

**CITY OF DAPHNE**  
**1705 MAIN STREET, DAPHNE, AL**  
**CITY COUNCIL BUSINESS MEETING AGENDA**  
**July 19, 2021**  
**6:00 P.M.**

**1. CALL TO ORDER**

**2. ROLL CALL**

**INVOCATION** Mr. Lynn Huey, Congregation Mayim Chayim  
**PLEDGE OF ALLEGIANCE**

**RECOGNITION:** Beautification Award – The Park at Whispering Pines

**RECOGNITION:** Jewel Lawson – Spirit Day

**PUBLIC HEARING:** BN Properties, LLC Zoning Amendment located Southeast of Van Avenue and Main Street

**3. APPROVE MINUTES:** July 6, 2021 regular meeting

**4. REPORTS OF STANDING COMMITTEES**

**A. FINANCE COMMITTEE** – Conaway

**B. BUILDINGS & PROPERTY COMMITTEE** – Phillips  
Review the minutes from the June 14, 2021 meeting.

**C. PUBLIC SAFETY COMMITTEE** – Hughes

**D. CODE ENFORCEMENT/ORDINANCE COMMITTEE** – Olen

**E. PUBLIC WORKS COMMITTEE** – Coleman  
Review the minutes from the June 7, 2021 meeting.

**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS**

**A. BOARD OF ZONING ADJUSTMENTS** – Adrienne Jones  
Review the June 3, 2021 minutes and the July 1, 2021 meeting summary.

**B. DOWNTOWN REDEVELOPMENT AUTHORITY** – Conaway

**C. INDUSTRIAL DEVELOPMENT BOARD** – Scott

**D. LIBRARY BOARD** –Phillips

**E. PLANNING COMMISSION** – Olen

**F. RECREATION BOARD** – Hughes

**G. UTILITY BOARD** – Goodlin  
Review the May 26, 2021 minutes.

**6. PUBLIC PARTICIPATION**

**7. MAYOR’S REPORT**

**8. CITY ATTORNEY REPORT**

## **City Council Agenda – July 19, 2021**

### **9. DEPARTMENT HEAD REPORTS**

### **10. CITY CLERK’S REPORT**

**MOTION** to approve the Muse Miles 5k and 1 mile fun run on November 20, 2021 from 7:30am – 9:00am.

### **11. RESOLUTIONS & ORDINANCES**

#### **A. RESOLUTIONS:**

**2021-23** – Surplus Property – 2007 Cub Cadet 4x4

**2021-24** – 2021-H-Street Resurfacing

**2021-25** – Resolution Authorizing the City to Enter into a Preliminary Engineering and Construction Agreement for a Federal Aid Project with the State of Alabama for the Resurfacing on CR-64 from SR-42 (US-98) to CR-13 and Intersection Improvements on CR-64 at Pollard Road

#### **B. 2<sup>nd</sup> READ ORDINANCES:**

**2021-32** – Appropriation – W.O. Lott Park Tennis Facility Equipment and Furnishings - \$120,000

**2021-33** – Appropriation – City of Daphne 2020-2024 Comprehensive Master Plan - \$90,960

**2021-34** – Additional Appropriation – Pipe Crawler Camera - \$53,935

**2021-35** – Appropriation – Additional Temporary Workers Expense - \$76,000

#### **C. 1<sup>ST</sup> READ ORDINANCES:**

**2021-36** – Ordinance Granting a Non-Exclusive Authorization to Point Broadband Fiber Holding, LLC

**2021-37** – Additional Appropriation – FY2021 Street Resurfacing Initiative - \$400,208

**2021-38** – Appropriation – Additional Engineering Fees – Daphne Sports Complex - \$43,683

**2021-39** – Re-Zone Property Located Southeast of Van Avenue and Main Street

### **12. COUNCIL COMMENTS**

### **13. ADJOURN**

*City of Daphne Beautification Committee*

presents this

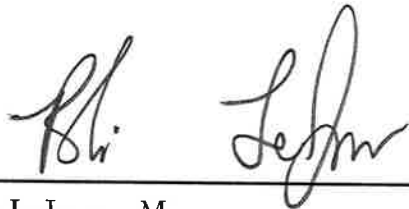
*Certificate of Recognition*

to

The Park at Whispering Pines

for your excellence in beautifying the City of Daphne.

Awarded on this 19<sup>th</sup> day of July 2021.



Robin LeJeune, Mayor



To: Office of the City Clerk

MEMORANDUM

From: Adrienne D. Jones, AICP  
Director of Community Development

Subject: BN Properties, L.L.C.  
Zoning Amendment

Date: June 2, 2021

**PRESENT ZONING:** B-3, Professional Business

**PROPOSED REZONING:** B-1(a), Limited Local Business

**LOCATION:** Southeast of Van Avenue and Main Street

**RECOMMENDATION:** At the Thursday, May 27, 2021, regular meeting of the Daphne Planning Commission, eight members were present, and the motion carried unanimously for a favorable recommendation for the above captioned zoning amendment.

Attached please find the appropriate documentation and action of the Daphne Planning Commission.

Upon receipt of said documentation, please prepare an ordinance for placement on a City Council agenda to set a public hearing.

Thank you,  
ADJ/jv

Attachment(s):

1. Community Development Report and Supplemental Documents
2. Zoning Amendment Application
3. Legal Description (Exhibit A)
4. Boundary Survey (Exhibit B)
5. Adjacent property owners list

**FILE**  
6/10/21  
jv



# ZONING AMENDMENT

## BN PROPERTIES, LLC

## **REZONING REQUEST BN PROPERTIES, LLC.**

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**Existing Conditions:** 1.21 acres+/-  
**Existing Zoning:** B-3, Professional Business  
**Proposed Zoning:** B-1(A), Limited Local Business

### **Surrounding Zonings/Uses:**

**North** – R-4, High Density Single Family Residential District

**South** –B-3, Professional Business District

**East**–R-3, High Density Single Family Residential District

**West** – B-3, Professional Business District

### **Existing Utility Service Providers:**

Water – Daphne Utilities                      Sewer – Daphne Utilities

Gas – Daphne Utilities                      Electric – Riviera Utilities

### **Affected City Service Providers:**

Fire Protection-Station 1

Police Protection-Police Beat 1

Public Works

### **The Comprehensive Plan**

The comprehensive plan's overarching policy regarding land development encourages harmony and compatibility. The following are some Land Use Goals and Objectives from the Plan that are applicable to this application.

**Goal:** Grow sensibly by anticipating land use needs. **Objective:** Promote and manage growth on undeveloped lands in a manner that will be compatible with, and complementary to, existing adjacent developed properties.

### **Existing Conditions**

The subject property is located at the southeast intersection of Van Avenue and Scenic Highway 98 (Main Street) in the Olde Towne Daphne District.

The current applicant proposes to rezone the subject property from B-3, Professional Business to B-1(A) Limited Local Business. The B-1(A) district was adopted by City Council

## REZONING REQUEST BN PROPERTIES, LLC.

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July 5, 2016 in Ordinance 2016-39. The Ordinance is included as part of this report as a means by which to review the uses that are allowed by Right, by Planning Commission approval and by Special Exception.

### Staff Recommendation

Staff recommends approval of B-1(A), Limited Local Business. B-3 would only allow for professional businesses and offices. The location may be considered suitable for businesses that would serve the immediate area similar in nature to Whits, which is also zoned B-1(A).

The property to the east is zoned R-3. The Olde Towne Daphne district requires the following (Article 14-3):

#### (c) Buffer Zone Requirements:

Where a business district abuts any part of a residential district, a buffer zone ten (10) feet in width shall be required. The buffer shall run the entire length of the abutting lot line(s). Under no circumstances shall this buffer impair vehicular flow and shall be part of the yard requirements. Said protection buffer shall be maintained in such a manner to accomplish its purpose continuously.

This District shall comply with the following minimum standards and said buffer zone shall be constructed of at least one of the following three (3) designs or a combination thereof as determined by the Director of Community Development and approved by the Planning Commission:

#### (1) Wall or Fence

If a wall or fence of solid appearance is provided as a protection buffer, it shall be at least six (6) feet in height and of a construction and a design approved by the Planning Commission.

If a wall or fence of solid appearance is provided as a protection buffer, it shall be at least six (6) feet in height and of a construction and a design approved by the Planning Commission.

#### (2) Screen Planting Strip

A staggered double row of Evergreen plantings at least ten (10) feet in width which will grow to at least ten (10) feet in height and spaced in a manner in which after three (3) years it will provide an impervious visual barrier.

#### (3) Natural Forest

**REZONING REQUEST  
BN PROPERTIES, LLC.**

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A natural, undisturbed forest which provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the width of the buffer zone shall be ten (10) feet in width and shall be included on the landscape plan.

**CITY OF DAPHNE**

**ORDINANCE NO. 2016-39**

**AN ORDINANCE AMENDING THE CITY OF DAPHNE, ALABAMA  
LAND USE AND DEVELOPMENT ORDINANCE 2011-54, AS ADOPTED BY THE  
CITY COUNCIL ON JULY 18, 2011**

**CREATING A NEW ZONING DISTRICT  
B-1(a), LIMITED LOCAL BUSINESS DISTRICT**

**WHEREAS**, the City Council of the City of Daphne, after due consideration believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and,

**WHEREAS**, at the special called City of Daphne Planning Commission meeting on May 5, 2016 the Commission considered certain proposed amendments to the City of Daphne Land Use & Development Ordinance, Ordinance 2011-54, and any amendments to the same and set forth a unanimous favorable recommendation to the City Council of the City of Daphne; and,

**WHEREAS**, the B-1(a), Limited Local Business District, is to be a more restrictive subset of the existing B-1, Local Business District, B-1(a) is a new and separate zoning district with many of the same restrictions and conditions applicable to B-1; and,

**WHEREAS**, the B-1(a) zone might be appropriate in situations where the more extensive business districts would allow businesses that could threaten to have too adverse an impact on the surrounding neighborhood; and,

**WHEREAS**, the North American Industry Classification System (NAICS), most current edition was adopted as a reference to the Land Use & Development Ordinance, Ordinance 2011-54 as amended, as an expansion of uses similar in nature, but not expressly provided in the Table of Permitted Uses; and,

**WHEREAS**, it is the City's intent that any proposed use that is inconsistent with the provisions of Article XXXV or uses similar in nature thereto as found in the NAICS manual shall be considered as prohibited in any B-1(a), Limited Local Business District; and,

**WHEREAS**, due notice of said proposed amendment has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on June 20, 2016; and,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
DAPHNE, ALABAMA** as follows:

**SECTION I: THIS SECTION HEREBY AMENDS THE LAND USE AND DEVELOPMENT  
ORDINANCE AS FOLLOWS:**

- A. Add B-1(a), Limited Local Business District, to Section 12-2, List of Zoning Districts and Section 14-2, Uses Permitted.
- B. Add B-1(a) to Section 12-4, Business Districts, and also renumber each subsequent subsection header accordingly.

- B-1(a), Limited Local Business District: This district is intended to allow a restricted variety of small retail stores as well as personal service establishments in or near residential neighborhoods. In general where B-1, Local Business District, is a permissible district so shall B-1(a), Limited Local Business District also be allowed. And, where B-1, Local Business District, is a prohibited district so shall B-1(a), Limited Local Business District also be prohibited.
- C. Add B-1(a) to Section 13-4, Requirements for lot area, width, coverage, density, height and other factors. Said requirements shall be the same standards as in a B-1, Local Business District.
  - D. Add B-1(a) to Section 13-6, Minimum zoning district setback requirements. Said requirements shall be the same standards as in a B-1, Local Business District.
  - E. Add B-1(a) to Section 14-17, Setbacks. Said requirements shall be the same standard as in a B-1, Local Business District.
  - F. Add B-1(a) to Section 19-9, Buffer zone requirements (a)(v) as follows: Where a business district, B-1, Local Business, B-1(a), Limited Local Business, or B-3, Professional Office, abuts any part of a residential district, a ten-foot-wide buffer zone shall be required.
  - G. Add B-1(a) to Section 33-10, Permitted signs as follows: (c) Wall-mounted signs: Each establishment in a shopping center or each business premises in B-1, Local Business, B-1(a), Limited Local Business, B-2, General Business, B-3, Professional, and C/I, Commercial/Industrial, districts may acquire an additional permit for a wall-mounted sign of a size not to exceed the lesser of three hundred fifty (350) square feet or thirty (30) percent of the surface frontal area of its building or portion of building.
  - H. Add B-1(a) to 33-11, Schedule of permitted sign requirements. Said requirements shall be the same standard as in a B-1, Local Business District.
  - I. Add B-1(a) to Section 36-16, Setbacks. Said requirements shall be the same standard as in a B-1, Local Business District.

**SECTION II: THIS SECTION HEREBY ADDS TO AND AMENDS LAND USE AND DEVELOPMENT ORDINANCE ARTICLE XXXV, PERMITTED USES AND CONDITIONS AS FOLLOWS:**

- A. Add B-1(a), Limited Local Business District, to the List of Districts in Section 35-2, List of districts and cross reference for R-4 designation.
- B. Amend Section 35-3, Permitted Uses & Conditions Table, to permit in B-1(a), Limited Local Business District, the following uses as permissible by right:

Accessory buildings and uses, when located on the same lot or parcel as the principal structure or use and customarily incidental thereto, provided the requirements in all pertinent sections of this Ordinance are met;

Apparel and accessory store; Appliance store; Art gallery or museum; Art supplies; Bakery, retail; Barber shop or beauty parlor; Book store; Camera and photographic supply store; Candy, nut and confectionery store; Catering shop or service; Churches and related accessory buildings; City Hall, police station, fire station, courthouse, federal office building and similar public building; Club or lodge, fraternal, civic, charitable or similar organization, public or private, but not including any such club, lodge or organization, the chief activity of which is a service or product customarily carried on as a business; Dairy products sales; Delicatessen; Drug Store; Dry goods or fabric store; Employee credit union office; Floor covering sales and service; Floral shop;

Fruit and produce, retail; Gift shop; Grocery store, retail; Hardware store, retail, wholesale, storage and sales; Hobby shop and supply store; Home occupation; Ice cream parlor; Interior decorating shop; Laboratory, medical or dental; Laundry, self-service; Laundry, and dry cleaning pick-up station; Leather goods or luggage goods store; Library; Loan office; Locksmith; Music store; News stand; Office buildings, general; Office buildings, professional; Office equipment and supplies, retail; Optician; Paint and wallpaper store; Photographic studio and/or processing; Shoe repair shop; Shoe store, retail; Sporting goods store; Studio for dance or music; Studio for professional work or teaching of fine arts such as photography, drama, speech and painting; Tailor shop; Toy store; Variety store.

- C. Amend Section 35-3, Permitted Uses & Conditions Table, to permit in B-1(a), Limited Local Business District, the following uses as permissible upon approval of the Planning Commission:

Ambulance/EMS service; Bank, including drive-in bank; Cafe, grill, lunch counter and drive-in restaurant, and restaurant but not including night club, bar, tavern; Clinic, dental, medical or psychiatric for humans; Dry cleaning shop, including self-service; Fix-it shop, including small appliance repair; Funeral home, mortuary or undertaking establishment; Gymnasium, commercial; Printing, blueprinting, bookbinding, photostating, lithographing and publishing establishment; Temporary uses, including revival tents, sale of Christmas trees, carnivals, sale of seasonal fruit and vegetables from roadside stands, and similar uses, for a period not to exceed four (4) weeks in any calendar year; Art sculptures, statues, monuments; Business machines sales and service; Business school or college; College or university, provided that they are located on a lot fronting on an arterial street or road and that no building is located within 100 feet of any property line; Electric power substation; need not be enclosed within a structure, but must be secured by a chain link or similar fence, or raised above ground so as to be inaccessible to unauthorized persons; requires visual screen in most districts; Clinic, convalescent or nursing home, extended care facility or sanitarium for humans; Natural preservation areas including bird and wildlife sanctuaries, nature and hiking trails; Post office; Telephone exchange; Theater, indoor.

- D. Amend Section 35-3, Permitted Uses & Conditions Table, to permit in B-1(a), Limited Local Business District the following uses as permissible upon approval of a Special Exception:

Pet shop; Picture framing and/or mirror silvering; Tourist home

All other sections, articles and/or content of the City of Daphne Land Use and Development Ordinance shall remain the same and shall be unchanged by this ordinance.

### **SECTION III: CONFLICT WITH OTHER ORDINANCES**

That any Ordinance heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance, be and is hereby replaced to the extent of such conflict.

