that have already faced development and will lessen impacts on environmentally sensitive areas.

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.

Finding: These redevelopment activities shall be consistent with the goals, objectives, and policies set forth in this Element

SECTION 5. IMPACT FEES AND PERMITTING.

a) Impact fees and other funding requirements for the project on the Property are as established by controlling law and shall be met in the normative course and processes of development.

b) All development permits normatively needed to be approved for the development of the Property 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 changes in land use designations or changes in zoning classifications/districts assigned to property are necessitated by the development approved for the Property.

- c) The failure of the agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction.

SECTION 6. REASONABLE APPROVAL.

In those instances, in this Development Agreement in which a party's responsiveness, compliance, 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 7. 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 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. The exhibits included herein are hereby approved by the terms and conditions of this Development Agreement. Any changes to the exhibits shall be approved by the City Commission. A comprehensive list of the exhibits is included below:

Exhibit A: Property Legal Description of Cambria Hotel property.

Exhibit B: Property Legal Description of Emerald Shores Hotel property

Exhibit C: Construction Plans for Cambria Hotel Conceptual Plan, prepared by Mark Dowst and Associates, LLC

Exhibit D: Conceptual Architectural Elevations for Cambria Hotel

SECTION 12. TERMS AND CONDITIONS RELATIVE TO THE PREMISES.

a) 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 in accordance with the conceptual site plan for the development of the premises (Exhibit "C").

b) The development uses, including parking, and green area, as set forth on the conceptual site plan approved in Section 11 and attached as Exhibit "C" comply with the criteria for development in the applicable provision in the land development regulations of the CITY applicable to this development project on the premises as modified in this Development Agreement.

SECTION 13. DEVIATIONS GRANTED FROM CODE OF ORDINANCES.

This Development Agreement is intended to comply with the applicable provision in the land development regulations of the CITY as modified in this Development Agreement. The CITY has approved the following deviations from the standard land development regulations in association with this Development Agreement:

1. LDC Section 14-48.6: The CITY is providing a deviation from the standard requirements for parking for the development.
 - a. The Cambria Hotel parcel parking: 75 spaces in lieu of 102. However, the Cambria Hotel will be required to provide a minimum of 20 parking lifts that provide for an additional 20 parking spaces providing a total of 95 parking spaces. Further, the Cambria Hotel will be required to provide a mandatory Valet parking requirement for efficiency and safety.
2. LDC Section 14-21.4: The CITY is providing the following deviations to allow for

compact development within the Property and to preserve view corridors along the sides of the Property and encourage redevelopment and beautification:

- a. The Cambria Hotel parcel south side setback: 11ft. in lieu of 35 ft.
 - b. The Emerald Shores parcel south side setback: 25ft. in lieu of 28ft. [existing building]
 - c. The Emerald Shores parcel north side setback: 20ft. in lieu of 28 ft. [existing building]
 - d. The Emerald Shores parcel rear setback: 42ft. in lieu of 50ft. [existing building]
3. LDC Section 14-48.9: The CITY is providing a deviation from the requirement that two loading zones for a structure over 100,000 sq. ft. in gross floor area. The Cambria Hotel site is granted a deviation to permit 1 loading zone in lieu of 2 required.
 4. LDC Section 14-21.4: The CITY is providing a deviation from the requirement of green area provided that plantings in accordance with the LDC is provided in the proposed Green Area as to the following deviation from the green area requirement:
 - a. The Cambria Hotel parcel will have green space of 17% in lieu of 20% required.

SECTION 14. PUBLIC RECORDS.

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.

SECTION 15. 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 16. 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 17. 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 Comprehensive Plan, the provisions of the CITY's land development regulations and the codes and ordinances of the CITY.

SECTION 18. NOTICES.

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

For the **CITY**:

Kurt Swartzlander

City Manager

City of Daytona Beach Shores

2990 South Atlantic Avenue

Daytona Beach Shores, Florida 32118

With Copy to:

Gretchen R.H. ("Becky") Vose, Esq.

City Attorney

Vose Law Firm, LLP

324 W. Morse Boulevard

Winter Park, Florida 32789

For the **PROPERTY OWNER**:

Daytona Ocean Investment Corp.

Jai Motwani, President

2601 South Atlantic Ave.

Daytona Beach Shores, FL 32118

Hotel Motel, Inc.

Jai Motwani, President

2231 North Ocean Blvd.

Daytona Beach Shores, FL 32118

With Copy to:

Glenn D. Storch,

420 S. Nova Rd.

Daytona Beach, Florida 32114

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

SECTION 19. 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. 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 20. CONSTRUCTION OR INTERPRETATION OF THE DEVELOPMENT AGREEMENT.

This Development Agreement is the result of *bona fide* arm's 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 any one (1) 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 21. 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, except as provided in this subsection a. 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 Commission of the CITY finds, on the basis of substantial competent evidence, that there has been a material failure to comply with the terms of this Development Agreement, this Development Agreement may be revoked or modified by the City Commission 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 Commission in accordance with the procedures set forth in Chapter 15, *Land Development Code*. 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 Commission in accordance with the procedures set forth in Chapter 15, *Land Development Code*.

d) City Staff may, as an administrative adjustment reviewed and approved at the staff level, allow for modifications of up to 10% to any of the dimensional or landscaping requirements set forth herein and associated Exhibit revisions, where such modifications are necessary to address minor Exhibit errors or unanticipated conditions that reasonably need to be addressed to ensure the development plan can be implemented. This provision and staff authority excludes building height, density and standards regulated by the comprehensive plan.

e) 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 as necessary to comply with the relevant State or Federal laws.

