

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, AL
CITY COUNCIL BUSINESS MEETING AGENDA
Monday, February 21, 2022
6:00 P.M.

1. CALL TO ORDER

2. ROLL CALL

INVOCATION Pastor Rife Stewart, Destiny Church

PLEDGE OF ALLEGIANCE

RECOGNITION: Firefighter Cameron Boyington

3. APPROVE MINUTES: February 7, 2022 regular meeting

4. REPORTS OF STANDING COMMITTEES

A. FINANCE COMMITTEE – Conaway

B. BUILDINGS & PROPERTY COMMITTEE – Phillips

C. PUBLIC SAFETY COMMITTEE – Hughes

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Olen

E. PUBLIC WORKS COMMITTEE – Goodlin
Review the minutes from the January 3rd meeting.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS

A. BOARD OF ZONING ADJUSTMENTS – Adrienne Jones

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 – Coleman

6. PUBLIC PARTICIPATION

7. MAYOR’S REPORT

8. CITY ATTORNEY REPORT

9. DEPARTMENT HEAD REPORTS

10. CITY CLERK’S REPORT

MOTION to approve the 050 – Retail Beer (Off Premises Only) and 070 – Retail Table Wine (Off Premises Only) to Vaidehi 1 LLC dba Fastime 103 located at 2305 US Hwy 98, Daphne, Alabama.

City Council Agenda – February 21, 2022

11. RESOLUTIONS & ORDINANCES

A. RESOLUTIONS:

2022 – 07 – Declare Certain Personal Property Surplus and Authorize the Mayor to Dispose of Such Property – Parts for Old John Deere Mowers

B. 2nd READ ORDINANCES:

2022 – 06 – Ordinance to Amend Sections 4.7, 10.7, 10.8, 10.9, 10.10, 10.11 and 10.13 of the City's Employee Handbook

2022 – 07 – Appropriation: Engineering Fees Drainage Master Planning for Mayday Park - \$61,280

2022 – 08 – Additional Appropriation: STPOA-0216(250) – Turning Lanes at Sehoj Blvd and Longvue Blvd - \$17,948

2022 – 09 – Appropriation: CPAT (Candidate Physical Ability Test) Training Facility Building – Engineering Fees - \$12,850

2022 – 11 – Pre-Zone Property Located at the East and Southeast of Robbins Boulevard and Ashbury Hill Road – GCOF Reserve of Daphne, L.L.C. and 68V Reserve at Plantation Hills, 2021, L.L.C

2022 – 12 – Pre-Zone Property Located at the North of Intersection of County Road 64 and Montelucia Way – GCOF Reserve of Daphne, L.L.C., James and Barbara Conaway, Joseph Lazzari, Joseph Lazzari, Jr., and Tania Lazzari

2022 – 13 – Annex Property Contiguous to the Corporate Limits of the City of Daphne – East and Southeast of Robbins Boulevard and Ashbury Hill Road, and North of the Intersection of County Road 64 and Montelucia Way – GCOF Reserve of Daphne, L.L.C., 68V Reserve at Plantation Hills 2021, L.L.C., James and Barbara Conaway, Joseph Lazzari, Joseph Lazzari, Jr., and Tania Lazzari

2022 – 14 – Ordinance Amending the City of Daphne's Land Use and Development Ordinance 2011-54, As Adopted by the City Council on July 18, 2011, as Amended - Articles XI, XIII, XIV, XV, XVII, XVIII, XXX, and XXXIX: Technical Revisions

1ST READ ORDINANCES:

2022 – 15 – Amending Ordinance 2020-22 – The Right-of-Way Ordinance Schedule of Right-of-Way Permit Fees

2022 – 16 – Ordinance Authorizing the Mayor to Execute a Purchase and Sale Agreement with Burton Property Group, LLC to Convey Certain Real Property No Longer Needed for Public or Municipal Purposes Located at the Northeast Corner of Highway 98 and Lavender Lane

12. COUNCIL COMMENTS

13. ADJOURN

February 7, 2022
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
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1. CALL TO ORDER:

There being a quorum present Council President Joel Coleman called the meeting to order at 6:01pm.

2. ROLL CALL:

COUNCIL MEMBERS PRESENT: Tommie Conaway, Ron Scott, Benjamin Hughes, Doug Goodlin, Joel Coleman, and Steve Olen

COUNCIL MEMBERS ABSENT: Angie Phillips

Also Present: Candace Antinarella, City Clerk; Jay Ross, City Attorney, Chief David Carpenter, Police; Troy Strunk, City Development; Lieutenant David Hill, Fire; Ange Baggett, Marketing; Adrienne Jones, Planning; Tonja Young, Library; Ronnie Huskey, Public Works; Vickie Hinman, Human Resources; Tim White, Environmental Programs; Josh Newman, City Engineer; Kelli Reid, Finance; Charlie McDavid, Recreation; and Jessica Linne, Assistant City Clerk.

INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Pastor Jimmy Bowers, Church of the Highlands.

PUBLIC HEARING: Adrienne Jones presented on the Pre-Zoning Amendment for the GCOF Reserve of Daphne, L.L.C. and 68V Reserve at Plantation Hills 2021, L.L.C..

PUBLIC HEARING: Adrienne Jones presented on the Pre-Zoning Amendment for the GCOF Reserve of Daphne, L.L.C., James and Barbara Conaway, Joseph Lazzari, Joseph Lazzari, Jr., and Tania Lazzari.

PUBLIC HEARING: Adrienne Jones presented on the Annexation Petition for the GCOF Reserve of Daphne, L.L.C., and 68V Reserve at Plantation Hills 2021, L.L.C., James and Barbara Conaway, Joseph Lazzari, Joseph Lazzari, Jr., and Tania Lazzari.

All three public hearings were combined into one and began at 6:03pm.

Council President Coleman recused himself from the hearings. Councilman Goodlin preceded over the hearings. Melissa Curry, Dewberry Engineers, presented on the pre-zoning amendments and annexation petitions for the properties.

Jackie Jackson, 11420 Riverbrook Branch, had questions about the grating on the lots due to wetlands nearby.

Jessica Thompson, 27202 Bay Branch Drive, asked if there were any plans to create more schools for the additional families coming to Baldwin County. She asked if the sewer system could handle the new homes.

Terry Hall, 27654 Bay Branch Drive, asked if the Council would be looking to open Braga Drive due to additional traffic.

Allen Durton, 27618 Bay Branch Drive, says there is another neighborhood, Turkey Branch, and it causes traffic backup.

Councilman Olen asked Ms. Curry if opening Braga Drive was in their plans. She said it was not. She said there would be no access to Bay Branch, only Plantation Hills.

Jessica Thompson asked what would happen to Bay Branch. Councilman Goodlin and Councilman Hughes explained annexation and benefits should they want to come into the City.

Jackie Jackson asked what would be built on the properties presented.

Public hearing closed at 6:34pm.

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PUBLIC HEARING: Adrienne Jones presented on the Proposed Amendments to the Ordinance 2011-54, Land Use and Development Ordinance, Articles 11, 13, 14, 15, 17, 18, 30 and 39.

Public hearing opened at 6:35pm.

Jackie Jackson said she hopes the Council read their entire packet.

Public hearing closed at 6:36pm.

3. APPROVAL OF MINUTES:

The minutes from the January 18, 2022 regular meeting were approved.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE

Councilwoman Conaway said the minutes from the January 18th Finance meeting were in the packet. She gave the Treasurer's Report for December 2021: Unrestricted Fund Balance - \$22,630,822; Total Cash Balance - \$37,633,953; Sales Tax for November 2021 - \$2,087,336; Lodging Tax for November 2021 - \$113,695.

MOTION by Councilwoman Conaway to renew the City's annual insurance policy with John A. Robertson Insurance Agency, Inc. for the second-year discounted term of the three-year policy pending the review of deductible options: \$5,000/\$10,000/\$25,000/\$50,000. No second was needed.

Councilman Olen amended the motion to narrow down the original motion to select the amount of \$5,000. Seconded by Councilman Scott.

MOTION CARRIED UNANIMOUSLY.

ORIGINAL MOTION CARRIED UNANIMOUSLY.

B. BUILDINGS & PROPERTY COMMITTEE

Councilwoman Phillips was absent.

C. PUBLIC SAFETY COMMITTEE

Councilman Hughes said the next meeting is February 14th at 4:30pm.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE

Councilman Olen said the next meeting is March 7th at 4:30pm.

E. PUBLIC WORKS COMMITTEE

Councilman Goodlin said the next meeting is March 7th at 5:00pm.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments

Adrienne Jones said there is no meeting and no report.

B. Downtown Redevelopment Authority

Councilwoman Conaway said the next meeting is February 17th at 5:30pm.

C. Industrial Development Board

Councilman Scott said the next meeting is February 15th at 4:30pm.

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D. Library Board

Councilwoman Phillips was absent.

E. Planning Commission

Councilman Olen said the next meeting is February 24th at 5:00pm.

F. Recreation Board

Councilman Hughes said the next meeting is February 9th at 6pm in the Jubilee Conference Room.

G. Utility Board

Councilman Coleman said the minutes from the November 2021 meeting are in the packet.

6. PUBLIC PARTICIPATION:

Public Participation opened at 6:42pm.

No one came forward to speak.

Public Participation closed at 6:43pm.

7. MAYOR'S REPORT:

Mayor LeJeune was absent.

8. CITY ATTORNEY REPORT:

City Attorney said there was no report.

9. DEPARTMENT HEAD COMMENTS:

Chief Carpenter, Police, said Officer Lucky was at Lowe's today and helped a citizen in an emergency situation. He said COVID cases are beginning to decline.

Lt. Hill, Fire, said they have had 24 cases of COVID in the Fire Department since January and they are continuing COVID testing for employees at the Fire Department. He said they have applied for the SAFER grant.

Ange Baggett, Marketing, reminded everyone of "Coffee with the Mayor" on Tuesday morning at 8:00am.

Tonja Young, Library, said the History Series are starting back up.

Vickie Hinman, Human Resources, said COVID is beginning to decline. She said employees are going through the harassment and drug free training.

Ronnie Huskey, Public Works, said the department is performing routine maintenance after the holidays.

Charlie McDavid, Recreation, said the basketball league is ending as baseball and softball are gearing up.

Adrienne Jones, Planning, said March 21 – 24 is Planning Week in Daphne.

Troy Strunk, City Development, thanked Tim White for helping install the channel markers at the boat launch.

Kelli Reid, Finance, said the Alabama Sales Tax Hurricane Preparedness Weekend is February 25th – 27th. Councilman Scott asked Mrs. Reid about the potential of food tax going away. She said she'd look into it.

Josh Newman, City Engineer, said there are three projects going to bid.

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

**MOTION by Councilman Goodlin to authorize the Mayor to execute a jail agreement between the City of Daphne and the City of Spanish Fort. Seconded by Councilman Scott.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to approve the Bayside Academy Bay Affair firework display on April 9, 2022 from 8:00 – 9:00pm. Seconded by Councilman Hughes.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilwoman Conaway to approve the Daphmont Community Mardi Gras Parade on February 26, 2022 from 2:00 – 3:00pm. Seconded by Councilman Olen.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Hughes to approve the Mystic Order of Gators Balcony Parade on February 26, 2022 from 12:30 – 4:30pm in Lake Forest Subdivision. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to approve the Loyal Order of the Firetrucks Parade on February 27, 2022 at 2:29pm. Seconded by Councilwoman Conaway.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Hughes to approve the 140 – Special Events Retail to Mancis Antique LLC located at 1715 Main Street, Daphne, Alabama. Seconded by Councilman Scott.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Hughes to approve the 020 – Restaurant Retail Liquor to Your Eastern Shore Inc dba Daruma Japanese Sushi and Steakhouse located at 27955 Highway 98 Ste S and T, Daphne, Alabama. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilwoman Conaway to approve the publication and set a public hearing on April 4, 2022 for the Magnolia Properties, L.L.C. and the Standard Family Partnership Zoning Amendment. Seconded by Councilman Hughes.
MOTION CARRIED UNANIMOUSLY.**

11. **RESOLUTIONS & ORDINANCES:**

A. RESOLUTIONS:

2022 – 03 – E – Oil and Lubricants

2022 – 04 – Resolution Declaring Certain Personal Property Surplus and Authorizing the Mayor to Dispose of Such Property – 2007 Bye-Rite Utility Trailer and 1990 John Deere 870

2022 – 05 – Resolution Regarding Cooperative Maintenance Agreement with the Alabama Department of Transportation

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2022 – 06 – 2022 – F – Athletic Uniforms

**MOTION by Councilman Scott to waive the reading of Resolutions 2022-03, 2022-04, 2022-05 and 2022-06. Seconded by Councilman Olen.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Resolution 2022-03. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Resolution 2022-04. Seconded by Councilwoman Conaway.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Hughes to adopt Resolution 2022-05. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilwoman Conaway to adopt Resolution 2022-06. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

ORDINANCES:

B. 2nd READ ORDINANCES:

2022 – 05 – Appropriation: Professional Inspection and Appraisal Services - \$40,000

**MOTION by Councilman Scott to waive the reading of Ordinance 2022-05. Seconded by Councilman Hughes.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Ordinance 2022-05. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Olen to suspend the rules in order to consider adding Ordinance 2022-10 to the agenda to consider adoption. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

City Clerk called roll.

Councilwoman Conaway	Aye
Councilman Olen	Aye
Councilman Goodlin	Aye
Councilman Scott	Aye
Councilman Hughes	Aye
Councilwoman Phillips	Absent
Council President Coleman	Aye
MOTION CARRIED UNANIMOUSLY	

**MOTION by Councilman Scott to adopt Ordinance 2022-10. Seconded by Councilman Olen.
MOTION CARRIED UNANIMOUSLY.**

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C. 1ST READ ORDINANCES:

2022 – 06 – Ordinance to Amend Sections 4.7, 10.7, 10.8, 10.9, 10.10, 10.11 and 10.13 of the City’s Employee Handbook

2022 – 07 – Appropriation: Engineering Fees Drainage Master Planning for Mayday Park - \$61,280

2022 – 08 – Additional Appropriation: STPOA-0216(250) – Turning Lanes at Sehoy Blvd and Longvue Blvd - \$17,948

2022 – 09 – Appropriation: CPAT (Candidate Physical Ability Test) Training Facility Building – Engineering Fees - \$12,850

2022 – 10 – Ordinance to Establish Surety Bond Limits for Certain Municipal Officers and Employees

2022 – 11 – Pre-Zone Property Located at the East and Southeast of Robbins Boulevard and Ashbury Hill Road – GCOF Reserve of Daphne, L.L.C. and 68V Reserve at Plantation Hills, 2021, L.L.C

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12. COUNCIL COMMENTS:

Councilwoman Conaway asked everyone to keep Tomasina Werner in their thoughts and prayers.

Councilman Hughes commended Lieutenant Hill. He thanked Officer Lucky for his help in the recent emergency. He thanked the citizens who came to speak.

Councilman Goodlin encouraged citizens to speak to Adrienne Jones regarding annexing into the City.

13. ADJOURN:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, COUNCIL ADJOURNED AT 7:12 PM.

Respectfully submitted by,

Certification of Presiding Officer,

Candace G. Antinarella, CMC, City Clerk

Joel Coleman, Council President



CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES
January 3, 2022 - 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 Benjamin Hughes; Councilman Joel Coleman; Councilman Steve Olen; Mayor LeJeune

Others Present: William Eringman, Public Works Deputy Director; Jay Ross, City Attorney; Patrick Dungan, City Attorney; Kelli Kichler-Reid, Finance Director; Troy Strunk, Executive Director, City Development; Candace Antinarella, City Clerk; Andy Bobe, Dewberry/Preble-Rish; Josh Newman, City Engineer; Jared Landry, S.E. Civil; Amanda Thompson, GMC; Curt Fonger, Daphne Resident; Victoria Phelps, Lake Forest POA

III. PUBLIC PARTICIPATION & CORRESPONDENCE

A. Correspondence and Public Participation—

1. Victoria Phelps (Lake Forest POA) stated around October the Lake Forest POA ordered decorative signage posts, but due to staff shortages and the holidays, the Public Works staff have not had a chance to work on the project in Phase VII She just wanted to bring it to the city's attention again and appreciates Public Works. She stated the Lake Forest POA received a few calls about two of their signs knocked out of position—25 mph signs, if this could be taken care of while they are doing the posts, she would greatly appreciate it. She also mention a no parking in the median sign that is slightly tilted and two medium sized stumps as well. Ms. Phelps spoke about the .1 miles of sidewalk is coming in really nicely to finish the phase on Ridgewood Dr—some minor grooming to complete the project and is greatly appreciated by the citizens. She spoke about advocating for the remaining 3 miles of sidewalks to get Bayview Dr completed, to get Ridgewood pool to Bayview Dr and lastly Lake Forest Blvd—sidewalks remaining to be added to the project. She understands that there are other projects within the city, but is requesting the remaining 3 miles of sidewalk to formulate a plan to get the project completed within the next 4 years. She thanked the city for their continued hard work.
2. Henry Thomas (7470 Gaskin Ln) addressed the committee in regards to resurfacing in the Daphmont community. He asked about whether Gaskin Ln would be added to the list for resurfacing. He spoke to a Public Works representative and was told that the project would stop at Gaskin Ln. He stated it is a safety issue with the road not being wide enough for two cars to safely pass. Councilman Goodlin asked Troy Strunk and William Eringman if the road was to the city standards. Mr. Eringman stated he spoke to Mr. Thomas on the phone and he stated there are a few roads in Daphmont that we may have to coordinate with Community Development to get either a dedication or something on paper to show that they were taken in by the city, which was previously addressed over the phone with



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Mr. Thomas. Mr. Eringman said we can work together to see if the roads have been dedicated or not and based on the county tax map, several of the parcels are private—Mr. Eringman would need confirmation that these are city maintained streets and then we can address the request. Councilwoman Conaway spoke about meeting with Mr. Thomas and specifically coming from Dale Rd to Daphmont Dr there is a gap where they have resurfaced Dale Rd via Fairhope, but there is a section that has not been resurfaced and the other part of Daphmont has been resurfaced. Councilwoman Conaway stated Mr. Thomas has been a resident in the Daphmont Community for a long time and in the past, the city has maintained those streets and he receives city garbage service in his area too. Councilwoman Conaway stated there are numerous senior citizens in the area and the locations have been patched up, but not resurfaced yet. Councilwoman Conaway stated the road-resurfacing project is in the area, so why can't they resurface Mr. Thomas' street? William Eringman stated that is a question for the legal team and not him and he does not know of the city maintaining those specific streets since he has been employed with the city. He stated the locations in question are on private parcels and he does not know how you historically can assert that they have been maintained and how that work and that would not be for him to say. Councilwoman Conaway stated that previous Mayors, they allowed them—Mr. Eringman stated they need to do the effort and show that the city maintains the locations. Councilwoman Conaway spoke about grandfathering the locations in. Councilman Goodlin stated they need to make sure that the locations meet the Daphne roads standards and we need definitions as well as the potential cost associated with getting the roads to city standards. Troy Strunk addressed the committee (inaudible).

IV. OLD BUSINESS

- A.** Approval of Minutes – December 6, 2021—Minutes were reviewed and approved by the committee.

V. NEW BUSINESS

VI. City Engineer's Report (Separate Handout)

Josh Newman addressed the committee with his separate handouts. Mr. Newman stated that he would not discuss all of the projects, since the committee received a project timeline.

Mr. Newman spoke to the committee about project 21-04 Fire Station Drainage Improvements has been through 60% design and 90% with plans and he has comments back in to him. He anticipates updated plans this month and bid it in March. Councilman Goodlin asked if Mr. Newman was in contact with the resident, who came to last month's Public Works meeting and asked that we keep him up to speed. Mr. Newman stated he has spoken to the resident and will meet the resident at his property.



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Mr. Newman spoke to the committee about project 21-05 Lakeshore Dr has the survey complete and conceptual plans—working towards 30% plans submittal and will hopefully receive in January as well.

Mr. Newman spoke to the committee about project 21-11 Resurfacing on 64 and Intersection Improvements on Pollard Rd he received a PE number from ALDOT and updated the scope to improve the cross slope of the road and received 30% plans and anticipating 60% plans this month as well—one of our bigger projects. Councilman Olen asked what PE meant—Mr. Newman stated Preliminary Engineering.

Mr. Newman spoke to the committee about project 21-13 Ridgewood Dr Sidewalks the concrete is all in for the project and should be completed on schedule by March 2.

