

City of South Daytona

Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



To: James L. Gillis, Jr, City Manager

From: Becky Witte, Deputy City Clerk

Date: December 27, 2022

Re: Resolution No. 2023-02 declaring the structure located at 509 Big Tree Road as unsafe and unfit for human habitation and potentially injurious to the public health, safety or welfare so as to constitute a threat to public health, welfare and safety of the community and authorizing the City to proceed with the demolition of the structure and the filing of a lien on the said property pursuant to the City's Code of Ordinances.

On December 28, 2021, the Chief Building Official found the house located at 509 Big Tree Road was unfit for human habitation and was potentially injurious to the health, safety, and welfare of the general public by identifying the following: unsafe and unsanitary conditions on the property, apparent failure of the roof system, structure lacking protective treatment throughout, and the structures window and door frames are damaged, missing, rotten, and dilapidated.

The roof was originally damaged during the hurricanes in 2004. A roof permit was applied for in 2016 but was not completed. It has been over seven years since the building was habitable and water usage was recognized through the City Utility Bill.

The former Chief Building Official, Nick Ventura, Code Compliance Manager Josh McEnany, and Deputy City Clerk Becky Witte met with the property owners on several occasions to assist with securing the residence and work on reaching compliance.

In order to allow additional time to secure a contractor and submit permits, staff scheduled the property violations to be heard by the Special Master on March 10, 2022. At the Special Master Hearing, the Special Master based on evidence presented and testimony found the property in violation of the following:

- (1) City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 111.1.3, Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- (2) City of South Daytona Code of Ordinances 5-200, Prohibited. It shall be unlawful to keep or maintain any building or structure located within the city in a dilapidated, unsanitary or unsafe condition.

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- (3) City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.4, Structural members. Structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.
- (4) City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.7, Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Any form of plastic, cloth, fabric, material commonly known as "tarp," wood, or other material that is used to conceal loose or missing shingles, cracks, holes or openings that expose or could expose an interior part of a structure, including the contents therein, to rain, hail or wind, or to theft or loss must be removed and permanent repairs completed within 30 days.

- (5) City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.2, Protective Treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Any form of plastic, cloth, fabric, material commonly known as "tarp," wood, or other material that is used to conceal loose or missing shingles, cracks, holes or openings that expose or could expose an interior part of a structure, including the contents therein, to rain, hail or wind, or to theft or loss must be removed and permanent repairs completed within 30 days.

- (6) City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.13, Windows, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

At the May 13, 2022 Special Master Hearing staff reported to the Special Master that no progress was made toward compliance. The Special Master did not rule at the May Hearing and provided an

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additional month for the property owners to demonstrate progress. At the June 16, 2022 Hearing, although permits were submitted, demonstrated progress of moving the project forward was not shown and the Special Master signed an Order Imposing Fine/Lien in the amount of \$250.00 per day.

On November 4, 2022, Hero Construction cancelled the Roof Permit for 509 Big Tree Road (Permit No. 202205159). Permit No. 202205069 for Renovation with contractor TAHZ, LLC has had no progress since May 19, 2022 when our former Building Official, Nick Ventura requested Truss Engineering.

Due to the continued deterioration of the structure and the opinion of the Chief Building Official finding the structure unfit for human habitation and potentially injurious to the health, safety, and welfare of the general public, staff requests Council, in accordance with the City of South Daytona Code of Ordinances section 5-200, adopt an order to have the structure demolished:

Sec. 5-201. - Finding and notice requiring correction.

If at any time, upon the recommendation and after investigation by the building inspector, a building or other structure located and situate on private property within the city shall have become so dilapidated, deteriorated or otherwise unsafe or unfit for human habitation or use, or otherwise unsafe or injurious, or potentially injurious to the public health, safety or welfare, the city council may adopt an order declaring such building or other structure to be so dilapidated, deteriorated or otherwise unsafe or unfit for human habitation or use, or otherwise unsafe or injurious, or potentially injurious to the public health, safety or welfare, as the case may be, and in said order shall specify the time within which the owner or owners of said building or structure, shall cause the said building or structure to be demolished, removed or refurbished at the sole expense of said owner or owners, and without compensation by said city; and shall cause a copy of said order to be delivered to said owner or owners or any of them, either in person or by registered mail. If the owner or owners cannot be located so that personal delivery of a copy of said order cannot be made upon any of them, or if the post office address of said owner or owners, or either of them cannot, after reasonable inquiry be determined, then a copy of said order shall be posted in a conspicuous place upon said building or structure.