SECTION 22. 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 23. ATTORNEYS FEES AND COSTS.

In any action or proceeding to enforce or interpret any provision of this Development Agreement, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs, and expenses.

SECTION 24. 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 25. 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 the following period: Three (3) years for building permit issuance and payment of permit fees for the development and Five (5) years to receive a final certificate of occupancy.

c) Such effective dates 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.

d) Prior to the completion of the project and at the issuance of a certificate of completion 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 27. 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[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 Miller, Mayor
Date:_____

Kurt Swartzlander, City Manager

Approved as to form and legality:

Gretchen R.H. (“Becky”) Vose, Esq.
City Attorney

[ADDITIONAL SIGNATURE PAGE FOLLOWS]

Witnesses:

PROPERTY OWNER/

Signature of Witness

Printed name of witness:

By: _____
Managing Member

Address of Witness:

Signature of Witness

Printed name of witness:

Address of Witness:

Acknowledgment

State of _____

)

County of _____

)

I Hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____ and he acknowledged executing the same in the presence of a subscribing witness 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 _____, 2024.

(Affix Notary Seal)

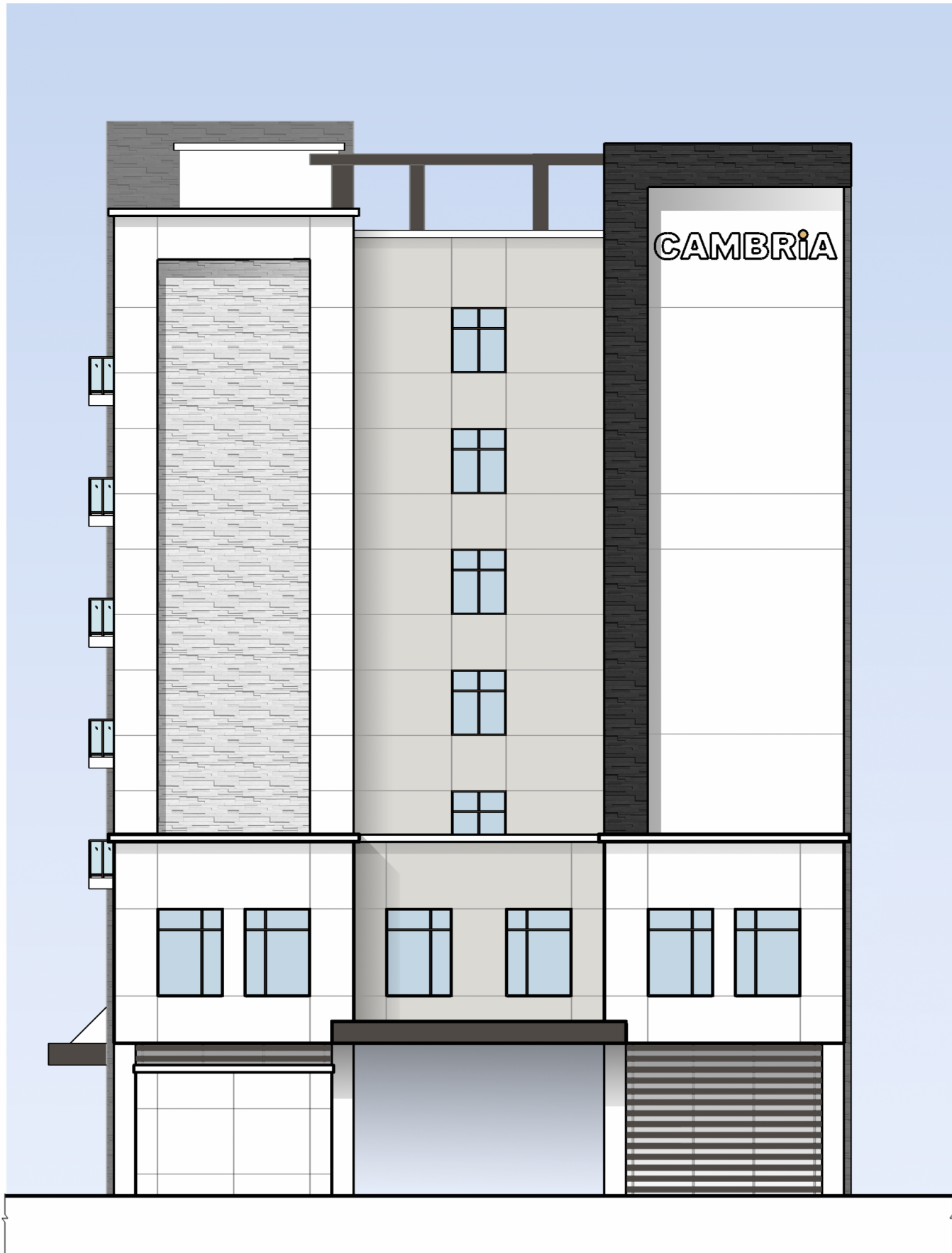
Notary Public; State of Florida
Print name: _____