Mr. Newman spoke to the committee about 21-14 Lavender Lane & US-98 Intersection Improvements with dewberry submitting 60% plans before Christmas with the 60% review with ALDOT in the next few weeks—he stated the city is acquiring ROW in conjunction with ALDOT. Councilman Goodlin asked if there were any issues with acquiring the ROW. Mayor LeJeune stated himself; Troy Strunk and Dewberry representative met with the private owner and had a very good discussion vs prior discussion over the phone. The private owner has a few concerns that the Mayor stated we are working out. He stated after his last conversation with the private owner, he feels good about working this out—Councilman Goodlin asked if there will be a cost—Mayor LeJeune stated yes. Mr. Newman stated the ROW location is near Halls Lane where Regions Lane driveway is right next to each other, so we are trying to combine those to driveways so they are not right next to each other.

Mr. Newman spoke to the committee about 21-22 May Day Pier Repair and stated we received the inspection back and he stated it came back better than anticipated with some minor repairs—will get someone under contract with the final design. Mr. Newman stated he did not feel there were any structural deficiencies and stated he would move as fast as possible.

21-15 Bay Front Streetscape Councilman Coleman asked about the bid date for the project—report states open bid the second week of January, which Mr. Newman stated should be the second week of February.

Councilman Goodlin asked Mr. Newman if he could add another column with anticipated cost. Mayor LeJeune asked for fully funded, partially funded & unfunded on Mr. Newman's spreadsheet. Kelli Kichler-Reid made a comment to the committee (inaudible). Mr. Newman said it would change more throughout the design process.



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Mr. Newman spoke to the committee about the May Day Park inspection report was spurred due to a photo received from a citizen. Mr. Newman spoke about the exposed rebar and cracked concrete—it's still holding the weight of the pier and still has its structural integrity and he doesn't want it to get any worse, the location is still holding. He stated the report came back better than expected and will complete some minor repair work. Councilwoman Phillips thanked him for the photos and digital files on a shared drive for the committee to assist with the history of the project. Mr. Newman stated he archives the projects for future reference. Councilman Coleman asked about the repairs in the section, is that something you would jack up and replace? Mr. Newman stated one option is to jack it up and take the section out, which would take a few months.

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

- A. Work Request Report –November 2020 & 2021—The Public Works Department completed 501 work orders in October 2021.
- B. Vehicle/Equipment Maintenance Reports –FY2021-2022 YTD
- C. Public Works Related Overtime Report—25.00% of the year used; \$31,973.98 Used YTD as of December 22, 2021.
- D. Street Sweeper Report—December 2021

Councilman Hughes asked William Eringman about road resurfacing and when could the committee could expect the 2021 road resurfacing project to be completed—he stated he has several roads in his district where the work hasn't even been started yet. William Eringman said they started at the west side of Lake Forest where the contractor ran into some issues with manholes, which we are working through. He stated the contractor then had to mobilize south to Daphmont, where quite a bit of paying has been completed in the location. Mr. Eringman said the contractor will then move back to Lake Forest after Daphne Utilities addresses the manhole issues and the riser issues and will move to the east of Lake Forest, it may be towards the end of January is when their contract is through, pending good weather. Mr. Eringman stated with January/February weather it would be in the city's best interest to move the next contract to March for better weather. Councilman Coleman asked if we push to March are the prices locked down—Mr. Eringman stated the only aspect that will vary is the asphalt and concrete index there may be less or more, but asphalt has been going up.

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

- A. Monthly Recycle Tonnage Report (Tonnage Comparison) – November 2021—No Report
- B. Solid Waste New Customer Report – November 2021—33 new residential; 1 new commercial
- C. Tallent Lane Facility Report – November 2021—677.55 total tonnage



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IX. MOSQUITO CONTROL SERVICES

A. Mosquito Report—November 2021

X. MUSEUM COMMITTEE

A. Minutes – November 8, 2021

Councilwoman Phillips brought to the Mayor’s attention item 4B in the Museum Meeting Minutes in regards to their designated location at Jubilee Festival—Mayor LeJeune stated he would reach out to a representative to discuss for further discussion of their location for the future event.

XI. BEAUTIFICATION COMMITTEE

A. Minutes – November 3, 2021

XII. ENVIRONMENTAL ADVISORY COMMITTEE

A. Minutes – November 22, 2021

Troy Strunk addressed the committee (inaudible). Councilman Goodlin asked about an estimate as far as the channel is for the dredging location south of I-10 under the bridge. Troy Strunk addressed the committee (inaudible). Mayor LeJeune stated it was far away from us. Councilman Coleman asked about a parking lot and a resident complaining about a boat at the location. Troy Strunk addressed the committee (inaudible).

Councilman Hughes stated about the maintenance, with the channel markers going in and the recent dredging, have we noticed any erosion and what is the depth of the channel? Troy Strunk said that it would be a Tim White question, since it is his project and the Mayor asked about the same location 3 months ago and long term maintenance solutions for that channel. Mr. Strunk said Tim White reached out to Gary Coles with Coles Murphy Engineering who were the original engineers on the project. Mr. Strunk said that they recommend an annual hydrographic survey to be done to the channel so we can then measure the amount of sediment coming in on an annual basis. He stated they provided a contract for us and the Mayor has executed that contract to provide an annual service for a hydrographic and topological survey (\$3500/yr.) for that basin—it documents the depth, if there is no sediment going in the channel, then there is no maintenance—we need to establish a base line. We know what it was when it was dredged, there is actually going to be starting the hydrographic survey to see what has been happening in the past 1-2 years, then we will budget for it. Councilman Hughes asked for the depth of the channel—Troy Strunk said he vaguely remember 6.5 feet. Mrs. Kelli Kichler-Reid addressed the committee (inaudible). Councilman Goodlin asked how long will it last pending upon weather—Troy Strunk said the hydrographic survey would tell us.



CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES
January 3, 2022 - 4:30 P.M.
DAPHNE CITY HALL

Councilman Coleman asked about the Monroe St drainage issue in regards to the manhole that failed behind Dragon City—any progress on it? Troy Strunk stated he spoke to Brad Puckett with WHLC Architects before Christmas and would have a revised plan within a week. They were working with a local engineering firm; however, he has not seen that plan. Mr. Strunk said he emailed Mr. Puckett this morning (January 3) asking about the status on the project. Someone from the gallery spoke about the topic (unsure who it was and inaudible). Mr. Strunk stated he reached out to them asking for a fence to be placed around the area due to safety concerns about what is going on out there and they have not done anything about it and he is going to push a little bit harder this week. Councilman Coleman said he was unsure how much runoff was currently going in the bay, but it is a big deal. Mr. Strunk agreed that it is a big deal. Councilman Olen asked who WHLC was—Mr. Strunk stated it was an architectural firm in Fairhope who the majority owner of the company is the owner of the land and he refers to the person as WHLC. Councilman Coleman asked to get an update periodically for Monroe St. for every Public Works meeting. Mr. Strunk stated if you saw it in person, you would be quite concerned and he agreed. He stated staff is very concerned about it. Mayor LeJeune asked if the Council knew more about it—Mr. Strunk requested Josh Newman explain better with the technical aspects. Mr. Newman addressed the committee stating it is similar to May Day where there is a pipe going through private property and it had a manhole going up to the top. He stated at some point the manhole started leaking and failing, and it scowled all the sediment around it and were washed out of the pipe and into the bay. He stated once all of the dirt washed out it collapsed and it is a big sinkhole in the middle of the property. Mr. Strunk addressed the committee (inaudible)—Mr. Strunk stated it is roughly a 30-foot sinkhole. Councilman Goodlin stated it is on private party, but do we have access to make repairs? Is that a problem? Mr. Strunk stated its private property; it is not ours or Daphne Utilities. Councilman Olen asked so pipe belongs to the private property owner. Mr. Strunk addressed the committee (inaudible). Councilman Olen asked how long has it been in this situation where we have the sinkhole? Josh Newman stated the city received a call 3 months ago from the property owner notifying the city that we had a pipe that is collapsing, so looked at it and did some research and found out that the pipe is not on our drainage easement. He stated we have been monitoring it and reaching out to the property owner to get it fixed, but either way if it is our pipe or theirs, it is discharging into the bay. He stated we want to get it fixed as soon as possible. Someone in the gallery asked a question about recourse (inaudible). Mr. Newman stated we could report it. Troy Strunk made a comment (inaudible). Councilwoman Phillips asked what is keeping us from reporting it? Have they given us a timeline of when they are going to have it repaired? Troy Strunk stated it is not something that can happen overnight—it is a large pipe that is deep in the ground. He stated they have been working with us—they hired an engineer, done a drainage study, they say they are going to provide Mr. Strunk with a solution, so we're trying to work with them,



CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES
January 3, 2022 - 4:30 P.M.
DAPHNE CITY HALL

but it won't be done overnight. Councilman Coleman stated it has recently come to their attention and it looks like it has been that way for quite some time. Mr. Strunk stated when we first discovered it was probably 6 foot in diameter and now it is approximately 30 feet in diameter and it is actively eroding. Josh Newman addressed the committee (inaudible). Councilwoman Phillips stated the committee needs a timeline for the repair and it sounds like it is going to get more expensive as time goes on. Councilman Coleman added and can you not report it that is the thing? Councilman Olen asked if a building is on the property. Troy Strunk stated its raw property. Councilman Hughes asked who owns the property—Mr. Strunk stated a LLC. Councilman Goodlin asked if it was in a high-rise district. Councilman Coleman said no, they tried to—Troy Strunk said at one point they tried to propose a mid-rise, which he stated was right before his time. Councilman Olen stated he supports for whatever we need have the authority to do. Mr. Strunk said he will push a little harder and that he has not gotten a response from his follow-up email this morning (January 3). Councilman Olen said this is someone with assets, their substantial this architectural firm out of Louisiana with an office here. Councilman Goodlin asked what Code Enforcement fines are available or we go to ADEM—Troy Strunk stated it would be the US Army Corp of Engineers. Mayor LeJeune stated Tim White is out sick now and he is the one handling this and to see whom he has reported this to, etc.—he stated he would get with Mr. White with who he has reported to, etc. Councilman Coleman stated he feels a comfort knowing Tim White has a background in this and has been handling this and knows what needs to be reported—Mr. Strunk stated they got out in a boat and found the discharge. Mr. Strunk stated he has spoken to the adjacent property owner, he has walked that pipe before, and we are actively looking at and will push a little bit harder.

XIII. FUTURE BUSINESS

A. Next Meeting – **Monday, February 7, 2022**

XIV. ADJOURNMENT

Motion by Benjamin Hughes, seconded by Tommie Conaway to adjourn. Meeting adjourned at 5:19 p.m.



STATE OF ALABAMA

ALCOHOLIC BEVERAGE CONTROL BOARD

ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220203135053462

Type License: 050 - RETAIL BEER (OFF PREMISES ONLY) State: County:

Type License: 070 - RETAIL TABLE WINE (OFF PREMISES ONLY) State: County:

Trade Name: **FASTIME 103**

Filing Fee:

Applicant: **VAIDEHI 1 LLC**

Transfer Fee: \$100.00

Location Address: 2305 US HWY 98 DAPHNE, AL 36526

Mailing Address: 2305 US HWY 98 DAPHNE, AL 36526

County: BALDWIN Tobacco sales: YES Tobacco Vending Machines: 0

Product Type: 03

Type Ownership:

Book, Page, or Document info: 9201475

Do you sell Draft Beer?:

Date Incorporated: 3/30/2020 State incorporated: AL County Incorporated:

Date of Authority:

Federal Tax ID: 87-3861734

Alabama State Sales Tax ID: R011236510

Name:	Title:	Date and Place of Birth:	Residence Address:
BIPINCHANDRA PATEL 10304380 - AL	MEMBER	5/7/1968 INDIA	1300 E NASHVILLE AVE ATMORE, AL 36502
ANKITA PATEL 000000 - AL	MEMBER	6/24/1984 INDIA	803 DARRAH ST FAIRHOPE, AL 36526
JIGAR PATEL 000000 - AL	MEMBER	7/9/1982 INDIA	803 DARRAH ST FAIRHOPE, AL 36532

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES

Does ABC have any actions pending against the current licensee? NO

Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO

Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO

Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES

Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of a corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? NO

Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage, or distilled liquors permit or license issued under authority of this act? NO

Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: JIGAR PATEL

Business Phone: 251-644-0401

Fax:

Home Phone: 251-644-0401

Cell Phone:

E-mail: FASTIME103@GMAIL.COM

PREVIOUS LICENSE INFORMATION:

Trade Name: FASTIME DAPHNE

Applicant: SUNBELT PETROLEUM CO INC

Previous License Number(s)

License 1: 050-000453502

License 2: 070-000453502



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220203135053462

If applicant is leasing the property, is a copy of the lease agreement attached?

Name of Property owner/lessor and phone number: VAIDEHI 1 LLC 251-644-0401

What is lessors primary business? CONVENIENCE STORE

Is lessor involved in any way with the alcoholic beverage business? YES

Is there any further interest, or connection with, the licensee's business by the lessor? YES

Does the premise have a fully equipped kitchen? NO

Is the business used to habitually and principally provide food to the public? NO

Does the establishment have restroom facilities? YES

Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? NO

Will the business be operated primarily as a package store? NO

Building Dimensions Square Footage: 3500

Display Square Footage:

Building seating capacity: 0

Does Licensed premises include a patio area? NO

License Structure: SINGLE STRUCTURE

License covers: ENTIRE STRUCTURE

Number of licenses in the vicinity:

Nearest:

Nearest school:

Nearest church:

Nearest residence: 1 blocks

Location is within: CITY LIMITS

Police protection: CITY

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)?

Name:	Violation & Date:	Arresting Agency:	Disposition:
BIPINCHANDRA PATEL	HARASSING COMMUNICATION-HARASSMENT 6/30/2018	ATMORE POLICE DEPT	PENDING



STATE OF ALABAMA

ALCOHOLIC BEVERAGE CONTROL BOARD

ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220203135053462

Initial each

Signature page

In reference to law violations, I attest to the truthfulness of the responses given within the application.

In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.

In reference to ACT No. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.

In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.

The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages.

The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with said licensed premises. The undersigned hereby understands that he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

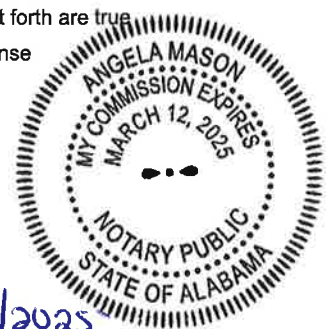
Applicant Name (print): JIGAR PATEL

Signature of Applicant: J Patel

Notary Name (print): Angela Mason

Notary Signature: Angela Mason

Commission expires: 3/12/2025



Application Taken:

App. Inv. Completed:

Forwarded to District Office:

Submitted to Local Government:

Received from Local Government:

Received in District Office:

Reviewed by Supervisor:

Forwarded to Central Office:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220203135053462

Private Clubs / Special Retail / or Special Events licenses ONLY

Private Club

Does the club charge and collect dues from elected members?

Number of paid up members:

Are meetings regularly held?

How often?

Is business conducted through officers regularly elected?

Are members admitted by written application, investigation, and ballot?

Has Agent verified membership applications for each member listed?

Has at least 10% of members listed been confirmed and highlighted?

Agent's Initials:

For what purpose is the club organized?

Does the property used, as well as the advantages, belong to all the members?

Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

Special Retail

Is it for 30 days or less?

More than 30 days?

Franchisee or Concessionaire of above?

Other valid responsible organization:

Explanation:

Special Events / Special Retail (7 days or less)

Starting Date: Ending Date:

Special terms and conditions for special event/special retail:

Other Explanations

Is the lessor involved in any way with the alcohol beverage business?: LESSOR AND LESSOR ARE THE SAME

Is there any further interest in, or connection with, the licensee's business by the lessor?: LESSOR AND LESSOR ARE THE SAME



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
 Confirmation Number: 20220203135053462



NOTICE OF TRANSFER OF ABC LICENSED BUSINESS

NOTE: A Copy of Operating Agreement Must be Attached To Application

CURRENT LICENSEE:
SUNBELT PETROLEUM CO INC

Address: 2305 HWY 98 BETWEEN SANTA ROSA AND WILSON AVES
 DAPHNE, AL 36526
 Telephone: 251-626-5999

NEW APPLICANT:
VAIDEHI 1 LLC

Address: 2305 US HWY 98
 DAPHNE, AL 36526
 Telephone: 251-644-0401

Current License No: 050-000453502
 070-000453502

LICENSED PREMISES ADDRESS: 2305 US HWY 98 DAPHNE, AL 36526

THE AFORENAMED HEREBY SERVE NOTICE TO THE ABC BOARD OF THE ATTACHED CONTRACTUAL AGREEMENT GOVERNING THE CONTINUATION OF SALES OF ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES.

The Parties to this agreement hereby acknowledge and affirm that the New (Applicant) Licensee will, at all times, act as the AGENT for the Current (Named) Licensee, and the Current Licensee shall act as PRINCIPAL for the purposes of the attached Agreement. The Principal shall be bound by all acts and/or omissions of the Agent in the operation of the licensed premises.

The Current Licensee is now and shall remain liable for any violations of ABC Rules and Regulations or other Alabama Law for the duration of the attached Agreement; and, further, that the Current Licensee has the right and authority, under Alabama Law, to surrender the ABC License to the ABC Board at any time.

The parties acknowledge that the operation of the licensed premises shall remain subject to inspection by ABC Enforcement, and must comply with all State and Local regulations and Laws, and that the local ABC Enforcement District Office must be immediately notified of any change in the attached Agreement.

THE CURRENT LICENSE WILL NOT BE RENEWED.

WITNESS our hands and seals on this the 4 day of February, 2022.

CURRENT LICENSEE (NAMED ON LICENSE)

NEW LICENSEE (APPLICANT)

sign-

Print Name: James F. Small
 Title: Sunbelt Petroleum Co Inc, mbr

sign-

Print Name: JIGAR PATEL
 Title: Vaidehi 1 LLC, mbr

WITNESS: (By ABC Enforcement) _____

Revised 9/08

*notary info here;

State of Alabama
County of Baldwin
Subscribed and sworn to (or affirmed) before me this
4 day of February 2022
By James F. Small Jr
Personally known OR produced identification ✓
Type identification produced Alabama Drivers License
Angela Mason
Notary Public



State of Alabama
County of Baldwin
Subscribed and sworn to (or affirmed) before me this
4 day of February 2022
By Sagar Patel
Personally known ✓ OR produced identification OR
Type identification produced OR
Angela Mason
Notary Public



Receipt Confirmation Page

Receipt Confirmation Number: **20220203135053462**
Application Payment Confirmation Number: **81286148**

Payment Summary	
Payment Item	Fee
Transfer Fee for License 050 and License 070	\$100.00
Total Amount to be Charged	\$100.00

Application Type

Application Type: TRANSFER

Applicant Information

License Type 1: 050 - RETAIL BEER (OFF PREMISES ONLY)
License Type 2: 070 - RETAIL TABLE WINE (OFF PREMISES ONLY)
License County: BALDWIN
Business Type:
Trade Name: **FASTIME 103**
Applicant Name: **VAIDEHI 1 LLC**
Location Address: 2305 US HWY 98
 DAPHNE, AL 36526
Mailing Address: 2305 US HWY 98
 DAPHNE, AL 36526
Contact Person: JIGAR PATEL
Contact Home Phone: 251-644-0401
Contact Business Phone: 251-644-0401
Contact Fax:
Contact Cell Phone:
Contact Email Address:
Contact Web Address:

CASE NO. 2022-3

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. 2/4/22 (initial) CAC
DATE FORWARDED TO POLICE DEPT. 2/4/22 CAC
DATE RECEIVED BY POLICE DEPT. 2/7/22 PM
DATE: 2/7/22 APPROVED JV DISAPPROVED _____

POLICE DEPT SIGNATURE Jan [Signature]
DATE RETURNED TO REVENUE DIV. 2/7/22 PM
DATE FORWARDED TO CITY CLERK 2/7/22 CAC
DATE RECEIVED BY CITY CLERK _____
SCHEDULED DATE ON AGENDA _____

Council Action: _____ APPROVED _____ DISAPPROVED _____ TABLED
COMMENTS: _____

Rescheduled for Council Agenda Date: _____

Council Action: _____ APPROVED _____ DISAPPROVED _____ TABLED
COMMENTS: _____

DATE RETURNED TO REVENUE DIV.: _____

DATE RETURNED TO TAXPAYER _____
OR TO ABC FIELD OFFICE. _____ (per taxpayer request)

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2022 - 07**

**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 items listed below are no longer required for public or municipal purposes; and

WHEREAS, the items listed below are 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	DESCRIPTION
Mechanical	Parts for Old John Deere Mowers

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 _____, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-06**

**AN ORDINANCE TO AMEND SECTIONS 4.7, 10.7, 10.8, 10.9, 10.10, 10.11 AND 10.13
OF THE CITY'S EMPLOYEE HANDBOOK**

WHEREAS, the City Council of the City of Daphne, after due consideration, believes it appropriate to amend several sections of the City of Daphne Employee Handbook for consistency with the revisions made to the City of Daphne Classification and Compensation Plan via Ordinance 2021-52;

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

SECTION I:

That the following Sections of the Employee Handbook be amended:

Section 4.7	Temporary Assignments
Section 10.7	Pay Scale
Section 10.8	Cost of Living Adjustments
Section 10.9	Merit-Based Pay Increases
Section 10.10	Entry Level Pay for Newly-Hired and Promoted Employees
Section 10.11	Pay Level After Other Reassignments
Section 10.13	Pay Rate for Certain Rehired Former Employees

The specific revisions to these sections are set forth in Exhibit A to this Ordinance.

