

## REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: November 7, 2022

Agenda Item: 5D	Prepared By: Chris Noury, City Attorney
Agenda Section: Unfinished Business: Ordinance. Second Reading	Date: November 7, 2022
An ordinance to affirm the 2006 decision of City Council to abandon the current location of Crescent Beach Access-way# 08 in exchange for its relocation approximately 66 feet southward with improvements including public restrooms and showers, golf cart parking and 4 public parking spaces within the ROW	Division: Legal

**CORRECTION: On first reading, the issue paper incorrectly stated the relocated walkway would have four (4) public parking spaces within the ROW, however, there is insufficient space to include four (4) parking spaces in the ROW.**

In 2006, the proposed relocation of Crescent Beach Access way #08 (CB #8) was presented to the Planning Commission for the PC's recommendation to City Council.

CB #8 is a 30 ft wide access-way (see attached aerial photo) paved with asphalt which has been used primarily by guests of the adjacent motel to access the motel's private parking area.

The proposed relocation included the abandonment of CB #8 at its current location and to relocate the 30 ft access-way approximately 66 ft southward of its current location. The relocated access-way would be deeded to the City and be improved with public restrooms and a shower, golf cart parking, hardscaping, landscaping, drainage and irrigation, four (4) public parking spaces within the ROW along with a dune walkover, signage and lighting.

On January 3, 2006, the PC voted to recommend approval of the proposed closing and relocation of CB #8 contingent upon the installation of the above referenced public improvements.

Subsequently, City Council voted on first reading to pass the ordinance to abandon CB #8 at its current location and to relocate the same approximately 66 ft southward. City Council then passed the ordinance on second reading on February 20, 2006. This action effectively closed CB #8 at its current location however, the City has an easement over this area to continue to use the public access way until the area for the relocated access-way is deeded to the City. At the time, the relocation of the access-way was to occur within two years of passage of the ordinance.

However, in 2008, because of economic circumstances, the applicant requested an extension to complete the relocation of the access-way until 2012 and City Council granted, by ordinance, the applicant's request. Because the relocation was not completed in 2012, the attached ordinance affirms the decision of City Council from 2006 and 2008 to allow the relocation as originally contemplated.

(Attached are the issue papers and ordinances from 2006 and 2008)

**Recommended Action:**

Approve or deny the proposed ordinance on second reading

Reviewed by City Manager

Reviewed by City Attorney

Council Action:

Motion By \_\_\_\_\_ 2<sup>nd</sup> By \_\_\_\_\_ To \_\_\_\_\_

**AN ORDINANCE**

**AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH TO AFFIRM THE 2006 DECISION BY CITY COUNCIL TO RELOCATE PUBLIC BEACH ACCESS-WAY IDENTIFIED AS CRESCENT BEACH NUMBER 08 (CB #8) APPROXIMATELY 66-FEET SOUTHWARD OF ITS CURRENT AND TO AUTHORIZE THE CITY MANAGER TO SIGN THE DOCUMENTS NECESSARY TO COMPLETE THE RELOCATION.**

**WHEREAS**, in 2006, City Council passed an ordinance to close CB #8 at its current location in exchange for an easement back to the City over the same area to continue to be used as a public beach access-way until the land for the area of the relocation of the access-way is deeded to the City; and

**WHEREAS**, in 2008, City Council authorized the completion of the relocation of CB #8 to be completed in 2012 however, for various reasons, the completion of the relocation of CB #8 was delayed; and

**WHEREAS**, the original applicant for the relocation of CB #8 is in a position to finalize the relocation.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH:**

**Section 1:** City Council hereby affirms the decision of City Council in 2006 regarding the relocation of CB #8.

**Section 2:** The City Manager is authorized to sign the documents necessary to complete the relocation.

**Section 3:** This Ordinance shall become effective upon the date of passage.

DONE, RATIFIED AND PASSED, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

ATTEST:

\_\_\_\_\_  
Mayor Marilyn Hatley

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

FIRST READING: 10.17.2022

SECOND READING: 11.7.2022

REVIEWED:

\_\_\_\_\_  
City Manager

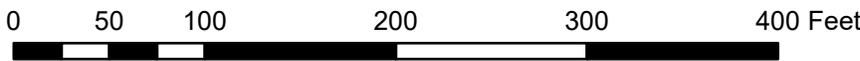
ORDINANCE: 22-48



Maxar, Microsoft



# Proposed Walkway Relocation X-06-01



## REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: February 20, 2006

Agenda Item: <b>5A</b>	Prepared By: Gregory K. Lipscomb, AICP
Agenda Section: Old Business: Ordinance: 2 <sup>nd</sup> Reading	Date: February 15, 2006
Subject: Walkway Closing X-06-01 (CB-8)	Division: Planning & Development

### Background:

Oceanfront property owner, McGonigal Investment Group, LLC, has petitioned the City to abandon the existing oceanfront public beach walkway [CB-8], located between Lots 9 and 10, Block 1, Crescent Beach Section; then relocate and improve a new oceanfront public beach access of equal size and greater public convenience and utility.

### Existing Conditions

The entire 30' width of the existing public beach access, CB-8, is currently paved with asphalt; however, no public parking is provided. The minimum width for a two-way driveway is twenty-two (22) feet. This public beach access is used by motel guests to access private parking. Only pedestrian access to the beach and limited (informal) golf cart parking is available to the general public. A public dune walkover, identification and beach rules signage are provided.

### City Policy on Public Access Relocation

Policy #7 of the City's walkway relocation policy states that "if a walkway is moved either to a streetend or another walkway, the person or persons petitioning should agree to upgrade the public access point as follows: Moving a walkway to another walkway - Petitioner will provide a walkover and appropriate signage on oceanfront and landward access points."

### Planning Commission Recommendation:

A public hearing was conducted by the Planning Commission on Tuesday, January 03, 2006. The Planning Commission voted to recommend approval of the proposed closing and relocation of CB-8, as amended, contingent upon the petitioner installing all required public improvements, as subsequently approved by City Officials.

### Prior Action of City Council:

The Mayor and City Council passed this Ordinance on First Reading at their public meeting on January 09, 2006. At that time, the petitioner was directed to develop and resubmit a detailed plan for proposed improvements to be installed in the relocated Public Beach Access, to include public parking that meets State and City Code requirements. This item was tabled at the February 06, 2006 City Council meeting.

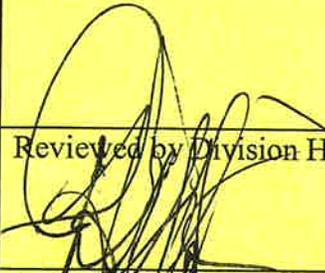
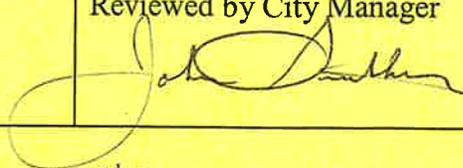
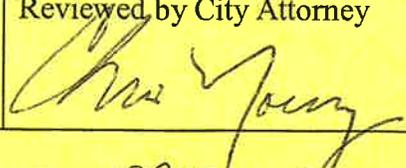
Representatives of the City's Planning, Parks and Recreation, Public Works and Public Safety departments have met with the petitioner and developed a plan for installing suitable improvements in the proposed (relocated) Public Beach Access [CB-8]. The proposed public improvements include:

- Dune walkover
- Signage
- Lighting
- Public restrooms & shower
- Golf cart parking area
- Hardscaping, landscaping, drainage & irrigation
- Four (4) public parking spaces located within public right-of-way

Because the public beach access right-of-way is only thirty (30)-feet wide, the petitioner could not configure any public parking within the 30-foot wide walkway in a manner that satisfies State and City Code requirements. However, four (4) new parallel parking spaces have been proposed within the public right-of-way of 18<sup>th</sup> Avenue South.

Recommended Action:

Adopt or deny the proposed ordinance on second reading.

Reviewed by Division Head 	Reviewed by City Manager 	Reviewed by City Attorney 
Council Action: Motion By <u>cap</u> 2 <sup>nd</sup> By _____ To <u>approve</u> <span style="float: right;">4-2 Hoff Williams</span>		

## ORDINANCE

### **AN ORDINANCE TO ABANDON AN EXISTING 30'-WIDE PUBLIC BEACH ACCESSWAY (CB-8) LOCATED BETWEEN LOT 1, BLOCK 2 AND LOTS 9 & 10, BLOCK 1, CRESCENT BEACH SECTION, CITY OF NORTH MYRTLE BEACH.**

