



City of Daytona Beach Shores

"Life is Better Here"

"A Premier, Friendly Place to Be"

AGENDA CITY COMMISSION MEETING MAY 14, 2024

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

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

- 1. CALL TO ORDER BY MAYOR**
- 2. ROLL CALL BY CITY CLERK**
- 3. PRAYER**
- 4. PLEDGE OF ALLEGIANCE**
- 5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:**
 - A. Proclamation for Mental Health Awareness Month
 - B. Proclamation for Public Works Week
- 6. APPROVAL OF MINUTES**
 - A. City Commission Minutes April 23, 2024
- 7. CONSENT AGENDA:**

8. OLD BUSINESS:

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

9. QUASI-JUDICIAL HEARING

- A. Ordinance 2024-07: Rezoning application for recently annexed property located at 3215 La Paloma Avenue
- B. Ordinance 2024-11: Rezoning Application For Recently Annexed Property Located At 3635 Cardinal Boulevard
- C. Ordinance 2024-12: Rezoning Application For Recently Annexed Property Located At 110 Van Avenue
- D. Ordinance 2024-13: Rezoning Application For Recently Annexed Property Located At 129 Esmeralda Avenue

10. NEW BUSINESS:

- 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. Discussion of Charter Amendment to extend term limits for City Commissioners and Mayor
- E. Charter Amendment Ordinance 3 terms
- F. Charter Amendment Ordinance 4 terms

11. CITY ATTORNEY COMMENTS

12. CITY MANAGER COMMENTS

13. COMMISSION COMMENTS:

14. AUDIENCE REMARKS/PUBLIC COMMENTS:

15. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

16. ADJOURNMENT:

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

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF DAYTONA BEACH SHORES, 2990 S. ATLANTIC AVENUE, DAYTONA BEACH SHORES, FLORIDA 32118, TELEPHONE NUMBER 386-7635364, CSCHWAB@CITYOFDBS.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 711 or 1 8009558771.

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

MINUTES
CITY COMMISSION MEETING
April 23, 2024
3000 Bellemead Drive, Daytona Beach Shores, FL 32118

1. CALL TO ORDER BY MAYOR

Present: Commissioner Stephan Dembinsky, Mayor Nancy Miller, Commissioner Mark Card, Vice Mayor Michael Politis, Commissioner Chris Conomos

Staff: City Manager Kurt Swartzlander, City Clerk Cheri Schwab, City Attorney Paul Waters, Community Services Director Stewart Cruz, Finance Director Lory Irwin, and Economic Development and Public Affairs Director Nancy Maddox.

2. ROLL CALL BY CITY CLERK

3. PRAYER

4. PLEDGE OF ALLEGIANCE

5. CEREMONIAL ITEMS, PRESENTATIONS AND PUBLIC NOTICES:

6. APPROVAL OF MINUTES

A. City Commission Minutes April 9, 2024

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER STEPHAN DEMBINSKY to Approve the City Commission Minutes of April 9, 2024.

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

Yes: Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

7. CONSENT AGENDA:

A. Public Safety Report - March

B. Community Services Department Monthly Report - March 2024

- C. Approve Shores Community Center's proposed hours of operation.
- D. Approval of Priority Sites Dune Walkover Reconstruction Agreement: Paul Culver Construction, Inc.
- E. March 2024 Executive Summary Report

COMMISSIONER CHRIS CONOMOS moved, seconded by VICE MAYOR MICHAEL POLITIS to Approve the consent agenda.

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

Yes: Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

8. OLD BUSINESS:

- A. Ordinance 2024-08: Voluntary Annexation, 3635 Cardinal Boulevard

Attorney Waters read the ordinance by title. Community Services Director Stewart Cruz advised that there had been no changes to the item since the first reading. All statutory requirements had been met and staff recommended approval.

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER CHRIS CONOMOS to Adopt Ordinance 2024-08 on second reading.

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

Yes: Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

- B. Ordinance 2024-09: Voluntary Annexation, 129 Esmeralda Avenue

Attorney Waters read the ordinance by title. Community Services Director Stewart Cruz advised that there had been no changes to the item since the first reading. All statutory requirements had been met and staff recommended approval.

VICE MAYOR MICHAEL POLITIS moved, seconded by COMMISSIONER MARK CARD to Adopt Ordinance 2024-09 on second reading.

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

Yes: Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

C. Ordinance 2024-10: Voluntary Annexation, 110 Van Avenue

Attorney Waters read the ordinance by title. Community Services Director Stewart Cruz advised that there had been no changes to the item since the first reading. All statutory requirements had been met and staff recommended approval.

COMMISSIONER STEPHAN DEMBINSKY moved, seconded by COMMISSIONER CHRIS CONOMOS to Adopt Ordinance 2024-10 on second reading.

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

Yes: Mayor Nancy Miller, Vice Mayor Michael Politis, Commissioner Chris Conomos, Commissioner Mark Card, Commissioner Stephan Dembinsky

9. QUASI-JUDICIAL HEARING

10. NEW BUSINESS:

A. Appointment to the Volusia County Interlocal Agreement Oversight Committee for Public School Facility Planning

Director Cruz explained that as part of the agreement, the city needed to appoint a representative to attend the annual meeting. After a brief discussion there was a consensus to appoint Commissioner Dembinsky to the committee.

11. CITY ATTORNEY COMMENTS

There were no additional comments from Attorney Waters.

12. CITY MANAGER COMMENTS

City Manager Kurt Swartzlander recapped the FEMA training that he and staff attended last week.

13. COMMISSION COMMENTS:

Mayor Miller requested to cancel the first meeting in both July and August. The City Commission provided a consensus to do so. She provided an update on upcoming events such as the concert and Coffee with the Mayor. She advised there would be a mental health workshop on July 26th for veterans and residents. There will be a workshop before the May 14th meeting to discuss potential paid beach parking. Vice Mayor Politis advised that he would be attending the next TPO meeting and would report back to the commission.

14. AUDIENCE REMARKS/PUBLIC COMMENTS:

PO/SD Chamber of Commerce President Barbara Ann Heegan provided an update on upcoming events.

John Danis spoke about his concerns regarding the new Form 6 requirement for all city commissioners. He felt it would be a challenge to entice potential candidates to run for office. Bob Robacker felt the city lost good representation due to the new Form 6 requirement. With

the term limits being the most restrictive in the county, they need to change to keep good people in office.

Anne Martorano from the PO/SD Chamber Board of Directors thanked the commission for supporting the chamber and having a local office.

Gerry Boocock felt that small cities could struggle with maintaining good leadership. He thought that having to complete Form 6 now would not make many not want to serve.

Mel Lindauer felt that the new requirement of completing Form 6 would limit the pool of people who want to run for office. He would like to see term limits addressed as the city has the most restrictive terms in the county.

Kate Danis stated she is proud to live in the US and treasured having a democracy. She encouraged the commission to discuss term limits and potential changes.

Mayor Miller stated that she felt Form 6 was here to stay even though there is a state appeal filed. Term limits are part of the City Charter and the commission can choose to put a question on the ballot for the voters to decide if they would like them changed again. Attorney Waters explained that lawsuits will take a while, so form 6 will need to be completed this year. Once the first one is completed, the information is available for anyone to view. The attorney suggested that a discussion item be put on the next agenda and a few draft ordinances for the commission to consider. The commission gave a consensus to add these to the next agenda.

15. ITEMS RECOMMENDED FOR THE NEXT AGENDA:

Discussion and draft ordinances on term limits.

16. ADJOURNMENT:

The meeting ended at 7:04 pm

**MAYOR
NANCY MILLER**

**CITY MANAGER
KURT D. SWARTZLANDER**

ATTEST:

CITY CLERK, CHERI SCHWAB



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

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

SYNOPSIS:

Ordinance 2024-06, 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 3215 La Paloma Avenue (Exhibit A). The application (Exhibit B) was submitted by Kevin Kiernan, 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 +/-0.14 acres and is occupied by a 1,894 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.

NOTE: On April 23, 2024, the Volusia Growth Management Commission (VGMC) issued its certificate of consistency (attached) and approved the subject amendment.

FISCAL IMPACT STATEMENT:

No Fiscal Impact

BACKGROUND:

A. BACKGROUND

The subject property, located at 3215 La Paloma 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. PLANNING AND ZONING BOARD

At its March 11, 2024 Planning and Zoning Board meeting, the Board unanimously recommended approval of the subject ordinance.

D. 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 2024-06 as presented.

SUGGESTED MOTION:

A Commissioner may motion as follows:

1. "I move to recommend approval of Ordinance 2024-06 as presented."
- OR
2. "I move to recommend denial of Ordinance 2024-06, on the basis of the following..."

- ATTACHMENT:**
1. ORD 2024-06-FLUMA-3215 La Paloma
 2. Exhibit A-Location Map - 3215 La Paloma
 3. Exhibit B-Application
 4. Exhibit C-Planning Analysis-FLUMA-3215 La Paloma
 5. 24-014 Consistency Certification Letter

ORDINANCE NO: 2024-06

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 3215 LA PALOMA AVENUE, SHORT TAX PARCEL ID 5335-01-05-0240; 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, Kevn and Maggie Kiernan, owners of the real property with short tax parcel ID 5335-01-05-0240 and generally located at 3215 La Paloma Avenue, submitted an owner initiated future land use map amendment application to the City of Daytona Beach Shores; and

WHEREAS, Kevn and Maggie Kiernan, owners 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 +/-0.14 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
3215 La Paloma Avenue	5335-01-05-0240	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

Ordinance 2024-06

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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.

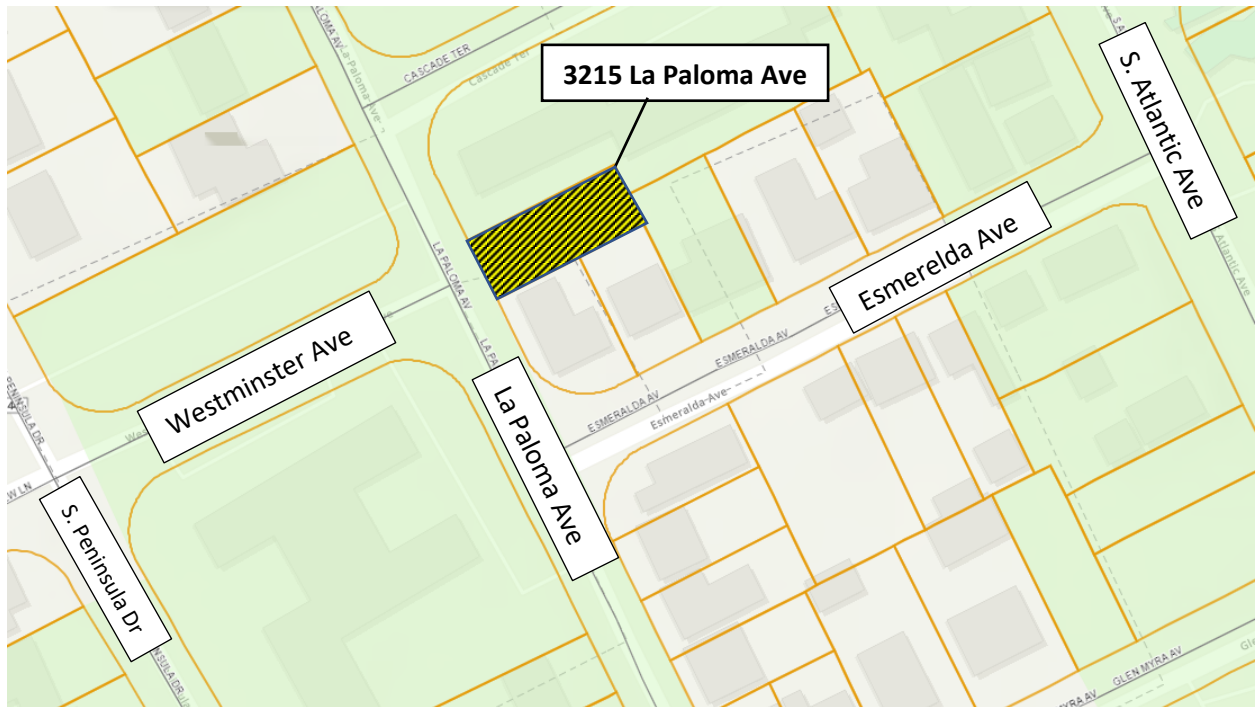
Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

DESCRIPTION

LOT 24 AND LOT 25, BLOCK E, TOGETHER WITH THE EASTERLY 1/2 OF LA PALOMA AVENUE, A 60 FOOT RIGHT OF WAY, LYING BETWEEN THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 24 AND THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 25, ALL IN PLAT OF RIO MAR BEACHES, RECORDED IN MAP BOOK 6, PAGE 95 AND RE-RECORDED IN MAP BOOK 22, PAGE 154 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID LOT 24; THENCE N60°52'43"E ALONG THE NORTH LINE OF SAID LOT 24, A DISTANCE OF 125.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 24; THENCE S28°28'17"E ALONG THE EAST LINE OF LOTS 24 AND 25, A DISTANCE OF 50.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 25; THENCE S60°52'43"W ALONG SAID THE SOUTH LINE OF SAID LOT 25 AND THE WESTERLY EXTENSION THEREOF, 155.00 FEET TO THE CENTERLINE OF SAID LA PALOMA AVENUE; THENCE N28°28'17"W ALONG SAID CENTERLINE, 50.00 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 24; THENCE ALONG SAID WESTERLY EXTENSION N60°52'43"E, 30.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.179 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

12023044

APPLICATION FOR COMPREHENSIVE PLAN/FUTURE LAND USE **843152**
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.