SECTION II: REPEALER

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

SECTION III: SEVERABILITY

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 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 publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

EXHIBIT A

AMENDMENTS OF EXISTING POLICIES

AMENDMENT OF SECTION 4.7

Amend the existing policy to include these revisions:

4.7. TEMPORARY ASSIGNMENTS

Purpose. The appointing authority has discretion to place any employee on temporary assignment in another position for such purposes as training, accomplishing special projects, filling temporary vacancies, or other similar reasons.

Duration. Normally, a temporary assignment will not exceed ninety (90) continuous calendar days. However, the appointing authority has discretion to extend this period for up to ninety (90) additional calendar days.

Pay. During a temporary assignment, an employee's eligibility for overtime pay may change depending on whether the exempt or non-exempt classification of the temporary assignment job is different from the employee's usual job. An employee's pay rate will not change during a temporary assignment to a position with equal or lower pay rate. During a temporary assignment to a position with a higher pay rate than the employee's regular position, the employee's pay will not change during the first fifteen (15) working days of the temporary assignment. If the employee remains in the position with a higher pay rate for more than fifteen (15) continuously scheduled workdays, for the remainder of the assignment, the employee's pay rate will be adjusted to the minimum/entry-level of the new grade range for the temporarily assigned job, or the employee will be paid five percent (5%) higher than the regular pay rate, whichever is higher. Upon completion of the temporary assignment, the employee's pay will revert back to the pay rate of the employee's regular position.

AMENDMENT OF SECTION 10.7

Amend the existing policy to include these revisions:

10.7. PAY SCALE

Overview. The City has an established Pay Scale containing 40 grades applicable to all positions in the unclassified, classified, and part-time services. The Pay Scale is available for review by employees in the human resources department.

Pay Rates. The City sets employee pay rates on the Pay Scale based on minimum, midpoint, and maximum points of the salary/wage range for each position. Current employee pay rates are based on a progression from the rate applicable at the time of adoption or revision of the Pay Scale. A newly hired employee's rate will be based on the minimum requirements of position, the minimum rate of an assigned grade range, and previous experience relative to the job for which the employee has been hired. In general, employee pay rates on the Pay Scale are an hourly rate of pay. Exempt employees and certain non-exempt employees who have been designated by the Mayor as salaried employees will be paid a salary each pay period. Such salary is based upon the hours that the employee is normally expected to work during the pay period and the approved hourly rate of pay for the job as determined from the Pay Scale. Normally, this will be forty (40) hours, however, in those situations where an employee is expected to work more or fewer hours per pay period, the salary will be based upon the expected hours of work.

AMENDMENT OF SECTION 10.8 (renumber Section 10.9)

Amend the existing policy to include these revisions:

10.8. COST OF LIVING ADJUSTMENTS

The Mayor and City Council may utilize Cost of Living Adjustment (“COLA”) to amend the Pay Scale to provide salary increases to all employees. The established budget adoption process is the primary method to implement a COLA. But COLA also may be approved at any other time as the Mayor and City Council may determine appropriate and necessary. Any approved and adopted COLA will be applied uniformly to all job grades, or may be implemented as a percentage-based increase or an increase in a fixed amount that is applied to all pay grades within the Pay Scale. Regardless of how the COLA is implemented, the Pay Scale will be adjusted accordingly. Enactment of a COLA does not affect the grade of employees but instead alters the pay rate for all grades as specified in the adopted COLA.

.

AMENDMENT OF SECTION 10.9 (renumber 10.8)

Amend the existing policy to include these revisions:

10.9. MERIT-BASED PAY INCREASES

Merit-based pay increases may be awarded to individual employees based on performance. A Department Head may request a merit-based increase for employees demonstrating exceptional job performance. Merit increases will be a designated percentage or a fixed amount of pay, as determined by the Mayor with input from the Human Resources Director.

Funding for merit pay increases is subject to appropriated funds in the annual budget, as adopted or amended from time to time by the City Council. The annual budget must include a line item to provide allocation, if any, for merit pay increases. Factors considered in awarding merit-based increases include the allocation amount, number of requests, and performance demonstrated by the employee. Upon the award of a merit increase by the Mayor, funding to cover the increase in salary for the award shall be transferred to the corresponding department's personnel budget.

The Human Resource Director will place documentation concerning approved merit increases and the reasons for approval in the employee's personnel file.

AMENDMENT OF SECTION 10.10

Amend the existing policy to include these revisions:

10.10. ENTRY LEVEL PAY FOR NEWLY-HIRED AND PROMOTED EMPLOYEES.

General Rule – New Hires. The entry-level rate of pay for a new salaried or hourly employee in the unclassified, classified, or part-time service will be established at the minimum level of pay for the employee's job as authorized in the Pay Scale. But in order to ensure adequate opportunity for performance based salary advancement for all employees, including exceptional situations, the entry pay grade for any new employee must not exceed the midpoint of the salary/wage range.

General Rule - Promotions. When an employee is promoted to another job, the default pay will be established at the entry level of the new pay grade. If the entry level of pay for the new pay grade is less than a ten percent (10%) increase from the previous position's pay, the pay established for the promoted employee must be set at ten percent (10%) more than the pay grade of the previous position.

Exceptional Circumstances – Higher Pay Rate. The City recognizes that there are hiring and promotion situations that require additional pay considerations beyond what is normally allowed. When these situations occur, it will be the Department Head's responsibility to make a pay rate recommendation and to document the individual's qualifications and any other exceptional circumstances surrounding the hiring or promotion decision. The Mayor can review the information and decide if the pay rate recommendation is appropriate. The Mayor has the final authority to approve entry-level pay for newly hired or promoted employees not to exceed the midpoint of the wage/salary range on the Pay Scale, with no further action required by the City Council, provided that funds are available in the City's personnel budget. An appropriation by the City Council is required if adequate funds are not available. Should the pay requirements further exceed the midpoint of the wage/salary range, the Mayor may request the City Council to review the qualifications and approve a pay rate between the midpoint and maximum points of the salary range.

Documentation. All circumstances outlined and included herein must be fully documented and provided to Human Resources for inclusion in personnel files.

AMENDMENT OF SECTION 10.11

Amend the existing policy to include these revisions:

10.11. PAY LEVEL AFTER OTHER REASSIGNMENTS

Transfer. An employee's pay rate will remain the same as before a reassignment when an employee is transferred to another job. However, any adjustments that are required due to a change in the hours that a salaried employee is expected to work during the pay period will be made.

Demotion. When the City demotes an employee to a new job, the employee's pay will be established at the same relative position in the pay range of the pay grade for the new job that it was in the pay range of the job held prior to demotion. Such pay will be at least five percent (5%) below the pay the employee received prior to the demotion. However, under no circumstances will a demoted employee's pay exceed the maximum point of the salary range, or be less than the minimum point of the salary range authorized for the pay grade of the new job.

Return to Old or Comparable Job Before Completing Probationary Period. If a promoted employee returns to the former job, or a comparable job, before completing the required probationary period, the City will return the employee's pay rate to rate in effect prior to the promotion. However, the employee's pay will be increased or decreased to reflect any general adjustments applied to other employees that would have otherwise affected the employee's pay.

AMENDMENT OF SECTION 10.13

Amend the existing policy to include these revisions:

10.13. PAY RATE FOR CERTAIN REHIRED FORMER EMPLOYEES.

If a former unclassified, classified or part-time employee who left the City in good standing is rehired to a vacant position in the unclassified, classified, or part-time service after a break in service of less than 180 days, the Department Head may request to the Mayor that the pay of the employee be established at the same relative rate in the pay range of the pay grade level for the job as it was before the employee's break in service, as long as the return rate of pay is not below the minimum of the grade range for the job to which the employee is assigned at rehire.

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022- 07**

**APPROPRIATION: ENGINEERING FEES DRAINAGE MASTER PLANNING FOR MAYDAY
PARK**

WHEREAS, Ordinance 2021-49 approved and adopted the Fiscal Year 2022 Budget on September 20, 2021; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2022 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2022 budget; and

WHEREAS, the City was awarded Grant #DAPHNE-CZM-306-20-1 from the State of Alabama Department of Conservation and Natural Resources (ADCNR) in the amount of \$45,000 for drainage planning at Mayday Park; and

WHEREAS, a request for qualifications (RFQ) was solicited for professional services and Resolution 2022-01 awarded the engineering services for the drainage master planning for Mayday Park to Dewberry Engineers, Inc.; and

WHEREAS, a proposal was received from Dewberry Engineers, Inc. in the amount of \$106,280 to perform the professional services associated with drainage master planning for Mayday park; and

WHEREAS, the grant does not cover the entire cost of the services and additional funds in the amount of \$61,280 are needed to complete the drainage study;

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

1. Funds in the amount of **\$61,280** from the **General Fund** are appropriated and made a part of the Fiscal Year 2022 budget for the City's portion of the project herein described.
2. The Mayor is hereby authorized to execute any and all documents required in order for the City of Daphne to participate in such project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA this ____ day of _____, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-08**

**ADDITIONAL APPROPRIATION: STPOA-0216(250) - TURNING LANES AT SEHOY BLVD
AND LONGVUE BLVD**

WHEREAS, Ordinance 2021-49 approved and adopted the Fiscal Year 2022 Budget on September 20, 2021; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2022 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2022 budget; and

WHEREAS, the City in conjunction with the Eastern Shore Metropolitan Planning Organization was awarded funds by the Alabama Department of Transportation (ALDOT) to complete intersection improvements (turning lanes) at Sehoy Boulevard and LongVue Boulevard along County Road 13; and

WHEREAS, the City paid ALDOT \$157,124.95 in 2017 for the City's estimated portion of the total cost of the project, STPOA-0216(250); and

WHEREAS, ALDOT has finalized all costs on project STPOA-0216(250) and has invoiced the City for the final amount due on the project in the amount of \$17,948.

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

- 1) The Fiscal Year 2022 Budget is hereby amended to include an appropriation in the amount of **\$17,948** from the **Seven Cent Gas Tax Fund** for final costs related to ALDOT Project STPOA-0216(250) Turning Lanes at Sehoy Blvd. and Longvue Blvd., and
- 2) The Mayor is hereby authorized to execute any documents required in relation to this ALDOT project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-09**

**APPROPRIATION: CPAT (CANDIDATE PHYSICAL ABILITY TEST) TRAINING FACILITY
BUILDING - ENGINEERING FEES**

WHEREAS, Ordinance 2021-49 approved and adopted the Fiscal Year 2022 Budget on September 20, 2021; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2022 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2022 budget; and

WHEREAS, the construction of CPAT Training Facility is needed for training and testing for those training to be a firefighter; and

WHEREAS, the Daphne Volunteer Fire Department will be donating the building for the CPAT Training Facility (approximately \$135,400), and

WHEREAS, a proposal for professional engineering and architectural services has been received from Barton & Shumer Engineering, LLC. in the amount of \$12,850 to design, prepare construction documents, and coordinate with the Volunteer Fire Department and the City of Daphne on the construction of the building and needed site work upgrades, and

WHEREAS, an appropriation is needed for the engineering and design and site work upgrades for the CPAT Training Facility.

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

1. Funds from the General Fund are hereby appropriated and made a part of the Fiscal Year 2022 budget in the amount of \$12,850 for the engineering services related to the site work upgrades for the CPAT Training Facility.
2. The Mayor is hereby authorized to execute any and all documents required in order for the City of Daphne to participate in such project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-11**

**Ordinance to Pre-Zone Property Located at the
East and Southeast of Robbins Boulevard and Ashbury Hill Road
GCOF Reserve of Daphne, L.L.C. and 68V Reserve at Plantation Hills, 2021, L.L.C.**

WHEREAS, GCOF Reserve of Daphne, L.L.C. and 68V Reserve at Plantation Hills, 2021, L.L.C., as the owners of certain real property located within the unincorporated area of Baldwin County, Alabama, have requested that said property that is currently zoned by the County as RSF-2, Residential Single Family District, Baldwin County District 15, in the extraterritorial planning jurisdiction of the City of Daphne, be pre-zoned as R-3, High Density Single Family Residential, prior to annexation into the City of Daphne; and

WHEREAS, said real property is located East and Southeast of Robbins Boulevard and Ashbury Hill Road, being more particularly described as follows:

Legal Description for Property to be Pre-Zoned:

BEGIN AT THE NORTHEAST CORNER OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN THENCE SOUTH 00°17'09" WEST, ALONG THE EAST LINE OF SAID SECTION 12, A DISTANCE OF 2,657.61 FEET TO A CRIMP TOP IRON PIPE; THENCE RUN NORTH 89°47'01" WEST, A DISTANCE OF 2149.52 FEET TO A CAPPED REBAR (CA-0089-LS); THENCE RUN NORTH 89°48'35" WEST, A DISTANCE OF 496.47 FEET TO A CAPPED REBAR (LS 19254); THENCE RUN NORTH 89°57'11" WEST, A DISTANCE OF 1,304.46 FEET TO A NAIL WITH SHINER IN AN OLD FENCE POST (CA-0568-LS); THENCE RUN NORTH 00°00'08" EAST, A DISTANCE OF 2,658.04 FEET TO CAPPED REBAR (CA-0089-LS) ON THE SOUTH LINE OF BAY BRANCH VILLAS, PHASE 6-B, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2216-F AND SLIDES 2217-A & 2217-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°52'03" EAST, ALONG THE SOUTH MARGIN OF SAID BAY BRANCH VILLAS, PHASE 6-B, A DISTANCE OF 504.59 FEET TO CAPPED REBAR; THENCE RUN SOUTH 89°50'01" EAST, ALONG THE SOUTH LINE OF BAY BRANCH ESTATES PHASE 5, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2011-B AND 2011-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, A DISTANCE OF 1,479.44 FEET TO A CAPPED REBAR (CEC) AT THE SOUTHWEST CORNER OF PLANTATION HILLS SOUTH, PHASE 2, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2020-B AND 2020-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°47'11" EAST, ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, A DISTANCE OF 638.30 FEET TO A CAPPED REBAR (CA-0568-LS) AT THE SOUTHWEST CORNER OF LOT 56 OF SAID PLANTATION HILLS SOUTH, PHASE 2; THENCE RUN ALONG THE EAST MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, THE FOLLOWING COURSES, TO WIT; NORTH 00°01'54" EAST, A DISTANCE OF 170.51 FEET; SOUTH 89°55'34" EAST, A DISTANCE OF 43.06 FEET TO A 5/8" REBAR; NORTH 00°18'23" EAST, A DISTANCE OF 220.16 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); SOUTH 89°38'30" EAST, A DISTANCE OF 81.89 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°58'32" WEST, A DISTANCE OF 180.26 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 89°49'10" WEST, A DISTANCE OF 142.41 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°23'00" EAST, A DISTANCE OF 60.07 FEET TO 1/2" REBAR; SOUTH 89°47'31" EAST, A DISTANCE OF 157.97 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°14'29" WEST, A DISTANCE OF 170.15 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°11'49" EAST, A DISTANCE OF 343.67 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS) ON THE SOUTH MARGIN OF PLANTATION HILLS SOUTH, PHASE 1, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 1825-A, PROBATE

RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 1, THE FOLLOWING COURSES, TO WIT; SOUTH 89°48'31" EAST, A DISTANCE OF 134.82 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°21'19" EAST, A DISTANCE OF 49.29 FEET TO A 1/2" CAPPED REBAR (CA-0568-LS); SOUTH 89°43'08" EAST, A DISTANCE OF 187.25 FEET TO A 1/2" CAPPED REBAR (CEC); NORTH 66°32'15" EAST, A DISTANCE OF 129.09 FEET TO A 1/2" CAPPED REBAR (MOORE) AT THE SOUTHWEST CORNER OF LOT 291 OF PLANTATION HILLS SUBDIVISION, UNIT 4, AS SHOWN BY MAP OR PLAT THEREOF RECORDED IN MAP BOOK 11, AT PAGE 26, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SUBDIVISION, UNIT 4, THE FOLLOWING COURSES, TO WIT; SOUTH 83°56'16" EAST, A DISTANCE OF 122.19 FEET; NORTH 75°36'18" EAST, A DISTANCE OF 63.76 FEET; SOUTH 89°49'24" EAST, A DISTANCE OF 214 FEET, MORE OR LESS, TO THE CENTER OF BAY BRANCH; THENCE RUN SOUTHERLY, ALONG THE MEANDERS OF SAID BAY BRANCH, A DISTANCE OF 1,194 FEET, MORE OR LESS, TO A POINT THAT BEARS SOUTH 89°50'53" EAST, A DISTANCE OF 332 FEET, MORE OR LESS, OF A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 89°50'53" WEST, A DISTANCE OF 332 FEET, MORE OR LESS, TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 10°06'02" WEST, A DISTANCE OF 160.48 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 180.00 FEET, AN ARC LENGTH OF 40.85 FEET, (CHORD BEARS SOUTH 68°46'51" WEST, A DISTANCE OF 40.77 FEET) TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 10°06'02" EAST, A DISTANCE OF 161.49 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 80°34'34" WEST, A DISTANCE OF 367.40 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 153.67 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, AN ARC LENGTH OF 200.73 FEET, (CHORD BEARS SOUTH 24°52'48" EAST, A DISTANCE OF 90.62 FEET); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 170.00 FEET; THENCE RUN SOUTH 89°50'38" EAST, A DISTANCE OF 1,071.74 FEET TO THE POINT OF BEGINNING.

TRACT CONTAINS 258.43 ACRES, MORE OR LESS, AND LIES IN SECTION 1 AND SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

WHEREAS, at the regular Planning Commission meeting on November 18, 2021, the Commission considered said request and a unanimous vote to set forth a favorable recommendation to the City Council to pre-zone the property R-3 High Density Single Family Residential; and,

WHEREAS, due notice of said proposed pre-zoning has been provided to the public as required by law through publication and open display at City Hall, and a public hearing was held before the City Council on February 7, 2022; 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 pre-zoning of the above described real property and as set forth on a map of the property attached hereto and made a part of this Ordinance as Exhibit "A" 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

That above described real property is hereby pre-zoned to R-3 High Density Single Family Residential, City of Daphne. Upon annexation of the property prior to the expiration of the pre-zoning as set forth in Section IV, the property shall be assigned the zoning district in accordance with the pre-zoning and the zoning ordinance and zoning map shall be amended to reflect said zoning. Should annexation not occur prior to the expiration of this pre-zoning as set forth in Section IV, this pre-zoning shall have no effect and the designation of a zoning district for the property shall be set forth in the annexation ordinance.

Until such time as the property is annexed into the City of Daphne, the property shall remain in the unincorporated area of Baldwin County and zoned in accordance with the Baldwin County Commission's zoning plan. The County's zoning for the property at the time the request for pre-zoning was submitted was RSF-2, Residential Single Family District, Baldwin County District 15, Exterritorial Planning Jurisdiction.

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 AND EXPIRATION DATE.