The above determination of the city council shall be at a public hearing where the owner of the structure or building is provided a notice thereof and an opportunity to be heard. Notice of the public hearing shall be either hand delivered to the owner or sent by certified mail to the address of said individual on record with the tax assessor's office. The city shall also post the notice of hearing on the subject building or structure.

Funding:

Funding is proposed to come from the General Fund and be placed on the Non-Ad Valorem tax assessment for 2023.

The elimination of blight is for the betterment of the entire community and is an effort to maintain the highest property values.

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Staff recommendation:

Approval of Resolution No. 2023-02 and an order be issued for the structures on the property at 509 Big Tree Road to be demolished, removed and site stabilized by seeding/hay installation if not repaired or removed on or before April 30, 2023 by the property owner.

If approved and the property owner fails to repair or remove the structure by the date specified above, the cost for the city to remove the structure will be approximately \$9,500.

Attachments:

Recent pictures of the proposed structure has been attached to this memorandum for review.

RESOLUTION NO. 2023-02

A RESOLUTION OF THE CITY OF SOUTH DAYTONA, FLORIDA; ADOPTED PURSUANT TO CHAPTER 5 (BUILDING, HOUSING AND STRUCTURAL REGULATIONS, ARTICLE X, DANGEROUS STRUCTURES) OF THE SOUTH DAYTONA CODE OF ORDINANCES FINDING THE STRUCTURES LOCATED AT 509 BIG TREE ROAD, SOUTH DAYTONA, FLORIDA IS UNSAFE AND UNFIT FOR HUMAN HABITATION AND POTENTIALLY INJURIOUS TO THE PUBLIC HEALTH, SAFETY OR WELFARE SO AS TO CONSTITUTE A THREAT TO THE PUBLIC HEALTH, WELFARE AND SAFETY OF THE COMMUNITY; AUTHORIZING THE CITY TO PROCEED WITH THE DEMOLITION OF SAID STRUCTURES AND LIENING THE SAID PROPERTY PURSUANT TO THE CITY'S CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, this resolution pertains to the real property located at 509 Big Tree Road, South Daytona, Parcel Number 5328-03-00-0090 (Subject Property) which is owned by the Edwin and Debra Palmer (Property Owners); and

WHEREAS, the City has found that the structures on this site are unfit for human habitation (Code Reference – City of South Daytona Code of Ordinances Chapter 5, Article X, Sections 5-200 and 5-201); and

WHEREAS, on December 28, 2021, the Chief Building Official identified the following: Unsafe and unsanitary conditions exist on the property, structure has an apparent failure of the roof system, structure lacks protective treatment throughout, and the structures window and door frames are damaged, missing, rotten and dilapidated; and

WHEREAS, the Special Master heard the cause at a hearing on March 10, 2022 where he found the property to be in violation of City Codes and provided a compliance date of May 5, 2022; and

WHEREAS, due to the condition of the Subject Property the Chief Building Official believes that it is appropriate to present this case to the City Council for further action pursuant to Chapter 5, Article X of the City's Code of Ordinances.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SOUTH DAYTONA, FLORIDA:

Section 1. Based on the evidence presented at a public hearing held on 10th day of January, 2023, the City Council hereby makes the following findings:

1. That the owner of the property located at 509 Big Tree Road, South Daytona (Subject Property) is the Edwin and Debra Palmer, whose address according to the Volusia County Property Appraiser's Office is 509 Big Tree Road, South Daytona (Property Owner).
2. That the Property Owner was noticed on November 3, 2022 via hand delivery, posting of the home and via US Certified Mail of this public hearing and was given an opportunity to be heard on the issue of the condition of the Subject Property.
3. On December 28, 2021, the Chief Building Official found that the structures on the property are not only unfit for human habitation but are potentially injurious to the health, safety and welfare of the general public.
4. On December 28, 2021, the Chief Building Official cited the following violations:
 - a. Rotten and dilapidated structure.
 - b. Apparent failure of the roof system (IPMC 304.4 and 304.7).
 - c. Rotten soffit and fascia.
 - d. Unsafe electrical service and wiring.
 - e. Lacks Protective Treatment and window, and door frames are damages, missing, rotten and dilapidated (IPMC 304.2 and 304.13).
5. The Building Official in a letter dated December 28, 2021, the Property Owner was given until January 28, 2022 to have a full engineering assessment of the structures on site and submitted with permit applications for all required repairs OR have a demolition permit submitted for the removal of the structure and all accessory elements.

6. The Special Master heard the cause on March 10, 2022 and provided a compliance date of May 5, 2022.
7. The property owner hired TAH2, LLC, qualified contractor Thomas Huger (Certified Building Contractor, Class B, CBC042331) and submitted a permit for complete renovation on May 13, 2022 as well as Hero Construction, qualified contractor Felipe Canepa (Certified Roofing Contractor, CCC1328369) who submitted a roof permit on May 31, 2022. The permit applications were not issued by the Chief Building Official as they lacked Truss Engineering. To date the Truss Engineering has not yet been submitted.
8. On June 16, 2022, the Special Master signed the Order Imposing Fine/Lien due to no progress being made on correcting the violations or starting the process of demolition.
9. A Notice of the City Council Hearing was hand delivered, posted on site and sent on November 3, 2022.

Section 2. Based on the above findings presented at a public hearing, the City Council hereby orders the following:

1. That the Property Owner is given to **April 30, 2023** to complete the scope of work for a complete renovation as outlined in Permit Application Number 202205069 for all required repairs OR have the structure and all accessory elements demolished/removed from the property at their sole expense and without compensation from the City of South Daytona and obtain a final inspection approval by Chief Building Official.
2. If the Property Owner fails to comply with this Order by the above date, the City is authorized to proceed with any and all available legal remedies, including but not limited to the demolition of the structures on the Subject Property and the recording of a lien in the Public Records for the costs incurred by the City.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any Court, 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 or application hereof.

Section 4. That all resolutions made in conflict with this Resolution are hereby repealed.

Section 5. That this Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED upon first and final reading at a regular meeting of the City Council of the City of South Daytona held in the City of South Daytona, Florida, on the 10th day of January 2023.

CITY OF SOUTH DAYTONA

William C. Hall, Mayor

ATTEST:

James L. Gillis Jr.
City Manager

Approved as to form and legality for use and reliance of the City of South Daytona, Florida:

Wade C. Vose, City Attorney



CITY OF SOUTH DAYTONA NOTICE OF HEARING

City of South Daytona, a political subdivision of the State of Florida

City of South Daytona, Petitioner,

vs.

Palmer, Edwin and Debra, Respondent

RE: Case Number: 21-000380

Address of Violation: 509 Big Tree Road, South Daytona, Florida 32119

Tax Parcel Number: 532803000090

NOTICE OF HEARING **TUESDAY, JANUARY 10, 2023 AT 6:00PM** **AT SOUTH DAYTONA CITY HALL**

Pursuant to the City of South Daytona Code of Ordinances, the undersigned Officer hereby gives notice of an uncorrected violation of the City of South Daytona Ordinances and hereby serves Notice of a Public Hearing before the City of South Daytona City Council.

Violation(s)

1. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 111.1.3, Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
2. City of South Daytona Code of Ordinances 5-200, Prohibited. It shall be unlawful to keep or maintain any building or structure located within the city in a dilapidated, unsanitary or unsafe condition.
3. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.4, Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
4. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.7, Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Any form of plastic, cloth, fabric, material commonly known as "tarp," wood, or other material that is used to conceal loose or missing shingles, cracks, holes or openings that expose or could expose an interior part of a structure, including the contents therein, to rain, hail or wind, or to theft or loss must be removed and permanent repairs completed within 30 days.

5. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.2, Protective Treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

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Address where violation exists: 509 BIG TREE ROAD, SOUTH DAYTONA, FL 32119

Property Owner's name where violation exists: PALMER, EDWIN AND DEBRA

Property Owner's address: 509 BIG TREE ROAD, SOUTH DAYTONA, FL 32119-2847

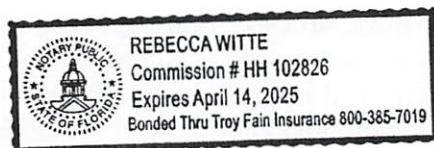
Based upon the foregoing, the undersigned Officer hereby certifies that the property remains in violation. This case has been referred to the South Daytona City Council for a **Public Hearing** on **Tuesday, January 10, 2023, at 6:00 PM** in the **City Council Chambers at South Daytona City Hall, 1672 South Ridgewood Avenue, South Daytona, Florida.**

Please bring any witnesses with you who desire to be heard. You may have an attorney represent you at this proceeding, though such representation is not a requirement. The respondent is responsible for providing a court reporter at the hearing if the respondent intends to appeal the determination of the City Council. Please take these facts into account. Your presence at the Hearing is expected.

In accordance with the American Disabilities Act and Section 286.26 Florida Statutes, persons with disabilities needing special accommodation to participate in the proceedings should contact the City of South Daytona's Deputy City Clerk at (386) 322-3011 for assistance at least 48 hours before the date of the meeting.

Dated this 3rd day of November, 2022.


Josh McEnany, Code Compliance Manager
1672 South Ridgewood Avenue
South Daytona, FL 32119
386-322-3025



STATE OF FLORIDA
COUNTY OF VOLUSIA

This document was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 3 day of November, 2022, she is personally known to me or has presented _____ as identification.

 (Notary)



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

6/27/2022 9:41:08 AM
Instrument# 2022150879 2 pages
Book: 8274 Page: 4024
Electronically Recorded By
Volusia County Clerk of the Court

City of South Daytona, a political subdivision of the State of Florida

City of South Daytona, Petitioner,

vs.

Palmer, Edwin and Debra, Respondent

RE: Case Number: 21-000380

Address of Violation: 509 Big Tree Road, South Daytona, Florida 32119

Tax Parcel Number: 532803000090

ORDER IMPOSING FINE / LIEN

The City of South Daytona Special Master has heard testimony under oath at a hearing on June 16, 2022.

THIS CAUSE, came on for public hearing before the undersigned Special Master on March 10, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated March 10, 2022, where the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was not in compliance by May 5, 2022. The property remains in violation and accordingly, a fine of \$250.00 per day for violation of the following shall be imposed:

1. City of South Daytona Code of Ordinances 5-201, Prohibited. It shall be unlawful to keep or maintain any building or structure located within the city in a dilapidated, unsanitary or unsafe condition.
2. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.4, Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
3. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.7, Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Any form of plastic, cloth, fabric, material commonly known as "tarp," wood, or other material that is used to conceal loose or missing shingles, cracks, holes or openings that expose or could expose an interior part of a structure, including the contents therein, to rain, hail or wind, or to theft or loss must be removed and permanent repairs completed within 30 days.

4. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.2,

Protective Treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

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These fines shall begin May 6, 2022 and continue to accrue against the property 509 Big Tree Road, South Daytona, FL 32119 until said property is brought into compliance.

This Order will be recorded immediately in the Public Records of Volusia County, Florida, and shall constitute a lien against the above-described property and upon any other real or personal property owned by the Respondent(s), pursuant to Section 162.08 and 162.09, Florida Statutes.

DONE AND ORDERED this 16th day of June, 2022, at South Daytona, Volusia County, Florida.

By: _____
Matthew D. Branz, Esquire, Special Master



STATE OF FLORIDA, COUNTY OF VOLUSIA

This document was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 16 day of June, 2022

he/she is personally known to me or has presented _____ as identification
Rebecca Witte (Notary).

509 Big Tree Road



January 5, 2023



509

January 5, 2023



January 5, 2023



January 5, 2023



509

January 5, 2023



January 5, 2023



January 5, 2023



January 5, 2023





January 5, 2023