Exhibit A – Cambria Hotel
Cambria Hotel Legal Description

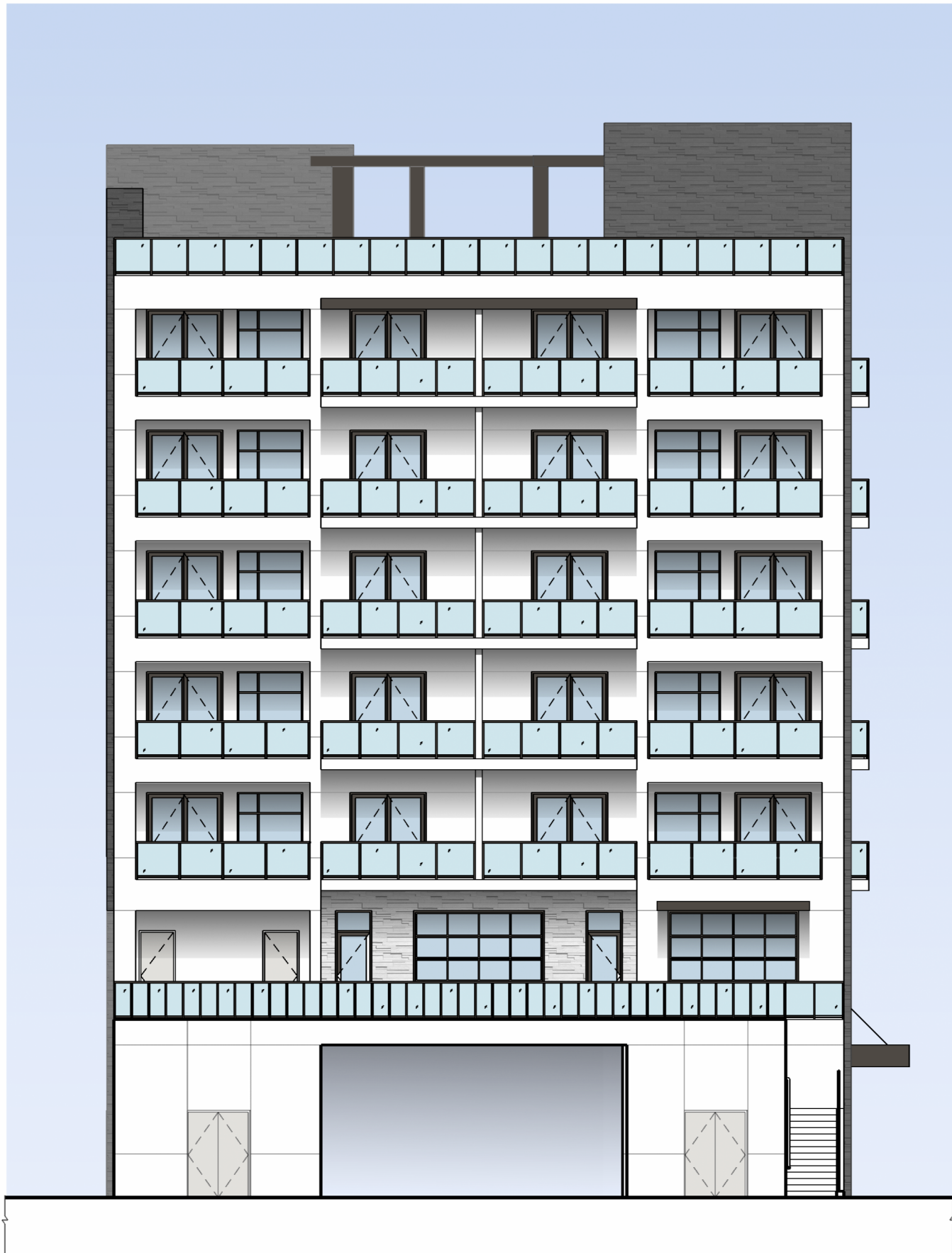
Exhibit B -Emerald Shores
Emerald Shores Legal Description

Exhibit C
Cambria Hotel Conceptual Plan

Exhibit D
Conceptual Architectural Elevations



WEST FACADE
FACING A1A



EAST FACADE
FACING BEACH

REVISIONS

HOTEL MOTEL
RESORT LODGING
GROUP

CAMBRIA DAYTONA BEACH SHORES:

OWNER/REP.: JAI MOTWANI, PRESIDENT, HOTEL MOTEL, INC., 2231 NORTH OCEAN BOULEVARD, FORT LAUDERDALE, FL 33305
PROJECT LOCATION: 2601 S. ATLANTIC AVENUE, DAYTONA BEACH SHORES, FL 32118
GENERAL CONTRACTOR: TO BE DETERMINED

DESIGN INCORPORATED
Building Design and Architecture

BRIAN P. FREDLEY, ASSOCIATE AIA, PROJECT MANAGER
DALLAS B. PEACOCK, ARCHITECT
#AR 0009706
207 FAIRVIEW AVENUE
DAYTONA BEACH, FL 32114 PH: (386) 257-6502 FX: (386) 257-1050
EMAIL: bfredley@bpfdesign.com WEBSITE: bpfdesign.com

E & W COLORED ELEVATIONS			
DRAWN BY:	TEM	CHECKED BY:	DBP & BPF
DATE:	APRIL 17, 2024	SHT NO.	
SCALE:			

ARCHITECT'S / ENGINEER'S SEAL



SOUTH FACADE
FACING EMERALD SHORES



NORTH FACADE
FACING SHERWIN CONDOMINIUM

REVISIONS

HOTEL
RESORT

MOTEL
LOGGING

HMRL

GROUP

CAMBRIA DAYTONA BEACH SHORES:

OWNER/REP.: JAI MOTWANI, PRESIDENT, HOTEL MOTEL, INC., 2231 NORTH OCEAN BOULEVARD, FORT LAUDERDALE, FL, 33305
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BRIAN P. FREDLEY, ASSOCIATE AIA, PROJECT MANAGER