This Ordinance shall take effect after the date of its approval by the City Council of the City of Daphne and publication as required by law. Pursuant to Code of Alabama (1975) Section 11-52-85, the zoning of the subject property shall become effective upon the date the territory is annexed into the corporate limits. If any portion of the subject property is not annexed into the corporate limits within 180 days of the initiation of annexation proceedings as provided by law, this pre-zoning shall be null and void. Should the pre-zoning become null and void, the applicant may reapply for pre-zoning at any time as long as an annexation petition is pending.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA, THIS _____ day of _____, 2022.**

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

[illegible]

CLIMATE	LENGTH	BREADTH	WING	WING	WING	WING	WING	WING	WING
1	10.85	186.00	12.00	14	14	14	14	14	14
2	10.85	186.00	12.00	14	14	14	14	14	14
3	10.85	186.00	12.00	14	14	14	14	14	14



SCALE	1"=200'
PROJ. NO.	50140571
FILE	50140571 240
SHEET	1 OF 1

**Legal Description: GCOF RESERVE AT DAPHNE, LLC, AND 68V RESERVE
AT PLANTATION HILLS 2021, LLC**

258.43 acres

BEGIN AT THE NORTHEAST CORNER OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN THENCE SOUTH 00°17'09" WEST, ALONG THE EAST LINE OF SAID SECTION 12, A DISTANCE OF 2,657.61 FEET TO A CRIMP TOP IRON PIPE; THENCE RUN NORTH 89°47'01" WEST, A DISTANCE OF 2149.52 FEET TO A CAPPED REBAR (CA-0089-LS); THENCE RUN NORTH 89°48'35" WEST, A DISTANCE OF 496.47 FEET TO A CAPPED REBAR (LS 19254); THENCE RUN NORTH 89°57'11" WEST, A DISTANCE OF 1,304.46 FEET TO A NAIL WITH SHINER IN AN OLD FENCE POST (CA-0568-LS); THENCE RUN NORTH 00°00'08" EAST, A DISTANCE OF 2,658.04 FEET TO CAPPED REBAR (CA-0089-LS) ON THE SOUTH LINE OF BAY BRANCH VILLAS, PHASE 6-B, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2216-F AND SLIDES 2217-A & 2217-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°52'03" EAST, ALONG THE SOUTH MARGIN OF SAID BAY BRANCH VILLAS, PHASE 6-B, A DISTANCE OF 504.59 FEET TO CAPPED REBAR; THENCE RUN SOUTH 89°50'01" EAST, ALONG THE SOUTH LINE OF BAY BRANCH ESTATES PHASE 5, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2011-B AND 2011-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, A DISTANCE OF 1,479.44 FEET TO A CAPPED REBAR (CEC) AT THE SOUTHWEST CORNER OF PLANTATION HILLS SOUTH, PHASE 2, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2020-B AND 2020-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°47'11" EAST, ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, A DISTANCE OF 638.30 FEET TO A CAPPED REBAR (CA-0568-LS) AT THE SOUTHWEST CORNER OF LOT 56 OF SAID PLANTATION HILLS SOUTH, PHASE 2; THENCE RUN ALONG THE EAST MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, THE FOLLOWING COURSES, TO WIT; NORTH 00°01'54" EAST, A DISTANCE OF 170.51 FEET; SOUTH 89°55'34" EAST, A DISTANCE OF 43.06 FEET TO A 5/8" REBAR; NORTH 00°18'23" EAST, A DISTANCE OF 220.16 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); SOUTH 89°38'30" EAST, A DISTANCE OF 81.89 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°58'32" WEST, A DISTANCE OF 180.26 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 89°49'10" WEST, A DISTANCE OF 142.41 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°23'00" EAST, A DISTANCE OF 60.07 FEET TO 1/2" REBAR; SOUTH 89°47'31" EAST, A DISTANCE OF 157.97 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°14'29" WEST, A DISTANCE OF 170.15 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°11'49" EAST, A DISTANCE OF 343.67 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS) ON THE SOUTH MARGIN OF PLANTATION HILLS SOUTH, PHASE 1, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 1825-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 1, THE FOLLOWING COURSES, TO WIT; SOUTH 89°48'31" EAST, A DISTANCE OF 134.82 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°21'19" EAST, A DISTANCE OF 49.29 FEET TO A 1/2" CAPPED REBAR (CA-0568-LS); SOUTH 89°43'08" EAST, A DISTANCE OF 187.25 FEET TO A 1/2" CAPPED REBAR (CEC); NORTH 66°32'15" EAST, A DISTANCE OF 129.09 FEET TO A 1/2" CAPPED REBAR (MOORE) AT THE SOUTHWEST CORNER OF LOT 291 OF PLANTATION HILLS SUBDIVISION, UNIT 4, AS SHOWN BY MAP OR PLAT THEREOF RECORDED IN MAP BOOK 11, AT PAGE 26, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SUBDIVISION, UNIT 4,

THE FOLLOWING COURSES, TO WIT; SOUTH 83°56'16" EAST, A DISTANCE OF 122.19 FEET; NORTH 75°36'18" EAST, A DISTANCE OF 63.76 FEET; SOUTH 89°49'24" EAST, A DISTANCE OF 214 FEET, MORE OR LESS, TO THE CENTER OF BAY BRANCH; THENCE RUN SOUTHERLY, ALONG THE MEANDERS OF SAID BAY BRANCH, A DISTANCE OF 1,194 FEET, MORE OR LESS, TO A POINT THAT BEARS SOUTH 89°50'53" EAST, A DISTANCE OF 332 FEET, MORE OR LESS, OF A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 89°50'53" WEST, A DISTANCE OF 332 FEET, MORE OR LESS, TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 10°06'02" WEST, A DISTANCE OF 160.48 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 180.00 FEET, AN ARC LENGTH OF 40.85 FEET, (CHORD BEARS SOUTH 68°46'51" WEST, A DISTANCE OF 40.77 FEET) TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 10°06'02" EAST, A DISTANCE OF 161.49 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 80°34'34" WEST, A DISTANCE OF 367.40 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 153.67 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, AN ARC LENGTH OF 200.73 FEET, (CHORD BEARS SOUTH 24°52'48" EAST, A DISTANCE OF 90.62 FEET); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 170.00 FEET; THENCE RUN SOUTH 89°50'38" EAST, A DISTANCE OF 1,071.74 FEET TO THE POINT OF BEGINNING.

TRACT CONTAINS 258.43 ACRES, MORE OR LESS, AND LIES IN SECTION 1 AND SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-12**

**Ordinance to Pre-Zone Property Located at the
North of the intersection of County Road 64 and Montelucia Way
GCOF Reserve of Daphne, L.L.C., James and Barbara Conaway, Joseph Lazzari, Joseph
Lazzari, Jr., and Tania Lazzari**

WHEREAS, GCOF Reserve of Daphne, L.L.C., James and Barbara Conaway, Joseph Lazzari, Joseph Lazzari, Jr., and Tania Lazzari, as the owners of certain real property located within the unincorporated area of Baldwin County, Alabama, have requested that said property that is currently zoned by the County as RSF-2, Residential Single Family District, Baldwin County District 15, in the extraterritorial planning jurisdiction of the City of Daphne, be pre-zoned as R-2, Medium Density Single Family Residential and R-6(G) Patio/Garden Home, prior to annexation into the City of Daphne; and

WHEREAS, said real property is located North of the intersection of County Road 64 and Montelucia Way, being more particularly described as follows:

Legal Description for Property to be Pre-Zoned:

R-6(G) – 108.59 AC.

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN THENCE SOUTH 89°41'38" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 1320.22 FEET TO A 1/2" CAPPED REBAR AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12 FOR THE POINT OF BEGINNING: THENCE RUN SOUTH 89° 41' 59" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 659.77 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN SOUTH 89° 42' 18" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 660.83 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN SOUTH 00°12'38" WEST, A DISTANCE OF 982.01 FEET; THENCE RUN SOUTH 64°28'22" WEST, A DISTANCE OF 120.42 FEET; THENCE RUN SOUTH 31°15'15" WEST, A DISTANCE OF 209.64 FEET; THENCE RUN SOUTH 05°56'31" EAST, A DISTANCE OF 391.39 FEET; THENCE RUN SOUTH 89°52'24" EAST, A DISTANCE OF 732.74 FEET; THENCE RUN SOUTH 56°07'29" EAST, A DISTANCE OF 202.95 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 150.00 FEET; THENCE RUN SOUTH 56°00'53" EAST, A DISTANCE OF 31.77 FEET; THENCE RUN SOUTHEASTERLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1,900.79 FEET, AN ARC DISTANCE OF 138.35 FEET, (CHORD BEARS SOUTH 58°09'24" EAST FOR 138.32 FEET) TO A CAPPED REBAR (CA-0089-LS); THENCE RUN SOUTH 30°42'37" WEST, A DISTANCE OF 62.31 FEET TO A CONCRETE MONUMENT; THENCE RUN SOUTHWESTERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, AN ARC DISTANCE OF 91.06 FEET, (CHORD BEARS SOUTH 43°49'24" WEST FOR 90.28 FEET) TO A CONCRETE MONUMENT; THENCE RUN SOUTH 60°14'19" EAST, A DISTANCE OF 349.14 FEET TO A CAPPED REBAR (CA-951-LS); THENCE RUN NORTH 89°52'24" WEST, A DISTANCE OF 1,165.59 FEET TO A CAPPED REBAR (CA-0568-LS); THENCE RUN SOUTH 00°12'20" WEST, A DISTANCE OF 661.54 FEET TO A CAPPED REBAR; THENCE RUN NORTH 89°53'47" WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 13, A DISTANCE OF 2,599.73 FEET TO A 5/8" CAPPED REBAR (CA-1109) ON THE EAST RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 54; THENCE RUN NORTH 00°15'40" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 54, A DISTANCE OF 588.78 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°49'35" EAST, DEPARTING

SAID RIGHT-OF-WAY, A DISTANCE OF 1,279.81 FEET TO A 1/2" CAPPED REBAR (MOORE); THENCE RUN NORTH 00°13'10" EAST, A DISTANCE OF 440.16 FEET TO A 5/8" CAPPED REBAR (CA-0568); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 284.27 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°47'43" WEST, A DISTANCE OF 396.00 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 656.48 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 89°43'20" EAST, A DISTANCE OF 396.00 FEET TO A 1/2" CAPPED REBAR (CA-0565) AT THE SOUTHEAST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE RUN NORTH 00°11'45" EAST, A DISTANCE OF 663.43 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 108.59 ACRES, MORE OR LESS.

GCOF RESERVE AT DAPHNE, LLC
RESERVE AT DAPHNE
R-6(G) – 8.82 AC.

COMMENCE AT THE SOUTHWEST CORNER OF LOT 53, THE RESERVE AT DAPHNE PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2520-B AND C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 33°52'31" EAST, A DISTANCE OF 434.37 FEET; THENCE NORTH 00°11'08" EAST, A DISTANCE OF 449.05 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 00°11'08" EAST, A DISTANCE OF 429.49 FEET; THENCE RUN NORTH 89°44'38" WEST, A DISTANCE OF 893.25 FEET; THENCE RUN SOUTH 00°14'54" WEST, A DISTANCE OF 430.09 FEET; THENCE RUN SOUTH 89°46'58" EAST, A DISTANCE OF 893.72 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 8.82 ACRES, MORE OR LESS.

GCOF RESERVE AT DAPHNE, LLC
RESERVE AT DAPHNE
R-2 – 69.14 AC.

BEGIN AT THE SOUTHWEST CORNER OF LOT 53, THE RESERVE AT DAPHNE PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2520-B AND C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 33°52'31" EAST, A DISTANCE OF 434.37 FEET; THENCE NORTH 00°11'08" EAST, A DISTANCE OF 449.05 FEET; THENCE RUN NORTH 89°46'58" WEST, A DISTANCE OF 893.72 FEET; THENCE RUN NORTH 00°14'54" EAST, A DISTANCE OF 430.09 FEET; THENCE RUN SOUTH 89°44'38" EAST, A DISTANCE OF 192.97 FEET; THENCE RUN NORTH 28°43'37" WEST, A DISTANCE OF 257.86 FEET; THENCE RUN NORTH 00°13'29" EAST, A DISTANCE OF 2,430.66 FEET; THENCE RUN NORTH 89°48'35" WEST, A DISTANCE OF 496.47 FEET; THENCE RUN SOUTH 00°12'38" WEST, A DISTANCE OF 3,637.75 FEET; THENCE RUN SOUTH 64°28'22" WEST, A DISTANCE OF 120.42 FEET; THENCE RUN SOUTH 31°15'15" WEST, A DISTANCE OF 209.64 FEET; THENCE RUN SOUTH 05°56'31" EAST, A DISTANCE OF 391.39 FEET; THENCE RUN SOUTH 89°52'24" EAST, A DISTANCE OF 732.74 FEET; THENCE RUN SOUTH 56°07'29" EAST, A DISTANCE OF 202.95 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 150.00 FEET; THENCE RUN SOUTH 56°00'53" EAST, A DISTANCE OF 31.77 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 440.06 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 69.14 ACRES, MORE OR LESS.

WHEREAS, at the regular Planning Commission meeting on November 18, 2021, the Commission considered said request and a unanimous vote to set forth a favorable recommendation to the City Council to pre-zone the property R-2 Medium Density Single Family Residential and R-6(G) Patio/Garden Home; and,

WHEREAS, due notice of said proposed pre-zoning has been provided to the public as required by law through publication and open display at City Hall, and a public hearing was held before the City Council on February 7, 2022; 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 pre-zoning of the above described real property and as set forth on a map of the property attached hereto and made a part of this Ordinance as Exhibit “A” 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

That above described real property is hereby pre-zoned to R-2 Medium Density Single Family Residential and R-6(G) Patio/Garden Home, City of Daphne. Upon annexation of the property prior to the expiration of the pre-zoning as set forth in Section IV, the property shall be assigned the zoning district in accordance with the pre-zoning and the zoning ordinance and zoning map shall be amended to reflect said zoning. Should annexation not occur prior to the expiration of this pre-zoning as set forth in Section IV, this pre-zoning shall have no effect and the designation of a zoning district for the property shall be set forth in the annexation ordinance.

Until such time as the property is annexed into the City of Daphne, the property shall remain in the unincorporated area of Baldwin County and zoned in accordance with the Baldwin County Commission’s zoning plan. The County’s zoning for the property at the time the request for pre-zoning was submitted was RSF-2, Residential Single Family District, Baldwin County District 15, Exterritorial Planning Jurisdiction.

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 AND EXPIRATION DATE.

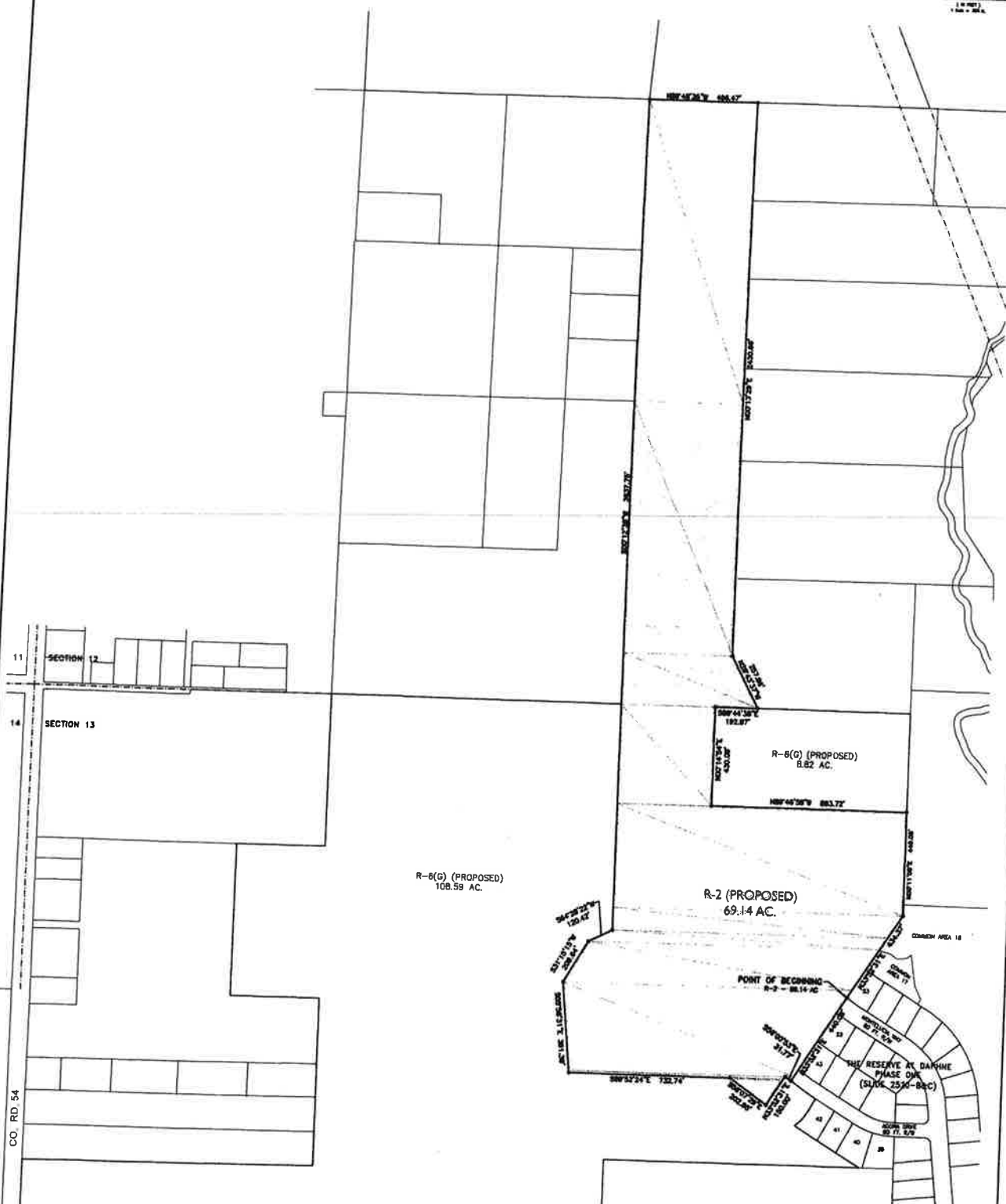
This Ordinance shall take effect after the date of its approval by the City Council of the City of Daphne and publication as required by law. Pursuant to Code of Alabama (1975) Section 11-52-85, the zoning of the subject property shall become effective upon the date the territory is annexed into the corporate limits. If any portion of the subject property is not annexed into the corporate limits within 180 days of the initiation of annexation proceedings as provided by law, this pre-zoning shall be null and void. Should the pre-zoning become null and void, the applicant may reapply for pre-zoning at any time as long as an annexation petition is pending.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

[illegible]

**THE RESERVE AT DAPHNE
PROPOSED R-2**

SKETCH AND DESCRIPTION



SCALE	1"=200'
PROJ. NO.	50140571
FILE	50140571 200
SHEET	1 OF 1

THIS IS NOT A PROPERTY BOUNDARY SURVEY

25353 Friendship Road Daphne, AL 36526
251.990.9950 fax 251.929-9815

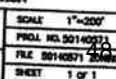
[illegible]

R-6(G) - 8.82 AC

COMMENCE AT THE SOUTHWEST CORNER OF LOT 53, THE BEGINNING AT PHASE THREE, AS SHOWN BY MAP OR PLAT THEREON, AT BLVD. 103RD AND G ST. PROCEED NORTHEAST, BURNING CREEK, ALABAMA, RUN THENCE NORTH 37°39' EAST, A DISTANCE OF 434.27 FEET; THENCE NORTH 02°10'38" EAST, A DISTANCE OF 448.00 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 02°10'38" EAST, A DISTANCE OF 428.46 FEET; THENCE RUN NORTH 89°24' WEST, A DISTANCE OF 862.89 FEET; THENCE RUN SOUTH 01°43'44" WEST, A DISTANCE OF 435.08 FEET; THENCE RUN SOUTH 89°24' EAST, A DISTANCE OF 862.79 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 8.82 ACRES, MORE OR LESS.



SKETCH AND DESCRIPTION



THIS IS NOT A PROPERTY BOUNDARY SURVEY

**GCOF RESERVE AT DAPHNE, LLC, JAMES AND BARBARA CONAWAY, JOSEPH
LAZZARI, JR, JOSEPH LAZZARI AND TANIA LAZZARI**
(RESERVE AT DAPHNE)

R-6(G) – 108.59 AC.