### **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:**

Section 1: That McGonigal Investment Group, LLC, property owners of Lot 1, Block 2, Tax Map Number 156-04-33-001 and Lots 9 & 10, Block 1, Tax Map Number 156-04-32-031, requested the closing and abandonment of the existing 30'-wide Public Beach Access (CB-8) located between said lots, which is shown upon the Boundary Survey dated July 27, 2005, attached hereto as Exhibit A (the "Existing 30' Access");

Section 2: That the North Myrtle Beach Planning Commission has provided the required public notice of this request and has held all necessary public hearings in accordance with applicable State Statutes, City Policies and Ordinances;

Section 3: That McGonigal Investment Group, LLC, as property owners of the property located on each side of the Existing 30' Access shall take title to the abandoned area pursuant to law, and has agreed to deed to the City of North Myrtle Beach the 30'-wide Proposed Access as shown on the site plan attached hereto as Exhibit B, and to improve said access area within 2 years of such transfer as shown on said Exhibit B.

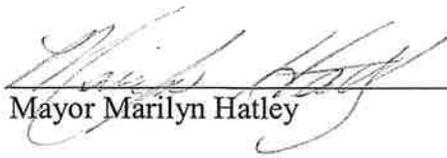
Section 4: That the North Myrtle Beach City Council, pursuant to statutory authority and by enactment of this Ordinance, has determined in its judgment that the closing and abandonment of the Existing 30'-wide Public Beach Access is necessary and proper for the improvement of the City, and that such Existing 30' Access (CB-8) is hereby abandoned by the City of North Myrtle Beach.

Section 5: The City Manager is hereby authorized and directed to execute a quitclaim deed and plat map transferring the Existing 30' Access to the property owners upon receipt by the City Manager of an executed general warranty deed from said property owners to the City of North Myrtle Beach granting the city title to the 30' Proposed Access area shown on Exhibit B, being a portion of current Lots 9 & 10, Block 1, Crescent Beach Section.

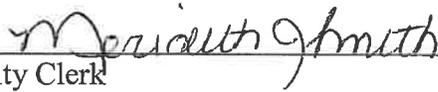
Section 6: McGonigal Investment Group, LLC, or its successors or assigns as property owners, shall complete the improvements to the 30' Proposed Access as shown on Exhibit B (or such other plan of improvements approved by the City Manager in writing) within two years of the date of this ordinance.

Section 7: The property owner shall prepare and record the quitclaim deed to the Existing 30' Access, the general warranty deed transferring the 30' Proposed Access, and the combination plat showing such reconfiguration with the Register of Deeds Office for Horry County.

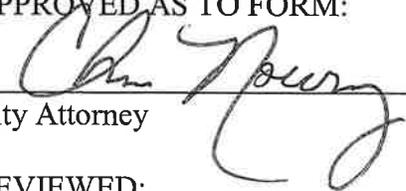
DONE, RATIFIED AND PASSED, THIS 20 DAY OF February, 2006.

  
\_\_\_\_\_  
Mayor Marilyn Hatley

ATTEST:

  
\_\_\_\_\_  
City Clerk

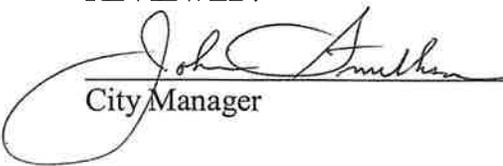
APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

FIRST READING: 1/6/06

SECOND READING: 2/20/06

REVIEWED:

  
\_\_\_\_\_  
City Manager



## REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: March 3, 2008

Agenda Item: <span style="font-size: 2em; margin-left: 50px;">5 C</span>	Prepared By: Chris Noury, City Attorney
Agenda Section: Business: Ordinance. Second Reading	Date: February 18, 2008
Subject: An ordinance to grant an additional 4 years to relocate beach access-way identified as Crescent Beach #8.	Division: Legal

**BACKGROUND:** On February 20<sup>th</sup>, 2006 Council adopted on second reading an ordinance abandoning beach access-way CB #8 in exchange for the access-way being located approximately 60 feet to the south of its current location. The relocated access-way will be the same width as the abandoned access-way, 30 feet, which will be deeded to the City by the McGonigal Investment Group, the property owner of both lots adjacent to CB #8.

In addition to deeding the 30' access-way to the City, the property owner has agreed to install landscaping with an irrigation system, public restrooms with a rinse shower, bicycle and golf cart parking, a compacted coquina path, and dune cross-over and deck per O.C.R.M. standards.