RECEIVED

Date Submitted: 11 / 21 / 23

NOV 21 2023

Applicable Section of the Comprehensive Plan: _____

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

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

Applicant's Name: Kevin Kiernan

Address: 5788 S. Quintero Cir, 60805 Phone #: 720-495-3327

Property Address: 3215 LaPaloma Ave, 32118

Existing Property Use: Single Family Detached

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:

Application to Daytona Beach Shores

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.

No change in use.

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

No change.

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

Will not. ~~There~~ Owners only live here part time so limited works use & will not use schools at all.

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

No change

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

No change

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

yes

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?

no

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

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

Owners are vested and will maintain
and improve property.

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

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

No

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

No, with the improvements already made & the owners commitment to further improvements & maintenance.

EXHIBIT C
PLANNING ANALYSIS
Ordinance 2024-06

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 +/- 0.14-acre property is located at 3215 La Paloma Avenue. The subject application, if approved, would result in the first 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 3215 La Paloma Avenue. from Volusia County *Urban Low Intensity* to Daytona Beach Shores *Residential Low Intensity*:

Overview:

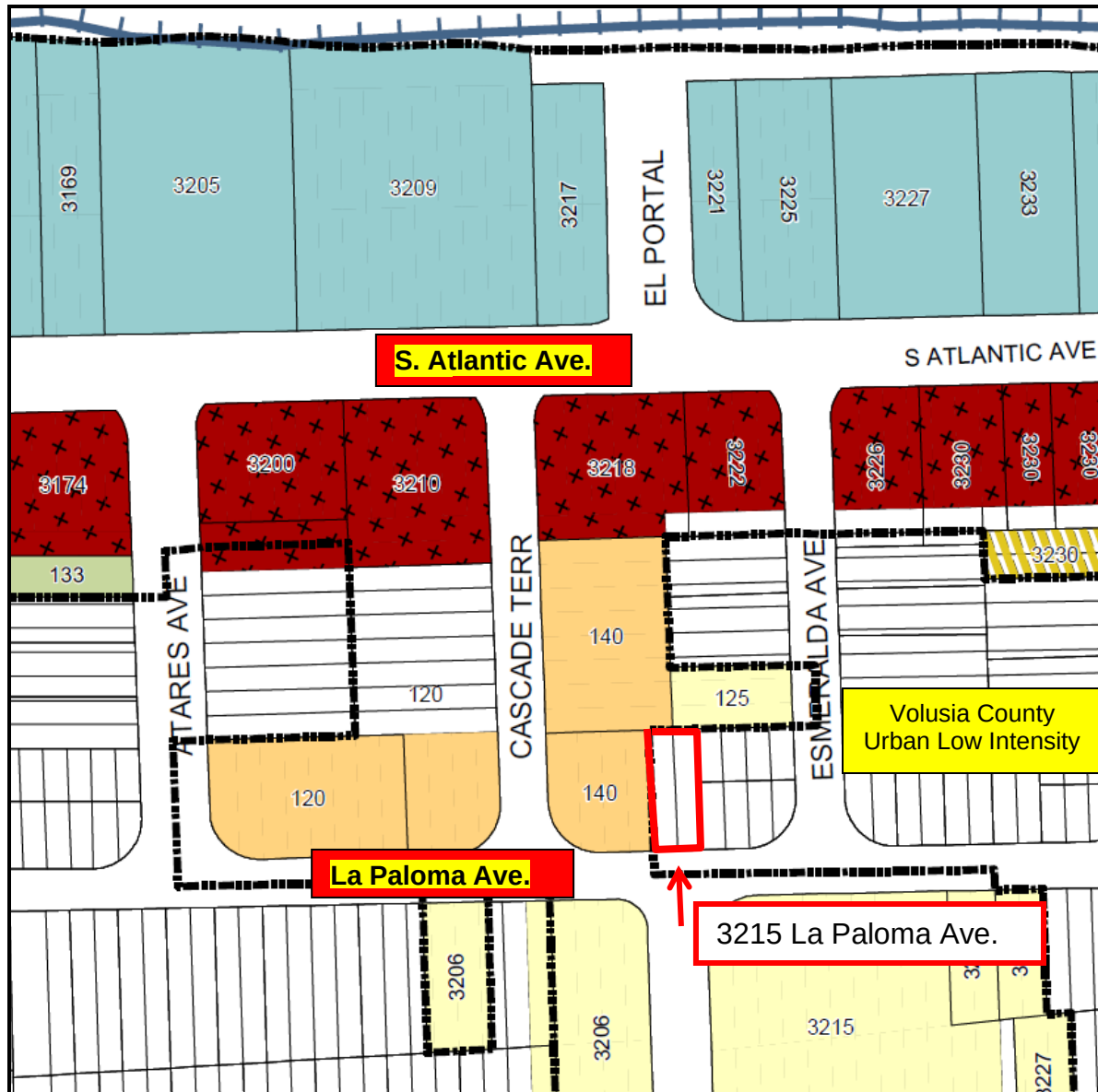
The property is currently occupied by a single family residential structure (1,894sf). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-9” (Urban Single-Family Residential District), respectively. The surrounding 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* (Multifamily Residential- Medium Density District)		Low Density Residential	
South	R-9		Volusia County Urban Low Intensity	
East	RSF-2 (Urban Single-Family Detached District)		Low Density Residential	
West	P (Public/Quasi Public District)		Low Density Residential	

Notes: *R-9 = Volusia County *Urban Single-Family Residential District*.

FIGURE 1 3215 La Paloma Avenue.- 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 +/-0.14-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 La Paloma Avenue, which is a local road that eventually connects to S. Atlantic Avenue (SRA1A) and S. Peninsula Drive (SR441) via Esmeralda Ave/Cascade Terrace and Westminster Drive, respectively. 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. 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 of 3215 La Paloma Avenue 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, 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).



Volusia Growth Management Commission

April 23, 2024

Stewart Cruz, Community Services Director
City of Daytona Beach Shores
2990 South Atlantic Avenue
Daytona Beach Shores, FL 32118

**RE: VGMC Case #24-014 – City of Daytona Beach Shores
Small Scale Comprehensive Plan Amendment
3215 La Paloma Avenue, Kiernan Property
Certificate of Consistency**

Dear Mr. Cruz,

VGMC Case No. 24-014 qualifies for certification in accordance with Chapter 90, Article II. of the Volusia County Code of Ordinances, Volusia Growth Management Commission Consistency Certification Rules and Organization. Based upon the lack of objection filed by another unit of local government, VGMC Case No. 24-014 is hereby deemed certified as consistent effective April 22, 2024 without the need for a public hearing.

The Volusia Growth Management Commission appreciates the efforts of the City of Daytona Beach Shores to further intergovernmental cooperation and coordination in Volusia County. If you have any questions regarding this matter, please do not hesitate to call me.

Sincerely,

Debbie Connors
VGMC Chair



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Stewart Cruz, Community Services Director

PREPARED BY: Stewart Cruz, Community Services Director

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

SYNOPSIS:

Ordinance 2024-07, 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 3215 La Paloma Avenue (Exhibit A). The application (Exhibit B) was submitted by Maggie and Kevin Kiernan, owners of the subject property, and is a requirement of Florida Law when a property is annexed. The property is +/-0.14 acres and is occupied by a 1,894 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 3215 La Paloma, 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. PLANNING AND ZONING BOARD

At its March 11, 2024 Planning and Zoning Board meeting, the Board unanimously recommended approval of the subject ordinance.

D. PUBLIC NOTICE

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

LEGAL REVIEW:

RECOMMENDATION:

Staff recommends approval of Ordinance 2024-07 as presented.

SUGGESTED MOTION:

A commissioner may motion as follows:

1. "I move to recommend approval of Ordinance 2024-07 as presented."

OR

2. "I move to recommend denial of Ordinance 2024-07, on the basis of the following..."

- ATTACHMENT:**
1. Ord. 2024-07-3215 La Paloma RZ
 2. Exhibit A-Location Map - 3215 La Paloma
 3. Exhibit B-Application
 4. Exhibit C-Planning Analysis-3215 La Paloma

ORDINANCE NO. 2024-07

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 3215 LA PALOMA AVENUE, SHORT TAX PARCEL ID 5335-01-05-0240; 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 February 27, 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. 2024-05 is hereby rezoned and assigned the Daytona Beach Shores zoning classification as follows:

Short Tax Parcel ID #5335-01-05-0240, 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.

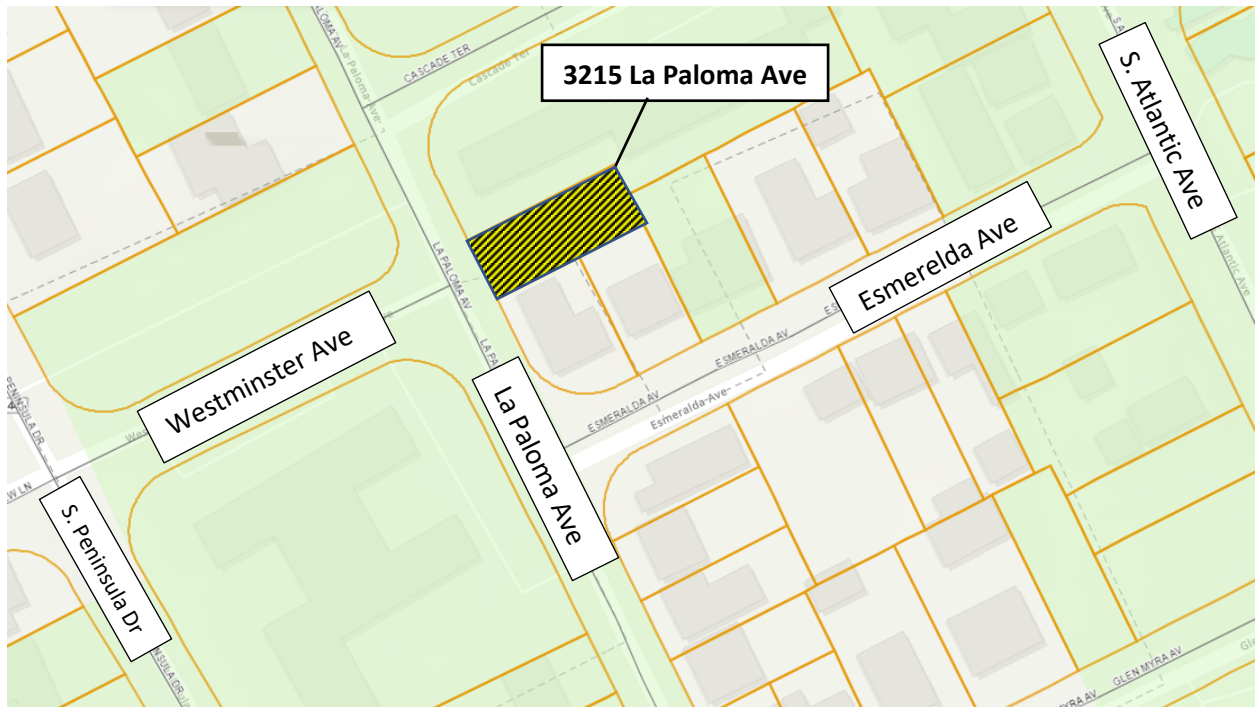
Adopted on second reading this _____ day of _____, 2024.