DALLAS B. PEACOCK, ARCHITECT

#AR 0009706

207 FAIRVIEW AVENUE

DAYTONA BEACH, FL 32114 PH: (386) 257-6502 FX: (386) 257-1050

EMAIL: bfredley@bpfdesign.com WEBSITE: bpfdesign.com

N & S COLORED ELEVATIONS

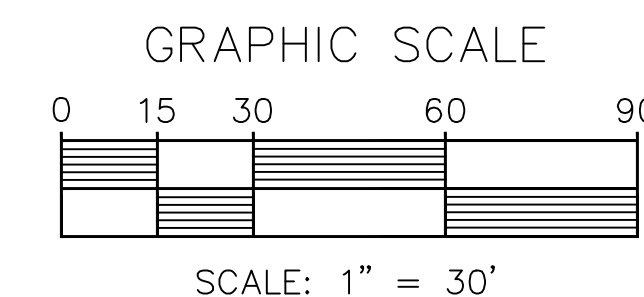
DRAWN BY: TEM	CHECKED BY: DBP & BPF
DATE: APRIL 17, 2024	SHT NO.
SCALE:	

ARCHITECT'S / ENGINEER'S SEAL



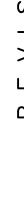


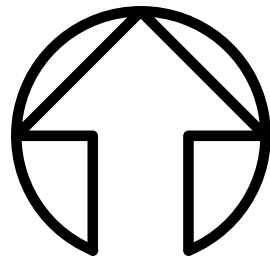
A. Otlich '23



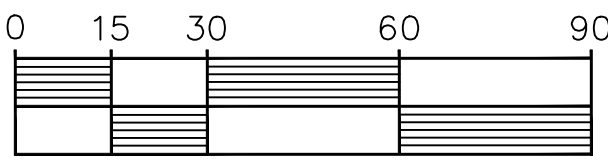
PROPERTY OWNERSHIP
DAYTONA OCEAN
INVESTMENT CORP

PROPERTY OWNERSHIP
HOTEL MOTEL, LLC

EXISTING SITE CONDITIONS		 MARK DOWST & ASSOCIATES, INC. ENGINEERS * PLANNERS * SURVEYORS EB 4335 536 N. HALIFAX AVENUE, SUITE # 100 * DAYTONA BEACH, FLORIDA 32118 * (386) 258-7999		NO. DATE APPR. REVISION	
CAMBRIA HOTEL		SCALE 1" = 30' DESIGNED MSD DRAWN RCM CHECKED MSD DATE 06-21-23			
DAYTONA BEACH SHORES, FLORIDA		BY		1 11-03-23 MSD REUSED PER CITY COMMENTS	



GRAPHIC SCALE



SCALE: 1" = 30'

NCS CONTROL POINTS
CONTROL POINT NAME: 79 78 A 49 FLDNR
RECOVERED N.D. #3612
N:1764728.34
E:659615.00

COASTAL CONSTRUCTION
CONTROL LINE - VOLUSIA
COUNTY, RECORDED 1/24/91 IN
O.R. BOOK 3579, PAGES
1550-1576; M.O.R. CCCL BOOK
30, PAGE 20 IN THE PUBLIC
RECORDS OF VOLUSIA COUNTY,
FLORIDA.

APPROXIMATE FLOOD ZONE
BOUNDARY LINE, AS SCALED
FROM THE FLOOD INSURANCE
RATE MAPS

FLOOD ZONE VE

FLOOD ZONE X

SITE DATA

EXISTING ZONING: T-RMF-1
PROPOSED USE: MOTEL

PROPOSED CAMBRIA HOTEL (NORTH PROPERTY)

ALLOWABLE DENSITY: 70 UNITS / ACRE
PROPOSED DENSITY: 101 UNITS / 1.50 ACRES = 67.33 UNITS / ACRE
SITE AREA TO MHWL: 1.20 ACRES + 0.30 ACRES = 1.50 ACRES

DESCRIPTION	S.F.	ACRES	%
SITE AREA TO BULKHEAD:	52,415	1.20	100
PROPOSED BUILDING:	17,143	0.39	33
CONCRETE AND ASPHALT:	25,463	0.58	48
TOTAL IMPERVIOUS AREA:	42,576	0.98	81
TOTAL PERVIOUS (GREEN) AREA:	9,839	0.23	19

MINIMUM GREEN SPACE REQUIRED: 20% > 19% GREEN SPACE PROVIDED

REQUIRED SETBACKS

FRONT: 30'
REAR: 50'
SIDE: 35', PROPOSED BUILDING HEIGHT = 96'-3"
(MINIMUM 7' FOR BUILDING UP TO 20' OF HEIGHT,
AN ADDITIONAL 1' FOR EACH 3' OF HEIGHT FROM
20' TO 65', AN ADDITIONAL 1' FOR EACH
2.5' OF HEIGHT FROM 65' AND UP.)