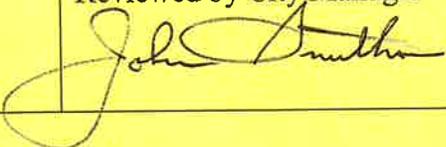
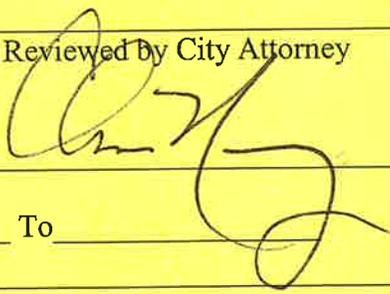
The ordinance required that the property owner complete the improvements to the relocated access-way within two years of the date of the ordinance. However, the property owner has not yet started the process to abandon CB # 8 by filing the recombination plat nor has the property owner began to install the access-way at its new location with the improvements. Therefore, the property owner is requesting that it be given an extension of 4 years to complete the improvements to the relocated access-way, which, if granted would require that the improvements be completed by February 20, 2012.

During the Council meeting for second reading on *February 20, 2006* Jeff King, the attorney for the property owner, stated that in addition to the improvements to the relocated access-way, the property owner would also contribute \$100,000 for public parking *which has been paid*. Mr. King indicated that the property owner understands that this money will not be refunded to the property owner if the access-way relocation is not completed by February 12, 2012.

The ordinance has been amended from the first reading to allow the property owner to file the recombination plat abandoning the access-way immediately. In exchange, the property owner will grant the City an easement over the same area where the access-way exists until the property owner grants the deed to the relocated access-way on or before February of 2012. The *easement* for the access-way will terminate when the property owner provides the deed to the City for the new access-way. If the property owner does not relocate the access-way by 2012 then the property owner will provide a quit claim deed back to the City for the area where the easement is located.

Attached for Council's review is a rendering of the relocation with the proposed improvements.

**RECOMMENDED ACTION:** Adoption or denial of the ordinance.

Reviewed by Division Head	Reviewed by City Manager 	Reviewed by City Attorney 
Council Action: Motion By _____ 2 <sup>nd</sup> By _____ To _____		

**ORDINANCE**

**AN ORDINANCE TO AMEND ORDINANCE ADOPTED FEBRUARY 20, 2006 TO ABANDON BEACH ACCESSWAY (CB-8) LOCATED BETWEEN LOT 1, BLOCK 2 AND LOTS 9 & 10, BLOCK 1, RESCENT BEACH SECTION, CITY OF NORTH MYRTLE BEACH.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:**

Section 1: McGonigal Investment Group, LLC, property owners of Lot 1, Block 2, Tax Map Number 156-04-33-001 and Lots 9 & 10, Block 1, Tax Map Number 156-04-32-031, requested the closing and abandonment of the existing 30'-wide Public Beach Access (CB-8) located between said lots, which abandonment was approved by the North Myrtle Beach City Council by Ordinance adopted on second reading February 20, 2006 (the "2006 Ordinance");

Section 2: The Council has provided the required public notice of this amendment to ordinance and has held all necessary public hearings in accordance with applicable State Statutes, City Policies and Ordinances;

Section 3: The 2006 Ordinance provided that the recording of the combination plat, quitclaim deed to the walkway, deed to the City transferring the replacement access, and the improvements to the replacement access would be completed within two years of the 2006 Ordinance, which time period McGonigal Investment Group, LLC ("Property Owner") has requested be extended for four (4) additional years;

Section 4: The North Myrtle Beach City Council, pursuant to statutory authority and by enactment of this Ordinance, has determined in its judgment that the extension of the time frame for completing the improvements is proper and acceptable;

Section 5: The 2006 Ordinance is hereby amended as follows:

a) The City Manager, or the authorized staff member of the City of North Myrtle Beach, is hereby authorized and directed to approve for recording a combination plat showing the abandonment of walkway CB-8 (as approved by the 2006 Ordinance) and combination of said property with the adjacent property owned by the Property Owner upon receipt by the City Manager of an executed easement agreement from said Property Owner to the City of North Myrtle Beach granting the city an easement over the abandoned walkway area. Said easement shall provide that it shall automatically terminate upon the receipt by the City Manager of a general warranty deed conveying title to the City of North Myrtle Beach of the property described as a 30' Proposed Access area as shown on Exhibit B attached to the 2006 Ordinance (Southern 30' area of the combined property). Said easement shall provide that said deed must be delivered on or before February 20, 2012, or said easement shall not terminate and shall be perpetual. In addition, in the event that the replacement walkway property is not conveyed to the City within said time frame, the Property Owner shall quit-claim any and all interest to the fee title to the easement area (current location of CB-8) back to the City of North Myrtle Beach.