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN THENCE SOUTH 89°41'38" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 1320.22 FEET TO A 1/2" CAPPED REBAR AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12 FOR THE POINT OF BEGINNING: THENCE RUN SOUTH 89° 41' 59" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 659.77 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN SOUTH 89° 42' 18" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 660.83 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN SOUTH 00°12'38" WEST, A DISTANCE OF 982.01 FEET; THENCE RUN SOUTH 64°28'22" WEST, A DISTANCE OF 120.42 FEET; THENCE RUN SOUTH 31°15'15" WEST, A DISTANCE OF 209.64 FEET; THENCE RUN SOUTH 05°56'31" EAST, A DISTANCE OF 391.39 FEET; THENCE RUN SOUTH 89°52'24" EAST, A DISTANCE OF 732.74 FEET; THENCE RUN SOUTH 56°07'29" EAST, A DISTANCE OF 202.95 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 150.00 FEET; THENCE RUN SOUTH 56°00'53" EAST, A DISTANCE OF 31.77 FEET; THENCE RUN SOUTHEASTERLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1,900.79 FEET, AN ARC DISTANCE OF 138.35 FEET, (CHORD BEARS SOUTH 58°09'24" EAST FOR 138.32 FEET) TO A CAPPED REBAR (CA-0089-LS); THENCE RUN SOUTH 30°42'37" WEST, A DISTANCE OF 62.31 FEET TO A CONCRETE MONUMENT; THENCE RUN SOUTHWESTERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, AN ARC DISTANCE OF 91.06 FEET, (CHORD BEARS SOUTH 43°49'24" WEST FOR 90.28 FEET) TO A CONCRETE MONUMENT; THENCE RUN SOUTH 60°14'19" EAST, A DISTANCE OF 349.14 FEET TO A CAPPED REBAR (CA-951-LS); THENCE RUN NORTH 89°52'24" WEST, A DISTANCE OF 1,165.59 FEET TO A CAPPED REBAR (CA-0568-LS); THENCE RUN SOUTH 00°12'20" WEST, A DISTANCE OF 661.54 FEET TO A CAPPED REBAR; THENCE RUN NORTH 89°53'47" WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 13, A DISTANCE OF 2,599.73 FEET TO A 5/8" CAPPED REBAR (CA-1109) ON THE EAST RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 54; THENCE RUN NORTH 00°15'40" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 54, A DISTANCE OF 588.78 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°49'35" EAST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 1,279.81 FEET TO A 1/2" CAPPED REBAR (MOORE); THENCE RUN NORTH 00°13'10" EAST, A DISTANCE OF 440.16 FEET TO A 5/8" CAPPED REBAR (CA-0568); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 284.27 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°47'43" WEST, A DISTANCE OF 396.00 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 656.48 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 89°43'20" EAST, A DISTANCE OF 396.00 FEET TO A 1/2" CAPPED REBAR (CA-0565) AT THE SOUTHEAST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE RUN NORTH 00°11'45" EAST, A DISTANCE OF 663.43 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 108.59 ACRES, MORE OR LESS.

GCOF RESERVE AT DAPHNE, LLC

RESERVE AT DAPHNE

R-6(G) – 8.82 AC.

COMMENCE AT THE SOUTHWEST CORNER OF LOT 53, THE RESERVE AT DAPHNE PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2520-B AND C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 33°52'31" EAST, A DISTANCE OF 434.37 FEET; THENCE NORTH 00°11'08" EAST, A DISTANCE OF 449.05 FEET TO THE POINT OF BEGINNING: THENCE RUN NORTH 00°11'08" EAST, A DISTANCE OF 429.49 FEET; THENCE RUN NORTH 89°44'38" WEST, A DISTANCE OF 893.25 FEET; THENCE RUN SOUTH 00°14'54" WEST, A DISTANCE OF 430.09 FEET; THENCE RUN SOUTH 89°46'58" EAST, A DISTANCE OF 893.72 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 8.82 ACRES, MORE OR LESS.

GCOF RESERVE AT DAPHNE, LLC

RESERVE AT DAPHNE

R-2 – 69.14 AC.

BEGIN AT THE SOUTHWEST CORNER OF LOT 53, THE RESERVE AT DAPHNE PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2520-B AND C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 33°52'31" EAST, A DISTANCE OF 434.37 FEET; THENCE NORTH 00°11'08" EAST, A DISTANCE OF 449.05 FEET; THENCE RUN NORTH 89°46'58" WEST, A DISTANCE OF 893.72 FEET; THENCE RUN NORTH 00°14'54" EAST, A DISTANCE OF 430.09 FEET; THENCE RUN SOUTH 89°44'38" EAST, A DISTANCE OF 192.97 FEET; THENCE RUN NORTH 28°43'37" WEST, A DISTANCE OF 257.86 FEET; THENCE RUN NORTH 00°13'29" EAST, A DISTANCE OF 2,430.66 FEET; THENCE RUN NORTH 89°48'35" WEST, A DISTANCE OF 496.47 FEET; THENCE RUN SOUTH 00°12'38" WEST, A DISTANCE OF 3,637.75 FEET; THENCE RUN SOUTH 64°28'22" WEST, A DISTANCE OF 120.42 FEET; THENCE RUN SOUTH 31°15'15" WEST, A DISTANCE OF 209.64 FEET; THENCE RUN SOUTH 05°56'31" EAST, A DISTANCE OF 391.39 FEET; THENCE RUN SOUTH 89°52'24" EAST, A DISTANCE OF 732.74 FEET; THENCE RUN SOUTH 56°07'29" EAST, A DISTANCE OF 202.95 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 150.00 FEET; THENCE RUN SOUTH 56°00'53" EAST, A DISTANCE OF 31.77 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 440.06 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 69.14 ACRES, MORE OR LESS.

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022- 13**

**ORDINANCE TO ANNEX PROPERTY CONTIGUOUS
TO THE CORPORATE LIMITS OF THE CITY OF DAPHNE**

**East and Southeast of Robbins Boulevard and Ashbury Hill Road, and North of the
intersection of County Road 64 and Montelucia Way
GCOF Reserve of Daphne, L.L.C., 68V Reserve at Plantation Hills 2021, L.L.C., James
and Barbara Conaway, Joseph Lazzari, Joseph Lazzari, Jr. and Tania Lazzari**

WHEREAS, on the 23rd day of August, 2021, 68V Reserve at Plantation Hills 2021, L.L.C., being the owner of certain real property hereinafter described, did file with the City Clerk a petition requesting that said tracts or parcels of land be annexed into and become part of the City of Daphne, Alabama (the “City”); and

WHEREAS, on the 22nd day of June, 2021, GCOF Reserve at Daphne, L.L.C., being the owner of certain real property hereinafter described, did file with the City Clerk a petition requesting that said tracts or parcels of land be annexed into and become part of the City of Daphne, Alabama (the “City”); and

WHEREAS, on the 19th day of August, 2021, James and Barbara Conaway, Joseph Lazzari, Joseph Lazzari, Jr. and Tania Lazzari, being the owners of certain real property hereinafter described, did file with the City Clerk a petition requesting that said tracts or parcels of land be annexed into and become part of the City of Daphne, Alabama (the “City”); and

WHEREAS, said petition did contain an accurate description of the property to be annexed together with a map of the said territory showing its relationship to the corporate limits of the City of Daphne, Alabama, and the signatures of all owners of the property described; and

WHEREAS, said petition was presented to the Planning Commission of the City of Daphne at a regular scheduled meeting on November 18, 2021, and the Commission set forth a favorable recommendation for the City Council of the City of Daphne to consider said request for annexation of said property; and

WHEREAS, after proper publication, a public hearing was held by the City Council on February 7, 2022, concerning the petition for annexation.

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

SECTION ONE: ANNEXATION

The City Council of the City of Daphne finds and declares as the legislative body of the City that it is in the best interest of the citizens of the City and the citizens of the affected area to bring the property described in Section Three of this Ordinance into the corporate limits of the City, and has further determined that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20 through 11-42-24, *et seq.*, Code of Alabama (1975); effective on publication as required by Section 11-42-21, Code of Alabama (1975), as amended.

SECTION TWO: ZONING

At the _____, regularly scheduled City Council meeting, Ordinance 2022- was adopted pre-zoning the said properties as R-3, High Density Single Family Residents and R-2, Medium Density Single Family Residential and R-6(G), Patio-Garden Home, with the apportionment of said zoning districts to the subject property described therein.

SECTION THREE: DESCRIPTION OF TERRITORY

The boundary lines of the City of Daphne are hereby altered or rearranged so as to include all the territory heretofore encompassed by the corporate limits of the City of Daphne and, in addition thereto, the following described property, to-wit:

Legal Description for Annexation:

R-3 High Density Single Family Residential

BEGIN AT THE NORTHEAST CORNER OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN THENCE SOUTH 00°17'09" WEST, ALONG THE EAST LINE OF SAID SECTION 12, A DISTANCE OF 2,657.61 FEET TO A CRIMP TOP IRON PIPE; THENCE RUN NORTH 89°47'01" WEST, A DISTANCE OF 2149.52 FEET TO A CAPPED REBAR (CA-0089-LS); THENCE RUN NORTH 89°48'35" WEST, A DISTANCE OF 496.47 FEET TO A CAPPED REBAR (LS 19254); THENCE RUN NORTH 89°57'11" WEST, A DISTANCE OF 1,304.46 FEET TO A NAIL WITH SHINER IN AN OLD FENCE POST (CA-0568-LS); THENCE RUN NORTH 00°00'08" EAST, A DISTANCE OF 2,658.04 FEET TO CAPPED REBAR (CA-0089-LS) ON THE SOUTH LINE OF BAY BRANCH VILLAS, PHASE 6-B, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2216-F AND SLIDES 2217-A & 2217-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°52'03" EAST, ALONG THE SOUTH MARGIN OF SAID BAY BRANCH VILLAS, PHASE 6-B, A DISTANCE OF 504.59 FEET TO CAPPED REBAR; THENCE RUN SOUTH 89°50'01" EAST, ALONG THE SOUTH LINE OF BAY BRANCH ESTATES PHASE 5, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2011-B AND 2011-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, A DISTANCE OF 1,479.44 FEET TO A CAPPED REBAR (CEC) AT THE SOUTHWEST CORNER OF PLANTATION HILLS SOUTH, PHASE 2, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2020-B AND 2020-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°47'11" EAST, ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, A DISTANCE OF 638.30 FEET TO A CAPPED REBAR (CA-0568-LS) AT THE SOUTHWEST CORNER OF LOT 56 OF SAID PLANTATION HILLS SOUTH, PHASE 2; THENCE RUN ALONG THE EAST MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, THE FOLLOWING COURSES, TO WIT; NORTH 00°01'54" EAST, A DISTANCE OF 170.51 FEET; SOUTH 89°55'34" EAST, A DISTANCE OF 43.06 FEET TO A 5/8" REBAR; NORTH 00°18'23" EAST, A DISTANCE OF 220.16 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); SOUTH 89°38'30" EAST, A DISTANCE OF 81.89 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°58'32" WEST, A DISTANCE OF 180.26 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 89°49'10" WEST, A DISTANCE OF 142.41 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°23'00" EAST, A DISTANCE OF 60.07 FEET TO 1/2" REBAR; SOUTH 89°47'31" EAST, A DISTANCE OF 157.97 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°14'29" WEST, A DISTANCE OF 170.15 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°11'49" EAST, A DISTANCE OF 343.67 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS) ON THE SOUTH MARGIN OF PLANTATION HILLS SOUTH, PHASE 1, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 1825-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 1, THE FOLLOWING COURSES, TO WIT; SOUTH 89°48'31" EAST, A DISTANCE OF 134.82 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°21'19" EAST, A DISTANCE OF 49.29 FEET TO A 1/2" CAPPED REBAR (CA-0568-LS); SOUTH 89°43'08" EAST, A DISTANCE OF 187.25 FEET TO A 1/2" CAPPED REBAR (CEC); NORTH 66°32'15" EAST, A DISTANCE OF 129.09 FEET TO A 1/2" CAPPED REBAR (MOORE) AT THE SOUTHWEST CORNER OF LOT 291 OF PLANTATION HILLS SUBDIVISION, UNIT

4, AS SHOWN BY MAP OR PLAT THEREOF RECORDED IN MAP BOOK 11, AT PAGE 26, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SUBDIVISION, UNIT 4, THE FOLLOWING COURSES, TO WIT; SOUTH 83°56'16" EAST, A DISTANCE OF 122.19 FEET; NORTH 75°36'18" EAST, A DISTANCE OF 63.76 FEET; SOUTH 89°49'24" EAST, A DISTANCE OF 214 FEET, MORE OR LESS, TO THE CENTER OF BAY BRANCH; THENCE RUN SOUTHERLY, ALONG THE MEANDERS OF SAID BAY BRANCH, A DISTANCE OF 1,194 FEET, MORE OR LESS, TO A POINT THAT BEARS SOUTH 89°50'53" EAST, A DISTANCE OF 332 FEET, MORE OR LESS, OF A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 89°50'53" WEST, A DISTANCE OF 332 FEET, MORE OR LESS, TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 10°06'02" WEST, A DISTANCE OF 160.48 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 180.00 FEET, AN ARC LENGTH OF 40.85 FEET, (CHORD BEARS SOUTH 68°46'51" WEST, A DISTANCE OF 40.77 FEET) TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 10°06'02" EAST, A DISTANCE OF 161.49 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 80°34'34" WEST, A DISTANCE OF 367.40 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 153.67 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, AN ARC LENGTH OF 200.73 FEET, (CHORD BEARS SOUTH 24°52'48" EAST, A DISTANCE OF 90.62 FEET); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 170.00 FEET; THENCE RUN SOUTH 89°50'38" EAST, A DISTANCE OF 1,071.74 FEET TO THE POINT OF BEGINNING.

TRACT CONTAINS 258.43 ACRES, MORE OR LESS, AND LIES IN SECTION 1 AND SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

R-6(G) – 108.59 AC.

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN THENCE SOUTH 89°41'38" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 1320.22 FEET TO A 1/2" CAPPED REBAR AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12 FOR THE POINT OF BEGINNING: THENCE RUN SOUTH 89° 41' 59" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 659.77 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN SOUTH 89° 42' 18" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 660.83 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN SOUTH 00°12'38" WEST, A DISTANCE OF 982.01 FEET; THENCE RUN SOUTH 64°28'22" WEST, A DISTANCE OF 120.42 FEET; THENCE RUN SOUTH 31°15'15" WEST, A DISTANCE OF 209.64 FEET; THENCE RUN SOUTH 05°56'31" EAST, A DISTANCE OF 391.39 FEET; THENCE RUN SOUTH 89°52'24" EAST, A DISTANCE OF 732.74 FEET; THENCE RUN SOUTH 56°07'29" EAST, A DISTANCE OF 202.95 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 150.00 FEET; THENCE RUN SOUTH 56°00'53" EAST, A DISTANCE OF 31.77 FEET; THENCE RUN SOUTHEASTERLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1,900.79 FEET, AN ARC DISTANCE OF 138.35 FEET, (CHORD BEARS SOUTH 58°09'24" EAST FOR 138.32 FEET) TO A CAPPED REBAR (CA-0089-LS); THENCE RUN SOUTH 30°42'37" WEST, A DISTANCE OF 62.31 FEET TO A CONCRETE MONUMENT; THENCE RUN SOUTHWESTERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, AN ARC DISTANCE OF 91.06 FEET, (CHORD BEARS SOUTH 43°49'24" WEST FOR 90.28 FEET) TO A CONCRETE MONUMENT; THENCE RUN SOUTH 60°14'19" EAST, A DISTANCE OF 349.14 FEET TO A CAPPED REBAR (CA-951-LS); THENCE RUN NORTH 89°52'24" WEST, A DISTANCE OF 1,165.59 FEET TO A CAPPED REBAR (CA-0568-LS); THENCE RUN SOUTH 00°12'20" WEST, A DISTANCE OF 661.54 FEET TO A CAPPED REBAR; THENCE RUN NORTH 89°53'47" WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION

13, A DISTANCE OF 2,599.73 FEET TO A 5/8" CAPPED REBAR (CA-1109) ON THE EAST RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 54; THENCE RUN NORTH 00°15'40" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 54, A DISTANCE OF 588.78 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°49'35" EAST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 1,279.81 FEET TO A 1/2" CAPPED REBAR (MOORE); THENCE RUN NORTH 00°13'10" EAST, A DISTANCE OF 440.16 FEET TO A 5/8" CAPPED REBAR (CA-0568); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 284.27 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°47'43" WEST, A DISTANCE OF 396.00 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 656.48 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 89°43'20" EAST, A DISTANCE OF 396.00 FEET TO A 1/2" CAPPED REBAR (CA-0565) AT THE SOUTHEAST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE RUN NORTH 00°11'45" EAST, A DISTANCE OF 663.43 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 108.59 ACRES, MORE OR LESS.

GCOF RESERVE AT DAPHNE, LLC
RESERVE AT DAPHNE
R-6(G) – 8.82 AC.

COMMENCE AT THE SOUTHWEST CORNER OF LOT 53, THE RESERVE AT DAPHNE PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2520-B AND C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 33°52'31" EAST, A DISTANCE OF 434.37 FEET; THENCE NORTH 00°11'08" EAST, A DISTANCE OF 449.05 FEET TO THE POINT OF BEGINNING: THENCE RUN NORTH 00°11'08" EAST, A DISTANCE OF 429.49 FEET; THENCE RUN NORTH 89°44'38" WEST, A DISTANCE OF 893.25 FEET; THENCE RUN SOUTH 00°14'54" WEST, A DISTANCE OF 430.09 FEET; THENCE RUN SOUTH 89°46'58" EAST, A DISTANCE OF 893.72 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 8.82 ACRES, MORE OR LESS.

GCOF RESERVE AT DAPHNE, LLC
RESERVE AT DAPHNE
R-2 – 69.14 AC.

BEGIN AT THE SOUTHWEST CORNER OF LOT 53, THE RESERVE AT DAPHNE PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2520-B AND C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 33°52'31" EAST, A DISTANCE OF 434.37 FEET; THENCE NORTH 00°11'08" EAST, A DISTANCE OF 449.05 FEET; THENCE RUN NORTH 89°46'58" WEST, A DISTANCE OF 893.72 FEET; THENCE RUN NORTH 00°14'54" EAST, A DISTANCE OF 430.09 FEET; THENCE RUN SOUTH 89°44'38" EAST, A DISTANCE OF 192.97 FEET; THENCE RUN NORTH 28°43'37" WEST, A DISTANCE OF 257.86 FEET; THENCE RUN NORTH 00°13'29" EAST, A DISTANCE OF 2,430.66 FEET; THENCE RUN NORTH 89°48'35" WEST, A DISTANCE OF 496.47 FEET; THENCE RUN SOUTH 00°12'38" WEST, A DISTANCE OF 3,637.75 FEET; THENCE RUN SOUTH 64°28'22" WEST, A DISTANCE OF 120.42 FEET; THENCE RUN SOUTH 31°15'15" WEST, A DISTANCE OF 209.64 FEET; THENCE RUN SOUTH 05°56'31" EAST, A DISTANCE OF 391.39 FEET; THENCE RUN SOUTH 89°52'24" EAST, A DISTANCE OF 732.74 FEET; THENCE RUN SOUTH 56°07'29" EAST, A DISTANCE OF 202.95 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 150.00 FEET; THENCE RUN SOUTH 56°00'53" EAST, A DISTANCE OF 31.77 FEET; THENCE RUN NORTH 33°52'31" EAST, A DISTANCE OF 440.06 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 69.14 ACRES, MORE OR LESS.

SECTION FOUR: MAP OF PROPERTY

The property hereby annexed into the City of Daphne, Alabama, as described in Section Three of this Ordinance, is set forth on a map of the property attached hereto and made a part of this Ordinance as Exhibit “A” showing its relationship to the corporate limits of the City of Daphne.

SECTION FIVE: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall become effective upon its date of publication as required by Section 11-42-21 Code of Alabama (1975), as amended, and the property described herein shall be then annexed into the corporate limits of the City of Daphne, and a certified copy of the same shall be filed with the Office of the Judge of Probate of Baldwin County, Alabama, in accordance with Section 11-42-21, Code of Alabama (1975), as amended.