### **SECTION IV: SEVERABILITY**

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

**SECTION V: EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 5<sup>TH</sup> DAY OF JULY, 2016.**

  
Dane Haygood, Mayor

**ATTEST:**

  
Rebecca A. Hayes, City Clerk

**REZONING REQUEST  
BN PROPERTIES, LLC.**

**14-17 SETBACKS**

| <b>MINIMUM DISTRICT REQUIREMENTS<sup>d</sup></b>                                       |                   |                  |                  |                                 |
|----------------------------------------------------------------------------------------|-------------------|------------------|------------------|---------------------------------|
| <b>Zoning Districts</b>                                                                | <b>Front Yard</b> | <b>Rear Yard</b> | <b>Side Yard</b> | <b>Corner Lot<br/>Side Yard</b> |
| R-4 <sup>c</sup> , Single Family<br><br>R-6(D or G), Duplex or<br>Garden or Patio Home | 15                | 20               | 6                | 25                              |
| R-4 <sup>c</sup> , Multi-Family                                                        | 15                | 20               | a                | 25                              |
| B-1, Local Business<br><br>B-1(a), Limited Local<br>Business                           | 10                | b                | b                | 25                              |
| B-2, General Business                                                                  | 10                | b                | b                | 25                              |
| B-3, Professional Business                                                             | 10                | b                | b                | 25                              |
| MU, Mixed Use                                                                          | 15                | e                | b                | 25                              |

- (a) When dwelling unit faces side yard, the dwelling unit shall not be less than twenty-five (25) feet from the side lot line.
- (b) None. If there is a rear alley, the setback shall be twenty-five (25) feet. When abutting a residential district it shall be not less than ten (10) feet. (See Buffer Requirements, Section 14-13, Landscape Standards).
- (c) The Planning Commission shall no longer consider zoning or rezoning amendments to an R-4 zoning district. All existing R-4, High Density Single and Multi-Family Residential Districts shall be developed in accordance with the standards provided herein. For all new requests, the following districts shall be considered in lieu of R-4: R-6(G) for all garden/patio homes developments; R-6(D) for duplexes; R-7(A) for apartments; and R-7(T) for townhouses and R-7(M) for mid-rise condominiums.
- (d) Minimum district requirements for any zoning district not specifically listed in this table shall meet the minimum standards as established in Requirement for lot area, width and setbacks in Section 13-4, Requirements For Lot Area, Width, Coverage, Density, Height and Other Factors and 13-6, Minimum Zoning District Setback Requirements, herein.
- (e) None. If there is an alley, the setback shall be twenty-five (25) feet. When abutting a residential district it shall be not less than fifteen (15) feet. (See Buffer Requirements, Section 14-13, Landscape Standards).



# APPLICATION FOR REZONING OR PRE-ZONING

Office use only: Rev. 072816

Date Submitted

Application Number:

Planning Commission Public

ZA-21-03 or PZA-

Hearing Date: 5.27.21

Legibly print or type responses below. Indicate N/A or an "X" where item is not applicable.

## SITE DATA

Site Location (Address or General Proximity to Nearest Intersection):

SOUTHEAST QUADRANT OF INTERSECTION OF  
VAN AVE. AND MAIN ST.

PPIN#(s):

31250

Gross Site Area (acreage): +/-1.21

Requested Zoning or Pre-Zoning: B1(a)

Current Zoning Designation(s):

B3

Amended Request:

Initials:

Date:

Current Land Use:

VACANT

Anticipated Land Use:

OFFICE/RETAIL

Provide Legal Description (if necessary attach separate page entitled "Legal Description for [Name of Applicant]":

SEE ATTACHED

Specify other recently approved or pending requests related to the subject property. Circle the answer(s).

Annexation Subdivision Site Plan Special Exception Variance Specify Other

## APPLICANT & AGENT INFORMATION

*\*If an LLC or LLP or Corporation, provide name and signature of Registered Member or Agent **and** provide a copy of Articles of Incorporation.*

Name of Current Owner: BN PROPERTIES, LLC

Mailing Address: P.O. BOX 1018, DAPHNE, AL 36526

Phone/Fax: 251-459-0862  
E-mail: bnavarre@boosnavarre.com

Name of Authorized Agent: DAVID SHUMER

Mailing Address: 3213 MIDTOWN PARK S, MOBILE, AL 36606

Phone/Fax: 251-689-3915  
E-mail: david@bartoneng.com

Name of Developer\*: BN PROPERTIES, LLC (MATTHEW J. BOOS)

Phone/Fax: 251-459-0862  
E-mail: bnavarre@boosnavarre.com

Other: BRAD NAVARRE & JEFFREY J. BOOS

Phone/Fax: 251-459-0862  
E-mail: mboos@boosnavarre.com

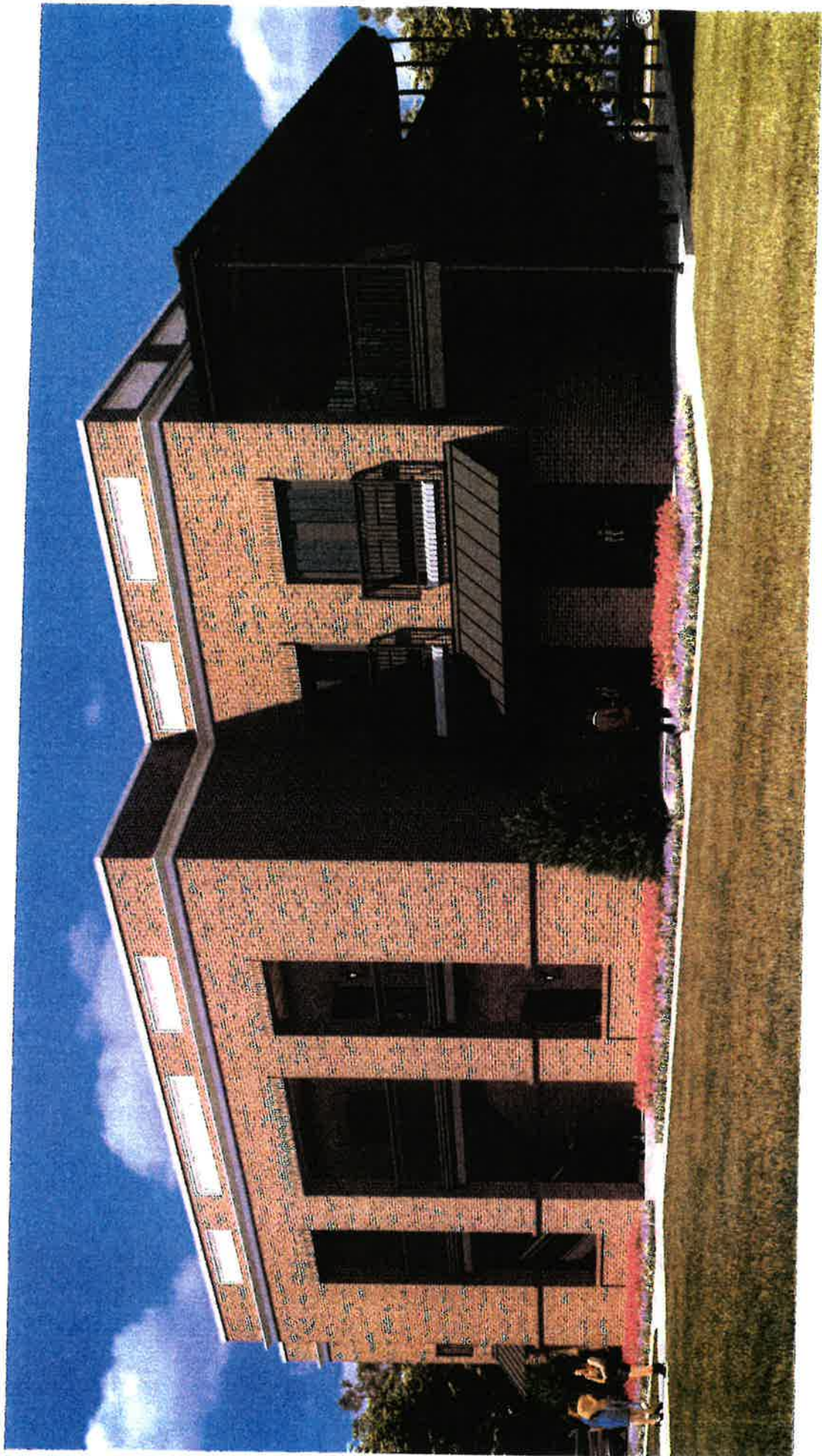
I, the applicant, certify that all of the above facts are true and correct to the best of my knowledge. I hereby agree to allow the City of Daphne to post a sign on the subject property notifying the general public of this request.

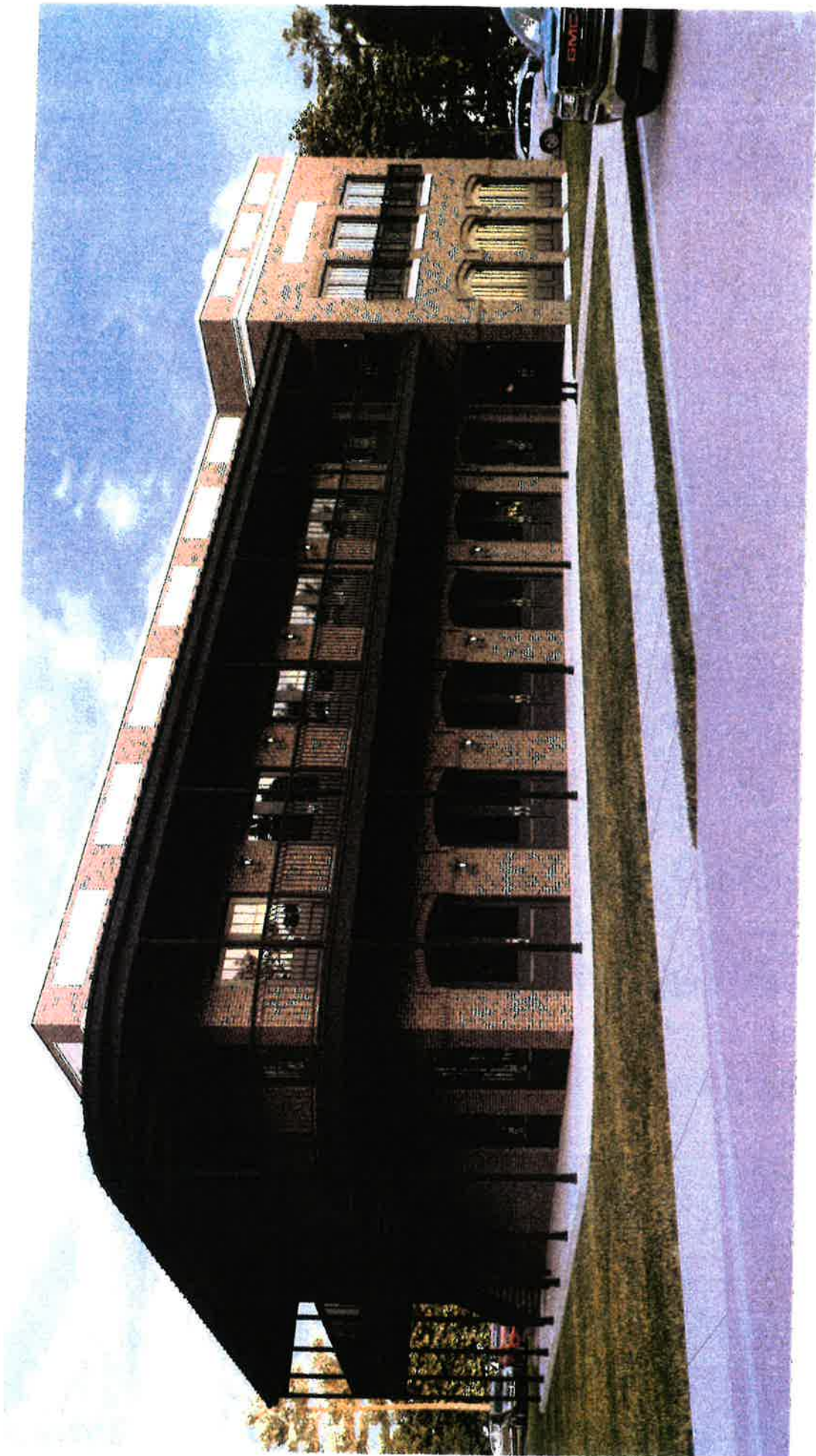
Applicant's Signature:

Date 4-27-21

Agent's Signature:

Date 04-23-2021





## EXHIBIT "A"

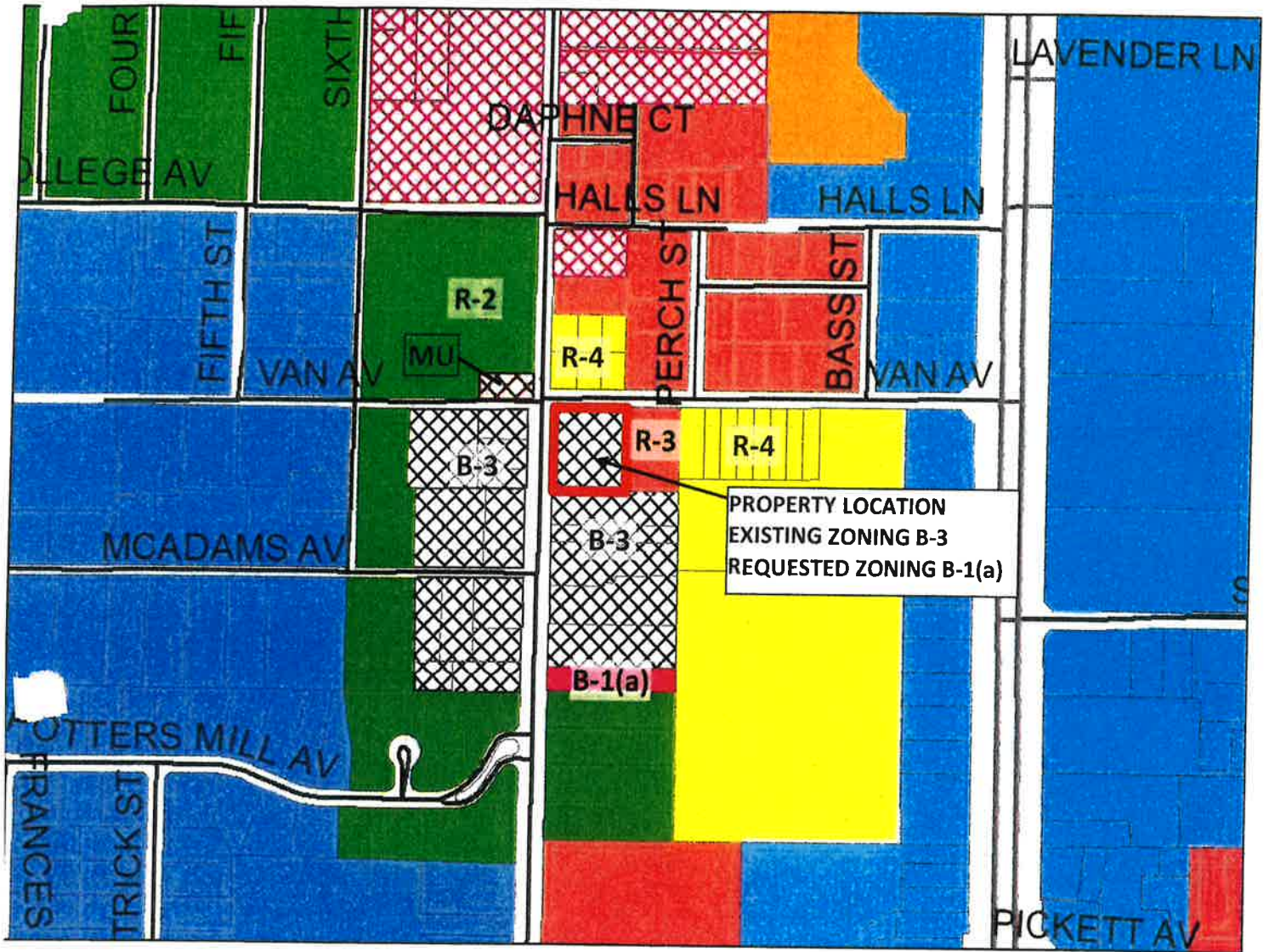
BOUNDARY DESCRIPTION FOR BN PROPERTIES, LLC  
(DAVID SHUMER AS AGENT)

COMMENCE AT THE NORTHWEST OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 00°16'43" WEST, A DISTANCE OF 2226.76 FEET TO A POINT; THENCE RUN NORTH 89°40'15" EAST, A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF MAIN STREET AND THE SOUTH RIGHT-OF-WAY OF VAN AVENUE FOR THE POINT OF BEGINNING: CONTINUE THENCE NORTH 89°40'15" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID VAN AVENUE, A DISTANCE OF 219.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) IN AN OLD CHAIN-LINK FENCE; THENCE RUN SOUTH 00°17'58" WEST, ALONG AND WITH SAID CHAIN-LINK FENCE, A DISTANCE OF 240.63 FEET TO A 1" OPEN END IRON PIPE AT THE END OF SAID CHAIN-LINK FENCE; THENCE RUN SOUTH 89°53'55" WEST, A DISTANCE OF 218.90 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) ON THE EAST RIGHT-OF-WAY OF SAID MAIN STREET; THENCE RUN NORTH 00°16'43" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID MAIN STREET, A DISTANCE OF 239.76 FEET TO THE POINT OF BEGINNING.