EXHIBIT A

DESCRIPTION

LOT 24 AND LOT 25, BLOCK E, TOGETHER WITH THE EASTERLY 1/2 OF LA PALOMA AVENUE, A 60 FOOT RIGHT OF WAY, LYING BETWEEN THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 24 AND THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 25, ALL IN PLAT OF RIO MAR BEACHES, RECORDED IN MAP BOOK 6, PAGE 95 AND RE-RECORDED IN MAP BOOK 22, PAGE 154 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID LOT 24; THENCE N60°52'43"E ALONG THE NORTH LINE OF SAID LOT 24, A DISTANCE OF 125.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 24; THENCE S28°28'17"E ALONG THE EAST LINE OF LOTS 24 AND 25, A DISTANCE OF 50.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 25; THENCE S60°52'43"W ALONG SAID THE SOUTH LINE OF SAID LOT 25 AND THE WESTERLY EXTENSION THEREOF, 155.00 FEET TO THE CENTERLINE OF SAID LA PALOMA AVENUE; THENCE N28°28'17"W ALONG SAID CENTERLINE, 50.00 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 24; THENCE ALONG SAID WESTERLY EXTENSION N60°52'43"E, 30.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.179 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

843152

RECEIVED

NOV 21 2023

BUILDING AND CODES DIVISION
CITY OF DAYTONA BEACH SHORES

12023043
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: 11/21/23

Current Zoning: R-9

Requested Zoning: RSF-2

Applicant's Name: Kevin Kiernan

Address: 3215 La Paloma Ave Phone #: 720-495-3327

Representative: Same

Address: 5788 S. Quintaro Cir Phone #: 720-495-3327

Property Address & Parcel ID: 3215 La Paloma Ave

Property Owner: Kevin + Maggie Kiernan

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

Legal Description of Property:

Single Family Detached Dwelling

[Signature]
Applicant's Signature

11-21-23
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.

Favorable. It will bring in tourism dollars to the community while reducing the use of public works, resources, roads all while increasing Tax Dollars.

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

Favorable. More tax dollars & tourism dollars to the area

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

No just the opposite less waste, water use & No school use at all.

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

Possible use but no chance of burden.

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

There ~~are~~ is no shortage of affordable housing within a 6 mile Radius so I don't see any affect at all.

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

yes

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?

No

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

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?

No

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

No

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

No

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

No

EXHIBIT C **PLANNING ANALYSIS** **Ordinance 2024-07**

A. INTRODUCTION

The proposed application/ordinance if approved would change the zoning district classification of the annexed single-family residential property located at 3215 La Paloma 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 0.14 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 (Multifamily Residential-Medium Density District)	Cascade Apartments
South	RSF-2 (Urban Single-Family Residential Detached District)	Single Family Residence
East	RSF-2	Single Family Residence
West	P (Public/Quasi Public District)	WBTSP Church

Notes: *R-9= Volusia County Urban Single-Family Residential District

Figure 1: Aerial View-3215 La Paloma Avenue and Surrounding Neighborhood



Source: Volusia County Property Appraiser, 2021

Figure 2: 3215 La Paloma Ave. – Zoning Map

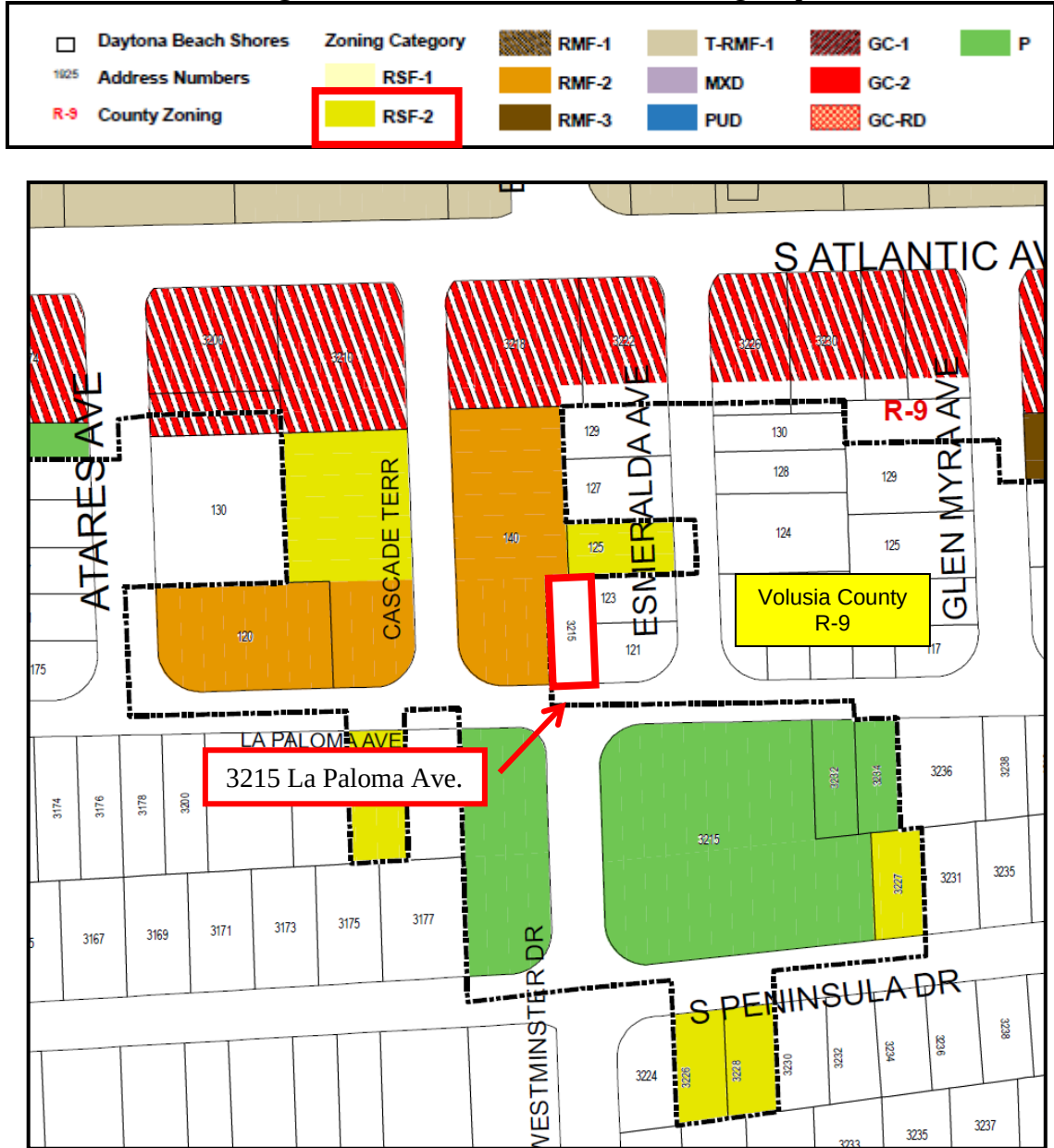


Figure 3: 3215 La Paloma Avenue



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, Kevin Kiernan. The subject property is located at 3215 La Paloma Avenue and has an acreage of 0.14+/- . The site has vehicular and pedestrian access to the abutting La Paloma Avenue which indirectly 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.

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 La Paloma 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

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:

No fiscal impact.

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 City Commissioner 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

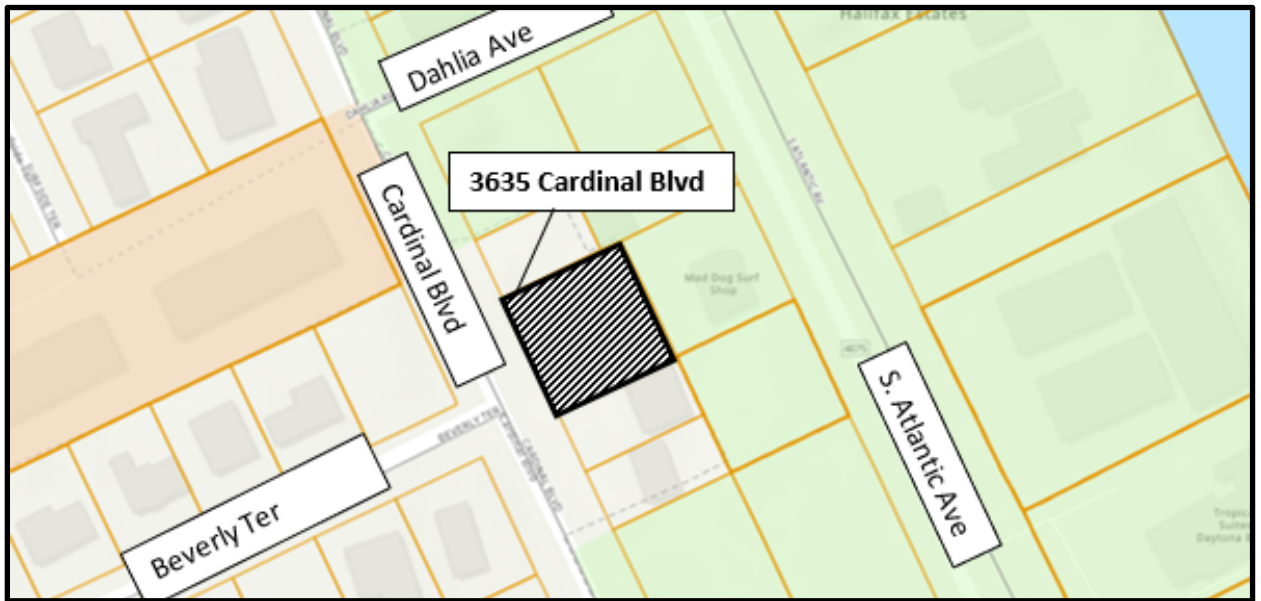
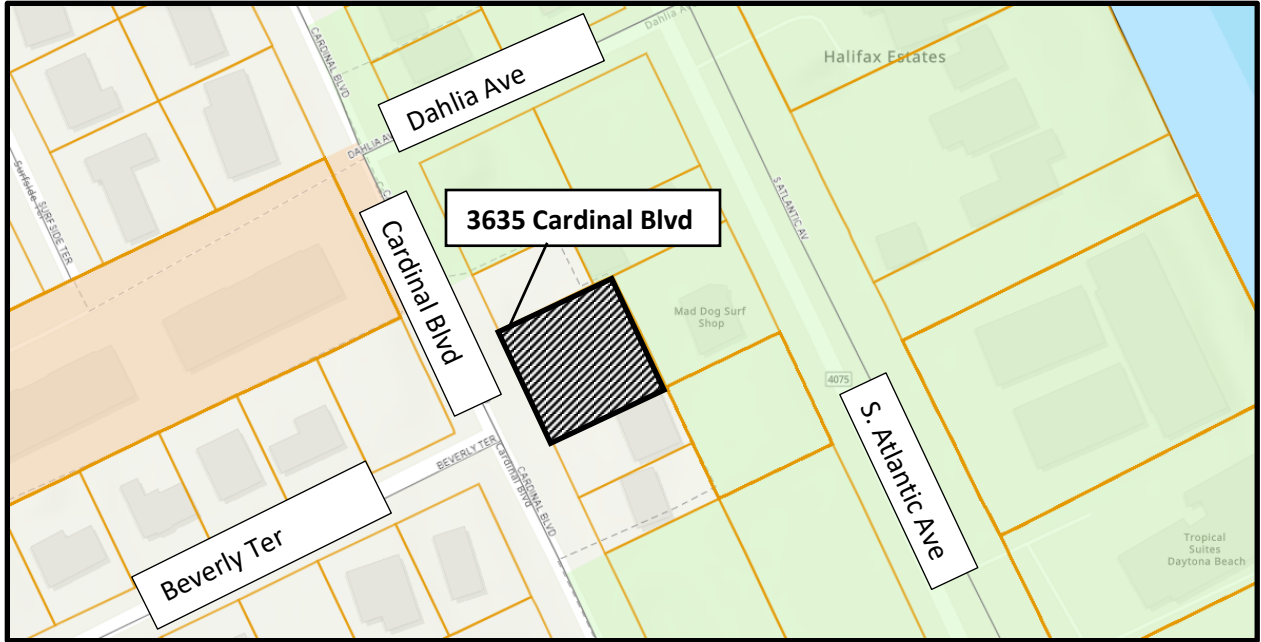
DESCRIPTION:

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.

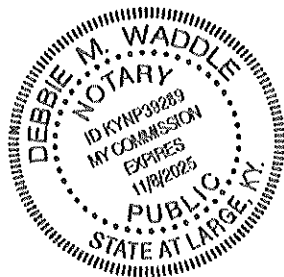


IGS HOLDINGS LIMITED LIABILITY COMPANY

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

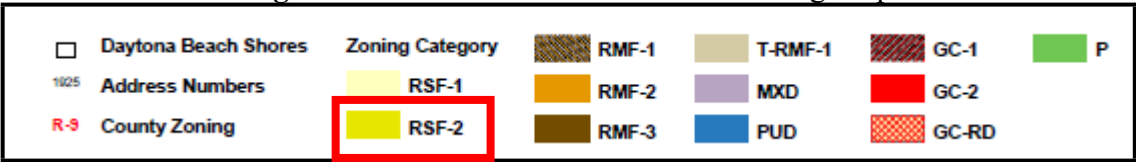


Figure 3: Street View - 3635 Cardinal Blvd



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.



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

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:

No fiscal impact.