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

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

Legal Description:

**68V RESERVE AT PLANTATION HILLS 2021, LLC, GCOF RESERVE AT DAPHNE, LLC,
JAMES AND BARBARA CONAWAY, JOSEPH LAZZARI, JR, JOSEPH LAZZARI AND
TANIA LAZZARI**

(The Reserve at Daphne and The Reserve at Plantation Hills)

OVERALL BOUNDARY - ANNEXATION

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN THENCE SOUTH 89°41'38" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 1,320.22 FEET TO A 1/2" CAPPED REBAR AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12 FOR THE POINT OF BEGINNING: THENCE RUN SOUTH 89° 41' 59" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 659.77 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN SOUTH 89° 42' 18" EAST, ALONG THE SOUTH LINE OF SAID SECTION 12, A DISTANCE OF 660.83 FEET TO A 1/2" CAPPED REBAR (LS #19254); THENCE RUN NORTH 00° 12' 38" EAST, A DISTANCE OF 2,655.74 FEET TO CAPPED REBAR (LS 19254) AT THE CENTER OF SAID SECTION 12; THENCE RUN NORTH 89° 57' 11" WEST, A DISTANCE OF 1,304.46 FEET TO A NAIL WITH SHINER IN AN OLD FENCE POST (CA-0568-LS); THENCE RUN NORTH 00° 00' 08" EAST, A DISTANCE OF 2,658.04 FEET TO CAPPED REBAR (CA-0089-LS) ON THE SOUTH LINE OF BAY BRANCH VILLAS, PHASE 6-B, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2216-F AND SLIDES 2217-A & 2217-B, PROBATE RECORDS BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89° 52' 03" EAST, ALONG THE SOUTH MARGIN OF SAID BAY BRANCH VILLAS, PHASE 6-B, A DISTANCE OF 504.59 FEET TO CAPPED REBAR; THENCE RUN SOUTH 89° 50' 01" EAST, ALONG THE SOUTH LINE OF BAY BRANCH ESTATES PHASE 5, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2011-B AND 2011-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, A DISTANCE OF 1,479.44 FEET TO A CAPPED REBAR (CEC) AT THE SOUTHWEST CORNER OF PLANTATION HILLS SOUTH, PHASE 2, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2020-B AND 2020-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89° 47' 11" EAST, ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, A DISTANCE OF 638.30 FEET TO A CAPPED REBAR (CA-0568-LS) AT THE SOUTHWEST CORNER OF LOT 56 OF SAID PLANTATION HILLS SOUTH, PHASE 2; THENCE RUN ALONG THE EAST MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 2, THE FOLLOWING COURSES, TO WIT; NORTH 00°01'54" EAST, A DISTANCE OF 170.51 FEET; SOUTH 89°55'34" EAST, A DISTANCE OF 43.06 FEET TO A 5/8" REBAR; NORTH 00°18'23" EAST, A DISTANCE OF 220.16 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); RUN SOUTH 89°38'30" EAST, A DISTANCE OF 81.89 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°58'32" WEST, A DISTANCE OF 180.26 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 89°49'10" WEST, A DISTANCE OF 142.41 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°23'00" EAST, A DISTANCE OF 60.07 FEET TO 1/2" REBAR; SOUTH 89°47'31" EAST, A DISTANCE OF 157.97 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 02°14'29" WEST, A DISTANCE OF 170.15 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°11'49" EAST, A DISTANCE OF 343.67 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS) ON THE SOUTH MARGIN OF PLANTATION HILLS SOUTH, PHASE 1, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 1825-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SOUTH, PHASE 1, THE FOLLOWING COURSES, TO WIT; SOUTH 89°48'31" EAST, A DISTANCE OF 134.82 FEET TO A 5/8" CAPPED REBAR (CA-0568-LS); NORTH 00°21'19" EAST, A DISTANCE OF 49.29 FEET TO A 1/2" CAPPED REBAR (CA-0568-LS); SOUTH 89°43'08" EAST, A DISTANCE OF 187.25 FEET TO A 1/2" CAPPED REBAR

(CEC); NORTH 66°32'15" EAST, A DISTANCE OF 129.09 FEET TO A 1/2" CAPPED REBAR (MOORE) AT THE SOUTHWEST CORNER OF LOT 291 OF PLANTATION HILLS SUBDIVISION, UNIT 4, AS SHOWN BY MAP OR PLAT THEREOF RECORDED IN MAP BOOK 11, AT PAGE 26, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN ALONG THE SOUTH MARGIN OF SAID PLANTATION HILLS SUBDIVISION, UNIT 4, THE FOLLOWING COURSES, TO WIT; SOUTH 83°56'16" EAST, A DISTANCE OF 122.19 FEET; NORTH 75°36'18" EAST, A DISTANCE OF 63.76 FEET; SOUTH 89°49'24" EAST, A DISTANCE OF 214 FEET, MORE OR LESS, TO THE CENTER OF BAY BRANCH; THENCE RUN SOUTHERLY, ALONG THE MEANDERS OF SAID BAY BRANCH, A DISTANCE OF 1194 FEET, MORE OR LESS, TO A POINT THAT BEARS SOUTH 89°50'53" EAST, A DISTANCE OF 332 FEET, MORE OR LESS, OF A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 89°50'53" WEST, A DISTANCE OF 332 FEET, MORE OR LESS, TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 10°06'02" WEST, A DISTANCE OF 160.48 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 180.00 FEET, AN ARC LENGTH OF 40.85 FEET, (CHORD BEARS SOUTH 68°46'51" WEST, A DISTANCE OF 40.77 FEET) TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 10°06'02" EAST, A DISTANCE OF 161.49 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 80°34'34" WEST, A DISTANCE OF 367.40 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 153.67 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET, AN ARC LENGTH OF 200.73 FEET, (CHORD BEARS SOUTH 24°52'48" EAST, A DISTANCE OF 90.62 FEET) TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN SOUTH 00°07'44" WEST, A DISTANCE OF 170.00 FEET; THENCE RUN SOUTH 89° 50' 38" EAST, ALONG THE NORTH LINE OF SECTION 12, A DISTANCE OF 1,071.74 FEET TO A CAPPED REBAR (CA-0568-LS) AT THE NORTHEAST CORNER OF SAID SECTION 12; THENCE RUN SOUTH 00° 17' 09" WEST, ALONG THE EAST LINE OF SAID SECTION 12, A DISTANCE OF 2,657.61 FEET TO A CRIMP TOP IRON PIPE; THENCE RUN NORTH 89° 47' 01" WEST, A DISTANCE OF 2,149.52 FEET TO A CAPPED REBAR (CA-0089-LS); THENCE RUN SOUTH 00° 13' 29" WEST, A DISTANCE OF 2,430.66 FEET TO A CAPPED REBAR (CA-0089-LS); THENCE RUN SOUTH 28° 43' 37" EAST, A DISTANCE OF 257.86 FEET TO A CAPPED REBAR (CA-0089-LS); THENCE RUN SOUTH 89° 44' 38" EAST, FOR A DISTANCE OF 700.28 FEET TO A CRIMP TOP IRON PIPE; THENCE RUN SOUTH 00° 11' 08" WEST, A DISTANCE OF 878.53 FEET TO A CONCRETE MONUMENT; THENCE RUN SOUTH 33° 52' 31" WEST, A DISTANCE OF 874.43 FEET TO A CAPPED REBAR (CA-951-LS); THENCE RUN SOUTHEASTERLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1,900.79 FEET, AN ARC LENGTH OF 138.35 FEET, (CHORD BEARS SOUTH 58° 09' 24" EAST FOR 138.32 FEET) TO A CAPPED REBAR (CA-0089-LS); THENCE RUN SOUTH 30° 42' 37" WEST, A DISTANCE OF 62.31 FEET TO A CONCRETE MONUMENT; THENCE RUN SOUTHWESTERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, AN ARC LENGTH OF 91.06 FEET, (CHORD BEARS SOUTH 43° 49' 24" WEST FOR 90.28 FEET) TO A CONCRETE MONUMENT; THENCE RUN SOUTH 60° 14' 19" EAST, A DISTANCE OF 349.14 FEET TO A CAPPED REBAR (CA-951-LS); THENCE RUN NORTH 89° 52' 24" WEST, A DISTANCE OF 1,165.59 FEET TO A CAPPED REBAR (CA-0568-LS); THENCE RUN SOUTH 00° 12' 20" WEST, A DISTANCE OF 661.54 FEET TO A CAPPED REBAR; THENCE RUN NORTH 89°53'47" WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 13, A DISTANCE OF 2,599.73 FEET TO A 5/8" CAPPED REBAR (CA-1109) ON THE EAST RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 54; THENCE RUN NORTH 00°15'40" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 54, A DISTANCE OF 588.78 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°49'35" EAST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 1279.81 FEET TO A 1/2" CAPPED REBAR (MOORE); THENCE RUN NORTH 00°13'10" EAST, A DISTANCE OF 440.16 FEET TO A 5/8" CAPPED REBAR (CA-0568); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 284.27 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°47'43" WEST, A DISTANCE OF 396.00 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°13'41" EAST, A DISTANCE OF 656.48 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 89°43'20" EAST, A DISTANCE OF 396.00 FEET TO A 1/2" CAPPED REBAR (CA-0565) AT THE SOUTHEAST CORNER OF THE NORTH HALF OF THE

NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 13; THENCE RUN NORTH 00°11'45" EAST, A DISTANCE OF 663.43 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 444.97 ACRES, MORE OR LESS, AND LIES IN SECTION 1, SECTION 12, AND SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-14**

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

**ARTICLES XI, XIII, XIV, XV, XVII, XVIII, XXX, AND XXXIX:
TECHNICAL REVISIONS**

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 City of Daphne Planning Commission regular meeting on October 28, 2021, the Commission considered a proposed amendment to the City of Daphne Land Use & Development Ordinance, Ordinance 2011-54, as previously amended, and set forth a unanimous favorable recommendation to the City Council of the City of Daphne to approve said proposed amendment to multiple sections of the Ordinance to provide technical revisions, primarily to designate the City Engineer as the appropriate officer to fill certain roles previously held by the Public Works Director and to correct minor grammatical and spelling errors; 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 February 7, 2022; and

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

SECTION I: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XI: MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS FOR SUBDIVISIONS AND COMMERCIAL SITE DEVELOPMENTS.

(i) **Section 11-6, Notes 2, 3.** Section 11-6, Notes 2-3, of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

² Measured from toe of curbing. Minimum twenty-four (24) feet combination curb and gutter or twenty-four (24) feet valley gutter. Other curb types must be submitted to the City Engineer for approval.

³ May vary with topography subject to Planning Commission approval based on recommendation of the City Engineer and Director of Community Development.

(ii) **Section 11-8(c), Note 2.** Section 11-8(c), Note 2, of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

² Other pavement designs may be submitted for Planning Commission approval. Such options shall be contingent upon the Director of Community Development and the City Engineer.

(iii) **Section 11-9, 3rd Paragraph**. The third paragraph of Section 11-9 of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

Whenever a major development, one which is five acres (5) or more, or any project deemed appropriate by the Director of Community Development, is proposed within the corporate limits, the developer or his/her authorized engineer should contact the Planning Coordinator to arrange a Pre-construction conference. Said meeting shall occur after site plan approval and prior to the issuance of a site disturbance permit. Participants shall include the developer, the project engineer and the contractors, the representatives from the Departments of Community Development, Building Inspections, Environmental Programs, the City Engineer; Riviera Utilities, Daphne Utilities, any other applicable public or private utility company, local, state, and/or federal agency. At the Pre-construction conference, participants will discuss details related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.

(iv) **Section 11-10(a) through (f)**. Section 11-10, subsections (a) through (f), of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(a) Testing:

All testing shall be conducted by an independent testing laboratory approved in writing by the City Engineer. The testing laboratory shall have the proper equipment and personnel necessary to perform said testing of required improvements and shall be certified by the Alabama Department of Transportation. Proof of certification must be submitted to the City Engineer, prior to said approval.

The City Engineer shall determine which tests shall be scheduled and performed. A schedule of proposed testing must be submitted to him/her for approval at the time of the Pre-construction Conference. The tests normally consist of, but are not limited to:

- (1) Soil gradation;
- (2) Optimum moisture content tests on embankment, subgrade and base material;
- (3) Soil compaction test on subgrade and base material;
- (4) In-place asphalt density analysis of road building materials;
- (5) Twenty-eight (28) day compressive strength of concrete;
- (6) Hydro-static test of water and pressurized sewer system as required by utility provider;
- (7) Air test of gravity sewer line as required by utility provider.

The developer shall notify the City Engineer, twenty-four (24) hours prior to any required tests. Copies of all test reports are to be provided to him/her before additional construction occurs. In the event problems exist that require remedial actions or design, the developer shall be required to submit revised engineering plans to the City Engineer before construction will be allowed to proceed.

(b) Clearing and Grubbing:

All rights-of-way shall be cleared of all vegetation, trees, stumps, rocks and other objectionable or unsuitable material prior to grading or filling unless otherwise approved, in writing, by the City Engineer.

(c) Embankment Sections:

The City Engineer will have the right to approve all borrow sources; however, this does not relieve the developer from full responsibility for the quality of material used. Roadway fill or embankment of earth material shall be placed in uniform layers, full width, and not exceeding six (6) inch thickness (loose measurement). Each layer shall be compacted so that a uniform specified density is obtained. Compaction tests shall be run at the frequency and location as directed by the City Engineer. Additional layers of fill shall not be added until directed by the City Engineer. For all density requirements refer to the current Alabama Department of Transportation "Standard Specifications for Highway Construction".

(d) Subgrade:

The subgrade shall be compacted and properly shaped prior to the placing of base materials. The top six (6) inches of the roadbed shall be modified, with the work being performed under Section 230 Roadbed Processing, of the current Alabama Department of Transportation "Standard Specifications for Highway Construction". It shall be full width of regular section and extend eighteen (18) inches outside of curb sections or thirty (30) inches from the edge of asphalt, whichever is greater. The embankment or subgrade shall be inspected by proof rolling, under the supervision of the City Engineer, with a fully loaded (minimum 20 CY) tandem axle dump truck to check for soft or yielding areas. Any unstable materials shall be removed and replaced with a suitable material compacted to a density as required.

(e) Base:

Base course shall meet the requirements according to the current Alabama Department of Transportation "Standard Specifications for Highway Construction". Base course shall have a minimum thickness as required by *Section 11-8, Improvement Standards for Streets*, of these regulations and shall extend twelve (12) inches outside of curb sections or twenty-four (24) inches from the edge of asphalt, whichever is greater. The density requirements for compaction shall be in accordance with the current Alabama Department of Transportation "Standard Specifications for Highway Construction". Developer/Engineer may submit an alternate base design method for approval by the City Engineer. Design shall be based on a proven and accepted engineering test or method for the site conditions that exist.

(f) Roadway Pavement:

All roads and/or streets shall be paved and comply with the following:

- (1) All roads shall be improved according to the standards outlined in *Section 11-8, Improvement Standards for Streets*, of these regulations;
- (2) Prior to the placement of pavement, a bituminous treatment A (prime) shall be placed and inspected by the City Engineer;
- (3) The finished wearing surface shall be uniform and free of defects. The City Engineer may require additional density tests in areas that appear questionable.

When all required improvements are installed, the developer/owner shall call for a final inspection. The City Engineer or his/her duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications.

(v) **Section 11-11(a) and (f)**. Section 11-11, subsections (a) and (f), of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (a) It is the intent of this section to require the installation of concrete or asphalt sidewalks on both sides of the street in residential and commercial subdivisions in order to encourage vehicular and pedestrian connectivity within the City of Daphne. It is also the intent of this section to require the installation of sidewalks in commercial and industrial site developments in order to connect gaps between existing or planned sidewalk circulation systems within the city.

Sidewalks are counted toward the improvement standards of all streets and shall be installed prior to the issuance of a Certificate of Occupancy unless an agreement for future installation has been presented by the developer. In no case shall the City of Daphne be responsible for the installation of sidewalks within any subdivision development.

* * *

(f) Exemptions:

The developer may submit on the appropriate form a request for an exemption to the sidewalk provisions listed herein above. An exemption shall be granted upon receiving an affirmative supermajority vote of the Planning Commission and a favorable recommendation from the City Engineer.

(vi) **Section 11-12(a), 1st Paragraph**. The first paragraph of Section 11-12(a) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(a) Connection to Public or Private Water System:

Developments, individual lots, or parcels shall be properly connected to a public or private community water system where such system borders the development, lot line, or is available and the appropriate utility has the capacity to provide service. The lines for both domestic use and fire protection shall be approved by a public or

private community water supplier and constructed in such a manner as to adequately serve all of the lots located within the subdivision. Water wells for purposes other than human consumption may continue to be used. If a well is required for each lot, the location, construction, and use of such well shall also meet the Baldwin County Health Department requirements.

(vii) **Section 11-14(d), 1st Paragraph.** The first paragraph of Section 11-14(d) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(d) Location of Street Lighting:

Lighting shall be installed at all intersections, curves, and cul-de-sacs. If additional lighting is consistent with safety and other community needs or otherwise deemed necessary, the City Engineer shall require the subdivider to present a street lighting plan developed in conjunction with the appropriate utility company having jurisdiction within the area.

(viii) **Section 11-14(e)(4).** Section 11-14(e)(4) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(4) Post for Street Signs:

Minimum ten (10) foot long, two and three eighth (2-3/8th) inch galvanized round post. Street signs must be mounted on separate post from the stop sign, unless approved by the City Engineer. If street signs and stop signs are approved to share the same post, in no case shall the street sign be attached directly to the stop sign. Stop signs shall be attached using a flanged bracket such as Vulcan Part #222491-501 or equivalent.

SECTION II: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XIII: DISTRICT REQUIREMENTS.

(i) **Section 13-3(a) and (b).** Section 13-3, subsections (a) and (b), of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(a) Planning Approval:

Any use requiring planning approval is subject to review and approval of the Planning Commission. Each application to the Planning Commission for approval must be accompanied by a site plan prepared by the applicant or his/her authorized agent. The Planning Commission shall review the application at its next meeting and take into consideration all existing regulations and ordinances of the City of Daphne, as well as, recommendations from the Director of Community Development, the City Engineer, the Building Official or his/her designee, the Code Enforcement Officer, the Baldwin County Health Department, public and/or private utility entities and any other such local official. The Planning Commission may either approve the use request as is, approve the request with conditions, or deny the request.

(b) Special Exception:

Any use permitted by special exception is subject to review and approval of the Board of Zoning Adjustment. Each application shall be accompanied by a site plan. The Board of Zoning Adjustment shall consider the recommendations of the Director of Community Development, the City Engineer and the Building Official or his/her designee, and make such recommendations a part of the record of any public hearing held on an application for a special exception, prior to making a decision on the application. If the decision of the Board of Zoning Adjustment is not consistent with such recommendations, the minutes of the meeting at which such decision is made shall set forth the particular reasons for deviating from such recommendations.

If the special exception is approved, the site plan shall then be submitted to the Planning Commission for review and consideration.

SECTION III: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XIV: THE OLDE TOWNE DAPHNE DISTRICT.

(i) **Section 14-4(a)(2), 1st Paragraph.** The first paragraph of Section 14-4(a)(2) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (2) The developer shall submit a site plan and utility sheets to each utility company for review. Paper and electronic copies shall be provided to the City Engineer, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities and Environmental Programs. The subdivider shall submit a site plan and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agencies for review. Sign details shall be submitted to the Code Enforcement Officer for review.

SECTION IV: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XV: PROCEDURES FOR SITE PLAN REVIEW.

(i) **Section 15-2(b).** Section 15-2(b) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(a) Pre-Construction Conference:

After site plan approval and before the issuance of a site disturbance permit, a pre-construction conference shall be held between the developer, contractors, the representatives from the Departments of Community Development, the City Engineer, Environmental Programs, Building Inspections; Riviera Utilities, Daphne Utilities, any other applicable public or private utility company, local, state, and/or federal agency. At the pre-construction conference, participants will discuss issues related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.

(ii) **Section 15-5(a)(2), 1st Paragraph.** The first paragraph of Section 15-5(a)(2) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (2) The developer shall submit a site plan and utility sheets to each utility company for review. Paper and electronic copies shall be provided to the City Engineer, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities and Environmental Programs. The subdivider shall submit a site plan and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agencies for review. Sign details shall be submitted to the Code Enforcement Officer for review.

(iii) **Section 15-9(2) and (3).** Section 15-9, subsections (2) and (3), of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (2) The City may release the developer and/or the bondholder from further obligations under said bond based upon the evaluation and recommendation of the Director of Community Development, Environmental Programs, and the City Engineer.
- (3) If it is determined that the requirements of this section have not been met, then the bond may be extended for one six (6) month interval to allow the developer and/or bondholder additional time to correct the deficiencies which prohibit the release of bond. If the site contractor is unable and/or unwilling to satisfy the deficiencies as enumerated by the Director of Community Development, City Engineer and Environmental Programs, the entire bond shall be forfeited with the bond being payable to the City of Daphne for the direction of such work and/or activities necessary for the completion of the improvements. The developer and/or bondholder of the property thereof shall be liable for any additional cost incurred.

SECTION V: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XVII: PROCEDURES FOR SUBDIVISION REVIEW.

(i) **Section 17-1(b).** Section 17-1(b) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (a) Pre-Construction Conference:

After preliminary plan approval and before the issuance of a site disturbance permit, a pre-construction conference shall be held between the developer, contractors, the representatives from the Departments of Community Development, Building Inspections, the City Engineer, Environmental Programs, Riviera Utilities, Daphne Utilities, any other applicable public or private utility company, local, state, and/or federal agency. At the pre-construction conference, participants will discuss issues related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.