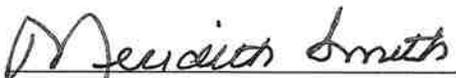
b) Property Owner shall immediately upon adoption of this Ordinance pay to the City of North Myrtle beach the sum of \$100,000 as a contribution toward access and improvement of public parking, as agreed at second reading of the 2006 Ordinance. Property Owner shall prepare and record the combination plat evidencing the abandonment of the walkway within ninety (90) days of final approval of this ordinance, at the expense of Property Owner. Property Owner shall provide a bond to the City of North Myrtle Beach for the completion of the improvements to the replacement walkway area, as described in the 2006 Ordinance, upon delivery of the general warranty deed conveying the replacement walkway area to the City Manager.

c) Property Owner shall complete the improvements to the replacement walkway area in such manner that a minimum five foot (5') pedestrian access to the beach shall be maintained continuously.

DONE, RATIFIED AND PASSED THIS 3 DAY OF March, 2008.

  
\_\_\_\_\_  
Mayor Marilyn Hatley

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

FIRST READING: February 18, 2008

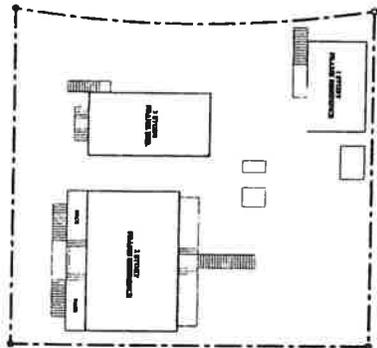
SECOND READING: March 3, 2008

REVIEWED:

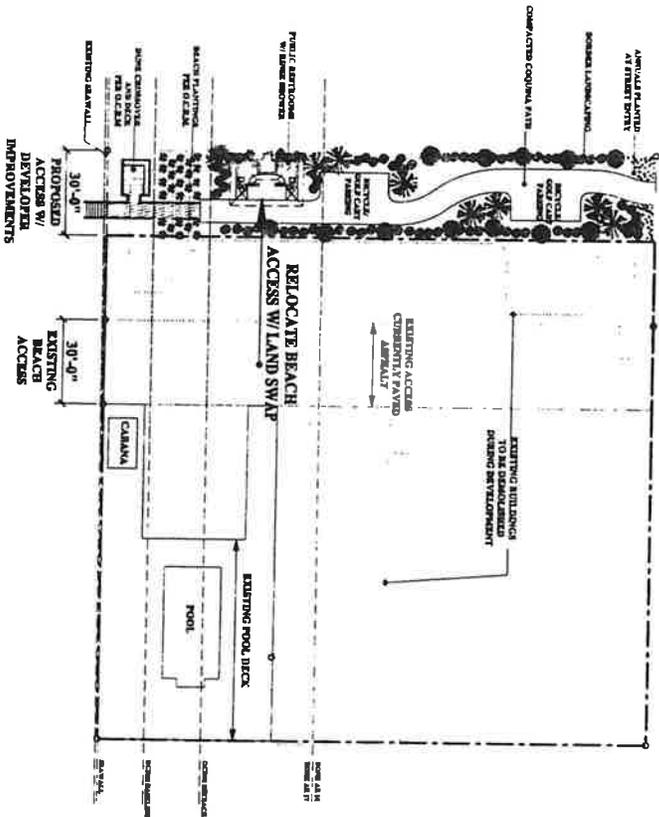
  
\_\_\_\_\_  
City Manager

PERRIN DRIVE

18TH AVENUE SOUTH



SOUTH OCEAN BLVD.



**PROPOSED LAND EXCHANGE**  
 BY THE SEA RESORT  
 1717 SOUTH OCEAN BOULEVARD  
 NORTH MYRTLE BEACH, SC



**Mozingo**  
 +  
**Wallace**  
 ARCHITECTURE, LLC

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