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 City Commissioner 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: Tom 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 0620

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

Date

1/25/2024

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

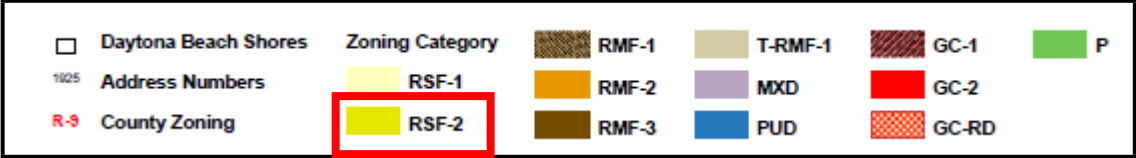
Notes: *R-9= Volusia County Urban Single-Family Residential District; RSF-2**=DBS Urban Single-Family Residential District

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.



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

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:

No fiscal impact.

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 City Commissioner 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 ESERALDA 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

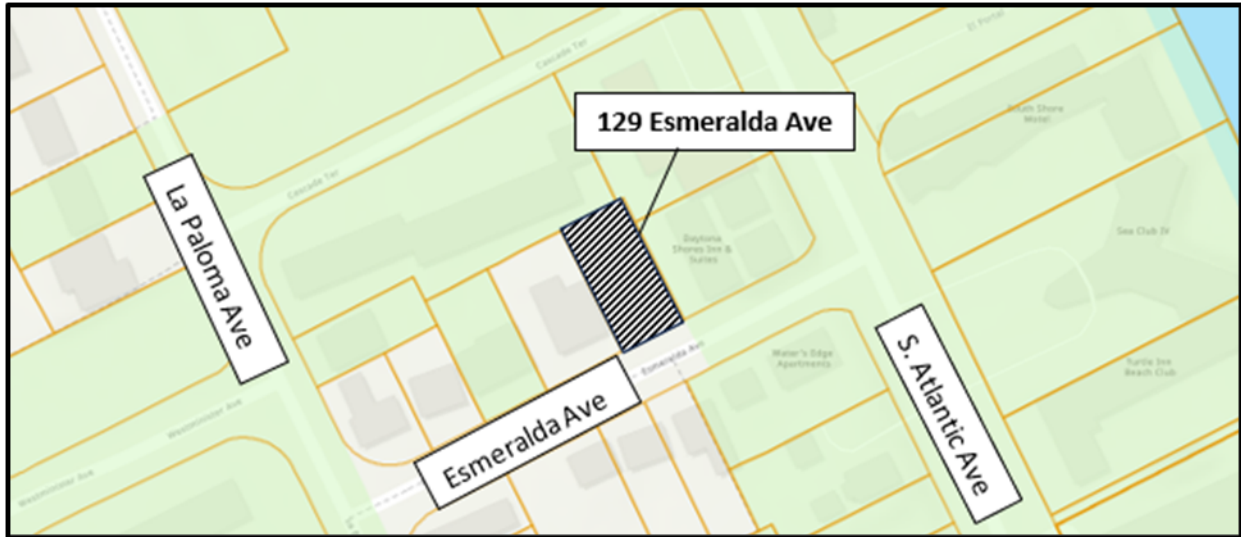
DESCRIPTION:

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

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

Representative: _____

Address: _____ Phone #: _____

✕ Property Address & Parcel ID: 53501050360

✕ 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

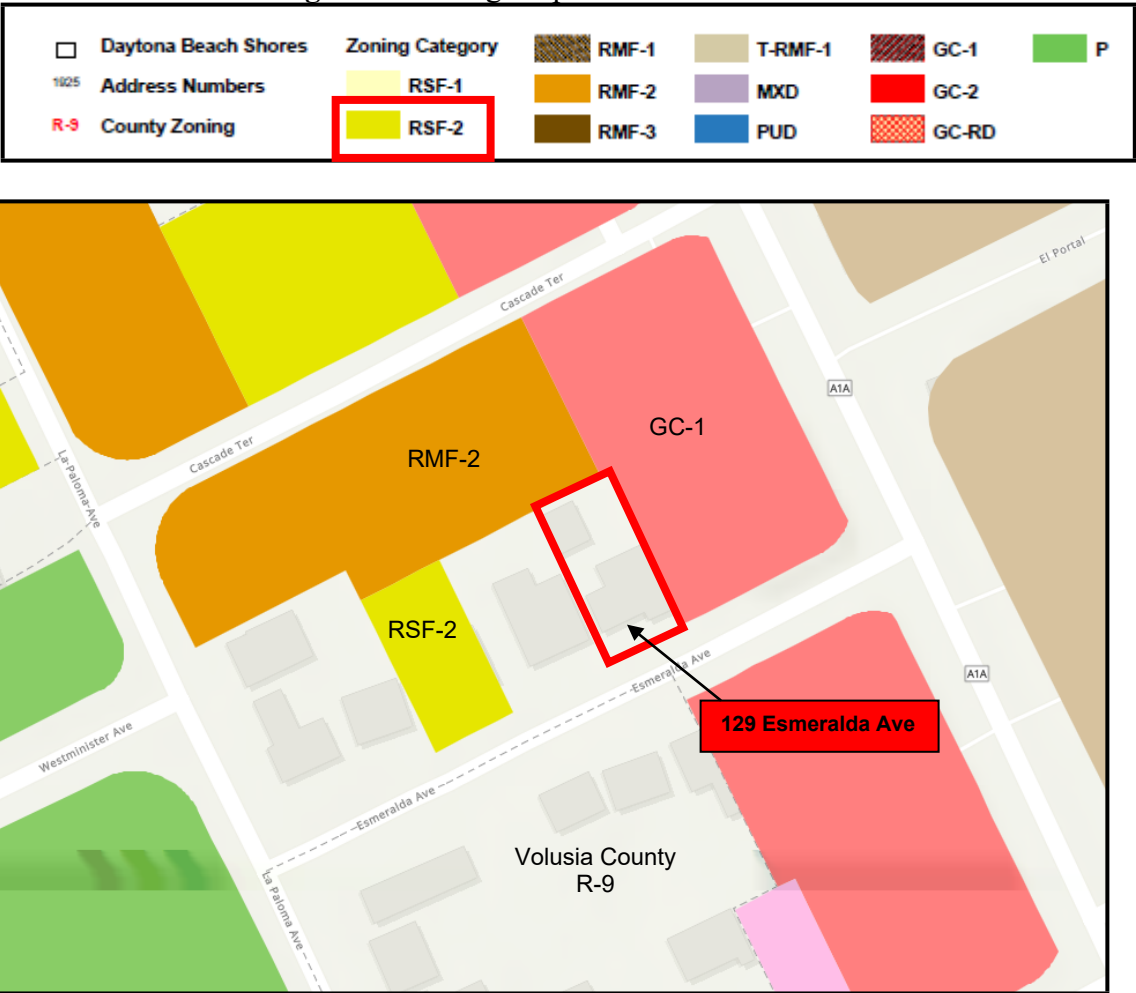
Notes: *R-9= Volusia County Urban Single-Family Residential District; RMF-2**=DBS Multifamily Residential (Medium Density) District; GC-1+=DBS Tourist Oriented Commercial District

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.



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
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:

No fiscal impact.

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 City Commissioner 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

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

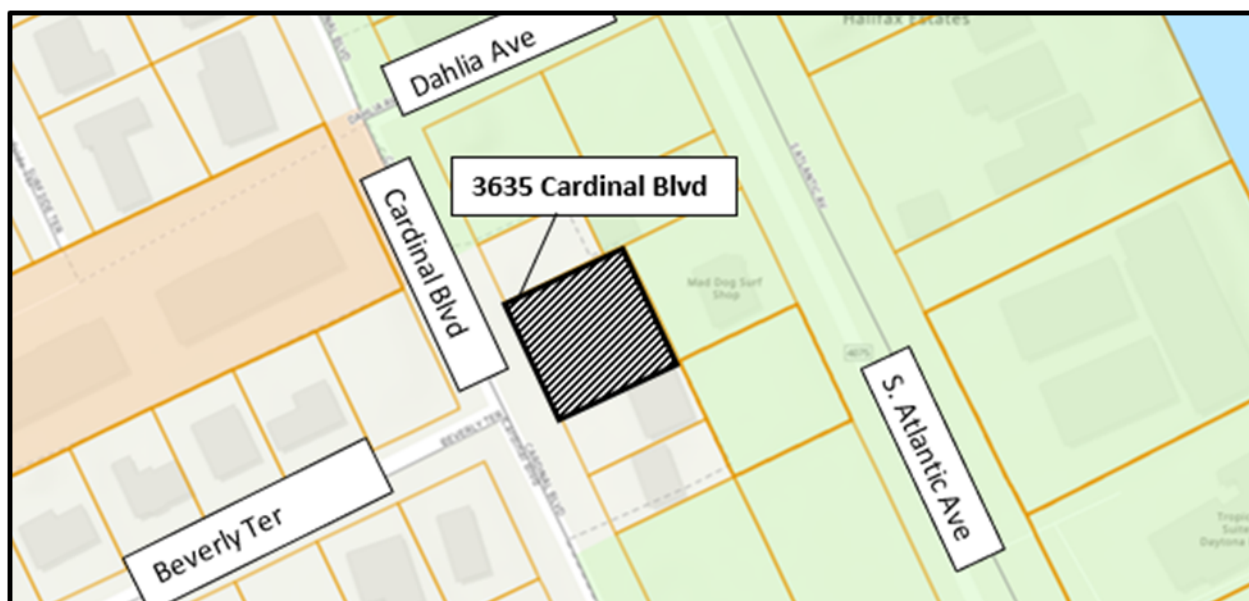
DESCRIPTION:

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) 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:

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:

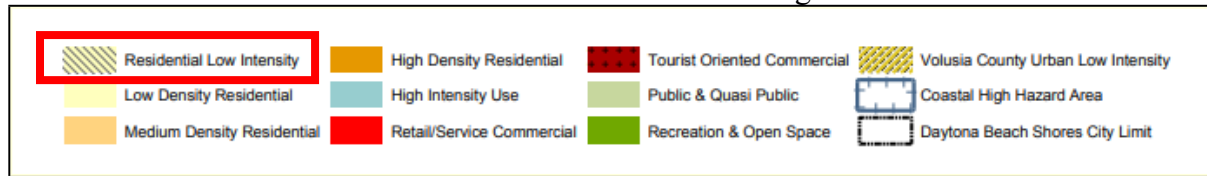
The property is currently occupied by a four-unit residential structure (6,800sf). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-6” (Urban Two-Family Residential District), respectively. The surrounding future 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).



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

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:

No fiscal impact.

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 City Commissioner 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: 1/1/25/24

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

1/1/25/2024
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:

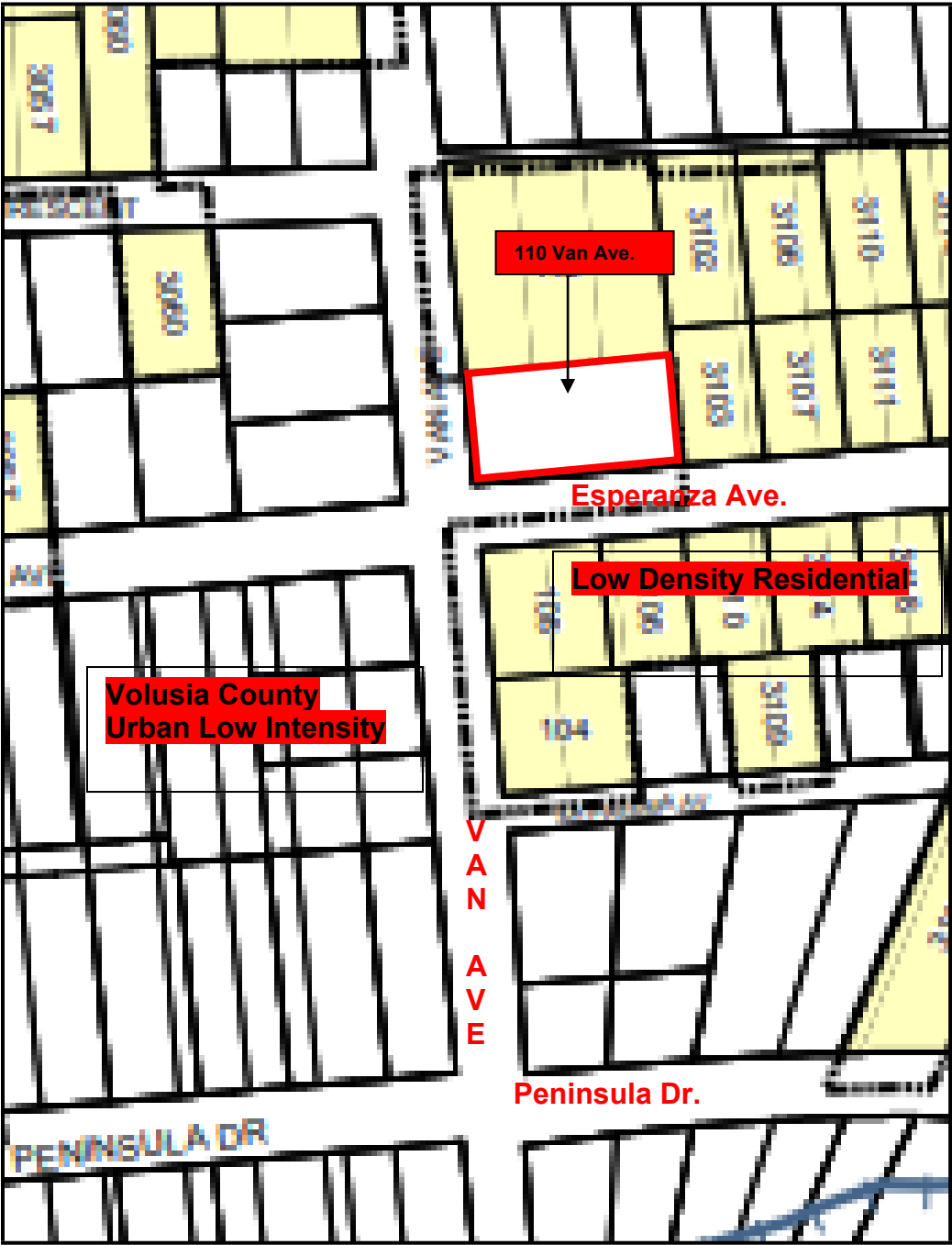
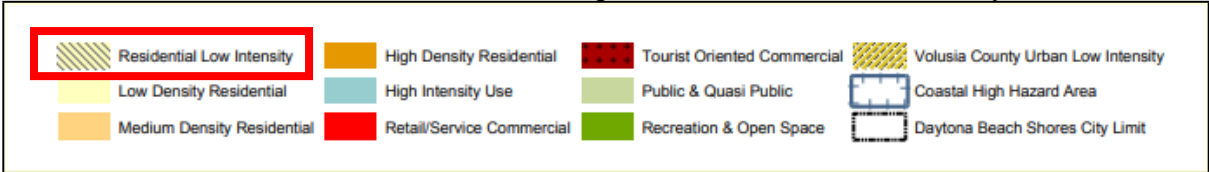
The property is currently occupied by a single-family residential structure (2,111sf). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-9” (Urban Single-Family Residential District), respectively. The surrounding 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).