(ii) **Section 17-3(a)(2).** Section 17-3(a)(2) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (2) The subdivider shall submit a preliminary plat and utility sheets to each utility company for review. Electronic copies shall be provided to the City Engineer, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities and Environmental Programs. The subdivider shall submit a plat and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agency for review. Sign details shall be submitted to the Code Enforcement Officer for review.

(iii) **Section 17-3(d)(1), 1st Paragraph**. The first paragraph of Section 17-3(d)(1) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(1) Plat Study:

During the thirty (30) calendar days prior to the next regularly scheduled meeting, the City Engineer, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities, Environmental Programs and any applicable utility company, local, state, and/or federal agency shall review plans and submit recommendations to the Director of Community Development prior to the initial hearing on the preliminary plat.

(iv) **Section 17-4(b)(1) and (2)**. Section 17-3(d)(1) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(b) Maintenance Bonds:

- (1) Street Maintenance Bond. The developer/owner shall submit to the Department of Community Development a Street Maintenance Bond payable to the City of Daphne which shall be valid for a period of two (2) years. The bond shall be in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision. Said bond shall be required as a condition to dedication and acceptance of any new streets within the corporate limits. The Director of Community Development or the City Engineer or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The Street Maintenance Bond period shall begin upon the acceptance of the street and drainage improvements by resolution of the City Council. No less than thirty (30) calendar days prior to the expiration of said maintenance bond, an inspection shall be conducted by the City Engineer and the Environmental Programs to ensure that the improvements are in satisfactory condition prior to acceptance.

The Director of Community Development, upon receipt of recommendations of the City Engineer and Environmental Programs, may release or extend a street maintenance obligation. An extension of the Street Maintenance Bond shall be for a period of time no greater than one (1) year. Upon approval of an extension of the original Street Maintenance Bond period, the developer/owner or assign thereof shall submit to the

Department of Community Development sufficient proof of the extended bond, and the Director of Community Development or the City Engineer shall determine the adequacy of said extended bond and security thereon.

- (2) Sidewalk Installation Bond. If applicable, the developer/owner shall submit to the Department of Community Development a Sidewalk Installation Agreement, a cost estimate for all undeveloped portions of the planned sidewalk network certified by the project civil engineer, and a financial guarantee of performance to be used by the City of Daphne which shall be valid for a period of two (2) years. The Sidewalk Installation Bond shall be in an amount equal to two hundred percent (200%) of the cost of the required sidewalk improvements for the applicable phase of the subdivision. The Director of Community Development or the City Engineer or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The developer/owner may request renegotiation of the Sidewalk Installation Agreement with the City once fifty percent (50%) of the planned sidewalk network has been constructed. If the planned sidewalk network is not fully installed prior to the expiration date of the Sidewalk Obligation Bond period, or any extension thereof, the City shall cause the sidewalk network to be completed using the funds from the bond.

Prior to the original expiration date of the Sidewalk Obligation Bond period, the developer/owner or assign thereof may submit a request to the Director of Community Development for an extension of the original sidewalk obligation. The sidewalk obligation may be extended beyond the originally specified period with sufficient cause as documented by the developer or assign as follows:

- i. Small Subdivisions. Any recorded subdivision or subdivision phase with less than one thousand (1,000) linear feet of sidewalk shall not qualify for an extension.
- ii. Medium Subdivisions. Any recorded subdivision or subdivision phase with over one thousand (1,000) linear feet of sidewalk but less than five thousand (5,000) linear feet of sidewalk shall be eligible for a 12-month extension.
- iii. Large Subdivisions. Any recorded subdivision or subdivision phase with over five thousand (5,000) linear feet of sidewalk shall be eligible for a 24-month extension.

Upon approval of an extension of the original Sidewalk Obligation Bond period, the developer/owner or assign thereof shall submit to the Department of Community Development sufficient proof of the extended bond, and the Director of Community Development or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The Director of Community Development, upon the receipt of recommendations of the City Engineer and Environmental Programs, may release any Sidewalk Installation Bond obligation or portion thereof.

SECTION VI: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XVIII: DRAINAGE STORM WATER MANAGEMENT FACILITIES AND EROSION/SEDIMENT CONTROL.

(i) **Section 18-4(A)(1)(ix).** Section 18-4(A)(1)(ix) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- ix. Any pipe proposed within a City right-of-way or drainage easement shall be made of reinforced concrete. If other piping is installed therein, said road right-of-way or drainage easement dedication shall not be favorably recommended by the Planning Commission and may not be accepted by the City Council except where deemed appropriate by the City Engineer.

(ii) **Section 18-4(A)(3)(ii).** Section 18-4(A)(3)(ii) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- ii. The maximum side slope shall be 3:1 (three to one) ratio for all open channels and ditches, unless approved by the Planning Commission upon recommendation of the City Engineer. Drainage calculations shall show the volume and velocity for each separate ditch section. Adequate ditch lining shall be determined based on the ditch calculations. Where two open channels converge, some form of energy dissipation, such as riprap, shall be provided.

(iii) **Section 18-6(K)(4).** Section 18-6(K)(4) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (4) *BMPs*: The placement of BMPs in/on City right-of-way is prohibited unless express written permission is granted by the City Engineer.

(iv) **Section 18-6(M)(1) and (2).** Section 18-6(M), subsections (1) and (2), of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (1) Environmental Programs and/or the City Engineer (where applicable) shall serve as a line of communication between the permit holder and the City in regard to permit compliance.
- (2) The City of Daphne may issue a stop work order and/or suspend or revoke the site disturbance permit where Environmental Programs or the City Engineer has found the following:
 - i. Violation(s) of the terms of the permit or site development which may adversely affect the health, welfare, or safety of persons residing or working in the neighborhood.

- ii. Site development that is detrimental to the public welfare or injurious to property or improvements in the neighborhood.

(v) **Section 18-7(D)(1) and (2).** Section 18-7(D), subsections (1) and (2), of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (1) Signed set of as-built engineered drawings and an electronic version of the drawings compatible with ArcMap (10.1 –10.9) or ArcGIS Pro 2.8 or the most current version thereof:
Projected Coordinate System: NAD_1983_State Plane_Alabama_West_FIPS_0102_Feet.
- (2) Letter of acceptance from the City Engineer, Environmental Programs, Fire Marshall, Daphne Utilities, all applicable public utility providers, and applicable State/Federal agencies.

SECTION VII: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XXX: PLANNED UNIT DEVELOPMENT.

(i) **Section 30-9(f).** Section 30-9(f) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- f. The PUD may utilize alternative roadway designs and standards as may be allowed upon recommendation by the City Engineer.

SECTION VIII: AMENDMENT OF THE LAND USE AND DEVELOPMENT ORDINANCE, ARTICLE XXXIX: JUBILEE RETAIL OVERLAY.

(i) **Section 39-4, Note 3.** Section 39-4, Note 3, of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

3. Maximum grade may vary with topography subject to Planning Commission approval based on recommendation of Community Development or City Engineer.
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(ii) **Section 39-10, Last Paragraph.** The last paragraph of Section 39-10 of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

All appropriate entities including but not limited to the Director of Community Development, and/or the City Engineer or a duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications prior to final plat approval or issuance of a certificate of occupancy.

(iii) **Section 39-12(b)(3).** Section 39-12(b)(3) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

- (3) When all required improvements are installed, the developer/owner shall call for a final inspection. The Director of Community Development, and/or the City Engineer or authorized representative shall inspect the site to determine if the

required improvements are satisfactorily installed according to the plans and specifications.

(iv) **Section 39-12(g), 1st Paragraph.** The first paragraph of Section 39-12(g) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial site that, in the opinion of the City Engineer or Director of Community Development, constitutes a land disturbing activity, which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a performance bond to the City prior to the issuance of a site disturbance permit.

(v) **Section 39-12(h), 1st Paragraph.** The first paragraph of Section 39-12(h) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

At the expiration of twenty-four (24) months from the issuance of the Certificate of Occupancy, the City Engineer shall determine if the drainage design implementation of the project has:

(vi) **Section 39-12(h)(4).** Section 39-12(h)(4) of the City of Daphne's Land Use and Development Ordinance is hereby amended to state the following:

(4) Complied with all ADEM regulations in effect at the time of said completion.

Upon the Director of Community Development's receipt and evaluation of the criteria as enumerated in this Section and upon recommendation of the Planning Commission, the City shall release the developer and/or the bondholder from further obligations under said bond.

If it is determined that the requirements of this Section have not been met, then the bond may be extended for one six (6) month interval to allow the developer and/or bondholder additional time to correct the deficiencies which prohibited the release of the bond. If a site contractor is unable and/or unwilling to satisfy the deficiencies as enumerated by the City Engineer, the bond shall be forfeited with the bond being payable to the City for the direction of such work and/or activities necessary for the completion of the improvements. The developer and/or bondholder of the property thereof shall be liable for any additional cost incurred.

SECTION VIII: CONFLICT WITH OTHER ORDINANCES

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

SECTION IX: 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 X: 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 ____ DAY OF _____, 2022.

ATTEST:

Robin LeJeune, Mayor

Candace G. Antinarella, CMC, City Clerk

ARTICLE XI

MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS FOR SUBDIVISIONS AND COMMERCIAL SITE DEVELOPMENTS

Revised 09/03/13: Amended Section 11-14(h) Common Open Space and Recreation Provisions per Ordinance #2013-46

Revised 09/07/16: Amended Sections 11-5(b) Subdivision Exemptions, 11-5(c) Extraterritorial Jurisdiction Subdivision Exceptions and/or Exemptions & 11-11 Sidewalks per Ordinance #2016-54

12/02/16: Corrected Scrivener's Error 11-5(c)(7)

11-1 SUITABILITY OF LAND

The Planning Commission shall not approve the subdivision of land or site development plans if, from adequate investigations conducted by all public agencies concerned, it has been determined that it is not in the best interest of the public or the proposed development is not suitable for platting or subdividing purposes. The design and improvements of all subdivisions and developments shall meet all State and Baldwin County Health Department requirements and proof thereof shall be submitted. All improvements shall be designed and sealed by a licensed professional engineer. The engineer shall carry Errors and Omissions Insurance at a minimum coverage of at least one million dollars (\$1,000,000).

11-2 LAND SUBJECT TO FLOODING

Land subject to flooding or inadequately served by drainage facilities shall not be acceptable for subdivision unless the subdivider agrees to make such improvements as will render the land fit for occupancy in conformity with the National Flood Insurance Program. Fill may not be used to raise land in areas subject to flood and/or excessive erosion, unless the fill proposed does not restrict the natural flow of water, advance erosion, and unduly increase flood heights. The use of staining materials shall be prohibited in fill activity within coastal bluff areas or flood zones.

To ensure proper development in flood prone areas, the Planning Commission shall require the subdivider to provide elevation and flood profiles sufficient to demonstrate the sites will be free from the danger of flooding.

If a stream flows through or adjacent to the proposed subdivision, the plat shall provide for an easement or right-of-way along the stream for a floodway. For the smaller streams, the plat shall also provide for channel improvement to enable them to carry all reasonable floods within banks. The floor elevations of houses shall be high enough to be above the regulatory flood. The flood way easement shall be wide enough to provide for future enlargement of the stream channel as adjacent areas become more highly developed and runoff rates are increased.

Approval will not be given for streets within a subdivision which would be subject to excessive inundation or flooding.

11-3 CONFORMANCE WITH EXISTING PLANS

Proposed improvements in all subdivision developments within the extraterritorial planning jurisdiction shall be in conformance with existing approved plans, maps, ordinances, and design standards of the City of Daphne or Baldwin County, whichever is more restrictive.

Any subdivision recorded prior to the enactment of this Ordinance shall remain a legal subdivision unless a re-plat of said subdivision is submitted and approved.

11-4 PENALTIES

The developer, owner, or agent of the owner of any land to be subdivided in the corporate limits or extraterritorial planning jurisdiction who transfers, sells, agrees to sell, or negotiates to sell such land by reference to an exhibition of, or by other use of a plat to subdivide such land before such plat has been approved by the Planning Commission and recorded in the Office of the Probate Judge of Baldwin County shall forfeit and pay a penalty of one hundred dollars (\$100.00) for each lot or parcel so transferred or sold, and the description by metes and bounds in the instrument of transfer, or other document used in the process of selling or transfer shall not exempt the transaction from such penalties.

The City of Daphne, through its attorney or other designated representative, may enjoin such transfer, sale, or agreement by appropriate action.

No plat of a subdivision in the corporate limits or its extraterritorial planning jurisdiction shall be filed by a subdivider in the Office of the Probate Judge until it shall have been submitted to and approved by the Planning Commission and such approval entered in writing on the plat by the Chairman, Vice-Chairman, or Secretary of the Commission. The Probate Judge shall not file or record a plat of a subdivision which does not have the approval of the Planning Commission.

Any building or structure erected or to be erected in violation of subdivision regulations shall be deemed an unlawful building or structure, and the Building Official may bring action to enjoin such erection or cause it to be vacated or removed.

11-5 SUBDIVISION EXCEPTIONS AND EXEMPTIONS

Whenever the strict compliance with these regulations would result in an extraordinary hardship or injustice to the subdivider because of topography, unusual size or shape of the property, or unusual conditions in surrounding property of development, the Planning Commission may modify or waive such regulations so the subdivider may subdivide his property in a reasonable manner provided that such modification or waiver shall not nullify the intent or purpose of the subdivision regulations, the public welfare, and interest of the City of Daphne shall be protected. Any such modification together with reasons therefore shall be so noted in the minutes of the Planning Commission.

(a) Modifications/Waivers:

In granting modifications or waivers, the Planning Commission may impose such other reasonable conditions as will, in its judgment, justify such modification or waiver and still substantially maintain the objectives of these regulations. Each modification or waiver of the regulations sought by a subdivider shall be applied for and acted upon individually by the Planning Commission.

(b) Subdivision Exemptions:

The sale or exchange of lots or parcels of land or the relocation of an interior lot line within the city limits between adjoining property owners may be exempt from the subdivision regulations by the director of Community Development, provided that (1) no additional lots are created and (2) none of the lots affected by the sale, exchange or relocation of interior lines are reduced below the minimum size requirements of the zoning district in which the division is to occur.

No existing easement shall be vacated or moved without the recommendation of the Planning Commission and the acceptance by resolution of the City Council as outlined in the applicable sections of this ordinance.

(c) Extraterritorial Jurisdiction Subdivision Exceptions and/or Exemptions:

A request for an Exempt Subdivision Letter and supporting documentation to substantiate any claim of exemption shall be submitted to the Department of Community Development director along with a copy of the Exempt Subdivision Letter from the Baldwin County Engineer.

Subdividers shall not be required to submit a plat to the Daphne Planning Commission unless deemed appropriate by the director. The director may grant an exemption unless he/she deems the request appropriate for the Planning Commission's review. Exemption from the requirement for Planning Commission approval does not constitute exemption from the requirements of other applicable regulations including but not limited to state, county, or municipal law, zoning ordinances, Health Department requirements, or highway construction setbacks. Any subdivider who is found circumventing the intent and substance of these regulations shall be required to submit a plat for review and approval by the Daphne Planning Commission.

The following is a list of qualifying subdivision exceptions/exemptions for property located outside of the city limits and in the extraterritorial jurisdiction of Baldwin County.

1. Subdivision by testamentary or intestate provisions;
2. Subdivision by court order including, but not limited to, judgments of foreclosure;

3. Sale, deed or transfer of land by the owner to an immediate family member. Each parcel shall have its own ingress/egress and utility access of not less than required by Baldwin County Subdivision Regulations;
4. The public acquisition by gift or purchase of strips or parcels of land for the widening or opening of streets or for other public uses;
5. Subdivision in which the size of each resulting lot equals or exceeds twenty (20) acres, inclusive of adjacent public rights-of-way, and for which no streets are required to be constructed to provide access to each subdivided lot. Each lot shall have at least 200 feet of frontage on an existing publically maintained road or shall have access to a publicly maintained road pursuant to a private easement, at least 60 feet in width, which provides rights of ingress and egress and the right to install utilities sufficient to serve such subdivided lots;
6. Subdivisions in which the size of each resulting lot equals or exceeds ten (10) acres, inclusive of adjacent public rights-of-way, and for which no streets are required to be constructed to provide access to each subdivided lot. Each parcel declared to be exempt pursuant to this subparagraph shall have at least 150 feet of frontage on an existing publicly maintained road.
7. A one-time split of a single parcel into two resultant parcels, if, and only if, the parcel existed and *has not been* divided since February 1, 1984.
8. The relocation of a common property line between two parcels where no new parcels are created. Revised parcels shall meet the minimum zoning lot size and width requirements. The owner of each parcel approved as exempt under this section shall be required to submit, as a condition to approval, either an affidavit executed by such owner attesting, under oath, that there exist no restrictive covenants of record in the Office of the Judge of Probate of Baldwin County, Alabama which would prohibit the subdivision of the parcel for which an exemption is sought pursuant to this subparagraph. In the event a parcel is approved as exempt under this subparagraph and it is later determined that such subdivision was prohibited by valid restrictive covenants recorded as of the date of such approval, the Community Development director, or designee thereof, shall have the authority to revoke such exempt subdivision approval.

In the case of an exemption involving a lot or lots which are included within a previously recorded subdivision plat, a resubdivision and a new plat will be required to reflect the resubdivision of lots, and such new plat shall be recorded in the Office of the Judge of Probate of Baldwin County. The new plat reflecting the resubdivision of such lot or lots shall contain the certifications prescribed by Baldwin County Subdivision Regulations Appendix.

--Amended per Ordinance #2016-54--
(Section amended 09/07/16)

11-6 MINIMUM STREET REQUIREMENTS

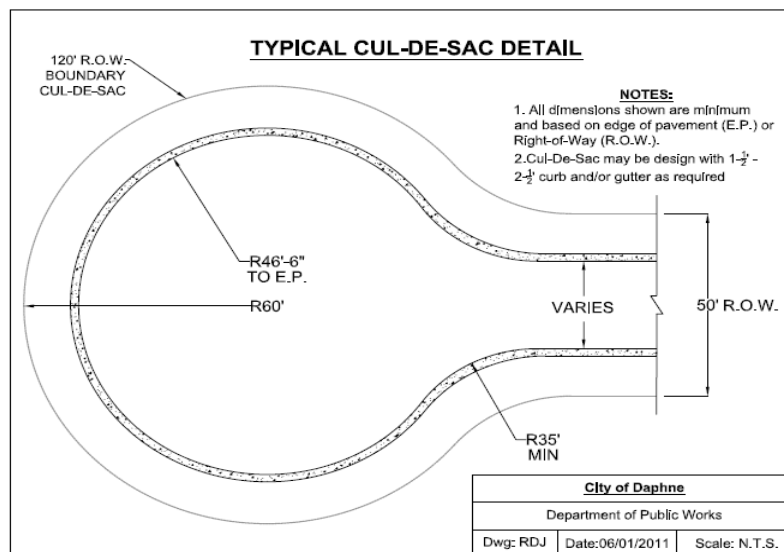
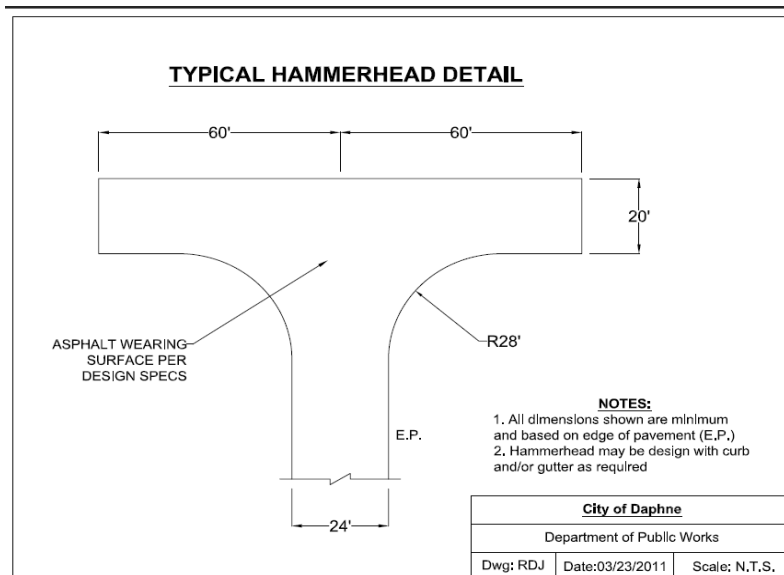
	Major Street	Collector Street	Local Street	Cul-de-Sac ¹ (Turn around)	Cul-de-Sac ¹ (Turn around w/ 20-ft island)	Hammer Head Turnaround	Alley
Minimum Right-of-Way:	100'	60'	50'	60' (120' diam.)	70' (140' diam.)	120'	30'
Minimum Asphalt Width (ft) ² :	12' per lane	12' per lane	22'	48' (93' diam.)	56.5' (113' diam.)	20'	20'
Maximum Grade ³ :	5%	10%	15%	3%	3%	3%	10%
Minimum Angle of Intersection:	80°	60°	60°	60°	60°	90°	60°
Minimum Intersection Offset	150'	150'	150'	150'	150'	n/a	150'
Minimum Curb Radius at Intersection:	40'	30'	25'	25'	25'	28'	20'
Minimum Horizontal Curve Radius:	300'	250'	100'	100'	120'	0'	100'
Minimum Reverse Curve Tangent:	100'	100'	100'	120'	120'	0'	100'

¹ Cul-de-sacs shall not be longer than one thousand three hundred twenty (1320) feet measured from the intersecting street to the center of the turnaround.