PROVIDED SETBACKS

FRONT: 30'
REAR: 50'
NORTH SIDE YARD: 69'
SOUTH SIDE YARD: 11.5'

PROVIDED GREEN SPACE AREA

FRONT: 1,420 S.F. = 32% > 30% (OK)
NORTH 35' SIDE YARD: 2,657 S.F. = 28% > 25% (OK)
SOUTH 11.5' SIDE YARD: 4,185 S.F. = 100% > 25% (OK)

BREEZEWAY CALCULATIONS

MINIMUM BREEZEWAY REQUIRED: 30%
PROVIDED BREEZEWAY: (148.2'-67.0') / 148.2' PROPERTY WIDTH = 55%

MAXIMUM NORTH/SOUTH BUILDING WIDTH CALCULATIONS

MAXIMUM BUILDING WIDTH ALLOWED: 65%
PROVIDED BUILDING WIDTH: 67' BUILDING WIDTH / 160.5' FRONTAGE = 42%

PARKING REQUIRED: (101 UNITS x 1 SPACE / UNIT + 1 SPACE
FOR MANAGER) = 102 SPACES
PARKING PROVIDED: 95 SPACES (INCLUDES 20 DOUBLE STACKED SPACES)

HANDICAP PARKING REQUIRED: 5 SPACES
HANDICAP PARKING PROVIDED: 6 SPACES

BICYCLE PARKING REQUIRED: 5 SPACES
BICYCLE PARKING PROVIDED: 5 SPACES

MARK DOWST & ASSOCIATES, INC.

ENGINEERS * PLANNERS * SURVEYORS

536 N. HALIFAX AVENUE, SUITE # 100 * DAYTONA BEACH, FLORIDA 32118 * (386) 258-7999

SCALE 1" = 30' DESIGNED MSD DRAWN RCM CHECKED MSD DATE 06-21-23

DIMENSION PLAN

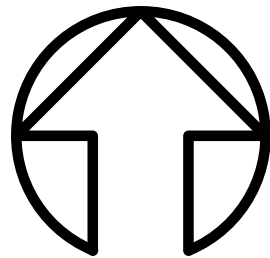
CAMBRIA HOTEL

DAYTONA BEACH SHORES, FLORIDA

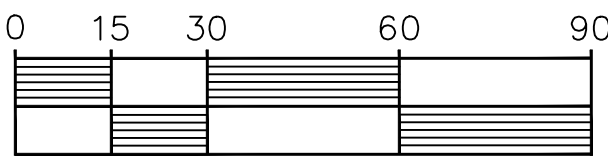
PROJECT NO.
835A

C3

835A-SITE-5



GRAPHIC SCALE



SCALE: 1" = 30'

NCS CONTROL POINTS
CONTROL POINT NAME: 79 78 A 49 FLDNR
RECOVERED N.D. #3612
N: 1764728.34
E: 659615.00

COASTAL CONSTRUCTION
CONTROL LINE - VOLUSIA
COUNTY, RECORDED 1/24/91 IN
O.R. BOOK 3579, PAGES
1550-1576; M.O.R. CCCL BOOK
30, PAGE 20 IN THE PUBLIC
RECORDS OF VOLUSIA COUNTY,
FLORIDA.

APPROXIMATE FLOOD ZONE
BOUNDARY LINE, AS SCALED
FROM THE FLOOD INSURANCE
RATE MAPS

FLOOD ZONE VE

FLOOD ZONE X

SITE DATA

EXISTING ZONING: T-RMF-1
PROPOSED USE: MOTEL

EXISTING EMERALD SHORES HOTEL (SOUTH PROPERTY)

SITE AREA TO MHWL: 1.33 ACRES + 0.34 ACRES = 1.67 ACRES

EXISTING DENSITY: 85 UNITS / 1.67 ACRES = 50.90 UNITS / ACRE

PROPOSED SITE AREA TO MHWL: 1.18 ACRES + 0.32 ACRES = 1.50 ACRES

PROPOSED DENSITY: 85 UNITS / 1.50 ACRES = 56.67 UNITS / ACRE

DESCRIPTION	S.F.	ACRES	%
SITE AREA TO BULKHEAD:	51,431	1.18	100
EXISTING BUILDING:	6,534	0.15	13
CONCRETE AND ASPHALT:	32,833	0.75	63
TOTAL IMPERVIOUS AREA:	39,367	0.90	76
TOTAL PERVIOUS (GREEN) AREA:	12,481	0.28	24

REQUIRED SETBACKS

FRONT: 30'
REAR: 50'
SIDE: 28', EXISTING BUILDING HEIGHT = 79.4'
(MINIMUM 7' FOR BUILDING UP TO 20' OF HEIGHT,
AN ADDITIONAL 1' FOR EACH 3' OF HEIGHT FROM
20' TO 65', AN ADDITIONAL 1' FOR EACH
2.5' OF HEIGHT FROM 65' AND UP.)

PROVIDED GREEN SPACE AREA

FRONT: 1,984 S.F. (43%)
NORTH 21.5' SIDE YARD: 4,363.37 S.F. = 58% > 25% (OK)
SOUTH 26' SIDE YARD: 5,793 S.F. = 61% > 25% (OK)

PROVIDED SETBACKS

FRONT: 211'
REAR: 50'
NORTH SIDE YARD: 21.5'
SOUTH SIDE YARD: 26'

BREEZEWAY CALCULATIONS

MINIMUM BREEZEWAY REQUIRED: 30%
PROVIDED BREEZEWAY: (141.5' - 93.9') / 141.5' PROPERTY WIDTH = 34%

MAXIMUM NORTH/SOUTH BUILDING WIDTH CALCULATIONS

MAXIMUM BUILDING WIDTH ALLOWED: 65%
PROVIDED BUILDING WIDTH: 93.9' BUILDING WIDTH / 154.7' FRONTAGE = 60.7%

MARK DOWST & ASSOCIATES, INC.

