

EXHIBIT C
PLANNING ANALYSIS: RZ12021045

A. INTRODUCTION

The proposed application/ordinance if approved would change the zoning district classification of the church owned property located at 3232 La Paloma Avenue from “RSF-2” *Urban Single-Family Residential Detached District* to “P” *Public/Quasi Public District*. Although the Westminster By the Sea Presbyterian Church has owned and utilized the property since 2007, the subject application was submitted on November 19, 2021 subsequent to the discovery of a zoning map error.

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. **Figure 2** is a zoning map of the aforementioned. **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	RSF-2	Counseling Center
North	P	Church Property
South	RSF-2	Single Family Residence
East	R-9	Volusia County Single Family Residence
West	P	Church Property

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

Figure 1: Aerial View-3232 La Paloma Avenue and Surrounding Neighborhood



Source: Volusia County Property Appraiser, 2021

Figure 2: 3232 La Paloma – Zoning Map Of Surrounding Neighborhood

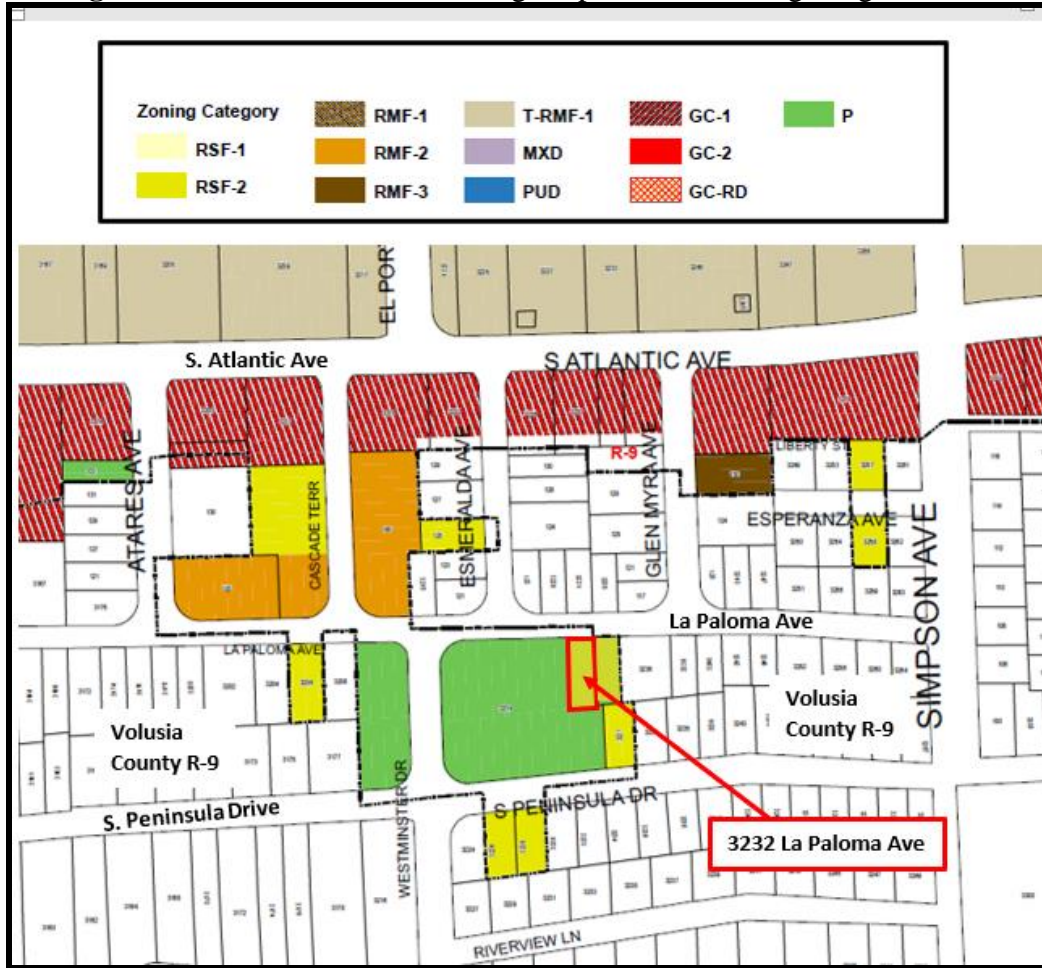


Figure 3: 3232 La Paloma Ave – Street View



Source: GoogleMaps, 2014

As noted in **Table 1** above, the subject property is currently zoned Volusia County RSF-2 Urban Single-Family Residential Detached District. The purpose, intent and permitted uses of the existing 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.