TRACT CONTAINS 1.21 ACRES, MORE OR LESS, AND LIES IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST

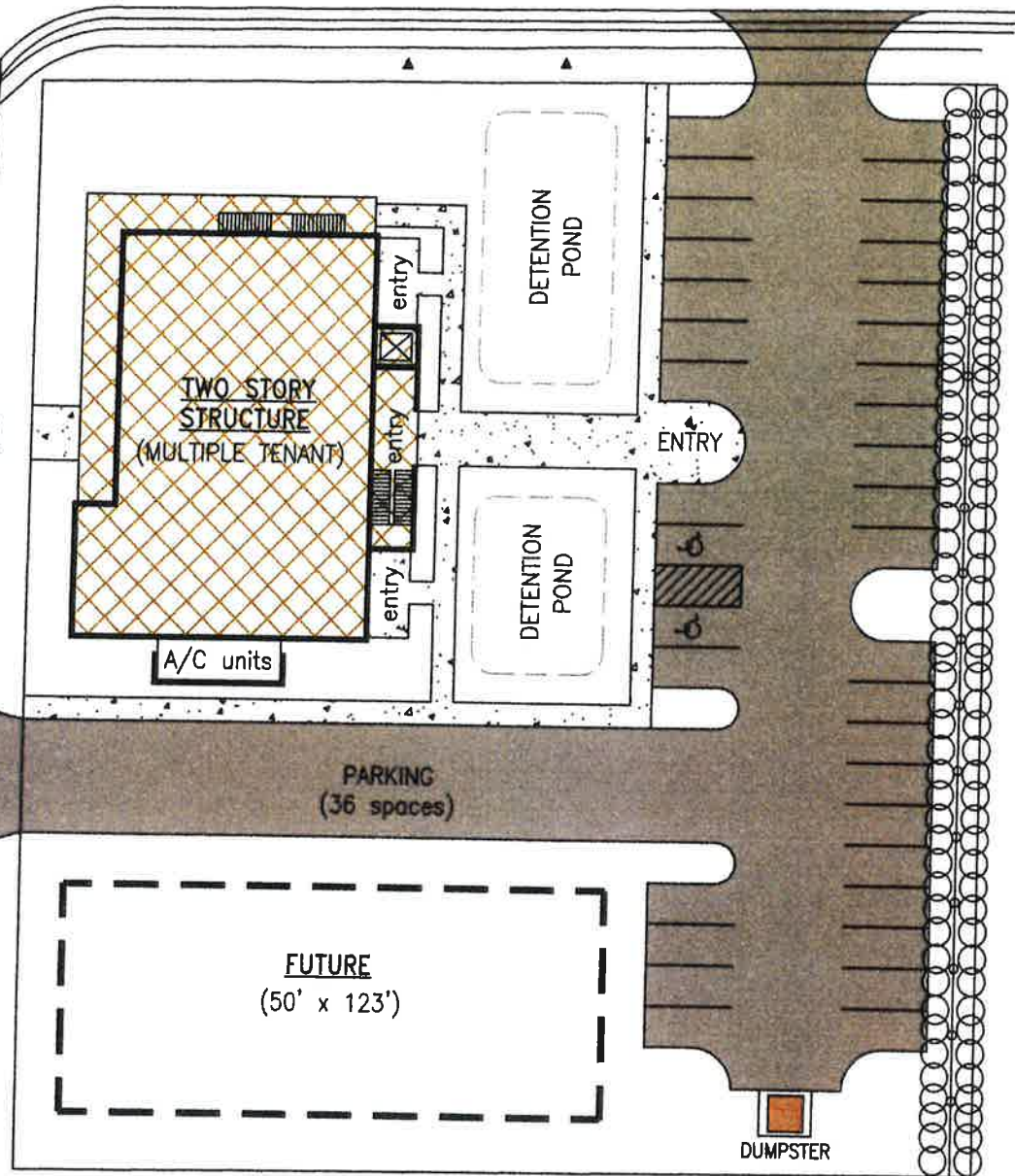


LOCATION MAP/CURRENT ZONING



MAIN STREET

VAN AVENUE



# SITE PLAN STUDY SCHEME 10

0 20 40 80  
SCALE: 1" = 40'

MARCH 30, 2021

CUMMINGS  
ARCHITECTURE  
CORP

## AREA CALCULATION

|               |           |
|---------------|-----------|
| GROUND FLOOR: | 5,580 sf  |
| SECOND FLOOR: | 5,580 sf  |
| TOTAL:        | 11,160 sf |

ROBIN LEJEUNE  
MAYOR

ADRIENNE D. JONES, AICP,  
COMMUNITY DEVELOPMENT  
DIRECTOR/ZONING ADMINISTRATOR



CITY COUNCIL  
TOMMIE CONAWAY  
DISTRICT 1  
STEVE OLEN  
DISTRICT 2  
JOEL COLEMAN  
DISTRICT 3  
DOUG GOODLIN  
DISTRICT 4  
RON SCOTT  
DISTRICT 5  
BENJAMIN HUGHES  
DISTRICT 6  
ANGIE PHILLIPS  
DISTRICT 7

March 14, 2021

## NOTICE OF PUBLIC HEARING

A petition for REZONING will be considered by the Daphne Planning Commission. BN Properties, L.L.C. proposes to rezone 1.21 acres +/- located southeast of Van Avenue and Main Street from B-3, Professional Business, to B-1(a), Limited Local Business.

Said petition will also be considered by the Daphne City Council pursuant to Alabama Code 11-52-85. The application is available for review at City Hall in the Department of Community Development, 1705 Main Street, during regular business hours. An informal site preview meeting will be held on Wednesday, May 19, 2021 at 8:30 a.m. in the Council Chambers of City Hall. The public is invited to attend: limited participation may be allowed by the chairman.

The public hearing will be held by the Daphne Planning Commission on Thursday, May 27, 2021 at 5:00 p.m. in the Council Chambers of City Hall. You may submit your views in writing, in person, or by representation.

Sincerely,  
Adrienne D. Jones, AICP,  
Director of Community Development

BN Properties, L.L.C. Zoning Amendment

## **ADJACENT PROPERTY OWNERS LIST**

### **EAST SIDE PROPERTY OWNER**

05-43-04-20-2-000-089.000  
JOHATHAN L & STEFAN TILLMAN  
24917 PLANTERS DR  
DAPHNE, AL 36526

### **SOUTH SIDE PROPERTY OWNER**

05-43-04-20-2-000-090.001  
1300 MAIN STREET, LLC  
1300 MAIN ST  
DAPHNE, AL 36526

### **NORTH SIDE PROPERTY OWNERS**

05-43-04-20-2-000-073.003  
VIRA AND ASSOCIATES, LLC  
c/o LISA K VIRA  
205 W MAIN ST, STE 207  
CARRBORO, NC 27510

05-43-04-20-2-000-073.004  
05-43-04-20-2-000-073.005  
GUY & JILL LOTT  
710 DELCHASE CT  
DAPHNE, AL 36526

05-43-04-20-2-000-074.000  
TODD UNDERWOOD & JUANITA  
STARLING  
807 VAN AVE  
DAPHNE, AL 36526

### **WEST SIDE PROPERTY OWNERS**

05-43-04-41-0-005-128.000  
GLASS PROPERTIES, LLC  
1303 MAIN ST  
DAPHNE, AL 36526

05-43-04-41-0-005-127.001  
OLDE TOWN PROPERTIES, LLC  
101 PINETOP CIR E  
FAIRHOPE, AL 36532

05-43-04-41-0-005-127.000  
SWEETWATER PROPERTIES, LLC  
P.O. BOX 241  
FAIRHOPE, AL 36533

05-43-04-41-0-005-125.000  
PENSCO TRUST COMPANY  
P.O. BOX 1342  
FAIRHOPE, AL 36533

05-43-04-41-0-005-124.000  
4PM PROPERTIES, LLC  
19267 SCENIC HWY 98  
FAIRHOPE, AL 36532

### **PROPERTY OWNER**

05-43-04-20-2-000-090.000  
BN PROPERTIES, LLC  
2510 MAIN ST  
DAPHNE, AL 36526

### **OWNERS AGENT**

DAVID SHUMER  
BARTON & SHUMER ENGINEERING, LLC  
3213 MIDTOWN PARK S  
MOBILE, AL 36606

# Opposition Letter

Ms. Jones:

Re: Proposed Rezoning at Main and Van

As a person residing in the community of Van and Main Street-Daphne, I am writing to express my opposition to the rezoning and development of property at the corner of Main and Van Avenue. The proposed use by BN Properties is inconsistent with the broader customs of the community as a residential neighborhood. My opposition is also based on these potential/probable negative effects: • The loss of neighborhood and community character • A decrease in the market value of my home • Increased traffic congestion adding to an already dangerous situation whereby Van (narrow street) is already heavily used as a thruway to 98 and Main Street. The proposed entrance and exit way on Van would be dangerous and is likely to increase the potential for serious accidents. • The destruction of green space and trees currently on the proposed site as well as driving animals out of the area. • This type of building complex does not fit into the single-family neighborhood • Once the property is rezoned, the developer can change the original concept to something else.

Please DO NOT rezone this site to B-1(a). Once the property is rezoned, a developer can change the original concept within the approved zoning.

Thank you for hearing my opposition, Cheryl Amuzu  
909 Van Avenue  
Daphne, AL  
Tel: 708.267.0032

## **EXHIBIT "A"**

BOUNDARY DESCRIPTION FOR BN PROPERTIES, LLC  
(DAVID SHUMER AS AGENT)

COMMENCE AT THE NORTHWEST OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 00°16'43" WEST, A DISTANCE OF 2226.76 FEET TO A POINT; THENCE RUN NORTH 89°40'15" EAST, A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF MAIN STREET AND THE SOUTH RIGHT-OF-WAY OF VAN AVENUE FOR THE POINT OF BEGINNING: CONTINUE THENCE NORTH 89°40'15" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID VAN AVENUE, A DISTANCE OF 219.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) IN AN OLD CHAIN-LINK FENCE; THENCE RUN SOUTH 00°17'58" WEST, ALONG AND WITH SAID CHAIN-LINK FENCE, A DISTANCE OF 240.63 FEET TO A 1" OPEN END IRON PIPE AT THE END OF SAID CHAIN-LINK FENCE; THENCE RUN SOUTH 89°53'55" WEST, A DISTANCE OF 218.90 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) ON THE EAST RIGHT-OF-WAY OF SAID MAIN STREET; THENCE RUN NORTH 00°16'43" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID MAIN STREET, A DISTANCE OF 239.76 FEET TO THE POINT OF BEGINNING.

TRACT CONTAINS 1.21 ACRES, MORE OR LESS, AND LIES IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST

**July 6, 2021  
CITY COUNCIL MEETING  
REGULAR BUSINESS MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:00 P.M.**

**1. CALL TO ORDER:**

There being a quorum present Council President Doug Goodlin called the meeting to order at 6:00pm.

**2. ROLL CALL:**

**COUNCIL MEMBERS PRESENT:** Tommie Conaway, Angie Phillips, Benjamin Hughes, Ron Scott, Steve Olen and Doug Goodlin.

**COUNCIL MEMBERS ABSENT:** Joel Coleman

**Also Present:** Candace Antinarella, City Clerk; Mayor Robin LeJeune; Jay Ross, City Attorney; Troy Strunk, City Development; Adrienne Jones, Planning; Battalion Chief Hanak, Fire; Chief David Carpenter, Police; Ronnie Huskey, Public Works; Kelli Reid, Finance; Ange Baggett, Marketing; Tonja Young, Library; and Charlie McDavid, Recreation.

**INVOCATION/PLEDGE OF ALLEGIANCE**

Invocation was given by Pastor Greg Warren, Destiny Church.

**PUBLIC PARTICIPATION:** Opened at 6:02pm.

Bill and Sandy Robinson, 1500 Main Street, shared about the upcoming Community Spirit Day and invited the Council and citizens.

Public participation closed at 6:06pm.

**3. APPROVAL OF MINUTES:**

The minutes from the June 21, 2021 regular meeting were approved.

**4. REPORT OF STANDING COMMITTEES:**

**A. FINANCE COMMITTEE**

**MOTION by Councilwoman Conaway to provide a one-time premium pay adjustment to current full-time City employees in the amount of \$1,500 and to current part-time City employees in the amount of \$750, who were employed by the City from March 13, 2020, for work performed at any time since the start of the COVID-19 public health emergency and for which they have not yet received additional and/or adequate compensation for their service during the pandemic. These workers are deemed essential workers due to their critical and essential service in responding to the COVID-19 pandemic and the heightened risk to these workers who had to be physically present at the jobsite, and are thus eligible for premium pay under the American Rescue Plan Act. Seconded by Councilman Hughes**  
**MOTION CARRIED UNANIMOUSLY.**

Councilwoman Conaway shared the Treasurer's Report for May 2021: Unrestricted Fund Balance - \$20,182,606; Total Cash Balance - \$31,417,031; Sales Tax for April 2021 - \$2,099,304.12; Lodging Tax for April 2021 - \$140,039.73. She said the minutes from the June 21<sup>st</sup> meeting were in the packet.

**B. BUILDINGS & PROPERTY COMMITTEE**

Councilwoman Phillips said the next meeting is July 12, 2021 at 5:15pm.

**C. PUBLIC SAFETY COMMITTEE**

Councilman Hughes said the next meeting is July 12<sup>th</sup> at 4:30pm and the minutes from the June 14, 2021 meeting are in the packet.

**July 6, 2021  
CITY COUNCIL MEETING  
REGULAR BUSINESS MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:00 P.M.**

**D. CODE ENFORCEMENT/ORDINANCE COMMITTEE**

Councilman Olen said the next meeting is August 2, 2021 at 4:00pm.

**E. PUBLIC WORKS COMMITTEE**

Councilman Coleman was absent.

**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:**

**A. Board of Zoning Adjustments**

Adrienne Jones said there will be no meeting in August.

**B. Downtown Redevelopment Authority**

Councilwoman Conaway said the next meeting is July 15<sup>th</sup> at 5:30pm.

**C. Industrial Development Board**

Councilman Scott said the next meeting is July 13<sup>th</sup> at 11:30am.

**D. Library Board**

Councilwoman Phillips said the next meeting is July 8<sup>th</sup> at 4:30pm at the Library.

**E. Planning Commission**

Councilman Olen said the next meeting is July 22<sup>nd</sup> at 5:00pm.

**F. Recreation Board**

Councilman Hughes said the next meeting is August 11<sup>th</sup> at 6:00pm.

**G. Utility Board**

Councilman Goodlin said the next meeting is July 20<sup>th</sup> at 5:00pm.

**MOTION by Councilman Scott to reappoint Billy Mayhand to the Utility Board. Seconded by  
Councilwoman Phillips.**

**MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to reappoint Selena Vaughn to the Utility Board. Seconded by  
Councilwoman Conaway.**

**MOTION CARRIED UNANIMOUSLY.**

**6. PUBLIC PARTICIPATION:**

Public Participation opened at 6:13pm. No one came forward to speak.

Public Participation closed at 6:14pm.

**7. MAYOR'S REPORT:**

Mayor LeJeune encouraged everyone to attend the Community Spirit Day. He said the City had a great firework display last Sunday on July 4<sup>th</sup>. He reminded everyone that kittens are half off adoption costs on Tuesdays and Wednesdays at the Animal Shelter.

**July 6, 2021  
CITY COUNCIL MEETING  
REGULAR BUSINESS MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:00 P.M.**

**8. CITY ATTORNEY REPORT:**

City Attorney said there were two topics of discussion for an Executive Session to last no more than fifteen minutes. He said there is a topic of litigation as well as the buying and selling of real property.

**9. DEPARTMENT HEAD COMMENTS:**

Chief Carpenter, Police, said the Animal Shelter is adopting out more animals than are being transferred. He let the Council know that Tracy Bishop's husband passed away.

Ange Baggett, Marketing, said the Tourism Committee met and hotel bookings have increased. She said the Civic Center will have a new digital kiosk on the side of the building and the Senior Center has been very busy.

Tonja Young, Library, said a grant of \$38,250 was awarded to purchase new computers and software and reminded everyone computer classes are starting back up.

Vicki Hinman, Human Resources, shared that open enrollment for employee benefits will be in August.

Ronnie Huskey, Public Works, said the bay access areas are back open as well as updated the Council on current projects. He said the volunteer fire station building is gone.

Kelli Reid, Finance, said the back to school tax free holidays are July 16-18<sup>th</sup>.

**10. CITY CLERK'S REPORT:**

**MOTION by Councilman Scott to recommend to increase the hourly rate paid to attorneys at Adams and Reese, LLP to \$250/hour beginning July 1, 2021. Seconded by Councilman Hughes.  
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilwoman Conaway to approve the LSK Lupus Walk on March 19, 2022 from 8:00am – 12:00pm. Seconded by Councilman Olen.  
MOTION CARRIED UNANIMOUSLY.**

**11. RESOLUTIONS & ORDINANCES:**

**A. RESOLUTIONS:**

**2021-21 – Bid Award: 21-G-CCTV Pipeline Inspection Camera – Sansom Equipment Company**

**2021-22 – Acceptance of Roads and Rights-of-Way – Diamante Subdivision, Phase 3**

**MOTION by Councilman Scott to waive the reading of Resolutions 2021-21 and 2021-22. Seconded by Councilman Olen.  
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Resolution 2021-21. Seconded by Councilwoman Phillips.  
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Resolution 2021-22. Seconded by Councilman Hughes.  
Councilman Scott asked Troy Strunk to provide a total of roads the City is responsible for.  
MOTION CARRIED UNANIMOUSLY.**

July 6, 2021  
CITY COUNCIL MEETING  
REGULAR BUSINESS MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:00 P.M.

**ORDINANCES:**

**B. 2<sup>nd</sup> READ ORDINANCES:**

**2021-29**– Re-Zone Property Located Southeast of Creekbank Drive and Pollard Road

**2021-30** – Annex Property Contiguous to the Corporate Limits of the City of Daphne – Northeast Corner of Pollard Road and Well Road

**2021-31** – Pre-Zone Property Located at the Northeast Corner of Pollard Road and Well Road

**MOTION by Councilwoman Phillips to waive the reading of Ordinances 2021-29, 2021-30 and 2021-31.  
Seconded by Councilman Scott.**

**MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilwoman Phillips to adopt Ordinance 2021-29. Seconded by Councilman Olen.  
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Ordinance 2021-30. Seconded by Councilwoman Phillips.**

**MOTION by Councilman Olen to amend the motion to include in the ordinance that the annexation is contingent upon the contribution of \$50,000 from the developer for future improvements at the corner of Pollard Road and Well Road. Seconded by Councilman Hughes. Discussion amongst Council and staff in regards to making a change to the ordinance.**

**MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Ordinance 2021-31. Seconded by Councilwoman Conaway.  
MOTION CARRIED UNANIMOUSLY.**

**C. 1<sup>ST</sup> READ ORDINANCES:**

**2021-32** – Appropriation – W.O. Lott Park Tennis Facility Equipment and Furnishings - \$120,000

**2021-33** – Appropriation – City of Daphne 2020-2024 Comprehensive Master Plan - \$90,960

**2021-34** – Additional Appropriation – Pipe Crawler Camera - \$53,935

**2021-35** – Appropriation – Additional Temporary Workers Expense - \$76,000

**12. COUNCIL COMMENTS:**

Councilwoman Conaway said the next Education Advisory Committee meeting will be on July 12, 2021 at 11:00am.

