



**PLANNING AND ZONING BOARD
Council Chambers
3048 S. Atlantic Avenue
Daytona Beach Shores, Florida
Monday, January 9, 2017
8:30 a.m.
AGENDA**

CALL TO ORDER

AUDIENCE REMARKS:

Time for citizens and members of the audience to be heard with regard to items not on the agenda. The audience will be given the opportunity to speak regarding agenda topics prior to each vote before the Planning and Zoning Board.

APPROVAL OF MINUTES: Minutes of Planning and Zoning Board Meeting of
December 12, 2016

PUBLIC HEARING:

- 1) Ordinance 2017-01 Concession Parking Ancillary Facilities

ACTION/DISCUSSION:

REMARKS OF STAFF

REMARKS OF BOARD MEMBERS

ADJOURNMENT

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

MINUTES
PLANNING AND ZONING BOARD
December 12, 2016
3048 S. Atlantic Avenue Daytona Beach Shores, Florida

Present: Harold Needham, Jim Lilly, Marianne Bachstein, Chuck Pula, and Rose Ann Tornatore.

CALL TO ORDER: The Chair called the meeting to order at 8:30am.

AUDIENCE REMARKS: None.

APPROVAL OF MINUTES: Minutes of Planning and Zoning Board Meeting of
September 12, 2016

Mr. Needham moved, seconded by Mr. Pula to approve the minutes of September 12, 2016. The motion was passed unanimously by a voice vote.

PUBLIC HEARING:

1) Ordinance 2017-01 Concession Parking Ancillary Facilities

City Planner Stewart Cruz requested this item be continued to the next regular meeting.

Mr. Pula moved, seconded by Ms. Bachstein to continue the Public Hearing for Ordinance 2017-01 to the next regular meeting. The motion passed unanimously by a voice vote.

2) Ordinance 2017-02 Medical Marijuana Moratorium

City Planner Stewart Cruz stated that on November 8th, 2016, the Florida voters approved to legalize marijuana for medical purposes. The Florida Department of health will have six months to establish regulations on this. The City would like to enact a 180-day moratorium on applications for development approvals relating to medical marijuana. No action would be taken during this time frame. This would allow the city to review the regulations created and be in a better position to adopt appropriate codes etc. Staff recommends approval of Ordinance 2017-02.

City Attorney Lonnie Groot explained the moratorium would freeze the land use for that time frame. The law is strict about how long you can freeze land use, so the ordinance also adds a 6-month extension if needed.

Mr. Needham moved, seconded by Ms. Bachstein to recommend approval of Ordinance 2017-02 to the City Council. The motion passed unanimously by a roll call vote.

ACTION/DISCUSSION: None.

REMARKS OF STAFF: None.

REMARKS OF BOARD MEMBERS: None.

ADJOURNMENT : The meeting ended at 8:43 am.

ATTEST:

CITY OF DAYTONA BEACH SHORES

Cheri Schwab, City Clerk

Rose Ann Tornatore, Chairman



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

TO: Planning and Zoning Board

FROM: Stewart Cruz – City Planner

CC: Fred Hiatt – Director

SUBJECT: Ordinance 2017-01 “Concession Parking Ancillary Facility”

DATE: January 3, 2017

Proposed Ordinance 2017-01 if approved would amend the Daytona Beach Shores Land Development Code to: (1) permit *concession parking ancillary facilities* as a conditional use, (2) establish development standards and conditions, and (3) provide for enforcement, prohibitions, penalties and appeals. In general, *concession parking ancillary facilities* would provide ancillary support to concession vehicles permitted to park on the same site as the facility in question. Applications would be reviewed by the Planning & Zoning Board and City Council. In addition, successful applications would have to satisfy several requirements including, but not limited to, location, dimensions and size. If a *concession parking ancillary facility* is conditionally approved, the ordinance would limit the duration to no more than six (6) years.

ORDINANCE 2017-01

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, RELATING TO BEACH CONCESSION PARKING ANCILLARY FACILITY SPECIAL EXCEPTION USE; AMENDING THE *MUNICIPAL CODE OF ORDINANCES, LAND DEVELOPMENT CODE*; AMENDING APPENDIX “G”, CHAPTER 2 ENTITLED “DEFINITIONS;” AMENDING CHAPTER 14 ENTITLED “ZONING REGULATIONS,” BY AMENDING SECTION 14-58 ENTITLED “SPECIAL EXCEPTIONS AND CONDITIONAL USES” TO PERMIT THE BEACH CONCESSION PARKING ANCILLARY FACILITIES AS A CONDITIONAL USE IN THE “GC-RD” GENERAL COMMERCIAL-REDEVELOPMENT DISTRICT; PROVIDING FOR DEFINITIONS; PROVIDING FOR DEVELOPMENT STANDARDS AND CONDITIONS; PROVIDING FOR PROHIBITIONS, ENFORCEMENT, PENALTIES AND APPEALS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, a beach concession parking ancillary facility as a principal use may contribute to the economic vitality of beach concession businesses and the City of Daytona Beach Shores if permitted by means of a special exception for a limited time period; and

