



**CITY OF SOUTH DAYTONA
SPECIAL MASTER CODE ENFORCEMENT
Minutes**

January 11, 2024 at 9:00 AM
CITY COUNCIL CHAMBERS

1672 S. Ridgewood Avenue, South Daytona, Florida

SPECIAL MASTER: Attorney Matthew Branz, Esquire

STAFF: Josh McEnany, Economic Development Director, Matt Miavez, Code Compliance Officer, Becky Witte, Deputy City Clerk

I. CALL TO ORDER: Special Master Matthew Branz called the City of South Daytona's Special Master Code Enforcement Hearing to Order at South Daytona's City Hall, City Council Chambers, 1672 S. Ridgewood Ave, South Daytona, Florida at 9:10 am.

II. PLEDGE OF ALLEGIANCE.

Special Master Branz welcomed those in attendance to the City of South Daytona Code Enforcement Special Master hearing. He said that today's proceedings are quasi-judicial in nature. Formal rules of evidence do not apply, but fundamental due process will be observed and govern all proceedings, he explained. Mr. Branz said that all testimony is under oath and will be recorded. There is no "public comment" portion of these proceedings, and all participants must have an active role in the case such as staff, respondent, and/or a witness, he said.

Special Master Branz continued to explain that at the conclusion of each hearing, he shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted to the Code Enforcement Special Master. The order may include a notice that it must be complied with by a specified date, and that a fine may be imposed, he said.

Special Master Branz advised that if any party decides to appeal any decision made at this meeting, they will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based, per section 286.0105, Florida Statutes.

III. OATHS OF THE CITY OFFICIAL, RESPONDENTS AND WITNESSES: Executed by Deputy City Clerk, Becky Witte

IV. NEW BUSINESS:

Case # 23-000418 Owner: P&B REALTY

Parcel ID: 534416001399

Location: 1042 CUTTERS WAY , SOUTH DAYTONA FL 32119

VIOLATION(S):

- 1. International Property Maintenance Code 507.1, Storm Drainage
 - 2. South Daytona Code of Ordinances 5-216(8), Conditions constituting public nuisance
- Status: Non-compliance** **Findings of Fact, Conclusions of Law and Order**

Josh McEnany, Economic Development Director, presented the case and requested the property be found in violation.

The respondents, James LeBlanc and Ketih LeBlanc (1042 Cutters Way) provided testimony. James LeBlanc said he is the Vice-President of the company.

Special Master Branz found based on the case and testimony presented as well as:

1. Respondent presented evidence and testimony suggesting that the complainant's property may be draining stormwater onto respondents' property.
2. There was no evidence to confirm stormwater drainage from respondents' property is actually draining onto and therefore impacting adjacent properties.
3. The evidence presented to suggest stormwater drainage may be impacting adjacent properties consisted of photographs taken at the end of a five-day tropical storm from which a large amount of rainfall occurred and would exceed many property owners' ability to drain.
4. The storm itself may have been the direct cause of the water on the complainant's property.

He found the property was not in violation of:

1. City of South Daytona Code of Ordinances Section 5-216 (8). Conditions constituting public nuisance. It is a public nuisance for any person owning, leasing, occupying, or having charge of any commercial premises in this city to maintain, or permit to exist, such premises in such a manner that any one (1) or more of the following conditions exist thereon: (8) Land, the topography, geology, or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare, or to adjacent properties.
2. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code SECTION 507. STORM DRAINAGE. 507.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

Special Master Branz issued an order that the property is not in violation.

V. OLD BUSINESS

Case # 23-000399 Owner: GINDER RICKY LYNN AND VICTORIA MARIE MAXWELL
Parcel ID: 633701040021
Location: 2821 SAULS ST , SOUTH DAYTONA FL 32119

VIOLATION(S):

- 1. City of South Daytona Land Development Regulations 7.5(B)(10)(g)(4), Motor vehicle parking limitation on residential property**
Comments: employees and their vehicles are parked on grass throughout entire property
- 2. City of South Daytona Land Development Regulations 7.5(B)(10)(c)(2), Miscellaneous parking regulations MRE**
Comments: Commercial equipment being stored on property
- 3. City of South Daytona Land Development Regulations 7.5(B)(10)(c)(1), Miscellaneous parking regulations MRE-No more than 3**
Comments: more than three MREs on property; not being used at property
- 4. City of South Daytona Land Development Regulations 5.5(C)(2), R1A Permitted Uses**
Comments: Permitted use is a Single-family dwelling; not storage of equipment and vehicles

Status: Request Order Compliance

Josh McEnany, Economic Development Director, said this case came on for public hearing on December 14, 2023, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated December 14, 2023, where the property was found in violation.

Respondent was not in attendance.

Based on the testimony and evidence received, the Special Master found that the property was in Compliance by **December 29, 2023** for violation of the following:

1. City of South Daytona Land Development Regulations Section 7.5(B)(10)(g)(4): B. Parking control. 10. Miscellaneous parking regulations. g. Motor vehicle parking limitation on residential property 4. Primary and accessory vehicles are only allowed to be parked on the hard surface (concrete or asphalt pavement) driveway, parkage area as long as the hard surface driveway is not empty, or behind the front plane of the house. These vehicles may be parked in the side yard behind the front plane of the house of a corner lot abutting a street only if they are obscured by a six-foot-tall solid fence installed with the required setback as dictated by this Code. the ground beneath any primary or accessory vehicle parked behind the front plane of the house must be maintained in compliance with city regulations.

2. City of South Daytona Land Development Regulations Section 7.5(B)(10)(c)(2): Major recreational vehicles and equipment including recreational vehicles, boats, and utility trailers: Major recreational equipment (MRE) may be parked or stored outdoors in a residentially zoned district provided the following conditions are

met: MRE may be parked or stored in the rear yard, an enclosed garage, carport, or side yard behind the front plane of the house. The ground beneath any MRE stored behind the front plane of the house must be maintained in compliance with city regulations.

3. City of South Daytona Land Development Regulations Section 7.5(B)(10)(c)(1): No more than three pieces of MRE may be parked or stored outdoors (including carports) at any one residential property.

4. City of South Daytona Land Development Regulations Section 5.5(E)(2), R1A Permitted Uses.

Special Master declared that the Respondent to be in compliance and that pending violation proceedings before the Special Master are concluded with no fine due.

VIII. NEXT MEETING: February 8, 2024

VI. APPROVAL OF MINUTES FOR: December 14, 2023 Special Master Hearing. Attorney Branz approved the minutes with minor modifications.

IX. ADJOURNMENT. Hearing adjourned at 9:57 am.

Respectfully submitted,



Becky Witte, Deputy City Clerk