Councilman Olen echoed the comments of Bill Robinson and Mayor LeJeune and invited everyone to the Community Spirit Day.

Councilman Scott thanked everyone for coming to the firework display.

**July 6, 2021  
CITY COUNCIL MEETING  
REGULAR BUSINESS MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:00 P.M.**

Councilman Hughes congratulated Matthew Bray.

Councilwoman Phillips echoed the previous comments.

City Attorney certified that the Council should enter into an Executive Session concerning matters of buying and selling of real property, a matter of pending litigation and one personnel matter. He said it should take no longer than fifteen minutes and the Council should have no reason to vote.

**MOTION by Councilman Scott to enter into Executive Session. Seconded by Councilwoman Phillips.**

**City Clerk called roll.**

|                                  |               |
|----------------------------------|---------------|
| <b>Councilwoman Conaway</b>      | <b>Aye</b>    |
| <b>Councilman Olen</b>           | <b>Aye</b>    |
| <b>Councilman Coleman</b>        | <b>Absent</b> |
| <b>Councilman Scott</b>          | <b>Aye</b>    |
| <b>Councilman Hughes</b>         | <b>Aye</b>    |
| <b>Councilwoman Phillips</b>     | <b>Aye</b>    |
| <b>Council President Goodlin</b> | <b>Aye</b>    |

**MOTION CARRIED UNANIMOUSLY.**

**13. ADJOURN:**

THERE BEING NO FURTHER BUSINESS TO DISCUSS, COUNCIL ADJOURNED INTO EXECUTIVE SESSION AT 6:38 PM.

Respectfully submitted by,

Certification of Presiding Officer,

\_\_\_\_\_  
Candace G. Antinarella, CMC, City Clerk

\_\_\_\_\_  
Doug Goodlin, Council President

## **BUILDINGS & PROPERTY COMMITTEE MEETING**

**June 14, 2021, 5:15 p.m.**

**City Hall, Council Chamber**

**1705 Main Street, Daphne, AL 36526**

### **MEETING MINUTES**

**MEMBERS PRESENT:** Councilwoman Phillips, Councilman Scott, Councilman Hughes, Councilman Olen, Councilman Coleman and Councilwoman Conaway

**MEMBERS ABSENT:** Councilman Goodlin

**ALSO PRESENT:** Candace Antinarella, City Clerk; Mayor LeJeune; Ronnie Huskey, Public Works; Ange Baggett, Marketing; Troy Strunk, City Development; and Kelli Reid, Finance.

#### **1) CALL MEETING TO ORDER / ROLL CALL**

There being a quorum present Councilwoman Phillips called the meeting to order at 5:04p.m.

#### **2) PUBLIC PARTICIPATION**

#### **3) SURPLUS PROPERTY**

#### **4) BUILDING INSPECTION REPORT**

Eric Butler reviewed the building report. He shared the Building Department is fully staffed.

#### **5) LIBRARY REPORT**

There was no report.

#### **6) CIVIC CENTER & BAYFRONT PAVILION REPORT**

Ange Baggett, Civic Center, reviewed the report. She reminded everyone that there is a construction celebration for an all-inclusive park with Kiwanis on Monday, June 21<sup>st</sup> at 9:00am.

#### **7) RECREATION REPORT**

Charlie McDavid gave the recreation report. He brought up the tennis building appropriation.

|                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>MOTION by Councilman Scott to recommend to Finance to appropriate an additional \$120,000 for the Tennis Facility. Seconded by Councilwoman Conaway.</b></p> <p><b>MOTION CARRIED UNANIMOUSLY.</b></p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### **8) VILLAGE POINT BAYFRONT PROPERTIES REPORT**

Selena Vaughn thanked the Council for all the bayfront property. Ronnie Huskey, Public Works, updated on McMillan Bluff and May Day Park. Mayor LeJeune said they received zero bids for the Bayfront Streetscape. Councilman Scott asked the City Attorney to provide a written document explaining options for bids.

#### **9) FACILITIES REPORT**

Ronnie Huskey, Public Works, gave the Facilities Report. He said the department is behind on about 80 work orders. Councilman Hughes said there is moisture issues at Fire Station 3.

#### **10) OLD BUSINESS**

**11) NEW BUSINESS**

Mayor LeJeune discussed the animal shelter contract presented by Design Services. Councilman Olen said he recommended the company.

**MOTION by Councilman Scott to recommend to Council to authorize the Mayor to enter into an agreement with Animal Arts Design Studios, Inc. for the design of an animal shelter. Seconded by Councilman Olen.**

**MOTION CARRIED UNANIMOUSLY.**

**12) ANY OTHER BUILDINGS AND PROPERTY BUSINESS**

**13) NEXT MEETING**

The next meeting is scheduled for Monday, July 12, 2021 at 5:15 p.m.

**14) ADJOURN**

There being no further business to discuss, the Council adjourned at 5:58pm.



## CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES

June 7, 2021 - 4:30 P.M.

DAPHNE CITY HALL

### I. CALL TO ORDER

### II. COMMITTEE MEMBERS PRESENT:

Councilwoman Tommie Conaway; Councilwoman Angie Phillips; Councilman Doug Goodlin; Councilman Steve Olen; Councilman Joel Coleman; Councilman Ron Scott; Councilman Benjamin Hughes; Mayor LeJeune

**Others Present:** Ronnie Huskey, Public Works Director; William Eringman, Public Works Deputy Director; Kelli Kichler-Reid, Finance Director; Troy Strunk, Executive Director, City Development; Candace Antinarella, City Clerk; Amanda Thompson, GMC; John Peterson, Mott MacDonald; Lee Rambo, Jade

### III. PUBLIC PARTICIPATION & CORRESPONDENCE

A. Correspondence and Public Participation—

### IV. OLD BUSINESS

A. Approval of Minutes – May 3, 2021—Minutes were reviewed and approved by the committee.

### V. NEW BUSINESS

A. Mowing Departmental Funding Request—Ronnie Huskey informed the committee that one of the issues facing Public Works during the pandemic was the lack of availability of inmates. He stated in order for the Mowing Department to not fall behind, temporary employees have been used to assist with the daily tasks. Mr. Huskey stated Public Works Mowing Department is now in the red when it comes to available funds for temporary employees. He stated that the Mowing Department has been approved to be receiving inmates from the Loxley Work Release Program on July 5, 2021. He said in order for the Mowing Department to continue using temporary employees through the month of June, we will be in the red roughly \$56,423.12. Mr. Huskey stated the cost per temporary employee per 40 hour week is \$784.00 vs cost of work release employee per week is \$110.00. He stated that after June, Loxley Work Release inmates should be available with 12 weeks remaining for seasonal maintenance—three (3) temporary employees at a remaining cost of \$28,224, 10 work release employees at \$13,200 for a total cost of \$41,424.00. He stated the remaining work release budget is \$22,000 and the total needed for inmate services is \$19,424—end of June funding is \$56,500 plus additional funding is \$19,500 for a total needed of \$76,000.00. Mr. Huskey stated the department will fall short for preventative maintenance if we do not receive the additional funds. He went on to state that last year the Mowing Department made it work with what they had, but the lack of staff put them significantly behind for preventative maintenance. **Motion by Tommie Conaway; seconded by Ron Scott** to forward the Mowing Departmental Funding Request of \$76,000.00 to Finance. All in favor. Motion carried.

B. Public Works Newsletter—Ronnie Huskey informed the committee of the monthly internal Public Works newsletter—copies distributed to the committee. Councilman Scott requested the information be forwarded to the media—Mayor LeJeune stated the Mayor's office is working on a city-wide Daphne newsletter for residents which will include Public Works projects, updates, etc. Councilman Coleman asked if the internal newsletter will go into more detail—Mr. Huskey stated yes. He went on to state the newsletter will assist the Public Works staff in planning out their work loads, etc. which will assist in developing them as leaders in the organization.

C. Employee Salary Request—Ronnie Huskey stated he did not include a document in the packet—

## **CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES**

**June 7, 2021 - 4:30 P.M.**

**DAPHNE CITY HALL**

new to the public knowledge of what information is available. Mr. Huskey stated he has noticed areas within his department that need to be improved on/developed—he had an issue with salaries—one being an employee who was promoted to a Supervisor role. Mr. Huskey said the individual had very little change in his salary for his new position. He stated he wanted to properly compensate the individual once annual evaluations were completed and that some individuals who are a direct report are at a larger salary than the Supervisor—which he does not feel is fair due to the individual’s skill set, etc. Mr. Huskey stated the Mayor is only allowed to approve a one-step increase and any additional would have to be approved by City Council. Mr. Huskey stated the individual received a one-step increase, but in order to get the individual where he needs to be, an additional three-step increase is needed for the employee. Mayor LeJeune said he asked Mr. Huskey to give recommendations for his staff along with a one to three step merit increase for individuals. Mayor LeJeune said he worked with Kelli Kichler-Reid for the additional funds; however upon further review with Vickie Hinman, it was found that the policy states that the Mayor can only approve a one-step merit increase—the city was not able to give a two-step, three-step, etc. merit increase for certain individuals (policy under review for next year). Mayor LeJeune stated he will be coming forward in Ordinance Committee for future leeway on the ability to approve additional merit increase increments—he did not realize the ability was not there until afterwards. Councilman Scott wanted to clarify if the individual needed two more steps to get to three total or needed an additional three steps in addition to the already received one-step increase—Mr. Huskey clarified the individual needs an additional three-step increase on top of the already one-step increase, which shows how far behind we are in salaries. Councilman Coleman asked how long the individual who is making more than the Supervisor has been with the City of Daphne. Mr. Huskey stated it was two (2) individuals—one person has been with the city for more than 20 years and the other person is 13 years with the city. Councilman Coleman asked why the person with the years of experience hasn’t been promoted to Supervisor—Mr. Huskey stated it was his understanding due to lack of skills in order to fulfill the position. He stated if the decision had to be made today, he would be in agreement as well. Mr. Huskey stated the individual who would be receiving the additional three-step merit increase is one of his top Supervisors and the person has a lot of room to grow within the organization. Mayor LeJeune stated that it was his understanding there will be an Executive Session later in the evening where the name of the staff member can be stated to City Council. Councilman Coleman stated he does not necessarily need to know the person’s name, he was just curious as to why a Supervisor would be paid less than his direct reports—Mayor LeJeune stated you would be surprised! Councilman Scott and Councilman Olen both reiterated that the city is currently conducting a compensation evaluation. Mr. Huskey stated he was waiting on the final report for the compensation evaluation study and it’s not just the salaries—Mr. Huskey stated with your position and what you are requested to fulfill in your job description, there is also a cap within that salary and once you hit that cap, then your merits go away unless there is not a glass ceiling and you have an opportunity to move up and at that point all you get is your COLA. Mr. Huskey stated, based on his knowledge, Public Works salaries are all over the place and with asking for the additional merit increase, he is trying to get somewhat back in line with salaries until the compensation study is complete. Mr. Huskey said from what he could gather, the individual was promoted, but the compensation aspect was never fully addressed. Kelli Kichler-Reid addressed the committee (inaudible). Councilman Hughes agreed with Councilman Scott and stated they’re putting a band aid on the big issue and we’re already worried about retention of employees and that this situation is not isolated to just this one employee. He stated we have many talented employees within the city that are struggling with the same issue—not a lot keeping the people here, especially with pay,

## CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES

June 7, 2021 - 4:30 P.M.

DAPHNE CITY HALL

except that they love the City of Daphne. Councilman Hughes is concerned that other employees will hear about this and if we start doing this prematurely it could upset other employees where we could be in a retention situation. Councilman Goodlin asked Mayor LeJeune how many instances were there where Director's came back asking for additional merit increases for their staff? Mayor LeJeune stated that Ronnie Huskey's request was the only one and that it was stated to him that we have got to do something for the employee—all other Directors understood and stated they would wait for the compensation study/plan from HR. Councilman Goodlin asked if Mr. Huskey requested the additional merit increases for his staff member after doing more research on the issue—Mayor LeJeune said yes. Councilman Scott asked when would the compensation study be completed—Mayor LeJeune stated August 2021—Supervisors are completing their portion of JAT reviews this week with the goal that the study will be done by end of the fiscal year to have for the new budget. Councilman Coleman said Mr. Huskey presented the request appropriately with the right answer to come forward with the request for the committee. Mr. Huskey said there is no redundancy within the department—he has asked each Supervisor to choose someone on their staff to start developing to move up in the department—only way the Supervisor can be promoted is to have someone to fill their vacancy. He stated there seems to be no opportunities for redundancy within this specific department—most of the staff, by no fault of their own, work their 40 hours a week/25 years with the city and that's it. ***Motion by Ron Scott; seconded by Tommie Conaway*** to forward the Employee Salary Request for an unspecified Public Works Supervisor for an additional three-step merit increase to Finance. All in favor. Motion carried.

### VI. PROJECT ENGINEER'S REPORTS

- A. Mott MacDonald – Parks Restrooms (plans for park restrooms—Sports Complex entrance and Central Park—are underway. We are currently seeking approval of revised floor plans to fully develop plans for bidding), Replacement Building at Public Works (the 80'x100' metal building to replace the recycle building at the Public Works facility is beginning. MM is developing the proposal for design services and contracting agreement. We expect work to commence upon their approval). Councilman Goodlin asked if both restrooms were going to be the same size/layout. John Peterson stated a large restroom facility would be located at the Daphne Sports Complex and a smaller version at Daphne Central Park. Councilman Coleman asked Mr. Huskey if he was worried about vandalism taking place at the proposed location at Daphne Sports Complex. Mr. Huskey stated he is trying to work around the new splash pad and playground scheduled to be constructed in the upcoming months. Councilman Coleman asked if the project would be completed in-house—Mr. Huskey stated no it would most likely be bid out and that Mayor LeJeune and Troy Strunk are working on a standard version of the restrooms for future projects in the parks—he reiterated the Daphne Sports Complex restrooms will be much larger than the standard version. Mayor LeJeune stated they want to design the restrooms and with Mr. Hughes create a plan for the area along with fencing for the area, possible sidewalk connections, etc. Troy Strunk stated the playground representative is looking to start on the project in the upcoming weeks, the labor for the splash pad will have to go out for public bid and he is working with Kelli Kichler-Reid for the PO for the materials on the splash pad—he would like to have the bathroom built, budgeted and sent out for bid in order to come back to City Council for appropriations for the bathroom in addition to the fencing. Councilman Scott asked about the signage at Central Park and Gator Alley Boardwalk—signs not lasting as long as was expected at the locations. Ronnie Huskey stated his staff is investigating materials that can withstand the elements and remove the panels behind the lettering, but salvage the remainder of the sign.

## CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES

June 7, 2021 - 4:30 P.M.