ENGINEERS * PLANNERS * SURVEYORS

536 N. HALIFAX AVENUE, SUITE # 100 • DAYTONA BEACH, FLORIDA 32118 • (386) 258-7999

SCALE 1" = 30' DESIGNED MSD DRAWN RCM CHECKED MSD DATE 06-21-23

SOUTH PROPERTY EXHIBIT

CAMBRIA HOTEL

DAYTONA BEACH SHORES, FLORIDA

PROJECT NO.
835A

C4

835A-SITE-5

Exhibit B – Planning Analysis

SUBJECT: City of Daytona Beach Shores and the Daytona Ocean Investment Corporation would provide for the development of the properties located at 2601 – 2613 S. Atlantic Avenue (Exhibit A). The development would contain a 101-unit, 8-story Cambria Hotel with accessory uses, including, but not limited to, a restaurant open to the public.

PROPERTY OWNER: Daytona Ocean Investment Corporation & Hotel Motel, Inc.

OWNER’S AGENT: Mark Dowst & Associate’s, Inc.

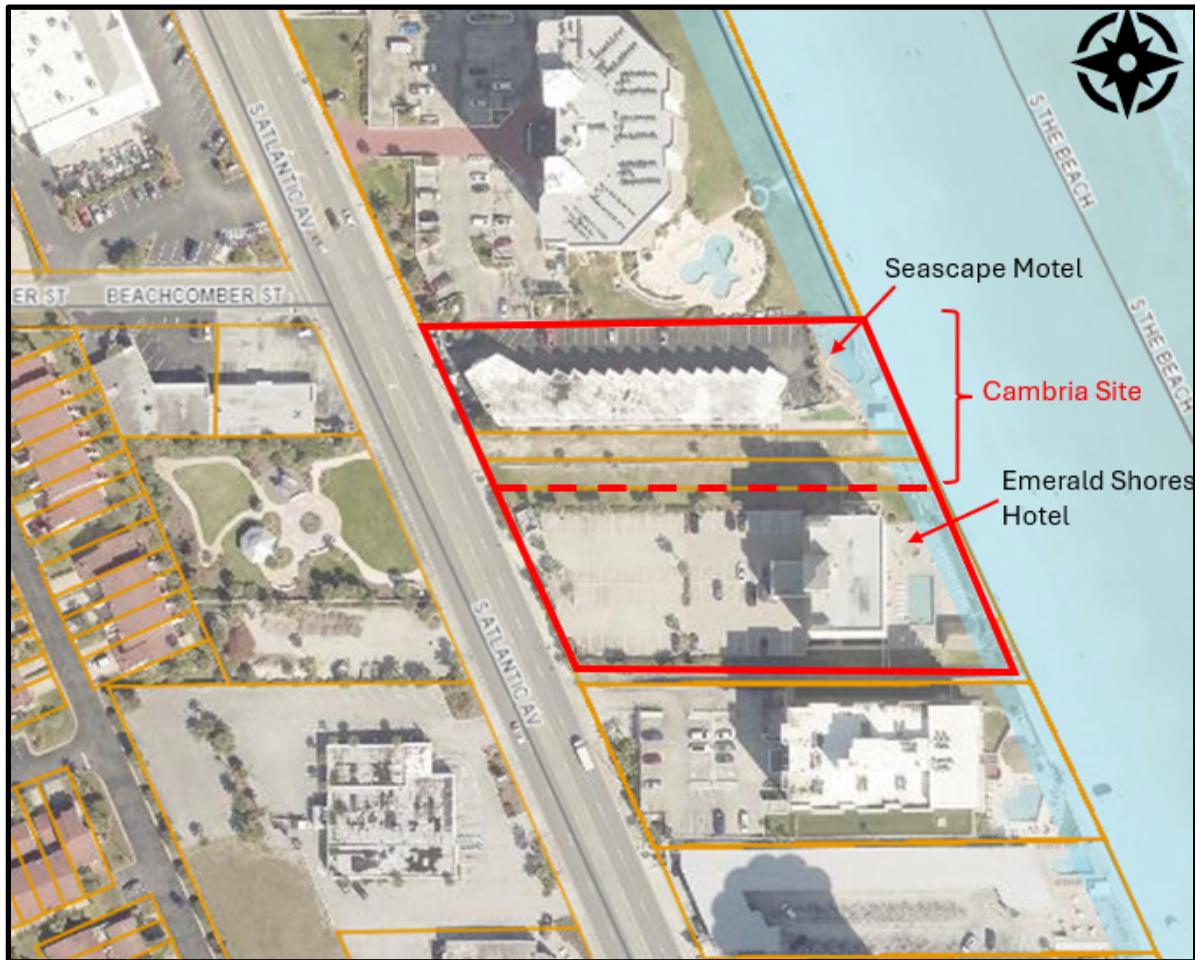
APPLICATION NUMBER: DA12024010

I. INTRODUCTION:

This is a request for a Development Agreement (herein after “Agreement”) between the City of Daytona Beach Shores and the Daytona Ocean Investment Corporation/Hotel Motel, Inc. would provide for the development of the properties located at 2601 – 2613 S. Atlantic Avenue (Figure 1). The development would contain a 101-unit, 8-story Cambria Hotel with accessory uses, including, but not limited to, a restaurant open to the public. The Cambria Hotel will be built on the Seascape Motel property and the two southerly nonconforming vacant lots in between the Seascape Motel and the Emerald Shores Hotel. In addition, the northern property line of the Emerald Shores Hotel would also be shifted 11.7 feet south to accommodate the Cambria Hotel development. Among other things, the development agreement addresses the site development concept, entitlements, and the grant of four Land Development Code deviations. The applicant is not seeking any economic development incentives from the City.