WHEREAS, a beach concession parking ancillary facility as a principal use is currently prohibited within the City limits of the City of Daytona Beach Shores; and

WHEREAS, the current economic state of the region dictates a multi-option set of development regulations to ensure the full economic capacity of the City of Daytona Beach Shores is realized and that the citizens of visitors of the City are benefited thereby; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds it is in the best interests and welfare of the citizens and businesses of the City to enact this ordinance permitting and regulating a beach concession parking ancillary facility in the “GC” General Commercial District; and

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

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

WHEREAS, the recitals to this Ordinance (whereas clauses) are adopted as the legislative findings and intent of the City Council of the City of Daytona Beach Shores; and

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

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

SECTION ONE: Section 2-2, *Land Development Code*, Chapter 2, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “General Definitions,” is amended to read as follows:

Sec. 2-2. General Definitions

2-2. General Definitions

Concession Parking Ancillary Facility: An enclosed building used to provide ancillary support of bona fide concession vehicles permitted to park onsite which facility may contain subordinate uses including, but not limited to, office, non-hazardous dry storage and minor concession vehicle maintenance and repair. Food preparation and cooking are prohibited and unlawful; provided, however, that ice machines, freezers and other appliances supporting bona fide concession vehicles permitted to park onsite are permitted.

SECTION TWO: Section 14-58, *Land Development Code*, Chapter 14, Appendix “G”, *Code of Ordinances of the City of Daytona Beach Shores*, entitled “Special exceptions and Conditional Uses,” is amended to read as follows:

Sec. 14-58. Special exceptions and Conditional uses

14-58.1.2. Special Exceptions permitted in all Districts.

D. The following uses are permitted as special exceptions in the GC-RD zoning districts as follows:

4. Concession Parking Ancillary Facility. To provide for the sound development of concession parking ancillary facilities, as defined in Appendix “G”, Section 2-2 of this Code, a concession parking ancillary facility may be permitted upon issuance of a development order granting a special exception in the GC-RD zoning district subject to the following development standards being proven to exist by the applicant:

a. Location Requirements.

- (1) The property must have at least two (2) street frontages and vehicular access points.
- (2) The property shall not be located within one (1) mile of an existing concession parking ancillary facility site.
- (3) The property must be located within a shopping plaza.
- (4) The property must be assigned the GC-RD zoning district on the effective date of this Ordinance.

b. Property Dimensions and Size Requirements.

- (1) A minimum of three hundred feet (300’) of frontage along State Road A1A.
- (2) Minimum shopping plaza property area of one hundred thousand (100,000) square feet.

c. Orientation Requirements.

- (1) The principal building, service and maintenance areas shall not be oriented toward residential districts or visible from State Road A1A.
- (2) Primary building entry shall not front State Road A1A.
- (3) Concession vehicular entrance shall not be from State Road A1A.

d. Permits and Protection Required.

(1) All appliances, equipment, structures and supporting infrastructure on site including, but not limited to, those in the concession parking area and inside the principal building, shall be subject to permitting and inspection by the City.

(2) Any new appliance, equipment or structure to be located on the property shall be subject to permitting and inspection by the City and the locational requirements of this Ordinance.

(3) All devices, appurtenances, appliances and apparatus intended to serve a special function such as, but not limited to, sterilization, distillation, processing, cooling, or storage of ice or foods, and that discharge to the drainage system, shall include systems, acceptable to the City, which protect against backflow, flooding, fouling, contamination and stoppage of the drain; provided, however, that bathroom vanity sinks are exempt from this provision.

e. Vehicle Concession Parking Restrictions.

(1) Concession may be permitted to the existing parking area permitted prior to the approval of the ancillary facility which area shall be depicted on the development order approving the special exception.

(2) All concession vehicles parked on the property shall prominently display a current Florida vehicle registration on all vehicles.

(3) All concession vehicles parked on the property shall maintain a current State Mobile Food Dispensing Vehicle License.

f. Maintenance of Structures.

(1) The principal structure and accessory structures on the property including, but not limited to, those located in the concession parking area and by example only, fences, walls and dumpster enclosures shall be opaque, structurally sound and well maintained pursuant to Section 14-52.9 of this Code.