DAPHNE CITY HALL

- B. GMC – Pollard Road TAP Grant (contractor to complete final items, and then we’ll schedule a final inspection with punch list), City Hall Parking Lot (GMC has provided a punch list to the city, but a final inspection is needed), Pollard Road and Hwy 64 Intersection Improvements (waiting on city resolution to provide to ALDOT), Daphne Recycling Facility (in the permitting process); Ridgewood Drive Sidewalks (in design); Timber Creek Sidewalks (survey field work is complete and should receive CAD file of survey week of 6/7-6/11). In regard to the Pollard Rd TAP Grant, Councilwoman Conaway wanted to clarify if the trees being removed at the second section Amanda Thompson spoke about are on residential property (not the Baldwin Bone and Joint location)—Amanda Thompson stated the location of the trees are on the ROW. Councilman Scott stated there is a requirement that commercial locations have sidewalks in front of developments—Hughes Funeral Home received a variance along with Baldwin Bone & Joint—Councilman Goodlin stated they were not there at the time—Councilman Scott does not want to give any more variances to anyone ever again. He stated he has voted for some of those in the past, but if you look around there are locations throughout the city where one would not think sidewalks would go and now the city is paying for it. Councilman Scott asked that his request be forwarded to the Planning Commission. Councilman Olen stated he has witnessed Adrienne Jones and Troy Strunk be advocates for no variances and it looks like most of the Planning Commission supports no variances—Councilman Olen included as well. Councilman Goodlin stated he and Councilwoman Conaway are both interested in Phase II. Councilman Goodlin asked Amanda Thompson if we continue with Phase II, is the current contractor someone you would consider if they bid again? Ms. Thompson stated yes and she has had no issues. She asked for BJ Eringman’s input as well (inaudible). Amanda Thompson stated the contractor wants to make the City Council happy with the project and will do what is expected of them. Councilman Goodlin asked for the timeline of the City Hall Parking lot project. Ms. Thompson forwarded the question to Ronnie Huskey—Mayor LeJeune stated they should be mobilizing sometime this week that way they can get the punch list completed on the new parking lot—within the next two (2) weeks they will start on the project with a total timeline of three (3) weeks. Councilman Coleman asked for an update on the Daphne Recycling Facility—Councilman Goodlin stated it was still with ADEM. Councilman Coleman asked Amanda Thompson how often she was contacting ADEM for an update. Ms. Thompson said she will reach out to ADEM. In regard to the Timber Creek sidewalks, Councilwoman Phillips wanted to verify that nothing complicated has happened and there’s nothing unexpected with design—she stated the project was at one point going to be completed in –house. Mr. Huskey stated the project will be bid out, but the hold up has been with the survey crew. Ms. Thompson stated that Monday, June 7 was their last day in the field and the rest of the week will be to input data in the CAD program and she should receive it by Friday, June 11—the next step would be the layout of the sidewalks. Councilman Coleman asked when would we expect the project to start? Mayor LeJeune stated as soon as possible and the reason for the survey was some utility issues. Councilwoman Phillips stated moving forward there should be no issues with getting the project out to bid, correct? Mayor LeJeune said no. Kelli Kichler-Reid addressed the committee (inaudible). Councilman Scott asked about the Land Use Ordinance as to whether or not this would need to be paid by the developer based on the new rules for a common area—Troy Strunk addressed the committee (inaudible). Councilman Coleman stated the best case scenario would be to start design/construction in two (2) months.
- C. Dewberry —Hwy 98 Intersection Improvements (Dewberry provided the initial layout of the improvements for Lavender Lane. We are coordinating with our traffic engineer to determine pole locations. Once those are determined, we will schedule the geotechnical work to be done. We are working on 30% set to review with the city and ALDOT), Bay Front Streetscape (This project is out

**CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES**

**June 7, 2021 - 4:30 P.M.**

**DAPHNE CITY HALL**

- for bid again. The pre-bid is June 2, 2021, bid opening scheduled for June 10, 2021 @ 11:00 a.m. in the Council Chambers), Bay Front Master Plan Project (*No change at this point*—some preliminary sketches have been provided for review. We are still waiting on the GOMESA grant applications to be released and are gearing up for submittal once received—hope to get underway with permitting and applications mid-summer.)
- D. Volkert –No Pending Projects
  - E. Jade—MBMEP-ADEM 319 Tiawasee Creek Restoration Project—(PW site—excavation and earthwork continuing. Brookhaven site—contractor clearing and mulching, silt fence to be installed this week), Old Towne Main St Daphne (Survey work completed. Working to prepare concepts options for City discussion first of June). Councilman Olen asked for the timeline on the Old Towne Main St. Daphne project—Troy Strunk addressed the committee (inaudible). Councilman Coleman asked about the D'Olive Bay Boat Ramp Parking Lot—Mayor LeJeune stated the city has applied for a grant and notification will be sent in September.
  - F. S.E. Civil—Fire Station #2 (S.E. Civil has been working with BJ Eringman in getting a response back to FEMA for funding on the H&H Drainage Study. At this time, we have agreed not to move forward in design with this project until FEMA responds or BJ Eringman gives us the go ahead. It should be noted that only a preliminary drainage plan and estimate has been done at this time. If the Council and FEMA decide to move forward with the project, further investigation will be required.), Lakeshore Dr. (S.E. Civil is waiting for funding to be approved from Finance in order to move forward with the surveying and design on this project. Nothing has been done at this time.), US-98 Sidewalk Project (This project has been dormant since September 2020. The only outstanding items ALDOT needs for permit approval are a signed resolution from City of Daphne and a bond from the contractor. Jeremy Sasser had previously told us that the city would perform work but it will now be bid out which is why ALDOT requires a bond. Troy Strunk and Joel Coleman were working on getting a signed resolution last time we discussed the project.)

**VII. DIRECTOR'S REPORT** (Handouts reviewed by committee)

- A. Work Request Report –April 2020 & 2021—The Public Works Department completed 614 work orders in April 2021.
- B. Vehicle/Equipment Maintenance Reports – April 2020-2021 & FY2019-2020 YTD (Separate Handout)
- C. Public Works Related Overtime Report— 66.67% percentage of the year used; \$56,621.07 Used YTD as of May 27, 2021.
- D. Mosquito Report—April 2021
- E. Street Sweeper Report—May 2021

**VIII. DAPHNE SOLID WASTE DISPOSAL ENTERPRISE** (Handouts reviewed by committee)

- A. Monthly Recycle Tonnage Report (Tonnage Comparison) – April 2021—No Report
- B. Solid Waste New Customer Report – April 2021—49 new residential; 1 new commercial
- C. Tallent Lane Facility Report – April 2021—684.58 total tonnage

**IX. MUSEUM COMMITTEE**

- A. Minutes – April 12, 2021

**X. BEAUTIFICATION COMMITTEE**

- A. Minutes – April 7, 2021



**CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES**  
**June 7, 2021 - 4:30 P.M.**  
**DAPHNE CITY HALL**

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**XI. ENVIRONMENTAL ADVISORY COMMITTEE**

A. Minutes – April 27, 2021

**XII. FUTURE BUSINESS**

A. Next Meeting – **Tuesday, July 6, 2021**

**XIII. ADJOURNMENT**

*Motion by Tommie Conaway, seconded by Benjamin Hughes to adjourn.* Meeting adjourned at 5:21 p.m.



**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT AGENDA  
JULY 1, 2021 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

1. **CALL TO ORDER** - 6:00 p.m.
2. **CALL OF ROLL** - Present W. Robison, C. Courson, B. Mayhand, C. Covert
3. **APPROVAL OF MINUTES** - Approved

June 3, 2021

4. **OLD BUSINESS** - None
5. **NEW BUSINESS** - Approved

**Appeal #2021-03 Jamie Snowden/Johnnie Frost dba Kinderkids Learning Center Incorporated**

A request for a Special Exception to the Daphne Land Use & Development Ordinance has been filed with the City of Daphne Board of Zoning Adjustment. The request, if granted, would allow the operation of a daycare center in a proposed new building. The vacant property is PPIN #322628 on Friendship Road, which is a B-2, General Business Zone.

6. **ADJOURNMENT** - 6:10 p.m.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 3, 2021 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL

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Chairman called to order the regular meeting of the Board of Zoning Adjustment at 6:00 p.m. Roll was called thereafter and the number of members present constituted a quorum.

Members Present:

Willie Robison, Chairman  
Carolyn Courson, Vice Chair  
Clay Covert  
Derek Wolstenholme  
Billy Mayhand

Members Absent:

Herb Cole

Staff Present:

Adrienne D. Jones, Director Community Development  
Shawn Alves, BZA Attorney  
Pat Johnson, Recording Secretary

Chairman called for the **Approval of Minutes** of the May 6, 2021 meeting. There were no corrections, additions or deletions.

**The Minutes were approved unanimously.**

Chairman called the item under old business on the agenda, **Appeal #2021-01, Restoration Place Church/Redsouth, LLC**, a request for a special exception to the Daphne Land Use & Development Ordinance filed with the City of Daphne Board of Zoning Adjustment carried over from the February 4, 2021 regular meeting. The request, if granted, proposes to allow the operation of a church on PPIN #31245, Lot 7, Daphne Business Park, Unit III, a 14.0 acre undeveloped parcel on Stanton Road. The property is zoned C/I, Commercial/Industrial. He stated that tonight the Board is in session to make a decision on this appeal because they had not taken any action on it previously. He then asked Mr. Alves if they needed do a roll call vote to go into executive session, Mr. Alves replied affirmatively, and stated it was because he needed to give them an update on pending ligation. The Chairman then called for a roll call vote to go into executive session for discussion for 15 minutes from Ms. Johnson.

|                         |            |
|-------------------------|------------|
| <b>Mr. Covert</b>       | <b>Aye</b> |
| <b>Mr. Mayhand</b>      | <b>Aye</b> |
| <b>Ms. Courson</b>      | <b>Aye</b> |
| <b>Mr. Wolstenholme</b> | <b>Aye</b> |
| <b>Mr. Robison</b>      | <b>Aye</b> |

Upon roll call, the vote was unanimous to go into Executive Session.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 3, 2021 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL

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**The Board convened for Executive Session at 6:05 p.m. and reconvened at 6:30 p.m.**

Chairman asked Ms. Jones for a recap of the appeal.

Ms. Jones stated she would give an abbreviated version because the Board has minutes of each previous meeting which reflects everything done previously. She cited that the applicants requested a special exception to the Land Use and Development Ordinance to allow the operation a church in a C/I, Commercial Industrial zoned site on a 14 acre parcel known as Lot 7, Unit III, Daphne Business Park located along Stanton Road. She pointed out that she recommended approval even with the existing topographical challenges on the property, citing the presence of wetlands, and the site plan presented to the Board did not show any encroachments. She also cited that the church is fully aware of and accepts those challenges by deciding to purchase and build on the lot. She reiterated that since they were fully aware of the topographical challenges, that they fully understood and accepted that no variance would be granted since they have been made fully aware of the layout of the land for this lot.

The Chairman asked the Board for discussion.

Mr. Covert said that he does not have a problem with what the building on the site will be used for. However, during the second meeting he thought his and the Boards integrity was being put into question by a certain someone by assuming that we had a problem with what the site was going to be used for and he felt a little bit intimidated by it and thought it was a poor tactic to use. His thoughts were that he worried about the quality of the land and he wanted this particular business to be able to do the most they could with what they would have.

The Chairman cited Ms. Jones remarks from the previous meeting that "if the church was adamant about building on this site she would not stand in the way, and that in requesting this special exception is full acknowledgement that the church accepts the site limitations and will work within those limitations, and stated she does not think it is a good location" and he felt as if it is not a good location for this use with the chemical plant next door making it not a good fit.

Mr. Mayhand cited that it is up to the user of the property to take responsibility for what is actually placed on the land that their concern should be focused on the use of land, because the plan submitted to us is within the guidelines. The Chairman explained that after taking everything into consideration about the limitations and findings on the property that the applicants having agreed to adhere to staying within them without any farther site variances, he opened the floor for public participation, and no one came forth.

The Chair closed public participation for those in favor of the appeal and those in opposition, and he called for an affirmatively stated motion.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JUNE 3, 2021 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL

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A Motion was made by Mr. Mayhand and Seconded by Ms. Courson to approve Appeal #2021-01, Restoration Place Church/Redsouth, LLC, request for a special exception to the Daphne Land Use & Development Ordinance filed with the City of Daphne Board of Zoning Adjustment to allow the operation of a church on PPIN #31245, Lot 7, Daphne Business Park, Unit III, on a 14.0 acre undeveloped parcel on Stanton Road. The property is zoned C/I, Commercial/Industrial.

Upon roll call vote, the Motion failed.

|                  |     |
|------------------|-----|
| Mr. Covert       | Aye |
| Mr. Mayhand      | Aye |
| Ms. Courson      | Nay |
| Mr. Wolstenholme | Nay |
| Mr. Robison      | Nay |

The Chairman stated the motion failed and if there is anyone here with Restoration Church you have fifteen days to notify Community Development in writing if you plan to appeal with the Circuit Court of Baldwin County.

There being no other business Chairman called for a Motion to Adjourn.

A Motion was made by Mr. Mayhand and Seconded by Mr. Covert to adjourn. There was no discussion of the motion.

The Motion carried unanimously.

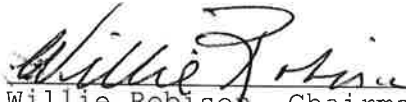
The meeting adjourned at 7:10 p.m.

Respectfully submitted by:

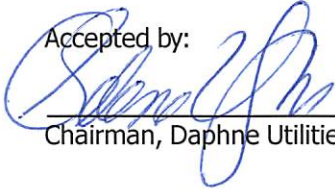


Pat Johnson, Recording Secretary

APPROVED: July 1, 2021



Willie Robison, Chairman

Accepted by:  
  
Chairman, Daphne Utilities



# APPROVED MINUTES

## Utilities Board Meeting

Council Chambers, Daphne City Hall ♦ May 26, 2021 ♦ 5:00 p.m.

### I. Call to Order

The regular May 2021 Board meeting for the Utilities Board of the City of Daphne was held on May 26, 2021, in the Council Chambers at Daphne City Hall and called to order at 5:00 p.m. by Chairwoman Selena Vaughn, followed by the Roll Call:

### II. Roll Call

**Members Present:** Selena Vaughn, Chairwoman  
Tim Patton, Vice Chairman  
Billy Mayhand, Secretary/Treasurer  
Mayor Robin LeJeune, Board Member – arrived at 5:40 pm  
Councilman Doug Goodlin, Board Member

**Members Absent:**

**Others Present:** Jerry Speegle – Board Attorney  
Scott Polk – General Manager  
Bobby Purvis – Operations Manager  
Teresa Logiotatos – Finance Manager  
Drew Klumpp – Administrative Services Manager  
Samantha Coppels – Communications Manager  
Lori Wilson – Executive Assistant

**Others Absent:**

### III. Pledge of Allegiance

The Chairwoman led the Board and meeting attendees in the Pledge of Allegiance.

### IV. Approval of Minutes

#### A. Utilities Board Meeting Minutes April 28, 2021

The Chairwoman requested any additions, corrections, or deletions for the submitted minutes for the April 28, 2021 Utilities Board meeting.

With no additions, deletions, or corrections, the Chairwoman declared that the submitted April 28<sup>th</sup> minutes would stand approved.

### V. OLD BUSINESS – None

## **VI. NEW BUSINESS –**

### **A. Presentation of 2019/2020 Audit by Mike Andreoli of Robertson, Andreoli & Covington, PC**

Mr. Mike Andreoli of Robertson, Andreoli & Covington presented the 2019/2020 audit to the board members. He began his review commenting on: Independent Auditors' Report, the Management's Discussion and Analysis, Total Assets, Cash and Restricted Cash, Capital Assets, Current Liabilities, Revenues, Total Operating Expenses and Income, Net Cash Position Increase, Retirement Plan, Long-term Debt, Supplemental Bond Disclosures, Capacity Fees, Bond Issuances, Operating Budget, Departmental Statement, and finally remarking overall an outstanding year.

Teresa Logiotatos recognized her department for their diligent work in assisting with the audit compilation.

## **VII. BOARD ATTORNEY'S REPORT**

Mr. Speegle had no new or remaining matters to report.

## **VIII. FINANCIAL REPORT**

Teresa Logiotatos highlighted for the Board: the State Revolving loans as shown on Balance Sheet Highlights Current Assets as well as Long Term Liabilities, a significant net loss indicated on the Income Statement due to the unplanned purchase of the vac-truck which will also affect the budget. She noted that gas purchases were higher due to the fact the bill included two months. She had nothing further to emphasize in the financials.

## **IX. GENERAL MANAGER'S REPORT**

### **A. GM Report**

General Manager Scott Polk reviewed the "Project Updates" for the Board, commenting on: the advancement of the Diamante (S/D) water well production involving discussions with Mr. Speegle's office regarding an easement that Alabama Power is requesting we sign to go through their land, as well as working out an issue with the entrance to the access road; the nearly complete natural gas line upgrade/replacement in Daphmont; the construction demolition on the Tertiary Filter and Enhanced UV Project at the WRF scheduled to begin next week or the week after to begin the process; a "grit study" that has been commissioned for the Grit Removal System upgrade; the Rigsby Road sewer expansion to be presented to the City in June or July; and lastly, the Douglas Road Water Tank project contracts were signed and the project is moving forward.

He gave an update on the Areas of Focus, noting the lifting of the mask mandate for our facilities, then advising that we had another meeting with D.R. Horton representatives to develop a solution to continue to run gas lines through the Jubilee Farms subdivision and D.R. Horton is running numbers to find feasibility of installing more gas appliances to foster the continuation of laying natural gas lines in the neighborhood. He advised that the builder is currently encountering issues with obtaining appliances for their new builds. He also noted that, as reported in the audit discussion, we've acquired an increase in gas customers but our gas revenue is not increasing.

Mr. Polk returned to an Areas of Focus note relating to the water quality issue discussion initiated last month by Councilman Olen. He clarified to the Board of an adjustment to a plan of action as specified in an email he sent to Board members and referred to Mr. Bobby Purvis to explain other solutions and plans to address these issues.

Mr. Bobby Purvis described the stages of the plan of action to determine the cause of the discolored water and to determine a solution, the first of which involved meeting and speaking with several engineering firms to consider their viewpoints and remedies. He reported the outcomes of these meetings and the strategy to improve the water quality, and answered questions from the Board members which lead to a broad discussion of this issue

## **B. Operations Report**

## **C. Engineering & Consulting Reports**

### **X. PUBLIC PARTICIPATION – at 5:35 pm the Chairwoman opened the floor for Public Participation.**

Mr. Steve Olen, (Daphne City) Councilman District 2, which Mr. Olen announced that District 2 included Olde Town Daphne. He expressed appreciation for the updates from Mr. Polk and Mr. Purvis. Mr. Olen indicated that we had heard from 58 different households and stated that it (the water quality issue) is not just Captain O'Neal but throughout Olde Town Daphne. He noted that the automatic flushing valves are a stop-gap and they are not working. Mr. Olen advised that he had emailed the Board and those involved two of the most recent complaints from our customers, the Marks on May 21 with a video showing the water flowing into her tub is brown, and another from the Clarks on May 24. He repeated Mr. Purvis' statement that flushing may hurt more than help and stated that the one thing going on presently to deal with the problem is not working at all. He declared that these customers of Daphne Utilities, like the rest of us, do not want to drink brown water, they do not want to brush their teeth with it or cook with it, make coffee or put their kids in the bathtub with it, but this is what they are getting.