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
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:

No fiscal impact.

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 City Commissioner 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

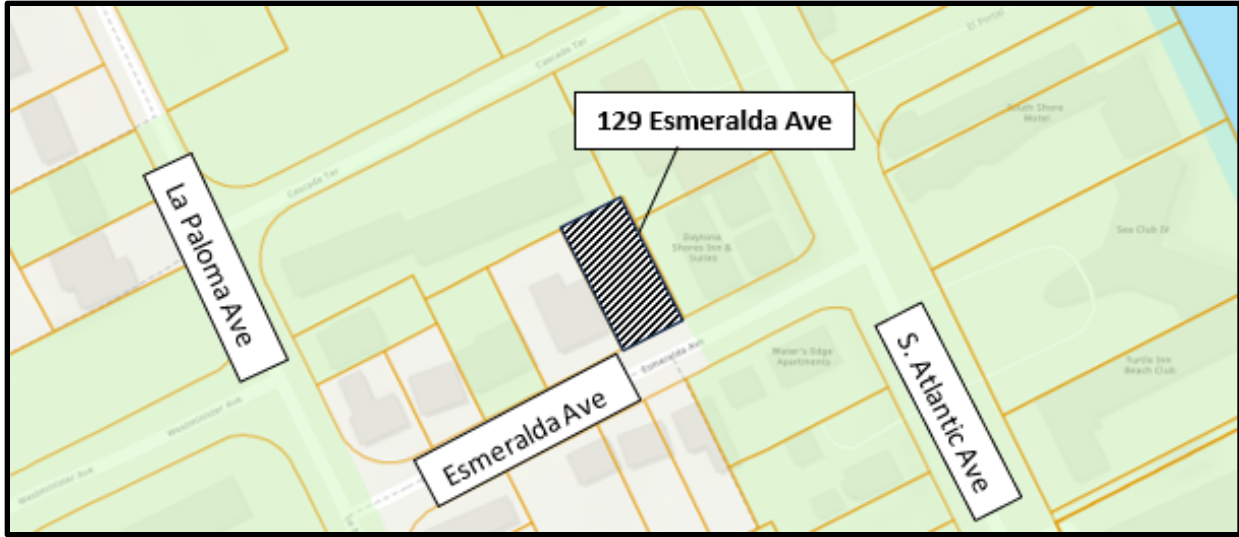
Passed on first reading this _____ day of _____, 2024.

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:

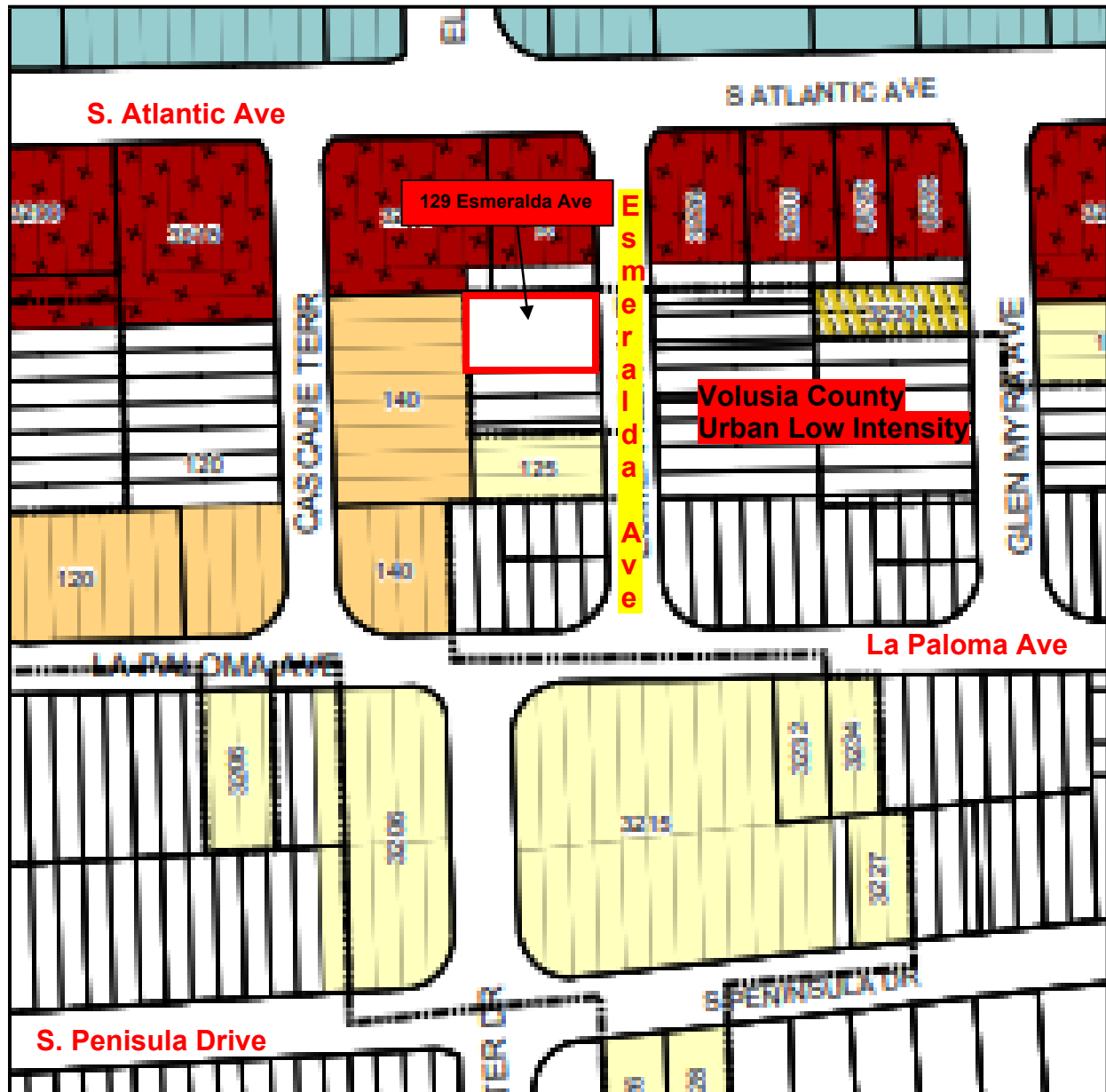
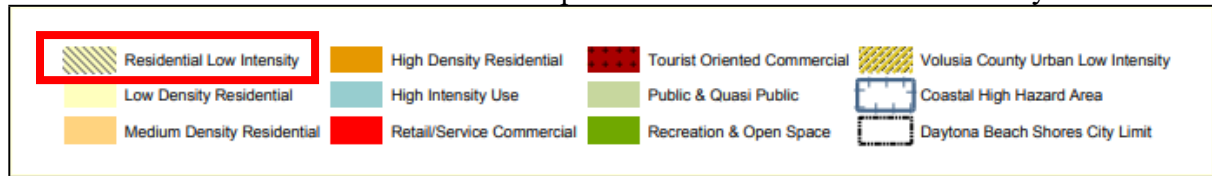
The property is currently occupied by a single-family residential structure (1,580sf). The current Volusia County Future Land Use (FLU) and Zoning designations on the property are *Urban Low Intensity* (0.2-4 units/acre) and “R-9” (Urban Single-Family Residential District), respectively. The surrounding 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
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

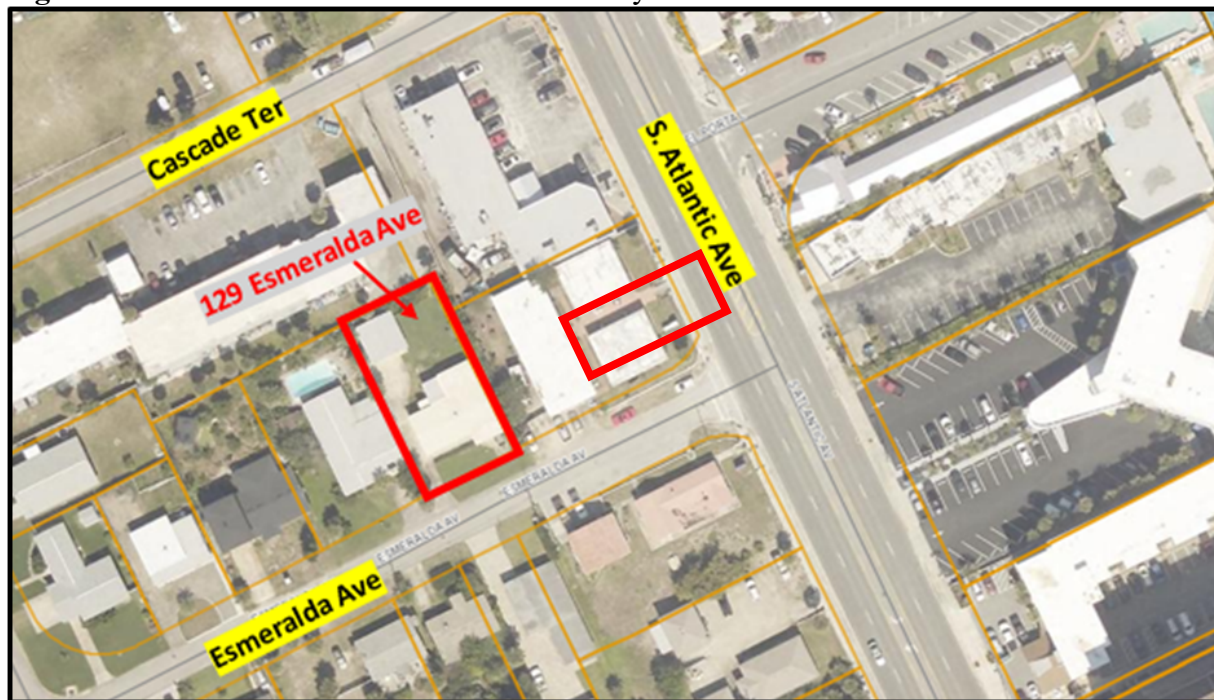
Public Schools:

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: 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).



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission

FROM: Becky Vose, City Attorney

PREPARED BY: Cheri Schwab, City Clerk

SUBJECT: Discussion of Charter Amendment to extend term limits for City Commissioners and Mayor

SYNOPSIS:

The purpose of this agenda item is for the Commission to discuss whether to amend the City Charter to increase term limits for Commission Members and the Mayor from either two four-year terms to three four-year terms, or from two four-year terms to four four-year terms

FISCAL IMPACT STATEMENT:

None.