C. PROPOSED ZONING

The proposed zoning for the subject property is P Public/Quasi Public District. According to the Daytona Beach Shores Land Development Code, the purpose, intent and permitted uses of the proposed zoning district is as follows:

Sec. 14-26. - P Public/Quasi Public.

14-26.1. Purpose and Intent.

The purpose and intent of the Public/Quasi Public District is to best satisfy the internal, recreational and governmental service needs of the entire community. This district has been developed for implementing the City's land use plan within, but not necessarily limited to, those areas shown for Public/Quasi Public.

14-26.2. Permitted Principal Uses and Structures.

Principal uses permitted in the P Public/Quasi Public District include parks, churches and government offices, telecommunication towers and antennas, subject to compliance with [section 14-60.1 et seq., etc.](#)

14-26.2.1 Permitted Accessory Uses.

In the P Public/Quasi Public District counseling services shall be permitted as an accessory use to a church. All other permitted accessory uses shall be consistent with the definition of accessory uses pursuant to Sec. 2-2 of this code.

D. COMPREHENSIVE PLAN

According to the City's Adopted Comprehensive Plan (2030) Future Land Use Map the subject property has a *Low Density Residential* future land use (FLU) classification. This FLU classification allows up to twelve (12) residential units per acre. In addition, Policy 1-1.4.2 of the plan provides that public/quasi public land uses are permitted within all land uses. Therefore, both residential and public/quasi public land uses are permitted on the subject property.

In addition, 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 zoning is not objectionable or inconsistent with the future land use map and surrounding neighborhood per Objective 1-1.4 of the plan. Therefore, the proposed zoning classification is consistent with the City's Adopted Comprehensive Plan (2030).

E. REVIEW AND COMMENTS

The subject application was initiated by the property owner, Westminster By The Sea Presbyterian Church, Inc. The subject property is located at 3232 La Paloma Avenue and has an acreage of 0.15+/- and a 725sf structure on site. The property has vehicular and pedestrian access to the abutting La Paloma Avenue which connects to S. Peninsula Drive and S. Atlantic Avenue via Westminster Avenue and Glen Myra Avenue, respectively.

As seen in Table 1 above, the proposed zoning change will be consistent with remainder of the church property adjacent to the north and west. According to the property owner, the rezoning is being sought to continue the counseling services offered at the site, which was approved by the City on August 31, 2021. The City was unaware at the time of the error in the zoning map.

Due to the intensity of the use associated with the application in question, the property is exempt from the City's Concurrency Review Process as it does not substantially impact any of the City's public facilities or infrastructure. However, adequate potable water, sewer, solid waste, recreation, and transportation facility capacities are currently available and serve the subject property.

Finally, pursuant to Sec. 559.955, *Florida Statutes* (Exhibit C.1) the prohibition of home-based businesses on a residential zoned properties are precluded by the state, provided certain requirements are met. If the rezoning application was not made by the church but instead by a single-family resident living at the property, said single-family resident would be able to offer counseling services from the property without prohibition or regulation by the City, providing certain requirements are met.

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. The applicant’s responses to the criteria are attached in the **Exhibit B** (owner’s application).

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 primary 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 to commercial or retail use is sought. In addition, the proposed counseling office use is accessory to the principal use of the existing church. Further, the proposed zoning change is density 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 zoned as a single-family residence. The proposed “P” Public/Quasi Public (office) 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 create more impact than the current public facilities can accommodate (see **Table 2** below). In fact, the only increase in public facility demand is in peak hour trips and such increase is considered di minimis.

Table 2: Impact Analysis (Theoretical Max.)