Mr. Olen noted that when he was in attendance at the last board meeting, he was hearing that maybe there was a thought it wasn't a problem but now he's heard that it has been a long-term problem. He indicated that some of the people are incurring out-of-pocket expenses from buying their own water from Kentwood, for example, and one customer had her laundry turn so brown that Daphne Utilities offered to make it right (by reimbursement of her bill), but that doesn't make it right. He noted that Daphne Utilities has had emails stating that people have had plumbing expenses to have someone come clean out the pipes in their homes from the dirt. He reiterated that people are actually coming out of pocket because Daphne Utilities is not delivering them what they are entitled to. He suggested that the first thing Daphne Utilities should do to show that they want to do the right thing, starting tomorrow, take all the households that have told Daphne Utilities that they are not getting what they are entitled to, that they are getting brown water, to stop billing those residents tomorrow and do not bill them again until Daphne Utilities gets it right because they are not getting what they are paying for and they cannot use (the water) on a consistent basis what Daphne Utilities is delivering.

(Mayor Robin LeJeune arrived at 5:40 pm)

Mr. Olen stated that they do not want to be told that their water is "safe", they want clear, clean water and he indicated that "they" refers to people throughout Olde Town Daphne and not just one "bowl" on Captain O'Neal as indicated by the 58 emails from households.

Chairwoman Vaughn invited any other attendees to address the Board.

Mr. Freddie Johnson from 3996 Stanton Road South addressed the board, declaring his water is good at his house but that he had been paying a PILOT tax since he built his house in 1994 but he is not connected to our sewer and that was what the PILOT tax is for. He stated that he needs to have a sewer line positioned down his road to connect to the 4 existing houses that are there that are currently on septic, noting that it's not just about sewage it's also about environment. He asked for this to be investigated because he is paying the tax.

With no additional participants, Chairwoman Vaughn closed Public Participation at 5:42 pm.

**XI. BOARD ACTION –** Previously addressed.

**XII. BOARD COMMENTS –**

Chairwoman Vaughn asked how many homes in Daphne do not have sewage [with Daphne Utilities]. She clarified that the City of Daphne collects the PILOT tax to build the infrastructure then turns it over to Daphne Utilities to maintain, and she believed that after the last big [sewer] project that all of Daphne was connected to Daphne Utilities sewer.

Mayor LeJeune agreed and stated we needed to find out why it was missed. He also apologized for arriving so late due to an event he was unable to exit, but he expressed his appreciation for the job the staff is doing and will get an update afterward. He noted that he was open to some sort of discount [for those dealing with constant brown water] and whatever we can do to fix the problem as quickly as possible is the best way to address the issue; in the meantime, after viewing the pictures, videos and reading the emails, he understands the frustrations the customers are experiencing and it is unacceptable. Mayor LeJeune remarked that he has faith that the Board and the staff aspire to solve the issues that are challenging us today with the same determination proven to solve the issues from years ago. He consented to considering the staff's recommendations in resolving this issue correctly.

Mr. Tim Patton did not have anything to add except to not lose sight of all the work that takes place during the year with the budget and expenses and thanked the staff for their daily efforts in this endeavor. He emphasized that this is a reminder that the utility business is challenging with a great deal of responsibility and reflects the community, recognizing the staff is dedicated to maintaining the reliability.

Mr. Billy Mayhand thanked the auditing team and praised the accounting department; he asked Mr. Johnson to supply Daphne Utilities' staff with his contact information in order to discuss resolving his situation. He also thanked the executive staff for doing a great job.

Councilman Doug Goodlin questioned Mr. Speegle regarding the Utility giving away something for free and also asked the accounting department to provide him a financial scope of District 2 relative to a rebate and/or discount. Mr. Speegle confirmed that the Utility's bond indentures prohibited us from giving away our services, but pointed out from Mr. Olen's point of view or an impacted customer, they may believe they are not getting the services for which they are paying and doesn't think there would be a legal problem with our bond indenture from the point of view of not receiving potable water and not paying for it. Mr. Speegle noted that: the information-gathering part is most important in determining how to resolve the problem; the Board should consider ways to get those impacted customers potable water even though it may be expensive; this Board has always, for the many years he has been involved, put their customers first. Mr. Speegle concluded that from a legal point of view, a reduced rate for those [impacted] customers for water would be acceptable, however determining those customers who have actual brown water versus those who have it at certain times or is slightly tinted would be necessary.

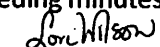
Councilman Goodlin echoed kudos for the audit and staff's assistance. Chairman Vaughn recognized the determination in solving this issue and expressed confidence in the staff to do so and support from the Board to resolve this problem.

**XIII. ADJOURNMENT**

With no further discussions, the Chairwoman called for adjournment at 5:58pm.

The meeting adjourned at 5:58pm.

Preceding minutes submitted to the Daphne Utilities Board by:



Lori Wilson, Executive Assistant, Daphne Utilities



# City of Daphne Event Permit Application

Date of Application: 6-7-2021 Permit Requested: ☐ Event/Fundraiser ☒ Parade/Run ☐ Band

## Contact Information

Organization Name: T Muse Jr Memorial Fund 5K/1 mile fun run  
Contact Name: Katherine Muse E-mail Address: kmittmuse@yahoo.com  
Address: 10238 County Road 64 Daphne, AL 36526  
Street / P.O. Box City/State/Zip Code  
Primary Phone Number: 251-767-5463 Secondary: 251-229-9995

## Event Information

Event Name: Muse Miles 5K/1 mile fun run Event Date: 11-20-2021  
Event Location: City Hall # Participants: 150 Vehicles: 150  
Start Time: 7:30 AM Stop Time: 9:00 AM Assembly Time: 6:30 AM  
Parades/Runs Only  
Special Requests: \_\_\_\_\_

Road Closures Requested: ☒ Yes ☐ No

## Special Instructions

Route 3<sup>5K</sup>, plus 1 mile

## Approval: Internal Use Only

Date Routed: 6/8/21

Fire Dept: A.G. Taylor

Police Dept: Daniel Reynolds

Public Works: approved via email

Parks & Recreation: \_\_\_\_\_

Only required if event interrupts traffic near Daphne parks

### For Special Event/Band Permits:

Council Member: \_\_\_\_\_

District #

Signature

### For Parade/Run Permits & Use of City Grounds:

City Council: \_\_\_\_\_

Date of Approval

### Parade/Run Permits ONLY

☐ Fee Paid: \$ \_\_\_\_\_ ☐ N/A ☐ Waived

☐ Insurance Filed ☐ N/A

Route Selection: ☐ 1 ☐ 2 ☐ 3 ☐ 4

**CITY OF DAPHNE, ALABAMA  
RESOLUTION 2021 - 23**

**A RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY SURPLUS AND  
AUTHORIZING THE MAYOR TO DISPOSE OF SUCH PROPERTY**

**WHEREAS**, the management of the City of Daphne has determined that the item listed below is no longer required for public or municipal purposes; and

**WHEREAS**, the item listed below is recommended for disposal.

**NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** that

1. The property listed below is hereby declared to be surplus property; and

| DEPT  | EQ/VEH/# | DESCRIPTION          | VIN/SN      |
|-------|----------|----------------------|-------------|
| Parks | 1749     | 2007 CUB CADET 4 X 4 | 1I076G40018 |

2. The Mayor is authorized to advertise and accept bids through Govdeals.com/Liquidity Services Operations LLC as contracted for the sale of such personal property; and
3. The Mayor is authorized to sell said property to the highest bidder and deposit any and all proceeds to the appropriate City fund. The Mayor is further authorized to direct the disposition of any property which is not claimed by any bidder and sign all necessary documents.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ day of \_\_\_\_\_, 2021**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
RESOLUTION 2021-24**

**2021-H-STREET RESURFACING**

**WHEREAS**, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$50,000; and

**WHEREAS**, the City of Daphne acknowledges that the FY2021 Street Resurfacing will exceed \$50,000; and

**WHEREAS**, the City of Daphne did receive and review bids for the FY2021-H-Street Resurfacing and has determined that the bid as presented is reasonable; and

**WHEREAS**, monies have been budgeted for the FY2021-H-Street Resurfacing projects; and

**WHEREAS**, staff recommends the bid for FY2021-H-Street Resurfacing be awarded to John G. Walton Construction Company, Inc. to include the base bid and Additive Alternate #1.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** that the City hereby accepts the bid from John G. Walton Construction Company, Inc. for the Base bid and Additive Alternate #1 cost of \$1,400,207.77 as specified in BID SPECIFICATION NO. 2021-H-Street Resurfacing and listed below:

| Base Bid |                                        |      |          | John G. Walton Construction Co., Inc. |            |
|----------|----------------------------------------|------|----------|---------------------------------------|------------|
| ITEM NO. | DESCRIPTION                            | UNIT | QUANTITY | UNIT PRICE                            | BID AMOUNT |
| 1        | Pave Chatam Lp                         | 1    | LS       | 39,667.77                             | 39,667.77  |
| 2        | Pave Chinquapin Cir                    | 1    | LS       | 11,302.24                             | 11,302.24  |
| 3        | Pave Fairmont Cir                      | 1    | LS       | 7,645.45                              | 7,645.45   |
| 4        | Pave Greenbriar Cir S                  | 1    | LS       | 11,018.76                             | 11,018.76  |
| 5        | Pave Greenbriar Ct                     | 1    | LS       | 8,532.44                              | 8,532.44   |
| 6        | Pave Hartness Cir                      | 1    | LS       | 7,947.53                              | 7,947.53   |
| 7        | Pave Ivy Cir                           | 1    | LS       | 7,438.06                              | 7,438.06   |
| 8        | Pave N Buena Vista Cir                 | 1    | LS       | 7,176.58                              | 7,176.58   |
| 9        | Pave S Buena Vista Cir                 | 1    | LS       | 7,134.01                              | 7,134.01   |
| 10       | Pave Willowbrook Cir                   | 1    | LS       | 20,277.34                             | 20,277.34  |
| 11       | Pave Daphmont Dr                       | 1    | LS       | 43,472.53                             | 43,472.53  |
| 12       | Pave Oak St                            | 1    | LS       | 20,929.87                             | 20,929.87  |
| 13       | Pave Warren Dr (Johnson Rd to Pine St) | 1    | LS       | 29,809.26                             | 29,809.26  |
| 14       | Pave Pine St                           | 1    | LS       | 49,220.68                             | 49,220.68  |
| 15       | Pave Crestview Cir                     | 1    | LS       | 17,375.73                             | 17,375.73  |
| 16       | Pave Buena Vista Cir                   | 1    | LS       | 25,521.69                             | 25,521.69  |
| 17       | Pave Perry Cir                         | 1    | LS       | 7,966.15                              | 7,966.15   |
| 18       | Pave Adair Cir                         | 1    | LS       | 6,738.64                              | 6,738.64   |
| 19       | Pave Bradbury Ct                       | 1    | LS       | 9,568.61                              | 9,568.61   |
| 20       | Pave Straford Ct                       | 1    | LS       | 9,202.93                              | 9,202.93   |
| 21       | Pave Maplewood Lp                      | 1    | LS       | 51,469.52                             | 51,469.52  |
| 22       | Pave Maple Cir                         | 1    | LS       | 7,895.08                              | 7,895.08   |

|                                          |                                                                                                                                |     |       |           |                 |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|-----|-------|-----------|-----------------|
| 23                                       | Pave Essex St                                                                                                                  | 1   | LS    | 33,503.50 | 33,503.50       |
| 24                                       | Pave Montgomery St                                                                                                             | 1   | LS    | 14,059.58 | 14,059.58       |
| 25                                       | Pave Conaway St                                                                                                                | 1   | LS    | 28,988.43 | 28,988.43       |
| 26                                       | Pave Buena Vista Dr (West Loop)                                                                                                | 1   | LS    | 49,935.32 | 49,935.32       |
| 27                                       | Pave Yacht Club Dr                                                                                                             | 1   | LS    | 33,827.35 | 33,827.35       |
| 28                                       | Pave Greenbriar Cir N                                                                                                          | 1   | LS    | 8,614.29  | 8,614.29        |
| 29                                       | Pave Highland Cir                                                                                                              | 1   | LS    | 6,932.01  | 6,932.01        |
| 30                                       | Pave Bradbury Cir                                                                                                              | 1   | LS    | 14,149.05 | 14,149.05       |
| 31                                       | Pave Straford Cir                                                                                                              | 1   | LS    | 18,860.97 | 18,860.97       |
| 32                                       | Pave Buena Vista Dr (East Loop)                                                                                                | 1   | LS    | 53,778.81 | 53,778.81       |
| 33                                       | Pave Montclair Lp (North Loop)                                                                                                 | 1   | LS    | 87,822.05 | 87,822.05       |
| 34                                       | Pave Dunbar Lp                                                                                                                 | 1   | LS    | 47,221.98 | 47,221.98       |
| 35                                       | Pave Beechwood Cir                                                                                                             | 1   | LS    | 15,131.30 | 15,131.30       |
| 36                                       | Pave Vega Cir                                                                                                                  | 1   | LS    | 11,814.35 | 11,814.35       |
| 37                                       | Mill and pave Country Club Dr                                                                                                  | 1   | LS    | 90,715.40 | 90,715.40       |
| 38                                       | Mill and pave Forestwood Dr N                                                                                                  | 1   | LS    | 7,377.62  | 7,377.62        |
| 39                                       | Mill and pave Forestwood Dr S                                                                                                  | 1   | LS    | 7,377.62  | 7,377.62        |
| 40                                       | Mill and pave River Oaks Cir                                                                                                   | 1   | LS    | 11,383.54 | 11,383.54       |
| 41                                       | Mill and pave Wedgewood Dr                                                                                                     | 1   | LS    | 47,740.05 | 47,740.05       |
| 42                                       | Leveling                                                                                                                       | 400 | Tons  | 102.80    | 41,120.00       |
| 43                                       | Solid White Traffic Stripe, Class 1, Type A<br>(Daphmont Dr, Oak St, Warren Dr, Pine St, Essex St, Conaway St, Yacht Club Dr)  | 4.5 | Miles | 825.00    | 3,712.50        |
| 44                                       | Solid Yellow Traffic Stripe, Class 1, Type A<br>(Daphmont Dr, Oak St, Warren Dr, Pine St, Essex St, Conaway St, Yacht Club Dr) | 4.5 | Miles | 825.00    | 3,712.50        |
| Total of all Bid Prices: <u>Base Bid</u> |                                                                                                                                |     |       |           | \$ 1,045,089.09 |

| 2021-H-STREET RESURFACING: FY2021 STREET RESURFACING<br><u>ADDITIVE ALTERNATE NO. 1</u> |                                                    |      |          | John G. Walton Construction Co., Inc. |                 |
|-----------------------------------------------------------------------------------------|----------------------------------------------------|------|----------|---------------------------------------|-----------------|
| ITEM NO.                                                                                | DESCRIPTION                                        | UNIT | QUANTITY | UNIT PRICE                            | BID AMOUNT      |
| 1                                                                                       | Pave Lawson Rd                                     | 1    | LS       | 27973.36                              | 27,973.36       |
| 2                                                                                       | Pave Lynwood Cir                                   | 1    | LS       | 16239.21                              | 16,239.21       |
| 3                                                                                       | Pave Windsor Ct                                    | 1    | LS       | 24130.28                              | 24,130.28       |
| 4                                                                                       | Pave Cedar Dr                                      | 1    | LS       | 27909.27                              | 27,909.27       |
| 5                                                                                       | Pave Warren Dr (Pine St to Dead End)               | 1    | LS       | 17284.15                              | 17,284.15       |
| 6                                                                                       | Pave Maple Dr                                      | 1    | LS       | 19358.76                              | 19,358.76       |
| 7                                                                                       | Pave Pecan Dr                                      | 1    | LS       | 16352.59                              | 16,352.59       |
| 8                                                                                       | Pave Elm Dr                                        | 1    | LS       | 7316.64                               | 7,316.64        |
| 9                                                                                       | Pave Brookwood Cir                                 | 1    | LS       | 6813.13                               | 6,813.13        |
| 10                                                                                      | Pave Cypress Ave                                   | 1    | LS       | 24785.85                              | 24,785.85       |
| 11                                                                                      | Pave Montclair Place                               | 1    | LS       | 22961.01                              | 22,961.01       |
| 12                                                                                      | Pave Montclair Loop (South Loop)                   | 1    | LS       | 68056.07                              | 68,056.07       |
| 13                                                                                      | Mill and Pave Windsor Dr (Ridgewood to Windsor Ct) | 1    | LS       | 40873.59                              | 40,873.59       |
| 14                                                                                      | Mill and Pave Stuart St (Windsor to Country Club)  | 1    | LS       | 35064.77                              | 35,064.77       |
| Total of all Bid Prices: <u>Additive Alternate No. 1</u>                                |                                                    |      |          |                                       | 355,118.68      |
| Total of Base Bid + Add Alternate 1                                                     |                                                    |      |          |                                       | \$ 1,400,207.77 |

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,  
ALABAMA this \_\_\_\_ day of \_\_\_\_\_, 2021.**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA**

**Resolution 2021 - 25**

**Resolution Authorizing the City to Enter into a Preliminary Engineering and Construction Agreement for a Federal Aid Project with the State of Alabama for the Resurfacing on CR-64 from SR-42 (US-98) to CR-13 and Intersection Improvements on CR-64 at Pollard Road**

**WHEREAS**, the Alabama Department of Transportation (ALDOT) and the City of Daphne (the “City”) desire to cooperate in the resurfacing of CR-64 from SR-42 (US-98) to CR-13 and intersection improvements on CR-64 at Pollard Road, Project# STPOA-0220; CPMS Ref# 100070861 and 100070862 (the “Project”); and

**WHEREAS**, ALDOT and the City desire to enter into a Preliminary Engineering and Construction Agreement to set forth the mutual understandings and obligations of the parties with respect to the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, as follows:

That the City enter into an agreement with the State of Alabama, acting by and through ALDOT, relating to the Project, which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto, and that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City in the office of the City Clerk.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

I, the undersigned qualified and acting Clerk of the City of Daphne, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the 19<sup>th</sup> day of July, 2021, that such resolution is on file in the City Clerk’s Office, and that such resolution shall be recorded in the Minute Book of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this \_\_\_\_\_ day of July, 2021.