BACKGROUND:

During the last Commission meeting, several members of the public expressed their desire to increase the Commissioners' and the Mayor's term limits. The members of the public reasoned that increasing term limits would: (1) prevent disruption in City operations because Commission members and the Mayor have gained institutional knowledge. They have made invaluable connections with outside agencies and with local, state and federal decision makers, especially after the recent hurricanes and disaster recovery; and, (2) the new Form 6 filing requirements are onerous and prevent the City from finding citizens willing to serve. Based on the public's requests, the Commission requested the matter to be placed on this agenda for discussion.

Currently, Section 2.01 of the City Charter provides for two four-year terms, which is one of the strictest term limit requirements in any of Volusia County's 16 municipalities. A copy of Section 2.01 of the City Charter is included in the agenda materials as Exhibit "A".

Section 7.01 of the City Charter provides for two methods of amending the Charter; either by ordinance or by petition signed by 10% of the City's registered voters. A copy of Section 7.01 of the City Charter is included in the agenda materials as Exhibit "B". On the Agenda today are two draft ordinances. The first extends term limits from two four-year terms to three four-year terms. The second ordinance extends term limits from two four-year terms to four four-year terms. If the Commission wishes to increase term limits, one of the ordinances should be approved for first reading and the other should be voted down.

Section 166.031, Florida Statutes, sets forth the procedures for a municipality to amend its Charter. A copy of Sect. 166.031, Fla. Stat., is included in the agenda materials as Exhibit “C”. The Statute requires the Ordinance and ballot language (if adopted) to be “placed on the next general election held within the municipality or at a special election called for such purpose”, which means the Ordinance could be placed on the ballot as early as the Primary Election on August 20, 2024.

LEGAL REVIEW:

The City Attorney recommends that the Commission discuss the proposed Charter Amendment and determine whether to adopt one of the two draft ordinances on the agenda.

RECOMMENDATION:

N/A

SUGGESTED MOTION:

There is no motion required.

- ATTACHMENT:**
1. Exhibit A-
Sec. 2.01.____Composition__term_limits__mayor_and_city_commission.
 2. Exhibit B- Sec. 7.01.____Charter_amendment.
 3. Exhibit C-Section 166.031, Florida Statutes- Charter Amendments
 4. Cities with no term limits
 5. cities with term limits
 6. City Term Limits

EXHIBIT “A”

Sec. 2.01. Composition; term limits; mayor and city commission.

There shall be a city commission consisting of five (5) members, one of whom shall be a mayor, all of whom shall be elected at-large for a four (4)-year term. Unless otherwise provided, reference to the office of commissioner in this charter shall also apply to the office of mayor. No person shall be elected or appointed to office as a city commissioner for more than two (2) terms. This section applies to any commissioner including the mayor and a person shall not circumvent this rule through election or appointment to a different position. For purposes of this limitation, "term" is defined as service on the city commission for a period longer than one-half of a full term. All terms, including past and present terms, greater than one-half of a full term served by current and former city commission members shall count for the purposes of applying the term limit.

(Ord. No. 2018-04 , § 1, 11-6-18; Ord. No. 2018-05 , § 1, 11-6-18; Ord. No. 2022-05 , § 2(Exh. A(#5)), 3-8-22)

Editor's note(s)—Ord. No. 2018-04 , § 1, adopted November 6, 2018, amended § 2.01 and in so doing changed the title of said section from "Composition" to "Composition; term limits; mayor and city commission," as set out herein.

EXHIBIT “B”

Sec. 7.01. Charter amendment.

This charter may be amended in two (2) ways:

- (a) *Initiation by ordinance.* The commission may propose, by ordinance, amendments to any part or all of this charter, except those prohibited by the Constitution and Laws of Florida; and upon passage of the initiating ordinance commission shall submit the proposed amendment to a vote of the electors at the next general election held within the city or at a special election called for that purpose. Amendment of boundaries resulting from annexation done in accordance with general law shall be by ordinance and shall not be subject to a vote of the electors except as provided by general law.
- (b) *Initiation by petition.* The electors of the city may propose amendments to this charter by petition signed by at least ten (10) per cent of the registered electors and submitted to a vote of the electorate at the next general election, or, if there is no general election scheduled within the next 120 days, in a special election to be called within ninety (90) days following the certification of the initiative petition.

(Ord. No. 2022-05 , § 2(Exh. A(#3 and #5)), 3-8-22)

EXHIBIT "C"

Select Year: 2023 The 2023 Florida Statutes (including Special Session C)[Title XII](#)
MUNICIPALITIES[Chapter 166](#)
MUNICIPALITIES[View Entire Chapter](#)**166.031 Charter amendments.—**

(1) The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

(2) Upon adoption of an amendment to the charter of a municipality by a majority of the electors voting in a referendum upon such amendment, the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised charter with the Department of State. All such amendments are effective on the date specified therein or as otherwise provided in the charter.

(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2).

(4) There shall be no restrictions by the municipality on any employee's or employee group's political activity, while not working, in any referendum changing employee rights.

(5) A municipality may, by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter and amend provisions or language out of the charter which has been judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the State Constitution or Federal Constitution.

(6) Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.

History.—s. 1, ch. 73-129; s. 1, ch. 86-95; s. 1, ch. 90-106; s. 43, ch. 90-315; s. 45, ch. 94-136.

Sec. 8. - Election, term, qualifications, etc., of commissioners; mayor.

The elective officers of the city shall be six (6) commissioners and a mayor. The mayor elected in 2007 shall serve a term ending in 2012. Commissioners from zones 1, 3, and 5, elected in 2005 shall serve terms ending in 2010. Commissioners from zones 2, 4, and 6, elected in 2007 shall serve terms ending in 2012. Thereafter, the mayor and commissioners shall be elected to terms of four (4) years. One commissioner shall reside in each of the zones of said city as said zones are designated in Section 2 of this Charter. No person may qualify to run for the office of commissioner except from the zone in which he is a bona fide resident continuously for at least six (6) months immediately prior to the first day of the qualification period for office and be a qualified elector. Candidates for the office of mayor shall be bona fide residents of the city for at least six (6) months immediately prior to the first day of the qualification period and be qualified electors in any of said zones. If the mayor or any commissioner ceases to possess any one of the qualifications set forth herein, the office shall thereupon become immediately vacant. Each qualified elector of said city shall have the right to vote for one candidate for mayor, and shall further have the right to vote for one candidate for the city commission from the zone in which the elector is qualified to vote. No person may qualify for both the office of commissioner and the office of mayor in the same election. The mayor and commissioners elected under this section shall take office on the second Wednesday after the first Monday in November after their election as provided under this Charter and shall hold office to the expiration of their terms as provided above or until their successors are elected and qualified under the provision of this Charter if that be later.

Sec. 5. - Number; selection; term.

The city commission shall consist of five commissioners, one of whom shall be elected as the mayor-commissioner, and all of whom shall be elected from the city at large. Each commissioner shall have the qualifications defined in Section 6 and each commissioner shall serve for a term of four years or until his successor has been elected and qualified. Whenever the word "commissioner" is used in this Charter it shall include and refer to the mayor-commissioner, if applicable.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 9. - The City Commission—Creation; term; oath; compensation.

There is created a City Commission composed of five qualified electors of the city, consisting of four Commissioners and one Mayor. Beginning with the election held in 2010, the Mayor and Commissioners shall serve two-year terms. During the General Election on Tuesday, August 28, 2018, a referendum was presented to the electors of the city and passed by the voters to approve 4 year staggered terms of office. To implement staggered terms, beginning with the election to be held in 2020, the Mayor and City Commissioner, District 1 and City Commissioner, District 3 shall be elected to a 4 year term and City Commissioner, District 2 and Commissioner, District 4 shall be elected to a 2 year term. At the election to be held in 2022, City Commissioner, District 2 and City Commissioner, District 4 shall be elected to a 4 year term. The office of Mayor is hereby limited to two consecutive terms beginning with the election held in 2010. The present Mayor and City Commissioners shall hold office until their respective successors are duly elected and qualified and take office as herein provided.

All City Commissioners and officers of the city shall, before entering upon their duties, take and subscribe to an oath or affirmation, to be filed and kept in the office of the City Clerk, which oath shall be in the form prescribed for State Officers by the Constitution of Florida.

(Laws of Fla., ch. 57-1399, § 1; Laws of Fla., ch. 63-1414, § 1; Laws of Fla., ch. 65-1686, § 1; Ord. No. 748, § 1, 8-27-74; Ord. No. 987, § 1, 10-7-80; Ord. No. 2432, § 1, 7-25-96; Ord. No. 2453, § 1, 3-11-97; Ord. No. 2488, §§ 1, 15, 11-11-97; Ord. No. 2872, § 1, 6-8-10; Ord. No. 3010, § 3, 10-23-18; Ord. No. 3012, § 2, 12-11-18)

Sec. 3.06. - When term of office commences.

The terms of office for mayor and city commissioners shall commence on the first Tuesday after certification of the general election in which the mayor or city commissioner was elected. The term of office for the mayor shall expire two (2) calendar years hence after the start of the term. The term of office for city commissioners shall expire four (4) calendar years hence after the start of the term. The term of office and assumption of the duties by the mayor-elect and city commissioners-elect shall commence on said day upon the respective mayor-elect or city commissioner-elect taking and subscribing to his or her oath of office.

In the event that the mayor or a commissioner is either appointed or elected by special election to fill a vacancy pursuant to the provisions of section 2.08 of the New Smyrna Beach City Charter, he or she shall assume the office immediately upon taking and subscribing to the oath of office. The term of office for the mayor or member of the commission appointed or elected by special election to fill a vacancy shall end on the same day that the person for whom he or she was appointed or elected to fill the term of office would have ended.

Sec. 5.03. - Terms of office.

The terms for mayor and all commission seats, #1, #2, #3, and #4 shall be for a nominal four years, the terms shall be staggered. The current term for the offices of the mayor and commission members shall be as follows:

Mayor	2012—2016
Commission seat 1	2010—2014
Commission seat 2	2012—2016
Commission seat 3	2010—2014
Commission seat 4	2012—2016

(Ord. No. 2014-08, § 1(Exh. A), 11-24-2014)

Section 4.02. - Election and terms.

- (a) The Mayor and all Council Members shall be elected for a four-year term. Elections shall be held in even numbered years on the date(s) established by the Florida Election Code for the Primary and General Elections respectively. In the event three or more candidates in any one race qualify for the election, a primary election will be held on the date established by the Florida Election Code for the Primary election. In the event no candidate in any of the races on the Primary election ballot receives a majority of the votes cast, a General election shall follow with the names of the two candidates receiving the most votes in each of the races appearing on the ballot in said Primary election along with those contested candidates not appearing in the Primary election. The Mayor and Council members designated as Districts 1, 2, and 3 shall be elected in one group; and Council members designated as Districts 4, 5, and at large shall be elected in the next group.
- (b) The City of Orange City shall be divided into five Council Districts by an ordinance of the City. This ordinance shall comply with the general laws governing district boundaries. Following each decennial census, the City Council shall by ordinance adjust the boundaries of the City Council districts according to general law. In addition, the City Council may, at its discretion, adjust the districts provided that any such adjustment will not take place less than one year before an election. The Council may appoint a special commission to develop district boundaries, use consulting firms specializing in the process and/or use such other public governmental resources as are available to develop a plan for districts and to adjust the district boundaries when required.

(Ord. No. 207, 10-5-2004; Res. No. 532-09, 2-24-2009; Ord. No. 478, § 1, 2-28-2012, passed 11-6-2012)

Sec. 3.03. - Election and terms.

The regular election of members of the city commission shall be held in the manner provided for in Article V of this Charter and shall be for two-year terms.

(Ord. No. 93-40, § 2, 8-17-1993; Ord. No. 94-52, § 3, 6-21-1994; Ord. No. 98-58, § 2, 1-5-1999)

A town council, consisting of five (5) members, whose term of office shall be four (4) years.

A town marshal, and a town treasurer, each of whose term of office shall be two (2) years [and who] shall be chosen by a majority vote of the town council. Provided, that the town council may combine any or all of the foregoing offices.

All officers shall assume the duties of their respective offices on the first Monday in October, next following their election.

Rules and regulations of holding and certifying general and special elections shall be prescribed by the ordinances of said town. No person shall be eligible for election as mayor or councilman who is not a qualified elector of said Town of Pierson, and a citizen of the State of Florida.

Provisions for Elections

General elections shall be held in odd numbered and even numbered years on the date that would be established by the Florida Election Code. Elections shall be held on the date established by the Florida Election Code for the November general election; provided that the mayor and each commissioner shall hold office until their respective successors are duly elected.

- (a) When two or more candidates are nominated for any elective office in the Town of Pierson, Florida then it shall be the duty of the town council of the Town of Pierson to call an election, to be participated in by the qualified electors of the Town.
- (b) Whenever a candidate in any election shall receive a majority of all of the votes cast in the November general election, then that candidate shall be declared elected to the office in which he was nominated and receive a certificate of election. The elected candidate shall take office and assume elected duties on the date of the first town council meeting following the election.