Development Variable	Current Zoning-RSF-2 (0.2-4 units/acre)	Proposed Zoning-P (0.2-4 units/acre)	Change
Residential Units Allowed	1	NA	-1
Population ¹	1.75	NA	-1.75
AM / PM Peak Hour Trips ²	1.5/2.02	2.5/3.2	+1/1.18
Sanitary Sewer (gallons/day) ³	250	72.5	-177.5
Potable Water (gallons/day) ⁴	192.5	72.5	-120
Solid Waste (lbs./person) ⁵	17.5	7.25	-10.25
Stormwater Drainage ⁶	NA	NA	NA
Recreation/Open Space	Varies	NA	Varies
Public School Student(s)	0.396	NA	-0.396

Notes:

1. Population: 1.75 persons per single-family dwelling

- 2. Transportation: Rates are for peak hour of adjacent street traffic
Single-family residential unit = 0.75 AM trips, 1.01 PM trips
Medical Office Building (per 1000sf gfa) = 3.5 AM trips, 4.27 PM trips
- 3. Sanitary Sewer: Single family: 250 gallons per dwelling unit per day
Commercial: 1/10 gallons per sf per day (Port Orange LOS Std)
- 4. Potable Water: Residential: 110 gallons per capita per day
Commercial: 1/10 gallons per sf per day (Port Orange LOS Std)
- 5. Solid Waste: Residential: 10 pounds per capita per day
Commercial: 10 pounds/1000 square feet (Port Orange LOS Std)
- 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:

2010 US Census
ITE Trip Generation Manual, 9th Edition
Policy 9-1.3 Daytona Beach Shores Comprehensive Plan Update (2030)
Port Orange Land Development Code

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

The proposed zoning will not unduly burden transportation facilities (see Table 2). There is already adequate vehicular access from the abutting S. Peninsula Drive road and the existing system of local, collector and arterial road network. The transportation network within the City currently operates above the adopted level of services. In addition, the owner has indicated in the zoning application that there will be about four (4) visits per day and parking will be on in the church parking lot to the north.

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 “P” Public/Quasi Public zoning district classification. Although rezoning will remove a single-family residence from the perceived housing pool within the City, the property is owned by and has been used by the Church since 2007. Hence, this property has not been a part of the existing housing pool within the City for many years. Therefore, 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 zoning is consistent with the Daytona Beach Shores Comprehensive Plan as noted in Sec. D of this planning analysis.

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. The proposed zoning change was made to ensure the Church property's consistency with the larger parent parcel adjacent to the north and west. The Church officially took control of the property in 2007. However, due to a mapping error in 2003, both the Church and the City were under the impression the subject property was always zoned "P", therefore no action was taken by the church at that time as it assumed the land use entitlements were legitimate. Further, the parcel will be combined with the larger parent parcel as part of the unity of title process.

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?

The proposed zoning change was made to ensure the Church property's consistency with the larger parent parcel adjacent to the north and west. The Church officially took control of the property in 2007. However, due to a mapping error in 2003, both the Church and the City were under the impression the subject property was always zoned "P", therefore no action was taken by the church at that time as it assumed the land use entitlements were legitimate. Further, the parcel will be combined with the larger parent parcel as part of the unity of title process.

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

Due to the minimal impact of the proposed use noted in these finding of facts, the proposed zoning change should 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 zoning of the parent property adjacent to the north and west. In addition, the amendment is density neutral and part of the owner's lot combination and unity of title process. 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 zoning change is consistent with the existing zoning of the parent property to the north and west. In addition, the amendment is part of the owner's lot combination and unity of title process. Therefore, the proposed change to the "P" District is not a singling out of a small parcel of land, allowing a use totally different from that of the surrounding area, such that the use would 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?

The proposed change is to rezone the subject property to “P” Public/Quasi Public District, which purpose and intent as seen in Section C of this staff report is to provide uses that serve the entire community.

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

The proposed change is to rezone the subject property to “P” Public/Quasi Public District, which purpose and intent as seen in Section C of this staff report is to provide uses that serve the entire community.