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FIGURE 1: Aerial view of 2601-2613 S. Atlantic Avenue.



Source: Pictometry December 2023

II. BACKGROUND

The property is designated as “High Intensity” on the City’s Future Land Use Map (FLUM) and has a dual zoning designation of T (Hotel/Motel)-RMF-1 (Multifamily Residential District (High Density)) on the City’s Official Zoning Map. Both the assigned land use and zoning allow for the proposed hotel use. The adjacent land uses and zoning designations are as follows in Table 1 below:

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TABLE 1: Abutting Land Uses & Zoning:

	Current Land Uses	Future Land Use Designation	Zoning
North	Sherwin COA	High Intensity	T-RMF-1 (Hotel/Motel - Multifamily Residential District (High Density))
South	Sandpoint COA	High Intensity	T-RMF-1 (Hotel/Motel - Multifamily Residential District (High Density))
East	Atlantic Ocean	NA	NA
West	(a) Chery Hill Ice Cream (b) Beachcomber Park	Tourist Oriented Commercial	(a) GC-RD (General Commercial Redevelopment District) (b) P (Public Quasi Public District)

If the Agreement is approved, the applicant will subsequently submit detailed site development plans to the City for review. These site development plans will require public hearings for a recommendation and approval by the Planning and Zoning Board and the City Commission, respectively.

The highlights of the proposed Agreement are:

1. Development Permitted: The Agreement provides a general development framework that would facilitate the development of a 101-unit, 8-story Cambria Hotel with accessory uses, including, but not limited to, a restaurant open to the public. The final site plan and development may vary provided they remain in substantial compliance with the framework, consistent with the City's Land Development Code (LDC). Any substantial changes will require City Commission approval.
2. Density: Measured from the Mean High Water Line.
3. Agreement Duration: Three (3) years for building permit issuance and payment of permit fees for the development and five (5) years to receive a final certificate of occupancy.
4. Deviations: To realize number 1 above, four (4) deviations from the City's Land Development Code are requested.
5. Administrative Adjustment: City Staff may allow for modifications of up to 10% to any of the dimensional or landscaping requirements. This provision and staff

authority excludes building height, density and other standards regulated by the Comprehensive Plan.

6. Waiver of Public Beach Access Requirement: Sec. 14-21.4 of the LDC requires that the breezeway/visual corridor shall include a seven-foot dedicated concrete public walkway, constructed by the applicant, from the sidewalks to the beach. An irrigated landscape area of no less than three (3) feet in depth shall be provided along the entire length of the walkway. Under a typical development scenario, the City Commission may waive the requirement to construct a dedicated concrete public walkway from the sidewalks to the beach and the three-foot surrounding landscape area requirement upon making findings that:

- a. The developer shall provide compensation to the city, equal to the cost estimated to construct the public walkway and irrigated landscape from the sidewalks to the beach plus the city's legal costs for the review of this transaction. The construction costs estimated shall be provided by the applicant and conducted by an estimator approved by the city; and
- b. At least one (1) public beach access exists within one thousand (1,000) feet of the proposed development.

NOTE: Per Sec. 3.1.f of the Development Agreement, under the development of the Emerald Shores Hotel, a public beach access was previously dedicated to the City. This beach access immediately abuts the Emerald Shores Hotel to the south. The Emerald Shores Hotel property is subject to the proposed development.

III. EVALUATION CRITERIA

The decision to approve or deny a development agreement application is a legislative/discretionary process that does not consider specific standards/criteria however, Section 15-4 of the City's LDC outlines the requirements that shall be contained in any development agreement. Below are the required provisions and the way in which the applicant fulfilled the requirements of this section:

(1) A legal description of the land subject to the development agreement and the identification of all persons having legal or equitable ownership therein.

Requirement met? Yes, The legal description and sketch of development site has been provided as exhibits "A" and "B" of the development agreement. The property owners have been identified on the first page of the agreement.

(2) The duration of the development agreement, which duration shall not exceed thirty (30) years, but which may be extended by mutual consent of the city and the developer. Any request for an extension shall be subject to the public hearing process necessary for the initial approval of said development agreement.

Requirement met? Yes, the duration of the development agreement can be found in SECTION 25. of the agreement. The proposed duration is three (3) years for building

permit issuance and payment of permit fees for the development and five (5) years to receive a final certificate of occupancy.

(3) The development uses permitted on the land, including population densities, building intensities and building heights.

Requirement met? Yes, the development uses permitted, population densities, building intensities and building heights can be found in SECTION 3. DEVELOPMENT STANDARDS and SECTION 13. DEVIATIONS GRANTED FROM CODE OF ORDINANCES.

(4) All documents required to comply with criteria cited in the land development regulations applicable to the subject project.

Requirement met? Yes, a concept plan has been provided as Exhibit "C" to the agreement which demonstrates compliance with the applicable land development code regulations, notwithstanding the four deviations (Sec. 13 of the agreement) proposed as part of this agreement.

(5) A description of the public facilities that will service the development including the designation of the entity that shall be providing such facilities. Additionally, if new facilities are needed to serve the project, the date by which such facilities will be constructed shall be provided. A schedule to ensure that public facilities shall be available concurrent with the impacts of the development shall also be provided. Such schedule, relating the provision of public facilities or services to events or thresholds in the development, may be substituted for the certain dates required hereunder.