Section 9. [Rules of Conduct and Procedure.]

The council may enact rules of procedure and may prescribe penalties for the nonattendance or disorderly conduct of its members and enforce the same. The council shall elect one of their number as president, and he shall have power to enforce such rules as may be adopted by the council for their government and procedure. A majority of the members of the council shall be necessary to constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time, and under the provisions of ordinances or rules of procedure, may compel the attendance of the absent members by imposition of fines and penalties. The council shall hold at least one (1) regular meeting each month.

Section 10. [Vacancies in Office.]

Section 3.02. - Election and Terms.

- (a) Members of the Town Council must be electors of the Town of Ponce Inlet.
- (b) The regular election of Town Council members shall be held according to the Volusia County Uniform Municipal Election Schedule. Newly elected members shall take office at the first regular Council meeting in the month of November immediately following their election and upon having filed a written oath of office with the clerk. Members of the council may succeed themselves.
- (c) The Town Council shall be composed of five (5) members elected at large by the qualified electors of the Town of Ponce Inlet. Four (4) Council members shall be elected to staggered terms of two (2) years; the Mayor shall be elected to a term of two (2) years. Each Council member shall run for a numbered seat. The Council members shall be elected for seats two (2) and four (4) in even numbered years and for seats three (3) and five (5) in odd numbered years. Seat one (1) shall be the Mayor who shall run in odd numbered years.

Section 5.05. - Terms of office; oath.

Commencing with the 1990 regular city elections, the mayor, councilmember for District 1 and councilmember for District 4 shall each be elected for a four-year term. Commencing with the 1990 regular city elections, the councilmember for District 2 and the councilmember for District 3 shall be elected for a two-year term. In every regular city election thereafter, each councilmember shall be elected for a four-year term. The terms of members of the council shall begin at the time of the next regular council meeting following the date of a runoff election, even if not held. Before entering upon the duties of the office, each member shall take an oath of office in the form prescribed for state officers by the constitution of the State of Florida.

(Ord. No. 13-04, § 1, 3-12-13)

Sec. 3.02. - Elections and terms.

(a) The regular election of mayor and/or city council members shall be held on the date or dates and in the manner provided in article V of this Charter, and shall be for four-year terms, except that in the regular elections scheduled for 2005 and 2007, the term of office for the duly elected council members shall expire on the first Tuesday in December, 2010 and 2012, respectively. The terms and provisions of this section shall supersede and amend any other charter terms or provisions to the contrary.

(b) No member of the city council, including the mayor, shall serve more than three (3) consecutive terms. A term shall be defined as holding office as a council member, including mayor, for more than 738 days. Consecutive terms shall mean the continued tenure without interruption as a council member, including mayor, notwithstanding, that some tenure may not constitute a term.

(Ord. No. 1983-33, § 1, 11-7-83; Ord. No. 1993-25, § 1, 8-10-93; Ord. No. 1993-26, § 1, 8-10-93; Ord. No. 1993-27, § 1, 8-10-93; Ord. No. 1993-28, § 1, 8-10-93; Ord. No. 1997-33, § 1, 7-1-97; Ord. No. 2001-51, § 4, 8-21-01; Ord. No. 2008-35, § 2, 10-21-08)

Editor's note— Ord. No. 1993-25, Ord. No. 1993-26, Ord. No. 1993-27 and Ord. No. 1993-28 were approved at a special election held on October 5, 1993. Ord. No. 1997-33 was approved at a special election held on September 2, 1997. Ord. No. 2001-51 was approved by the voters at referendum on Oct. 9, 2001.

Exemption from [F.S.] Chapters 98-506 and 95-462. Pursuant to the applicable procedures in [F.S.] Chapter[s] 98-506 and 95-462, the city exempts itself from the requirements of these laws and shall hold its elections as otherwise set forth in Ordinance No. 2008-35.

Sec. 5.03. - Terms of office.

The term of office for all Council seats is four (4) years for members elected in 2014 and thereafter. No member of the Council shall serve (or, but for resignation would have served) for more than two (2) consecutive full terms of office. A candidate who has been elected to two (2) consecutive full terms of office may requalify for any vacant seat provided said candidate does not actually take office for at least a one-year period after the end of that candidate's previous two (2) full terms of office. Members of the City Council elected shall hold their seats for the term of office for which they were respectively elected until such time as they are reelected, their successors have been elected and take office, or such office is otherwise prematurely vacated. An individual appointed to fill a vacant office shall be bound to the term of office served by such individual's predecessor.

(Ord. No. 15-96, § 1, 8-7-96; Ord. No. 15-01, § 1, Exh. A, 11-6-01; Ord. No. 06-11, § 2, 9-7-11; Ord. No. 04-2020, §§ 14, 15, 7-22-20)

If the residence of a Commissioner or Mayor is deemed uninhabitable through an "Act of God" or some other means, the Commissioner or Mayor may temporarily reside outside the district for not more than one year.

- (2) *TERMS OF OFFICE.* The term of office for each Commissioner shall be four (4) years. Term of office for each Commission shall be 4 years except that, in order to provide for staggering of terms, the initial term of office for District Seats One, Three, Five and the Mayor's Seat shall be for 2 years. Neither the Mayor nor any other Commissioner may serve more than two successive 4-year terms in the same seat. Each Commissioner shall remain in office until his or her successor is elected and assumes the duties of the position at the first meeting of the new Commission which shall be held on the first Monday following the regularly scheduled general election.
- (3) *POWERS AND DUTIES OF COMMISSION.* Except as otherwise prescribed herein or provided by law, legislative and police powers of the City shall be vested in the Commission. The Commission shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the City by law.
- (4) *THE MAYOR: POWERS AND DUTIES.*
 - (a) *Powers.* There shall be a Mayor who shall be elected at large and who shall have the same legislative powers and duties as any other Commissioner, except as herein provided.
 - (b) *Duties.* In addition to his or her regular powers and duties, the Mayor shall preside at the meetings of the Commission, sign or execute ordinances, and be recognized as the ceremonial head of the City government. The Mayor shall have no administrative duties other than those necessary to accomplish these actions, or such other actions as may be authorized by the City Commission, consistent with general or special law.
- (5) *THE VICE MAYOR: ELECTION AND DUTIES.*
 - (a) *Election.* There shall be a Vice Mayor elected annually by the Commission from among the Commissioners. Such election shall take place at the first meeting after the general election.
 - (b) *Duties.* The Vice Mayor shall have the same legislative powers and duties as any other Commissioner, except that he or she shall serve as Acting Mayor during the absence or disability of the Mayor, and during such period, shall have the same duties as provided for in paragraph (4)(b). In the absence of the Mayor and Vice Mayor, the remaining Commissioners shall select a Commissioner to serve as Acting Mayor.
- (6) *COMPENSATION AND EXPENSES.*
 - (a) *Compensation.* The Mayor and members of the City Commission shall receive annual compensation, payable bi-weekly, equivalent to average annual salary of the Mayor and Commissioners in the cities within Volusia County. Said compensation shall not include benefits, except medical benefits under the City's group health insurance plan, the premium

Sec. 3.04 - Elections and terms; term limits; transition rules.

(a) *Elections and terms.*

- (1) The City of Edgewater hereby adopts the Volusia County election schedule for even-numbered years as established by Florida law.
- (2) *Terms of office.* Terms of office shall begin on the first Monday in December of the year elected and shall be four years.

(b) *Term limits.* No member of the city council, including the mayor, shall serve more than two complete consecutive terms and the portion of an unexpired term occurring by reason of a vacancy.

(c) *Canvassing board.* The city hereby appoints the county canvassing board to conduct all required canvassing activity for general elections in even-numbered years.

(Ord. No. 97-O-07, Pt. A, 5-19-97; Ord. No. 99-O-20, Pt. B, 9-13-99; Ord. No. 2008-O-07, § 1, 7-28-08; Ord. No. 2016-O-20, Pt. B, 4-4-16)

CITY	Council Member Commissioner	Mayor	Term Length	Consecutive/S uccessive Limit	Notes:
Daytona Beach	N	N	4	N/A	
Daytona Beach Shores	Y	Y	4	2	No more than two 4-year terms
Debary	Y	Y	4	2	2 consecutive 4-year terms
Deland	N	N	4	N/A	
Deltona	Y	Y	4	2	2 successive 4-year terms in the same seat
Edgewater	Y	Y	4	2	2 consecutive 4-year terms
Holly Hill	N	Y	4	2	Mayor limited to 2 consecutive 4-year terms can run again for commissioner
Lake Helen	N	N	4	N/A	
New Smyrna Beach	N	N	4	N/A	Mayor is only 2-year term
Oak Hill	N	N	4	N/A	
Orange City	N	N	4	N/A	
Ormond Beach	N	N	2	N/A	
Pierson	N	N	4	N/A	
Ponce Inlet	N	N	2	N/A	
Port Orange	Y	Y	4	3	3 consecutive 4-year terms
South Daytona	N	N	4	N/A	



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
FROM: Becky Vose, City Attorney
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Charter Amendment Ordinance 3 terms

SYNOPSIS:

The purpose of this agenda item is for the Commission to vote on the adoption of Ordinance 2024-17, which amends Section 2.01 of the City Charter to increase term limits of City Commissioners and the Mayor from two four-year terms to three four-year terms

FISCAL IMPACT STATEMENT:

None.

BACKGROUND:

During the last Commission meeting, several members of the public expressed their desire to increase the Commissioners' and the Mayor's term limits. The members of the public reasoned that increasing term limits would: (1) prevent disruption in City operations because Commission members and the Mayor have gained institutional knowledge. They have made invaluable connections with outside agencies and with local, state and federal decision makers, especially after the recent hurricanes and disaster recovery; and, (2) The new Form 6 filing requirements are onerous and prevent the City from finding citizens willing to serve. Based on the public's requests, the Commission requested the matter to be placed on this agenda for discussion.

Currently, Section 2.01 of the City Charter provides for two four-year terms, which is one of the strictest term limit requirements in any of Volusia County's 16 municipalities. A copy of Section 2.01 of the City Charter is included in the agenda materials as part of the Charter Amendment Review Discussion agenda item.

Section 7.01 of the City Charter provides for two methods of amending the Charter; either by ordinance or by petition signed by 10% of the City's registered voters. A copy of Section 7.01 of the City Charter is included in the agenda materials as part of the Charter Amendment Review Discussion agenda item.

Section 166.031, Florida Statutes, sets forth the procedures for municipalities to amend their Charter. A copy of Sect. 166.031, Fla. Stat., is included in the agenda materials as part of the Charter

Amendment Review Discussion agenda item. The Statute requires the Ordinance and ballot language (if adopted) to be “placed on the next general election held within the municipality or at a special election called for such purpose”, which means the Ordinance could be placed on the ballot as early as the Primary Election on August 20, 2024.

LEGAL REVIEW:

Approved for Commission consideration

RECOMMENDATION:

SUGGESTED MOTION:

The City Attorney recommends that the Commission votes to approve or deny Ordinance No: 2024-17, which amends Section 2.01 of the City Charter to increase the term limits of Commission Members and the Mayor from two four-year terms to three four-year terms. If adopted, the Ordinance and the proposed ballot language will be placed on the ballot for the Primary Election on August 20, 2024.

- ATTACHMENT:**
1. Ord 2024-17 charter amend three terms
 2. Business Impact Ord. 2024-17- Charter Amendment Ordinance (3 terms)

ORDINANCE NO. 2024-17

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, PROPOSING A CHARTER AMENDMENT INCREASING THE TERM LIMITS FOR CITY COMMISSIONERS AND THE MAYOR OF THE CITY FROM TWO (2) FOUR (4)-YEAR TERMS TO THREE (3) FOUR (4)-YEAR TERMS; CALLING FOR A REFERENDUM ON THE PROPOSED AMENDMENT TO THE CHARTER TO BE HELD AT THE PRIMARY ELECTION ON AUGUST 20, 2024; PROVIDING THE BALLOT TITLE AND BALLOT SUMMARY FOR THE REFERENDUM; PROVIDING FOR DIRECTION TO THE CITY CLERK AND COORDINATION WITH THE VOLUSIA COUNTY SUPERVISOR OF ELECTIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission has determined that it is advisable to submit the proposed charter amendment set forth herein to the electors of the City of Daytona Beach Shores for their consideration at an upcoming election, pursuant to the City Commission’s authority under Section 166.031, Fla. Stat.; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA:

Section 1. Findings of Fact. The foregoing whereas clauses are hereby adopted as findings of fact and are otherwise fully incorporated herein.

Section 2. Proposed Charter Amendment. The amendment to the City Charter for the City of Daytona Beach Shores, Florida which is appended and attached as Exhibit “A” to this Ordinance is hereby adopted by reference by the City Commission to be submitted to the electors of the City of Daytona Beach Shores for referendum.