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

The rezoning will not substantially alter the characteristics of the neighborhood, particularly if the original repurposed single-family structure remains and is adequately maintained. In addition, the rezoning should not materially diminish the value of the surrounding properties due to nature of the office use in question. Further, based on a Zillow.com value analysis of properties in the area (Exhibit C.2), the subject properties have all increased in value.

EHIXIBT C.1
Sec. 559.955, Florida Statutes

The 2021 Florida Statutes

Title XXXIII

REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS

Chapter 559

REGULATION OF TRADE, COMMERCE, AND INVESTMENTS, GENERALLY

[View Entire Chapter](#)

559.955 Home-based businesses; local government restrictions.—

(1) Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of this section.

(2) A home-based business that operates from a residential property as provided in subsection (3):

(a) May operate in an area zoned for residential use.

(b) May not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government’s jurisdiction, except as otherwise provided in this section.

(c) Is only subject to applicable business taxes under chapter 205 in the county and municipality in which the home-based business is located.

(3) For purposes of this section, a business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following criteria:

(a) The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.

(b) Parking related to the business activities of the home-based business complies with local zoning requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. For purposes of this paragraph, the term “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery.

(c) As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.

(d) The activities of the home-based business are secondary to the property's use as a residential dwelling.

(e) The business activities comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted.

(f) All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted.

(4) Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section. The prevailing party in a challenge may recover reasonable attorney fees and costs incurred in challenging or defending the action, including reasonable appellate attorney fees and costs.

(5) The application of this section does not supersede:

(a) Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720.

(b) Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. 509.013(4)(a)1., that are not otherwise preempted under chapter 509.

History.—s. 1, ch. 2021-202.

EXHIBIT C.2

Survey of Property Values Abutting 3232 La Paloma Ave Conducted 1-3-21

1. 3234 La Paloma

Buy Rent Sell Home Loans Agent finder

3234 La Paloma Ave Daytona Beach Shores, FL 32118

2 bd | 2 ba | 1,152 sqft
3234 La Paloma Ave, Daytona Beach Shores, FL 32118

Off market | Zestimate®: \$337,400 | Rent Zestimate®: \$1,900
Est. refi payment: \$1,552/mo | Refinance your loan

Home value | Owner tools | Home details | Neighborhood details

ESTIMATE BASED ON

Comparable homes \$334,448

Local tax assessments \$304,570

Local Home Values

1 year 5 years 10 years

Local Home Values

Jan 2014 Jan 2016 Jan 2018 Jan 2020

RENTAL ZESTIMATE: \$1,900/mo

2. 3227 S Peninsula

Buy Rent Sell Home Loans Agent finder

3227 S Peninsula Dr Daytona Beach Shores, FL 32118

2 bd | 3 ba | 1,884 sqft
3227 S Peninsula Dr, Daytona Beach Shores, FL 32118

Sold: \$224,927 | Sold on 07/08/20 | Zestimate®: \$304,800
Est. refi payment: \$1,073/mo | Refinance your loan

Home value | Owner tools | Home details | Neighborhood details

ESTIMATE BASED ON

Comparable homes \$334,448

Local tax assessments \$303,075

Local Home Values

1 year 5 years 10 years

Local Home Values

Jan 2014 Jan 2016 Jan 2018 Jan 2020

RENTAL ZESTIMATE: \$1,816/mo

Estimated net proceeds \$97,352

3. 3235 La Paloma

Buy Rent Sell Home Loans Agent finder

3222 s. peninsula daytona beach For Sale

2 bd | 1 ba | 1,200 sqft
3235 La Paloma Ave, Daytona Beach, FL 32118
Sold: \$175,000 | Sold on 10/21/20 | Zestimate®: \$228,100
Est. refl payment: \$835/mo [Refinance your loan](#)

Home value Owner tools Home details Neighborhood details

Local Home Values 1 year 5 years 10 years

— This home —

Date	Value
Jan 2014	\$100K
Jan 2016	\$120K
Jan 2018	\$150K
Jan 2020	\$175K
Current	\$228,100

RENTAL ZESTIMATE: \$1,494/mo

Estimated net proceeds
\$65,467

Est. selling price of your home \$ 228,100

Google Type here to search

78°F Mostly sunny 10:33 AM 1/3/2022