Requirement met? Yes, the property currently has direct access to existing public facilities. Any cost to improve public facilities to support the development will be borne by the developer.

(6) The applicant may be required to provide a performance bond, letter of credit, or similar instrument, to be deposited with the City to secure the construction of any new facilities that are required to be constructed as part of the proposed development agreement. Alternatively, such construction may be a condition precedent to the issuance of any site development or building permits or other development permissions. In the event that the new public facilities are in place and operating at the time development permits are requested, no such performance bond or letter of credit shall be necessary unless such facilities are not adequate for the project.

Requirement met? Yes, there are no new public facilities proposed as part of this development. No performance bond or letter of credit is required.

(7) A description of any reservation or dedication of land for public purposes. The development agreement shall provide specifically how all impact fees and other funding requirements for the project are to be met.

Requirement met? Yes, SECTION 5. IMPACT FEES AND PERMITTING of the agreement provides that impact fees and other funding requirements for the project on the Property are as established by controlling law and shall be met in the normative course and processes of development. There is no dedication of land for public access proposed.

(8) In the event that land is to be conveyed to the city in discharge of the obligation of any impact fee or other similar obligation, the development agreement shall provide that such conveyance will be by warranty deed and will be accompanied by an environmental audit and a title insurance policy which shall be in an amount not less than the assessed value of the land. The applicant shall bear the cost of these requirements.

Requirement met? Yes. No land is proposed to be conveyed to the City.

(9) A description of all development permits approved or needed to be approved for the development of the land, which description shall specifically include, but not be limited to, the following:

- a. Any required comprehensive plan amendments or changes in land use designations or changes in zoning classifications/districts assigned to property.*
- b. Any required submissions to or approvals from Volusia County; the State of Florida, Departments of Economic Opportunity (DEO), Environmental Protection (DEP), Transportation (DOT), 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 proposed development.*

Requirement met? Yes, SECTION 5. IMPACT FEES AND PERMITTING of the agreement provides that "All development permits normatively needed to be approved for the development of the Property 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 changes in land use designations or changes in zoning classifications/districts assigned to property are necessitated by the development approved for the Property. Receipt of applicable approvals for other agencies will be required as part of the formal regular site plan application/approval process."

(10) A specific finding in the development agreement that the development permitted or proposed is consistent with the city's comprehensive plan and with the general purpose and intent of the land development regulations of the city. However, if amendments are required to the comprehensive plan or land development regulations, such amendments shall be specifically identified in the development agreement and the agreement may be contingent upon those amendments being made and approved by the appropriate governmental agencies.

Requirement met? Yes, SECTION 17. COMPLIANCE WITH LAWS AND REGULATIONS of the agreement provides such finding as the following: "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 Comprehensive Plan, CITY's land development regulations, codes and ordinances of the CITY."

No amendments to the comprehensive plan or land development code are required.

(11) A statement indicating that failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

Requirement met? Yes, the statement has been provided in SECTION 5.c. as follows: "Failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction."

(12) A finding that the terms and conditions of the development agreement benefit the public interest.

Requirement met? Yes, public benefits have been listed in SECTION 4. PUBLIC BENEFITS of the agreement along with findings consistent with the comprehensive plan.

(13) A description of any deviations that have been granted with regard to the provisions of the city's land development regulations.

Requirement met? Yes, four (4) proposed deviations from the LDC requirements are found in SECTION 13 of the agreement. **Table 2** below summarizes the deviations requested.

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TABLE 2: Summary of LDC Deviations in Development Agreement

Deviation #	LDC Section	Description of Deviation	Standard Required by LDC	Deviation/Standard proposed (requested)
1.	Section 14-48.6	A deviation from the standard requirements for required parking spaces.	Cambria Development: 102 spaces	Cambria Development: 75 regular spaces provided (note: owner commits to and plans show an additional 20 parking spaces on lifts (double stacked) providing for a total of 95 spaces on site)
2.	Section 14-21.4	A deviation from building setbacks	Cambria: South-35ft Emerald Shores: North-28ft South-28ft East-50ft	Cambria Development: South-11ft Emerald Shores (Existing): North-20ft South-25ft East-42ft
3.	Section 14-48.9	A deviation from the requirement that two loading zones for structures over 100,000 sq. ft. in gross floor area.	Cambria Development: 2 loading zones	Cambria Development: 1 loading zone (+/- 103,341 SF GFA)
4.	Section 14-18.4	A deviation from the requirement of minimum green area on the site.	Cambria Development: 20% minimum	Cambria Development: 17% minimum

(14) A description of any vested rights in the property which is the subject of the development agreement which have been recognized and affirmed by the city.

Requirement met? Yes, not applicable to this property.

(15) Any other pertinent information that may be found necessary and required by the city.

Requirement met? Yes, the city has reviewed and provided recommended changes to the Development Agreement through the review process. No additional information has been found necessary or required.

Based on staff's interpretation of the information and language provided in the proposed development agreement, **Table 3** below was derived to assist the Board's decision-making process:

TABLE 3: Development Agreement Requirement Summary (per Section 15-4.a.)

Requirement	1.	2.	3.	4.	5.	6.	7.	8.	9.	10	11.	12.	13.	14.	15.	Total
Requirement Met	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	15
Requirement Not Met																
Requirement Partially Met																

Staff Recommendation:

1. The Community Services Department is recommending approval of the development agreement including the four (4) proposed deviations from the Land Development Code.
2. Waiver of seven (7) foot public walkway requirement (Sec. 14-21.4, LDC) subject to City Commission approval.