Section 3. Referendum Called. A referendum on the proposed adoption of the Charter amendment appended hereto and adopted by reference as Exhibit “A” to this Ordinance shall be placed on the ballot at a primary election to be held on August 20, 2024. The ballot title and ballot summary for the proposed charter amendment is set forth in Exhibit “A”. The Charter amendment shall become effective upon approval of its corresponding ballot question in such referendum.

Section 4. Direction to City Clerk and Coordination with Supervisor of Elections. The City Clerk is hereby authorized and directed to coordinate with the Volusia County Supervisor of Elections to include the ballot question attached hereto as Exhibit “A” on the ballot at the primary election to be held in the City of Daytona Beach Shores on August 20, 2024. The City Clerk is directed to see to the satisfaction of the requirements of Section 100.342, Fla. Stat., which provides that “there must be at least 30 days’ notice of the election or referendum by publication in a newspaper of general circulation in the... municipality.... The publication must be made at least twice, once in the fifth week and once in the third week before the week in which the election or referendum is to be held.”

Section 5. Severability. The provisions of this Ordinance are deemed severable. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance is for any reason whatsoever held to be invalid, illegal, unconstitutional, contrary to law, or against public policy, by any court, administrative agency, or other body with competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this Ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This Ordinance

shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this Ordinance as expressed herein.

Section 6. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective upon final adoption by the City Commission.

FIRST READING	
PUBLICATION DATE	
SECOND READING	

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, with a quorum present and voting, this ____, day of _____, 2024.

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

By: _____
Vose Law Firm, City Attorney

QUESTION #1

Ballot Proposal: The ballot title and ballot summary for Question #1 are as follows:

CITY CHARTER AMENDMENT CONCERNING TERM LIMITS

Shall the Daytona Beach Shores City Charter be amended to increase the number of terms the mayor and city commissioners may serve on the city commission from 2 four-year terms to 3 four-year terms?

_____ Yes
_____ No

Ballot Language Translation: The Spanish language translation for the ballot title and ballot summary for the aforementioned question are as follows:

TRANSLATED BALLOT TITLE

Translated ballot summary. (To be translated for second reading.)

_____ Sí
_____ No

Text Revisions: Upon approval of this question at referendum, the following portions of the Daytona Beach Shores City Charter are amended to read as follows:

Sec. 2.01. – Composition; term limits; mayor and city commission.

There shall be a city commission consisting of five (5) members, one of whom shall be a mayor, all of whom shall be elected at-large for a four (4)-year term. Unless otherwise provided, reference to the office of commissioner in this charter shall also apply to the office of mayor. No person shall be elected or appointed to office as a city commissioner for more than ~~two (2)~~ three (3) terms. This section applies to any commissioner including the mayor and a person shall not circumvent this rule through election or appointment to a different position. For purposes of this limitation, "term" is defined as service on the city commission for a period longer than one-half of a full term. All terms, including past and present terms, greater than one-half of a full term served by current and former city commission members shall count for the purposes of applying the term limit.

Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Daytona Beach Shores has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Daytona Beach Shores may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

ORDINANCE 2024-17

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, PROPOSING A CHARTER AMENDMENT INCREASING THE TERM LIMITS FOR CITY COMMISSIONERS AND THE MAYOR OF THE CITY FROM TWO (2) FOUR (4)-YEAR TERMS TO THREE (3) FOUR (4)-YEAR TERMS; CALLING FOR A REFERENDUM ON THE PROPOSED AMENDMENT TO THE CHARTER TO BE HELD AT THE PRIMARY ELECTION ON AUGUST 20, 2024; PROVIDING THE BALLOT TITLE AND BALLOT SUMMARY FOR THE REFERENDUM; PROVIDING FOR DIRECTION TO THE CITY CLERK AND COORDINATION WITH THE VOLUSIA COUNTY SUPERVISOR OF ELECTIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Applicable Exemptions:

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;

- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
- ☐ Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
- ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City of Daytona Beach Shores hereby publishes the following information:

1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The public purpose of Ordinance 2024-17 is to amend the City Charter of Daytona Beach Shores to increase the term limits for city commissioners and the mayor of the city from two (2) four (4)-year terms to three (3) four (4)-year terms, which would promote the welfare of Daytona Beach Shores residents by having a more stable governing body and allowing the city commission to focus more on governing and less on campaigning.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:

None.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:

None.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:

None.

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

None.

4. Additional information the governing body determines may be useful (if any):

Not applicable.

Note: The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.



CITY COMMISSION AGENDA MEMORANDUM MAY 14, 2024 AGENDA

TO: Honorable Mayor and Members of the City Commission
FROM: Becky Vose, City Attorney
PREPARED BY: Cheri Schwab, City Clerk
SUBJECT: Charter Amendment Ordinance 4 terms

SYNOPSIS:

The purpose of this agenda item is for the Commission to vote on the adoption of Ordinance 2024-18, which amends Section 2.01 of the City Charter to increase term limits of City Commissioners and the Mayor from two four-year terms to four four-year terms

FISCAL IMPACT STATEMENT:

None.

BACKGROUND:

During the last Commission meeting, several members of the public expressed their desire to increase the Commissioners' and the Mayor's term limits. The members of the public reasoned that increasing term limits would: (1) prevent disruption in City operations because Commission members and the Mayor have gained institutional knowledge. They have made invaluable connections with outside agencies and with local, state and federal decision makers, especially after the recent hurricanes and disaster recovery; and (2) The new Form 6 filing requirements are onerous and prevent the City from finding citizens willing to serve. Based on the public's requests, the Commission requested the matter to be placed on this agenda for discussion.

Currently, Section 2.01 of the City Charter provides for two four-year terms, which is one of the strictest term limit requirements in any of Volusia County's 16 municipalities. A copy of Section 2.01 of the City Charter is included in the agenda materials as part of the Charter Amendment Review Discussion agenda item.

Section 7.01 of the City Charter provides for two methods of amending the Charter; either by ordinance or by petition signed by 10% of the City's registered voters. A copy of Section 7.01 of the City Charter is included in the agenda materials as part of the Charter Amendment Review Discussion agenda item.

Section 166.031, Florida Statutes, sets forth the procedures for municipalities to amend their Charter. A copy of Sect. 166.031, Fla. Stat., is included in the agenda materials as part of the Charter

Amendment Review Discussion agenda item. The Statute requires the Ordinance and ballot language (if adopted) to be “placed on the next general election held within the municipality or at a special election called for such purpose”, which means the Ordinance could be placed on the ballot as early as the Primary Election on August 20, 2024.

LEGAL REVIEW:

Approved for Commission consideration

RECOMMENDATION:

SUGGESTED MOTION:

The City Attorney recommends that the Commission votes to approve or deny Ordinance No: 2024-18, which amends Section 2.01 of the City Charter to increase the term limits of Commission Members and the Mayor from two four-year terms to four, four-year terms. If adopted, the Ordinance and the proposed ballot language will be placed on the ballot for the Primary Election on August 20, 2024.

- ATTACHMENT:**
1. Ord 2024-18 charter amend four terms
 2. Business Impact Ord 2024-18- Charter Amendment Ordinance (4 terms)

ORDINANCE NO. 2024-18

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, PROPOSING A CHARTER AMENDMENT INCREASING THE TERM LIMITS FOR CITY COMMISSIONERS AND THE MAYOR OF THE CITY FROM TWO (2) FOUR (4)-YEAR TERMS TO FOUR (4) FOUR (4)-YEAR TERMS; CALLING FOR A REFERENDUM ON THE PROPOSED AMENDMENT TO THE CHARTER TO BE HELD AT THE PRIMARY ELECTION ON AUGUST 20, 2024; PROVIDING THE BALLOT TITLE AND BALLOT SUMMARY FOR THE REFERENDUM; PROVIDING FOR DIRECTION TO THE CITY CLERK AND COORDINATION WITH THE VOLUSIA COUNTY SUPERVISOR OF ELECTIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission has determined that it is advisable to submit the proposed charter amendment set forth herein to the electors of the City of Daytona Beach Shores for their consideration at an upcoming election, pursuant to the City Commission’s authority under Section 166.031, Fla. Stat.; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA:

Section 1. Findings of Fact. The foregoing whereas clauses are hereby adopted as findings of fact and are otherwise fully incorporated herein.

Section 2. Proposed Charter Amendment. The amendment to the City Charter for the City of Daytona Beach Shores, Florida which is appended and attached as Exhibit “A” to this Ordinance is hereby adopted by reference by the City Commission to be submitted to the electors of the City of Daytona Beach Shores for referendum.

Section 3. Referendum Called. A referendum on the proposed adoption of the Charter amendment appended hereto and adopted by reference as Exhibit “A” to this Ordinance shall be placed on the ballot at a primary election to be held on August 20, 2024. The ballot title and ballot summary for the proposed charter amendment is set forth in Exhibit “A.” The Charter amendment shall become effective upon approval of its corresponding ballot question in such referendum.

Section 4. Direction to City Clerk and Coordination with Supervisor of Elections. The City Clerk is hereby authorized and directed to coordinate with the Volusia County Supervisor of Elections to include the ballot question attached hereto as Exhibit “A” on the ballot at the primary election to be held in the City of Daytona Beach Shores on August 20, 2024. The City Clerk is directed to see to the satisfaction of the requirements of Section 100.342, Fla. Stat., which provides that “there must be at least 30 days’ notice of the election or referendum by publication in a newspaper of general circulation in the... municipality.... The publication must be made at least twice, once in the fifth week and once in the third week before the week in which the election or referendum is to be held.”

Section 5. Severability. The provisions of this Ordinance are deemed severable. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance is for any reason whatsoever held to be invalid, illegal, unconstitutional, contrary to law, or against public policy, by any court, administrative agency, or other body with competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this Ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This Ordinance

shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this Ordinance as expressed herein.

Section 6. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective upon final adoption by the City Council.

FIRST READING	
PUBLICATION DATE	
SECOND READING	

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, with a quorum present and voting, this ____, day of _____, 2024.

NANCY MILLER, MAYOR

KURT SWARTZLANDER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

APPROVED AS TO FORM:

By: _____
Vose Law Firm, City Attorney

QUESTION #1

Ballot Proposal: The ballot title and ballot summary for Question #1 are as follows:

CITY CHARTER AMENDMENT CONCERNING TERM LIMITS

Shall the Daytona Beach Shores City Charter be amended to increase the number of terms the mayor and city commissioners may serve on the city commission from 2 four-year terms to 4 four-year terms?

_____ Yes
_____ No

Ballot Language Translation: The Spanish language translation for the ballot title and ballot summary for the aforementioned question are as follows:

TRANSLATED BALLOT TITLE

Translated ballot summary. (To be translated for second reading.)

_____ Sí
_____ No

Text Revisions: Upon approval of this question at referendum, the following portions of the Daytona Beach Shores City Charter are amended to read as follows:

Sec. 2.01. – Composition; term limits; mayor and city commission.

There shall be a city commission consisting of five (5) members, one of whom shall be a mayor, all of whom shall be elected at-large for a four (4)-year term. Unless otherwise provided, reference to the office of commissioner in this charter shall also apply to the office of mayor. No person shall be elected or appointed to office as a city commissioner for more than ~~two (2)~~ four (4) terms. This section applies to any commissioner including the mayor and a person shall not circumvent this rule through election or appointment to a different position. For purposes of this limitation, "term" is defined as service on the city commission for a period longer than one-half of a full term. All terms, including past and present terms, greater than one-half of a full term served by current and former city commission members shall count for the purposes of applying the term limit.

Business Impact Estimate Form

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Proposed ordinance’s title/reference:

ORDINANCE 2024-18

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, PROPOSING A CHARTER AMENDMENT INCREASING THE TERM LIMITS FOR CITY COMMISSIONERS AND THE MAYOR OF THE CITY FROM TWO (2) FOUR (4)-YEAR TERMS TO FOUR (4) FOUR (4)-YEAR TERMS; CALLING FOR A REFERENDUM ON THE PROPOSED AMENDMENT TO THE CHARTER TO BE HELD AT THE PRIMARY ELECTION ON AUGUST 20, 2024; PROVIDING THE BALLOT TITLE AND BALLOT SUMMARY FOR THE REFERENDUM; PROVIDING FOR DIRECTION TO THE CITY CLERK AND COORDINATION WITH THE VOLUSIA COUNTY SUPERVISOR OF ELECTIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;

- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
- ☐ Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
- ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City of Daytona Beach Shores hereby publishes the following information:

1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The public purpose of Ordinance 2024-18 is to amend the City Charter of Daytona Beach Shores to increase the term limits for city commissioners and the mayor of the city from two (2) four (4)-year terms to four (4) four (4)-year terms, which would promote the welfare of Daytona Beach Shores residents by having a more stable governing body and allowing the city commission to focus more on governing and less on campaigning.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:

None.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:

None.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:

None.

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

None.

4. Additional information the governing body determines may be useful (if any):

Not applicable.

Note: The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.