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-32**

**Appropriation: W.O. Lott Park Tennis Facility Equipment and Furnishings**

**WHEREAS**, on September 21, 2020, the City Council adopted Ordinance 2020-32 approving the Fiscal Year 2021 Budget; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2021 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2021 budget; and

**WHEREAS**, the construction of the W.O. Lott Park Tennis Facility is nearing completion and additional funds are needed to equip the Tennis Coordinator with general office equipment, office furniture and other necessities to make the Tennis Facility operational; and

**WHEREAS**, a list of needed items has been obtained along with estimated costs totaling \$120,000 (including a contingency for unforeseen items).

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that

- 1) Funds in the amount of **\$120,000.00** from the **General Fund** are hereby appropriated and made a part of the Fiscal Year 2021 Budget for the additional items needed at the W.O Lott Park Tennis Facility; and
- 2) The Mayor is hereby authorized to execute any and all documents required for the purchase of these items for W.O Lott Park.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-33**

**Appropriation: City of Daphne 2020-2024 Comprehensive Master Plan**

**WHEREAS**, on September 21, 2020, the City Council adopted Ordinance 2020-32 approving the Fiscal Year 2021 Budget; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2021 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2021 budget; and

**WHEREAS**, the City desires to have an updated Comprehensive Master Plan for the corporate limits and extra-territorial planning jurisdiction for 2020-2040; and

**WHEREAS**, the City's Community Development Department, on behalf of the Planning Commission, prepared a Request for Qualifications ("RFQ") for a Comprehensive Master Plan; and

**WHEREAS**, the City has reviewed all responses submitted to the RFQ and recommends Orion Planning + Design for technical assistance in the development of a Comprehensive Master Plan at a cost of **\$150,960.00**; and

**WHEREAS**, the City previously appropriated \$60,000.00 in the FY 2019 Budget for a Comprehensive Master Plan, but additional monies are needed.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that:

- 1) Funds in the amount of **\$90,960.00** from the **General Fund** are hereby appropriated and made a part of the Fiscal Year 2021 Budget for a new 2020-2040 Comprehensive Master Plan; and
- 2) The Mayor is hereby authorized to execute any and all documents required to retain Orion Planning + Design to provide professional services to the City related to the development of the Comprehensive Master Plan.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-34**

**Additional Appropriation: Pipe Crawler Camera**

**WHEREAS**, on September 21, 2020, the City Council adopted Ordinance 2020-32 approving the Fiscal Year 2021 Budget; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2021 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2021 budget; and

**WHEREAS**, the Public Works department is in need of a pipe crawler camera to inspect drainage pipes and reduce the need for public works employees to physically enter drainage pipes; and

**WHEREAS**, the City Council, through Ordinance 2021-11, previously appropriated \$54,000.00 to purchase the pipe crawler camera; and

**WHEREAS**, an additional appropriation is needed to purchase said pipe crawler camera.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that:

- 1) Funds in the amount of **\$53,935.00** from the **General Fund** are hereby appropriated and made a part of the Fiscal Year 2021 Budget for the purchase of a pipe crawler camera to be used by the Public Works department; and
- 2) The Mayor is hereby authorized to execute any and all documents required for the purchase of the pipe crawler camera.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-35**

**Appropriation: Additional Temporary Workers Expense**

**WHEREAS**, on September 21, 2020, the City Council adopted Ordinance 2020-32 approving the Fiscal Year 2021 Budget; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2021 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2021 budget; and

**WHEREAS**, the Covid-19 pandemic caused the temporary suspension of work release inmate labor from Loxley Community Work Center; and

**WHEREAS**, the Public Works mowing department has had to utilize temporary workers from employment staffing agencies during this time period to replace the inmate labor customarily utilized by said department; and

**WHEREAS**, the amount budgeted is insufficient to cover the added expense resulting from the unavailability of inmate labor, and an additional appropriation is needed to continue paying temporary workers through the end of Fiscal Year 2021.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that

- 1) Funds in the amount of **\$76,000.00** from the **General Fund** are hereby appropriated and made a part of the Fiscal Year 2021 Budget for the additional temporary worker expenses to be incurred by the Public Works mowing department; and
- 2) The Mayor is hereby authorized to execute any and all documents necessary to enforce this Ordinance.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-36**

**AN ORDINANCE GRANTING A NON-EXCLUSIVE AUTHORIZATION TO POINT  
BROADBAND FIBER HOLDING, LLC FOR THE PURPOSE OF CONSTRUCTING  
AND MAINTAINING A FIBER-OPTIC TRANSMISSION LINE WITHIN CERTAIN  
PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF DAPHNE, ALABAMA FOR THE  
PROVISION OF BROADBAND SERVICES**

**WHEREAS**, Point Broadband Fiber Holding, LLC (hereinafter referred to as the “the Company”) desires to maintain and construct a fiber-optic transmission line within certain public rights-of-way within the City of Daphne, Alabama (“City”); and

**WHEREAS**, the Company has requested the right to maintain and construct a fiber-optic transmission line within the corporate limits of the City for the provision of Broadband Services; and

**WHEREAS**, the City Council wishes to accommodate the Company’s request and grant authorization to allow Company to maintain fiber-optic transmission lines in accordance with the terms and conditions contained herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, AS FOLLOWS:**

The City Council of the City of Daphne does hereby grant to Company a non-exclusive right to construct and maintain a fiber-optic transmission line in the City in and along certain rights-of-way outlined in Exhibit A below, subject to the terms and conditions set forth in the following agreement:

**AGREEMENT**

This Agreement is entered into on this the \_\_\_\_\_, 2021, by and between the City of Daphne, Alabama (hereinafter referred to as the “City”), and Point Broadband Fiber Holding, LLC, (hereinafter referred to as the “the Company”).

**W I T N E S S E T H :**

The City and the Company do hereby mutually covenant and agree as follows:

**SECTION 1. Defined Terms.** For purposes of this Agreement, the following terms, words and phrases shall have the meanings set forth below. When not inconsistent with the context, words used in the singular number shall include the plural number, and words in the plural number shall include the singular.

**1.1** “Broadband Services” means wide bandwidth data transmission with an ability to simultaneously transport multiple signals and traffic types.

**1.2** “City” means the City of Daphne, Alabama.

**1.3** “Code” means the City of Daphne, Alabama Municipal Code of Ordinances, as may from time to time be amended.

**1.4** “Company” is Point Broadband Fiber Holding, LLC, or its successors in interest, in accordance with the provisions of this Ordinance.

**1.5** “Governing Body” or “City Council” means the City Council of the City of Daphne, Alabama.

**1.6** “Gross Revenues” means all local revenue, in whatever form and from all sources, determined in accordance with generally accepted accounting principles that are received by Company from customers to the Company’s services within the City, without deduction for operating expenses, accruals, or any other expenditure. Notwithstanding the foregoing, Gross Revenue shall not include any taxes on services furnished by Company imposed by any municipality, state, or other governmental unit and collected by Company for such governmental unit.

**1.7** “Person” means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, sole proprietorship, political subdivision, public or private agency of any kind, utility, successor or assign of any of the foregoing, or any other legal entity.

**1.8** “Rights-of-way” means the surface and space above and below any public street, boulevard, road, highway, freeway, lane, alley, sidewalk, parkway, driveway, public ways, or other public rights of way, including public utility easements, dedicated utility strips or rights of way dedicated for compatible uses held by the City or location within the City which shall entitle the City and the Company to use the same for the purpose of installing, operating, repairing and maintaining the System.

**1.9** “System” shall mean a system of pipes, transmission lines, meters, equipment and all other facilities associated with the operation of a fiber-optic transmission line by the Company in accordance with the terms and conditions contained in this Agreement.

**1.10** “Use Fee” means the fee paid by the Company to the City for locating, maintaining and operating facilities in the Rights-of-way.

**SECTION 2. Grant of Authority.** The City hereby grants to the Company the non-exclusive and limited authority to construct, install and maintain and operate a fiber-optic transmission line in and along the Rights-of-way in the City (hereinafter referred to as the “System”). The Company shall obtain the appropriate construction permits as required by City Ordinances before constructing, expanding or extending the System within the City pursuant to this Agreement.

**2.1 Micro-Trenching:** Subject to the review of the City, the Company has informed the City that it will utilize a technique known as “Micro-Trenching” to install Fiber along certain paths throughout the City. The Company will be required to apply for construction permits to conduct it micro-trenching and the City will review the Company’s use of micro-trenching. The City agrees that it will not unreasonably deny applications by the Company to conduct micro-trenching where reasonable to avoid construction or make-ready delays.

**2.2** Prior to the commencement or continuation of any construction or operation in the City, the Company shall be duly authorized to do business in Alabama and shall have received any necessary certificate of public convenience and necessity or other required authorization from the Federal Communications Commission or other authorized regulatory body, and all requisite State and City licensing for the work to be performed. Evidence that such authority has been acquired or that it is not required shall be filed with the City upon request of the City.

**2.3** All work in the Right-of-way shall be in accordance with the Code and all applicable state and federal standards, local codes and ordinances, and will be done under the regulatory oversight of the City. Company shall apply for and obtain all required permits from City as specified in the Code before Company shall undertake any construction in the Right-of-way. All new construction will, unless specifically authorized by the City, be placed underground if the City deems necessary for the public convenience and safety and generally to control and regulate the use of the streets as required by Section 11-43-62 of the Alabama Code, as it exists on the date of this Agreement and as it may be amended from time to time. The placement of above ground pedestals, meter bases and related equipment shall be permitted only as specifically set forth in approved permits and only at the direction of the City with respect to the acceptable location for such facilities.

### **SECTION 3. Compensation.**

**3.1** As consideration for the use of the City's Rights-of-ways as set forth in this Agreement, the Company shall pay the City an annual Use Fee in an amount equal to the greater of (i) five percent (5%) of its Gross Revenues collected by the Company during each calendar year of operation under this agreement, or (ii) \$12,000. The Company will pay the Use Fee collected from its Customers quarterly during each calendar year, within forty-five (45) days of the close of each quarter. Each Use Fee payment shall be accompanied by a certified report from a representative of the Company, which shows the basis for the computation of all monthly service charges revenue from providing local Broadband Services to Persons located within the City limits during the period for which such payment is made. In the event that the Use Fee payment is not actually received by the City on or before the applicable due date set forth in this section or is underpaid the Company shall pay in addition to the payment, or sum due, interest from the due date at the state legal interest rate of 6% annually (Alabama Code § 8-8-1). If the Company's quarterly Use Fee payments total less than \$12,000 for a calendar year, the Company will pay the difference between the amount of Use Fee payments made in such calendar year and the \$12,000 minimum amount within forty-five (45) days following the end of such calendar year.

**3.2** All Use Fee amounts paid shall be subject to audit and recomputation by City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount. In the event the City should conduct a review of Company's books and records and such review indicates a fee underpayment of five percent (5%) or more during the entire period reviewed, the Company shall assume all reasonable documented costs of such audit, and pay same upon demand by the City. All documents pertaining to financial matters, which may be the subject of an audit by the City, shall be retained by the Company for a minimum period of six (6) years.

**SECTION 4. Duration and Term.** The agreement granted hereunder shall be for an initial term of ten (10) years (the "Initial Term") commencing on the effective date of this Ordinance and Agreement, unless otherwise lawfully renewed, revoked or terminated as herein provided. Upon the expiration of the Initial Term, the Company or the City shall have the option to renew this Agreement by giving written notice, sixty (60) days before the expiration of the Initial Term, to the other party of that party's intent to renew this Agreement. Any renewal of this Agreement shall be on terms and for a duration mutually agreed to by the City and the Company.

**SECTION 5. Grant of Non-Exclusive Authority.** The right to use and occupy the Rights-of-way for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant the use of said Rights-of-way to any person at any time and for any lawful purpose. This Agreement shall not be construed to create any rights beyond the terms, conditions and periods set forth in this Agreement, except as provided herein. The City does not warrant any of the rights granted by this Agreement.

**SECTION 6. Reservation of Regulatory and Police Powers.** The City, by the granting and approving of this Agreement, does not surrender or to any extent lose, waive, impair or lessen the lawful powers and rights now, or which may be hereafter, vested in the City under the Constitution and the statutes of the State of Alabama to regulate the use of its Rights-of-way by the Company or any person or to charge reasonable compensation for such use, and the Company, by its acceptance of this Agreement, agrees that all lawful powers and rights, regulatory power, police power or otherwise, that may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. The Company acknowledges that its rights are subject to the regulatory and police powers of the City to adopt and enforce ordinances necessary for the safety and welfare of the public and agrees to comply with all applicable laws and ordinances enacted by the City pursuant to such powers.

Any conflict between the provisions of this Agreement and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter to the extent that such exercise does not materially erode the essential rights of the company.

**SECTION 7. Standards of Service.**

**7.1 Conditions of Street Occupancy.** All portions of the System and all associated equipment installed or erected by the Company pursuant to this Agreement shall be located so as to cause minimum interference with the proper use of the Rights-of-way and with the rights and reasonable convenience of property owners who own property that adjoins any of such Rights-of-way. Company shall present to the City Right-of-Way Official, or to such other individual as directed by the Mayor, plats of all installations to be installed or constructed listing anticipated types of equipment and facilities, properly identifying and describing them by appropriate symbols and marks, and including annotations of all public ways, streets and roads where the work is anticipated. Maps shall be presented in a scale that allows proper review and interpretation and will be filed no less than thirty (30) working days before any installation of said cable or equipment or facilities, and the City shall provide a response no less than 14 days before the work is scheduled. Company shall obtain formal approval prior to the commencement of construction. Should the City require any plan additions or modifications prior to issuing formal approval, the City will promptly notify the Company thereof. The Company shall provide the City Right-of-Way Official as-built drawings in digital formats that are reasonably acceptable to the Parties within six (6) months of the completion of the construction.

**7.2 Restoration of Rights-of-way.** If during the course of the Company's construction, operation or maintenance of the System there occurs a disturbance of any Rights-of-way by the Company, it shall, at its expense, replace and restore such Rights-of-way to a condition comparable to the condition of the Rights-of-way existing immediately prior to such disturbance to the satisfaction of the City. The Company shall re-sod disturbed grassed areas and replace all excavated areas, structures, and landscaping to original or better condition in order to minimize the disruption of public property. The work to be done under this Agreement, and the restoration of Rights-of-way as required herein, must be completed within the dates specified in any permits authorizing the work. The Company shall perform the work according to the standards and with the materials specified or approved by the City, or in the case of state or federal highways within the City in accordance with the applicable Department of Transportation standards.

**7.3 Relocation at Request of the City.** Upon its receipt of reasonable notice, not to be less than forty-five (45) days, except where emergency conditions require shorter notice, the Company shall, at its own expense, protect, support, temporarily disconnect, relocate in the Rights-of-way, or remove from the Rights-of-way, any property of the Company when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, electrical or telecommunications lines, when such installation or construction is being done directly by or for the City. Should the Company refuse or

fail to remove its equipment or property as provided for herein within forty-five (45) days after written notification, the City shall have the right to do such work or cause it to be done, and the reasonable cost thereof shall be chargeable to the Company.

**7.4**     Trimming of Trees and Shrubbery. The Company shall reasonably compensate the City for any damages, in such amounts as determined by the City, caused by trimming, cutting or removing trees or shrubbery, or shall, at its own expense, replace all trees or shrubs damaged as a result of any construction, installation, repair or maintenance of the System undertaken by the Company to the satisfaction of the City.

**7.5**     Safety and Permit Requirements. Construction, installation, repair and maintenance of the System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial compliance with applicable federal, state, and local laws, rules and regulations, including all permit requirements and ordinances adopted by the City which are now in effect or are hereafter adopted. The System or parts thereof shall not unreasonably endanger or interfere with the safety of persons or property in the area.

**7.6**     Minimum Standards. All of the construction by the Company shall conform, at a minimum, to the minimum standards of the Company. In the event there is a conflict between the standards adopted by the Company and any applicable federal, state or local standards, including ordinances adopted by the City, the stricter standard shall apply.

**7.7**     Obstructions of Rights-of-Way.

A.       Except in the case of an emergency, or with the approval of the City Public Works Department and with the consent of the Daphne Police Department, which consent shall not be unreasonably withheld, no Rights-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work.

B.       The Company shall not so obstruct the Rights-of-way as to interfere with the natural, free and clear passage of water through the gutters, drains, ditches or other waterways. The Company shall clear the streets of any drill mud, debris and other obstructions that accumulate as a result of the Company's construction activities, and will not permit its activities to create a hazard to any persons or property. In the event that any such drill mud, debris or other obstruction caused by the Company's activities encroaches upon the street, the Company shall take immediate corrective action to remove the same.

**7.8**     Safety Requirements.

A.       The Company shall at all times employ the highest degree of care as is commensurate with the practical operation of its business and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

B.       The Company shall install and maintain the System in accordance with the requirements of all applicable regulations of the City, which may be amended from time to time, and in such manner that its operations will not interfere with any installations of the City or of a public utility serving the City. Company shall meet all City and State requirements for traffic control and notify the City at least twenty-four (24) hours prior to the commencement of work, except in cases of emergency. The Company shall, on the request of any Person holding a permit to move a building temporarily raise or lower its wires to facilitate the moving of such buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the Person requesting the same, and the Company shall have the authority to require such payment in advance.

The Company shall be given at least ten (10) business days' advance notice to arrange such temporary wire alterations.