(2) All new accessory structures shall be consistent with the approved architectural treatment and style of the principal building to create a uniform architectural style and appearance as determined by the Building Official, based upon sound and generally accepted architectural and land use planning practices and principles. The burden of proof shall be on the property owner to meet this requirement.

g. Vehicular Maintenance and Repair Requirements.

(1) Vehicular lifts and ramps are prohibited and unlawful.

(2) Major equipment and vehicular repair, as determined by the Building Official including, but not limited to, body work and engine repair, are prohibited and unlawful.

(3) It is prohibited and unlawful to engage in any type of vehicular maintenance which is visible from any public right-of-way.

(4) Maintenance equipment including, but not limited to, air pumps and vacuums, shall be located outside the required yard setbacks.

h. Signage Requirements.

(1) Signage on or through the windows of the principal building are prohibited and unlawful.

(2) Banners on the principal building are prohibited and unlawful.

i. Outdoor Displays, Storage, Equipment and Supplies Requirements.

(1) Outdoor displays and storage are prohibited and unlawful.

(2) All portable equipment, merchandise, vehicle maintenance supplies, etc. shall be stored in a safe and orderly manner entirely inside the principal structure.

l. Fuel Storage and Sale Requirements.

(1) Existing outdoor fuel storage tanks containing fuel used solely for offsite beach concession cooking and which are approved by the State and City may remain aboveground and maintained according to controlling law.

(2) Proposed new outdoor fuel storage tanks containing fuel may be used solely for offsite beach concession cooking and shall be located underground as permitted by the State and the City.

(3) The distribution of offsite beach concession cooking fuel shall be limited solely to bona fide concession vehicles, which utilize the site year round for overnight parking.

(4) Outdoor storage and or sale of petrol fuel used for transportation is prohibited and unlawful.

(5) Indoor storage of fuel of any kind including, but not limited to, portable containers, is prohibited and unlawful.

j. Lighting Requirements.

(1) Neon lighting on buildings and structures is prohibited and unlawful.

(2) All lighting shall, at a minimum, conform to the Volusia County sea turtle lighting standards.

(3) Glare and direct lighting projecting into any right-of-way or residential district is prohibited and unlawful.

k. Duration of Special Exception.

A special exception permitting a concession parking ancillary facility may be approved by the City Council, but only for a period up to one (1) year. Thereafter, the special exception is subject to extension by the City Council if application is made for the extension at least ninety (90) days prior to termination of the development order. Extensions may be granted for a maximum of up to one (1) year; provided, however, that no more than five (5) total extensions shall be granted.

l. Hours of Operation Requirements.

(1) It is prohibited and unlawful to engage in loading or unloading activities earlier than one (1) hour prior to sunrise and later than (1) hour after sunset.

(2) All other external activities and uses including, but not limited to, repair and maintenance, shall be limited to the construction hours prescribed in Section 16-53 of the Daytona Beach Shores Code of Ordinances.

m. Current Business Tax Receipt and Certificate of Use.

(1) All facilities shall maintain an active and current business tax receipt and certificate of use pursuant to the City's Code of Ordinances and Land Development Code.

n. Quarterly Inspections and Termination of Development Order.

(1) All facilities shall be inspected quarterly by the Building Official, or designee, for consistency with this Code and the development order.

(2) As a condition of the approval of the special exception, as set forth in the development order, the Building Official, or designee, will be authorized by the property owner to conduct random inspections of the permitted facilities in order to ensure that the public health, safety and welfare are protected; provided, however, that the Building Official shall provide at least twenty-four (24) hours notice to the property owner or designee.

SECTION THREE: ENFORCEMENT, PENALTIES AND APPEALS.

(a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.

(b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law including, but not limited to, suspension or revocation by the Building Official of the special exception development order subject, however, to appeal to the Code Enforcement Board. An appeal must be filed within ten (10) days of the action taken by the Building Official by filing a written appeal with the City Clerk detailing the basis of the appeal together with any filing fee that may be established by the City Council as adopted in a resolution.

(c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

SECTION FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of the matters and uses which are the subject of this Ordinance are hereby ratified and affirmed.

SECTION FIVE: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Three, Four, Five, Six, Seven and Eight shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION SIX: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION SEVEN: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

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

CITY OF DAYTONA BEACH SHORES, FLORIDA

HARRY JENNINGS, MAYOR

MICHAEL T. BOOKER, CITY MANAGER
Approved as to form and legality:

CHERI SCHWAB, CITY CLERK

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2017.

Adopted on second reading this _____ day of _____, 2017.