C. All construction, installation, maintenance, and operation of the System or of any facilities employed in connection therewith shall be in compliance with the applicable provisions of the National Electrical Safety Code as prepared by the National Bureau of Standards, the National Electrical Code of the National Council of Fire Underwriters, any standards issued by the FCC or other federal or state regulatory agencies in relation thereto, duly adopted local construction standards, and local zoning regulations. The Company shall comply with ordinances, rules, and regulations established by the City pursuant to the lawful exercise of its police powers and generally applicable to all users of the Rights-of-way.

D. The Company shall maintain a force of employees at all times sufficient to provide safe, adequate and prompt service for the System.

**7.9 Least Disruptive Technology.** The Company is encouraged to perform construction and maintenance of the System in a manner resulting in the least amount of damage and disruption to the rights-of-ways. The Company will be required to use trenchless technology which includes directional drilling or directional boring for any portion of construction or maintenance projects which lie beneath the paved or improved portion of any roadway to which this Agreement applies, unless otherwise approved by the City Council. The City Right-of-Way Official may require trenchless technology in other locations, where circumstances prevent or make open-cut methods impractical. The Company may use either the open-cut method or trenchless technology for construction outside the paved or improved portion of any roadway to which this Agreement applies. The Company shall use directional boring in all areas where no conduit exists, unless otherwise required or approved by the City. Company shall meet all City and State requirements for traffic control and notify the City at least twenty-four (24) hours prior to the commencement of work, except in cases of emergency.

## **SECTION 8. Enforcement and Termination of Agreement.**

**8.1 Notice of Violation.** In the event the Company has not complied with the terms of this Agreement, the City shall notify the Company in writing of the nature of the alleged noncompliance.

**8.2 Right to Cure or Respond.** The Company shall have thirty (30) days from receipt of the notice described in Section 8.1: (a) to respond to the City by contesting the assertion of noncompliance, (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot, for reasons beyond the control of the Company, be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

**8.3 Public Hearing.** In the event the Company fails to respond to the notice described in Section 8.1 or contests the assertion of noncompliance pursuant to the procedures set forth in Section 8.2, or in the event the alleged default is not remedied within thirty (30) days or by the date projected pursuant to 8.2(c) above, the City shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the City Council which is scheduled at a time not less than fourteen (14) business days therefrom. The City shall notify the Company in writing of the time and place of such meeting and provide the Company with an opportunity to be heard.

**8.4 Enforcement.** In the event the City, after such meeting, determines that the Company is in default of any provision of this Agreement, the City may pursue any or all of the following remedies:

- A. Seek specific performance of any provision which reasonably lends itself to such a remedy;
- B. Make a claim against any surety or performance bond which may be required to be posted;
- C. Restrain by injunction the default or reasonably anticipated default by the Company of any provision of this Agreement;
- D. Seek any other available remedy permitted by law or in equity;
- E. In the case of a material default of this Agreement, declare the Agreement to be revoked in accordance with the following:

(1) The City shall give written notice to the Company of its intent to revoke the Agreement on the basis of noncompliance by the Company. The notice shall set forth the exact nature of the noncompliance. The Company shall have thirty (30) days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from the Company, it may then seek termination of this Agreement at a public meeting. The City shall cause to be served upon the Company, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to seek such termination.

(2) At the designated meeting, the City shall give the Company an opportunity to state its position on the matter, after which it shall determine whether or not this Agreement shall be terminated. The Company may appeal such determination to an appropriate state or federal court or agency which shall have the power to review the decision of the City and to modify or reverse such decision as justice may require. Such appeal must be taken within thirty (30) days of the issuance of the determination by the City.

(3) The City may, in its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under this Agreement in lieu of revocation of the Agreement.

**8.5** Impossibility of Performance. The Company shall not be held in default or noncompliance with the provisions of this Agreement, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control.

## **SECTION 9. Default.**

**9.1** Each of the following shall constitute a material default by the Company:

- A. Failure to make any payments to the City required to be made as set forth in this Agreement;
- B. Failure to maintain a liability insurance policy that is not cured within thirty (30) days following written notice to the Company;

C. Failure to provide or furnish any information required under this Agreement to the City that is not cured within thirty (30) days following written notice to the Company;

D. Any breach or violation of any ordinance, rule or regulation or any applicable safety or construction requirements or regulations that present a threat to health or safety that has not been cured within thirty (30) days written notice;

E. The occurrence of any event relating to the financial status of the Company which may reasonably lead to the foreclosure or other judicial sale of all or any material part of the System or the assets of the Company;

F. The condemnation by a public authority, other than the City, or sale or dedication under threat or in lieu of condemnation, of all or substantially all of the facilities; or

G. If (a) the Company shall make an assignment for the benefit of creditors, shall become and be adjudicated insolvent, shall petition or apply to any tribunal for, or consent to, the appointment of, or taking possession by, a receiver, custodian, liquidator or trustee or similar official pursuant to state or local laws, ordinances or regulations of any substantial part of its property or assets, including all or any part of the System; (b) a writ of attachment, execution, levy, possession or any similar process shall be issued by any tribunal against all or any material part of the Company's property or assets; (c) any creditor of the Company petitions or applies to any tribunal for the appointment of, or taking possession by, a trustee, receiver, custodian, liquidator or similar official for the Company or for any material parts of the property or assets of the Company under the law of any jurisdiction, whether now or hereafter in effect, and a final order, judgment or decree is entered appointing any such trustee, receiver, custodian, liquidator or similar official, or approving the petition in any such proceeding; or (d) any final order, judgment or decree is entered in any proceedings against the Company decreeing the voluntary or involuntary dissolution of the Company.

**SECTION 10. Work in Rights-of-Way.** Prior to any excavation within the Rights-of-way, the Company shall obtain a permit from the City pursuant to this Agreement, and the work shall be performed in accordance with all applicable ordinances and codes and any subsequent ordinances or regulations that may be adopted by the City. Repair and replacement of the Rights-of-ways due to the Company's installation, removal, relocation, maintenance and repair of its System or facilities shall be accomplished to the satisfaction of the City. Within 45 days after the City approves this Agreement and prior to the commencement of any work under this Agreement, the Company shall deliver to City a performance bond in the amount of \$[50,000], payable to City to ensure the appropriate and timely performance of the Company to meet the Company's obligations under this Agreement. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Alabama, and reasonably satisfactory to City Attorney in form and substance. The Company shall be required to replenish any such bond within 30 days after the City draws down upon it.

**SECTION 11. Insurance.** The Company shall maintain in full force and effect, at its own cost and expense, a comprehensive general liability insurance policy in the amount of \$1,000,000.00 for bodily injury and property damage per person and \$3,000,000.00 as to each occurrence, satisfactory to the City. The City shall be named as an additional insured on the comprehensive general liability insurance policy, and the Company shall provide the City with a certificate of insurance designating the City as an additional insured on each policy and extension or renewal thereof. An endorsement shall be included with the policy that states that the policy shall not be cancelled without giving thirty (30) days written notice of such cancellation to the City. In addition, the Company shall obtain worker's compensation coverage as required by the laws of the State of Alabama.

**SECTION 12. Indemnity and Hold Harmless.** The Company agrees to indemnify, defend, and hold harmless the City, its elected officers, employees, agents, and representatives, against all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorney's fees and other costs and expenses of litigation, which may be asserted against or incurred by the City or for which the City may be liable, which arise from the negligence or willful misconduct, of the Company, its employees, agents, or subcontractors arising out of the construction, operation, maintenance, upgrade, repair or removal of the Company's property or equipment except for those claims, costs, losses, expenses, demands, actions, or causes of action which arise solely from the negligence, willful misconduct, or other fault of the City. The City does not and shall not waive any rights against the Company which it may have by reason of this indemnification, or because of the acceptance by, or the Company's deposit with the City of any of the insurance policies described in this Agreement. The indemnification by the Company shall apply to all damages, penalties and claims of any kind, regardless of whether any insurance policy shall have been determined to be applicable to any such damages or claims for damages.

**SECTION 13. Disclaimer of Warranties.** The City makes no representation or warranty regarding its rights to authorize the installation or operation of the System on any particular Right-of-way, and the burden and responsibility for making such determination in advance of the installation shall be upon the Company. This Agreement shall not be construed to deprive the City of any rights or privileges which it now has, or may hereafter have, to regulate the use and control of its streets.

**SECTION 14. Warranties and Representations.** The Company hereby agrees, represents and warrants that it is legally authorized to enter into this Agreement in accordance with all applicable laws, rules and regulations. Furthermore, the Company further agrees, represents and warrants that this Agreement is legal, valid and binding, and that it is required to obtain authorization and consent from the City prior to the construction, installation, operation or maintenance of the System.

**SECTION 15. Other Obligations.** Obtaining this Agreement does not relieve the Company of its duty to obtain all other necessary permits, licenses, authority and the payment of fees required by any other City, county, state or federal rules, laws or regulations, and the Company is responsible for all work done in the Rights-of-way pursuant to this Agreement, regardless of who performs the work, but in no event will Company be required to pay twice for the same rights.

**SECTION 16. Payment of Costs.** The Company shall be responsible for all costs associated with the installation, repair and maintenance of the System and all associated equipment including, but not limited to (1) the costs to repair the Rights-of-way due to the installation, repair and maintenance of the System, and (2) the costs incurred in removing or relocating any portion of the System or facilities constructed when required by the City.

**SECTION 17. Priority of Use.** This Agreement does not establish any priority for the use of the Rights-of-way by the Company or any present or future agreements or permit holders. In the event of any dispute as to the priority of use of the Rights-of-way, the first priority shall be to the public generally, the second priority to the City, the third priority to the State of Alabama and its political subdivisions in the performance of their various functions, and thereafter, as between other agreement and permit holders, as determined by the City in the exercise of its powers, including the police powers and other powers reserved to and conferred on it by the State of Alabama.

**SECTION 18. Notice.** Every notice or response required by this Agreement to be served upon the City or the Company shall be in writing and shall be deemed to have been duly given to the required party three (3) business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid as follows:

The notices or responses to the City shall be addressed as follows:

City of Daphne, Alabama  
Post Office Box 400  
Daphne, Alabama 36526

The notices or responses to the Company shall be addressed as follows:

Point Broadband Fiber Holding, LLC  
ATTENTION: Legal Department  
1791 O.G. Skinner Drive  
Suite A  
West Point, Georgia 31833

The City and the Company may designate such other address or addresses from time to time by giving written notice to the other party as set forth in this section.

**SECTION 19. Application.** The terms and conditions contained in this Agreement shall apply to all areas within the corporate limits of the City and those areas annexed by the City after the passage and approval of this Ordinance and Agreement.

**SECTION 20. Acceptance.** The Company's acceptance of this Agreement shall be in writing in a form approved by the City attorney and shall be accompanied by delivery of all insurance certificates, applications, and performance of other requirements relating to commencement of construction as set forth in this Agreement.

**SECTION 21. Assignment.** The Company's interest in this Agreement shall not be sold, transferred, assigned or otherwise encumbered or disposed of, either by forced or voluntary sale or otherwise, without the prior written consent of the City Council, which shall not be unreasonably withheld. The City reserves the right to be reimbursed by the Company for costs incurred by it in reviewing the request for transfer of ownership.

**SECTION 22. Miscellaneous.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in singular number shall be held to include the plural and vice versa, unless context requires otherwise. The captions used in connection with the sections of this Agreement are for convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Agreement, or be used in interpreting the meanings and provisions of this Agreement.

**SECTION 23. Rules of Construction.** The parties hereto acknowledge that each party and its counsel have had the opportunity to review and revise this Agreement, and the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto.

**SECTION 24. Governing Law.** This Agreement shall be deemed to have been made in the State of Alabama and the validity of the same, its construction, interpretation, enforcement and the rights of the parties hereunder, shall be determined under, governed by and construed in accordance with the substantive laws of the State of Alabama, without giving effect to any choice of law provisions arising thereunder.

**SECTION 25. Severability Clause.** If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

**SECTION 26. Repealer Clause.** Any Ordinance heretofore adopted by the City Council of the City of Daphne, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

**SECTION 27. Publication, Effective Date and Acceptance.**

This Ordinance shall be published in accordance with Applicable Laws.

This Ordinance shall become effective only upon receipt of a written unconditional acceptance by the Company of the terms and conditions contained herein within thirty (30) days of the passage of this Ordinance.

With its acceptance, Company shall also deliver a certified or cashier's check, approved by the City, in the amount of Three Thousand Dollars (\$3,000.00) made payable to the City of Daphne, Alabama, as an acceptance fee and insurance certificates as required herein, that have not previously been delivered. The acceptance fee shall be deposited in an account of the City, and shall serve to recover expenses incurred by the City in the granting of this Ordinance. Said expenses shall include attorney's fees and consulting expenses incurred by the City.

[Signature Page to Follow]

[Signature Page for Non-Exclusive Franchise Agreement]

ADOPTED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF DAPHNE, ALABAMA

BY: \_\_\_\_\_  
Its: Mayor

ATTEST:

\_\_\_\_\_  
CITY CLERK

STATE OF ALABAMA  
COUNTY OF BALDWIN

**APPROVED AND ACCEPTED:**

**POINT BROADBAND FIBER HOLDING, LLC**

\_\_\_\_\_  
**Name Printed** \_\_\_\_\_

**Title Printed:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**EXHIBIT A**  
**ROUTE MAP**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-37**

**ADDITIONAL APPROPRIATION: FY2021 STREET RESURFACING INITIATIVE**

**WHEREAS**, Ordinance 2020-32 approved and adopted the Fiscal Year 2021 Budget on September 21, 2020; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2021 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2021 budget; and

**WHEREAS**, the City of Daphne budgeted **\$1,000,000** for the Street Resurfacing Initiative in the Fiscal Year 2021 Capital Budget, and

**WHEREAS**, the City of Daphne has taken an active role in transportation planning and improvements throughout the City and desires to appropriate additional monies for the FY2021 Street Resurfacing Initiative; and

**WHEREAS**, an additional **\$400,208** for the base bid and Alternate #1) will aid in improving and maintaining the structural longevity of roadways in the City of Daphne; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** that:

Funds in the amount of **\$400,208** are appropriated from the **General Fund and transferred to the Capital Reserve Fund** and made a part of the Fiscal Year 2021 Budget for street paving projects.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-38**

**APPROPRIATION – ADDITIONAL ENGINEERING FEES DAPHNE SPORTS  
COMPLEX**

**WHEREAS**, Ordinance 2020-32 approved and adopted the Fiscal Year 2021 Budget on September 21, 2020; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2021 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2021 budget; and

**WHEREAS**, there are outstanding unpaid invoices for engineering services performed during Phase II of the construction of Daphne Sports Complex and an additional appropriation is needed.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that funds in the amount of **\$43,683** from the **General Fund** are hereby appropriated and made a part of the Fiscal Year 2021 Budget for engineering services performed during the construction of Phase II of the Daphne Sports Complex.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

ATTEST:

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2021-39**

**Ordinance to Re-Zone Property Located  
Southeast of Van Avenue and Main Street**

**WHEREAS**, BN Properties, LLC, as the owners of certain real property located within the City of Daphne, have requested that said property that is currently zoned as B-3 Professional Business, be re-zoned as B-1(a), Limited Local Business; and

**WHEREAS**, said real property is located Southeast of Van Avenue and Main Street, and more particularly described as follows:

**Legal Description of Property to be Re-Zoned to B-1(a), Limited Local Business:**

COMMENCE AT THE NORTHWEST OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 00°16'43" WEST, A DISTANCE OF 2226.76 FEET TO A POINT; THENCE RUN NORTH 89°40'15" EAST, A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF MAIN STREET AND THE SOUTH RIGHT-OF-WAY OF VAN AVENUE FOR THE POINT OF BEGINNING; CONTINUE THENCE NORTH 89°40'15" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID VAN AVENUE, A DISTANCE OF 219.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) IN AN OLD CHAIN-LINK FENCE; THENCE RUN SOUTH 00°17'58" WEST, ALONG AND WITH SAID CHAIN-LINK FENCE, A DISTANCE OF 240.63 FEET TO A 1" OPEN END IRON PIPE AT THE END OF SAID CHAIN-LINK FENCE; THENCE RUN SOUTH 89°53'55" WEST, A DISTANCE OF 218.90 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) ON THE EAST RIGHT-OF-WAY OF SAID MAIN STREET; THENCE RUN NORTH 00°16'43" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID MAIN STREET, A DISTANCE OF 239.76 FEET TO THE POINT OF BEGINNING.

TRACT CONTAINS 1.21 ACRES, MORE OR LESS, AND LIES IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST.

**WHEREAS**, at the regular Planning Commission meeting on May 27, 2021, the Commission considered said request and set forth a unanimous favorable recommendation; and,

**WHEREAS**, due notice of said proposed re-zoning has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, and a public hearing was held before the City Council on July 19, 2021; and,

**WHEREAS**, the City Council of the City of Daphne, after due consideration and upon consideration of the recommendation and notes of the Planning Commission, deemed that said application for re-zoning of the above described real property is proper and in the best interest of the health, safety, and welfare of the citizens of the City of Daphne, Alabama; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, as follows:

#### **SECTION I: ZONING**

The above described real property is hereby re-zoned from B-3 Professional Business to B-1(a), Limited Local Business, and the zoning ordinance and zoning map shall be amended to reflect the said zoning change.

#### **SECTION II: REPEALER.**

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

#### **SECTION III: SEVERABILITY.**

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of said Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

#### **SECTION IV: EFFECTIVE DATE.**

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and after publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**Attest:**

\_\_\_\_\_  
**Robin LeJeune, Mayor**

\_\_\_\_\_  
**Candace G. Antinarella, CMC, City Clerk**