² Measured from toe of curbing. Minimum twenty-four (24) feet combination curb and gutter or twenty-four (24) feet valley gutter. Other curb types must be submitted to [Public Works Director](#) or [the City Engineer](#) for approval.

³ May vary with topography subject to Planning Commission approval based on recommendation of [the City Engineer](#), [Public Works Director](#) and Director of Community Development.

11-7 TYPICAL ILLUSTRATIONS



11-8 IMPROVEMENT STANDARDS FOR STREETS

Any proposed streets in a subdivision, planned unit development, mobile home park, apartments, townhouses, condominiums, patio homes, business, commercial, or industrial developments whether such streets are to be private or dedicated for public use shall be paved and adequately drained.

This requirement is not subject to modification by the Planning Commission. The developer/owner shall construct such streets in accordance with good engineering practices and the standards prescribed herein in these regulations, as required by the Director of Community Development or her/his duly authorized representative, State, County Highway Department, and the department of the respective utility.

The full width of the right-of-way shall be graded including the subgrade of the areas to be paved. This requirement may be modified for the purpose of preserving the natural beauty of the area. The minimum Roadway Build-up is as follows based on roadway classification:

(a) Major and Collector Street:^{1,2}

- (1) 429-A Improved Bituminous concrete wearing surface layer, one-half (1/2) inch maximum aggregate size mix, ESAL Range B (110 lb/sy), one-hundred and ten pounds per square yard.
- (2) 405-A Tack coat, spread rate of 0.10 gal/sy.
- (3) 429-B Improved bituminous concrete binder layer, three-quarter inch maximum aggregate size mix, ESAL, Range B 220 lb/sy.
- (4) 401-A Bituminous Treatment type "A" (0.25 gal/sy).
- (5) 301-A Compacted Granular Soil Base Course (sand/clay) type "A" minimum of 2-4 feet lifts of compacted thickness; or,
- (6) 301-B Crushed aggregate base course (limestone) type "B" minimum 6-inch compacted thickness (if using this method, delete 401-A treatment.

(b) Local Street and Hammerhead Turnaround:^{1,2}

- (1) 429-A Improved Bituminous concrete wearing surface layer, one-half (1/2) inch maximum aggregate size mix, ESAL Range B (110 lb/sy), one-hundred and ten pounds per square yard.
- (2) 405-A Tack coat, spread rate of 0.10 gal/sy.
- (3) 429-B Improved bituminous concrete binder layer, three-quarter inch maximum aggregate size mix, ESAL, Range B 165 lb/sy.
- (4) 401-A Bituminous Treatment type "A" (0.25 gal/sy).
- (5) 301-A Compacted Granular Soil Base Course (sand/clay) type "A" minimum of 2-4 feet lifts of compacted thickness; or,
- (6) 301-B Crushed aggregate base course (limestone) type "B" minimum 6-inch compacted thickness (if using this method, delete 401-A treatment.

(c) Alley:^{1,2}

- (1) 429-A Improved Bituminous concrete wearing surface layer, (3/4), three-quarter inch maximum aggregate size mix, ESAL Range B (165 lb/sy), one hundred sixty five pounds per square yard.
- (2) 401-A Bituminous Treatment type "A" (0.25 gal/sy).
- (3) 301-A Compacted Granular Soil Base Course (sand/clay) type "A" minimum of 2-4 feet lifts of compacted thickness; or,
- (4) 301-B Crushed aggregate base course (limestone) type "B" minimum 6-inch compacted thickness (if using this method, delete 401-A treatment.

Notes

¹ Base design shall be based upon the in-situ soil conditions.

²Other pavement designs may be submitted for Planning Commission approval. Such options shall be contingent upon the Director of Community Development and [the City Engineer](#) ~~the Director of Public Works~~.

If curbs and gutters are required, they must be in conformance with approved City, State, and County Highway Department standards.

All grading in the subdivision shall be related to the topography and environmental features of the surrounding area. Unpaved areas within a dedicated street right-of-way shall be graded with a minimum of 2 (two) inches of top soil and permanently stabilized with ground cover in a manner that will enhance the appearance of the environment. The shoulder at the edge of pavement or at back of curbing shall be stabilized with a minimum of two (2) courses or sod for the entire length of the roadway.

All water mains, sanitary sewers and laterals, and storm sewers shall be installed as necessary to prevent the future cutting of the pavement of any street, sidewalk, or other required pavement.

In order for the City of Daphne to provide regular maintenance of street lighting, said lighting shall be purchased through and installed by Riviera Utilities. Regular maintenance does not include replacement of lamps, luminaries or standards which are damaged or destroyed due to vandalism or any other cause beyond the utility's control. Such facilities damaged or destroyed under such circumstances shall be replaced by the utility company at the property owner's expense.

11-9 ISSUANCE OF SITE DISTURBANCE PERMIT

Each person, firm, corporation, utility, entity, or agent thereof engaged in any site preparation and/or construction activities shall acquire a Site Disturbance Permit from the Community Development Department prior to commencement of such activities as established pursuant to the provisions of this Article and no such activity shall commence prior to the approval of a preliminary plat or site plan by the Planning Commission.

Where applicable, any and all state and/or federal permits for construction related activities shall be obtained and submitted to the City prior to issuance of the site disturbance permit. The owner or developer shall provide to the Department of Community Development, the appropriate signed application form, a certified cost estimate for site work, the fee for a site disturbance permit as enumerated in *Article 34, Schedule of Fees*, and proof of the contractor's Daphne business license.

Whenever a major development, one which is five acres (5) or more, or any project deemed appropriate by the Director of Community Development, is proposed within the corporate limits, the developer or his/her authorized engineer should contact the Planning Coordinator to arrange a Pre-construction conference. Said meeting shall occur after site plan approval and prior to the issuance of a site disturbance permit. Participants shall include the developer, ~~his-the project~~ engineer and ~~his-the~~ contractors, the representatives from the Departments of Community Development, ~~Public Works~~, Building Inspections, ~~Environmental Programs, the City Engineer~~; Riviera Utilities, Daphne Utilities, any other applicable public or private utility company, local, state, and/or federal agency. At the Pre-construction conference, participants will discuss details related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.

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11-10 CONSTRUCTION, TESTING AND INSPECTION OF STREETS

An independent testing laboratory shall conduct all the necessary tests to determine if the streets are installed to minimum design standards. Results shall be furnished to the Department of Community Development prior to final subdivision plat approval. These tests shall be conducted at the expense of the developer/owner.

(a) Testing:

All testing shall be conducted by an independent testing laboratory approved in writing by the ~~City Engineer~~~~Public Works Director or his/her designee~~. The testing laboratory shall have the proper equipment and personnel necessary to perform said testing of required improvements and shall be certified by the Alabama Department of Transportation. Proof of certification must be submitted to ~~the City Engineer~~~~the Public Works Director or his/her designee~~, prior to said approval.

~~The City Engineer~~ ~~The Public Works Director~~ shall determine which tests shall be scheduled and performed. A schedule of proposed testing must be submitted to ~~the Public Works Director or his/her designee~~ him/her for approval at the time of the Pre-construction Conference. The tests normally consist of, but are not limited to:

- (1) Soil gradation;
- (2) Optimum moisture content tests on embankment, subgrade and base material;
- (3) Soil compaction test on subgrade and base material;
- (4) In-place asphalt density analysis of road building materials;
- (5) Twenty-eight (28) day compressive strength of concrete;
- (6) Hydro-static test of water and pressurized sewer system as required by utility provider;
- (7) Air test of gravity sewer line as required by utility provider.

The developer shall notify ~~the City Engineer~~ ~~the Public Works Director, or his/her designee~~, twenty-four (24) hours prior to any required tests. Copies of all test reports are to be provided to ~~the Public Works Director~~ him/her before additional construction occurs. In the event problems exist that require remedial actions or design, the developer shall be required to submit revised engineering plans to ~~the City Engineer~~ ~~the Public Works Director~~ before construction will be allowed to proceed.

(b) Clearing and Grubbing:

All rights-of-way shall be cleared of all vegetation, trees, stumps, rocks and other objectionable or unsuitable material prior to grading or filling unless otherwise approved, in writing, by ~~the City Engineer~~ ~~the Public Works Director or his/her designee~~.

(c) Embankment Sections:

~~The City Engineer~~ ~~The Public Works Director~~ will have the right to approve all borrow sources; however, this does not relieve the developer from full responsibility for the quality of material used. Roadway fill or embankment of earth material shall be placed in uniform layers, full width, and not exceeding six (6) inch thickness (loose measurement). Each layer shall be compacted so that a uniform specified density is obtained. Compaction tests shall be run at the frequency and location as directed by ~~the City Engineer~~ ~~the Public Works Director or his/her designee~~. Additional layers of fill shall not be added until directed by ~~the City Engineer~~ ~~the Public Works Director~~. For all density requirements refer to the current Alabama Department of Transportation "Standard Specifications for Highway Construction".

(d) Subgrade:

The subgrade shall be compacted and properly shaped prior to the placing of base

materials. The top six (6) inches of the roadbed shall be modified, with the work being performed under Section 230 Roadbed Processing, of the current Alabama Department of Transportation "Standard Specifications for Highway Construction". It shall be full width of regular section and extend eighteen (18) inches outside of curb sections ~~ef-or~~ thirty (30) inches from the edge of asphalt, whichever is greater. The embankment or subgrade shall be inspected by proof rolling, under the supervision of ~~the City Engineer~~~~the Public Works Director or his/her designee~~, with a fully loaded (minimum 20 CY) tandem axle dump truck to check for soft or yielding areas. Any unstable materials shall be removed and replaced with a suitable material compacted to a density as required.

(e) Base:

Base course shall meet the requirements according to the current Alabama Department of Transportation "Standard Specifications for Highway Construction". Base course shall have a minimum thickness as required by *Section 11-8, Improvement Standards for Streets*, of these regulations and shall extend twelve (12) inches outside of curb sections or twenty four (24) inches from the edge of asphalt, whichever is greater. The density requirements for compaction shall be in accordance with the current Alabama Department of Transportation "Standard Specifications for Highway Construction". Developer/Engineer may submit an alternate base design method for approval by ~~the City Engineer~~~~the Public Works Director or his/her designee~~. Design shall be based on a proven and accepted engineering test or method for the site conditions that exist.

(f) Roadway Pavement:

All roads and/or streets shall be paved and comply with the following:

- (1) All roads shall be improved according to the standards outlined in *Section 11-8, Improvement Standards for Streets*, of these regulations;
- (2) Prior to the placement of pavement, a bituminous treatment A (prime) shall be placed and inspected by ~~the City Engineer~~~~the Public Works Director or his/her designee~~;
- (3) The finished wearing surface shall be uniform and free of defects. ~~The City Engineer~~ ~~The Public Works Director or his/her designee~~ may require additional density tests in areas that appear questionable.

When all required improvements are installed, the developer/owner shall call for a final inspection. ~~The City Engineer~~ ~~The Public Works Director~~ or his/her duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications.

11-11 SIDEWALKS

- (a) It is the intent of this section to require the installation of concrete or asphalt sidewalks on both sides of the street in residential and commercial subdivisions in order to encourage vehicular and pedestrian connectivity within the City of

Daphne. It is also the intent of this section to require the installation of sidewalks in commercial and ~~or~~ industrial site developments in order to connect gaps between existing or planned sidewalk circulation systems within the city.

Sidewalks are counted toward the improvement standards of all streets and shall be installed prior to the issuance of a Certificate of Occupancy unless an agreement for future installation has been presented by the developer. In no case shall the City of Daphne be responsible for the installation of sidewalks within any subdivision development.

- (b) Construction of sidewalks, shall comply with the following standards:

All sidewalks shall be in accordance with current ADA (Americans with Disabilities Act) requirements. Sidewalks shall be constructed with reinforced concrete that has a minimum twenty eight (28) day compressive strength of three thousand pounds per square inch (3000 psi), and shall be in accordance with City specifications and these regulations, unless otherwise approved by the Planning Commission.

Type of Subdivision	Sidewalk Width
Low Density Residential	4 feet
High Density Residential	5 feet
Commercial or Industrial	6 feet

- (c) Sidewalks shall provide pedestrian traffic and design shall encourage safe means of access eliminating conflicts between vehicles and pedestrians. Innovative design measures which would encourage the use of pervious material may be considered by the Planning Commission in lieu of typical sidewalk installation; however, ADA compliance is required where applicable. Sidewalks shall be installed in the following locations:
- (1) Along the perimeter of all developments where adjacent to City right-of-way.
 - (2) Along the right-of-way where adjacent to the perimeter of any common area within the development; except where walking trails/paths are incorporated into the design for formal/recreational open space as provided in Section 11-14, Special Provisions herein. Final plat shall not be approved until this provision is satisfied.
 - (3) Along the right-of-way within each residential subdivision development.
 - (4) New sidewalks shall connect to any adjacent sidewalks and/or bike paths and shall be interconnected within said development to allow for sufficient pedestrian access.
- (d) Restrictive covenants and the final subdivision plat, as required in Article 17, Subdivision Review, shall provide for the installation sidewalks by individual home owners or the developer:

The Planning Commission may, at its discretion, approve a final plat prior to the installation of sidewalks upon receipt of an agreement to install sidewalks, a cost estimate for sidewalk installation and a surety in the amount of two hundred percent (200%) of the estimated cost and shall not expire within a twenty-four (24) month period.

(e) Additional Provisions:

- (1) Subdividers may also be required to provide access through greenways and common areas.
- (2) Trail design shall be reviewed and approved by the Planning Commission. Trail width shall be at least ten (10) feet.
- (3) Walkways, with the exception of dedicated trail, shall be maintained by the adjacent property owners.
- (4) Pedestrian crosswalks, not less than ten (10) feet wide, shall be required where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, bus stops, and other community facilities. Pedestrian crosswalks should be provided wherever sidewalks connect with an existing or planned signalized intersection. Crosswalk shall be designed in accordance with applicable MUTCD guidelines.

(f) Exemptions:

The developer may submit on the appropriate form a request for an exemption to the sidewalk provisions listed herein above. An exemption shall be granted upon receiving an affirmative supermajority vote of the Planning Commission and a favorable recommendation from [the City Engineer](#)~~the Public Works Division director or designee thereof~~.

(Section amended 09/07/16)

11-12 WATER CONNECTIONS

(a) Connection to Public or Private Water System:

Developments, individual lots, or parcels shall be properly connected to a public or private community water system where such system borders the development, lot line, or is available and the appropriate utility has the capacity to provide service. The lines for both domestic use and fire protection shall be approved by a public or private community water ~~supply~~-supplier and constructed in such a manner as to adequately serve all of the lots located within the subdivision. Water wells for purposes other than human consumption may continue to be used. If a well is required for each lot, the location, construction, and use of such well shall also meet the Baldwin County Health Department requirements.

If a well is to serve more than one lot, a public community water system acceptable by and properly permitted by ADEM shall be required.

It is the intent of this Ordinance to eliminate by attrition, all existing private wells, in areas where public or private community water systems are available. Therefore, at such time as any private well fails to function properly, the owner must connect to the public or private community water system where such systems borders any development, lot line, or are available and the appropriate utility has the capacity to provide the service.

All developments shall have adequate potable water and adequate water for fire protection. In all cases, the developer, property owner, or agent shall submit written documentation verifying that the public or private water provider is willing and able to provide service to the development. Said documentation shall be on the utility company's letter head addressed to the Department of Community Development.

When all water lines and connections are installed, the developer/owner shall call for final inspection prior to final plat approval or prior to the issuance of the Certificate of Occupancy. The appropriate utility provider representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications presented to the Planning Commission.

11-13 SEWER CONNECTIONS

(a) Connection to Sanitary Sewer System Requirements:

- (1) A centrally connected sanitary system shall be constructed and installed and connected to a public sanitary sewer system where such system is reasonably available. A public sanitary sewer system is considered to be reasonably available if the system is located within an easement or right-of-way adjacent to or within five hundred (500) feet of the development or where such sanitary sewer system borders the development, individual lots, or parcels and the appropriate entity has the capacity to provide the service.
- (2) Sanitary sewer collection systems for multiple customers shall be gravity systems. Low pressure systems, i.e., multiple grinder pumps, shall not be acceptable within the City of Daphne or its planning jurisdiction except with the approval of the Planning Commission. Consideration will be given to areas where access for proper maintenance to sewer mains is impractical and cost prohibitive as determined by the City or Daphne Utilities. The project design engineer shall provide written certification to justify the need for a multi-customer low pressure system. When

approved as an acceptable system in lieu of a gravity system, low pressure systems shall be constructed to provide flow conditions that will minimize the development of corrosive and odor conditions from H₂S and to prevent the development of sewage BOD₅ (biochemical oxygen demand) concentrations greater than three hundred and fifty (350) mg/l.

(b) Regulation of Septic Tanks:

The Board of Health of Baldwin County or its duly authorized representatives being specifically empowered and directed by state law, are hereby empowered and directed by the City to making such inspections and investigations of and to take such legal steps as may be necessary to regulate and control the type, construction, reconstruction, location, use and maintenance of all septic tanks and all appurtenances thereto or used in connection therewith in the City.

(c) Inspection of Septic Tanks:

All septic tanks within the City shall be subject to inspection or investigation by the Board of Health or its duly authorized representative(s) at all reasonable times and the Board of Health or its representative(s) shall have the right to enter upon or into all property, premises or building for such purposes.

(d) Permit for Construction and Maintenance of Septic Tank:

It shall be unlawful and an offense against the City for any person to construct a septic tank on any property within the City without first having obtained a permit from their County Board of Health or its duly authorized representative.

(e) Low Pressure Systems also known as Grinder Pumps:

- (1) Except as noted above, low pressure systems may only be installed with the approval of the Planning Commission. Construction of low pressure sanitary sewer systems, selection and installation of individual grinder pumps shall conform to the Utilities Board of the City of Daphne's Standard Constructed Specifications, latest edition, which is hereby adopted by reference.
- (2) The Building Official or designee thereof or City Engineer shall have the authority to determine if selection and installation of grinder pumps meets the minimum requirements of these specifications.

11-14 SPECIAL PROVISIONS**(a) Utility Placement:**

All water, sewer, gas, electric power, telephone, cable TV, and other utility lines shall be installed underground by the developer and/or owner in all new residential, commercial, or industrial developments, expansions and/or renovations of existing uses; said developments shall be connected to a central distribution system, unless for good reasons other than cost, the Planning Commission approves a modification or waiver of this requirement in part or in whole, or if a special condition requires otherwise.

(b) Drainage and Utility Easements:

Easements having a minimum width of ten (10) feet and located along the side or rear lot lines shall be provided as is necessary to utility lines, underground mains, and cables. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water or drainage right-of way of adequate width, no less than five (5) feet to accommodate normal runoff. Said right-of-way shall be at a location one (1) foot above established high water or flood elevation.

(c) Location of Fire Hydrants:

Roadway fire hydrants shall be installed along each street at the center of each block and at one corner of each roadway intersection, provided, however, that in no event shall fire hydrants be spaced so that any fire hydrant is located more than five hundred (500) feet from another fire hydrant. The water supply and pressure shall be sufficient to provide adequate fire protection and the future needs of the intended land use. Additional fire hydrant placement may be required on the interior of developed lots pursuant to local ordinance and fire regulations as adopted by the City of Daphne.

(d) Location of Street Lighting:

Lighting shall be installed at all intersections, curves, and cul-de-sacs. If additional lighting is consistent with safety and other community needs ~~are or otherwise~~ deemed necessary, ~~the City Engineer the Director of Community Development~~ shall require the subdivider to present a street lighting plan developed in conjunction with the appropriate utility company having jurisdiction within the area.

If the City of Daphne is to provide regular maintenance of street lighting, said lighting shall be purchased through and installed by Riviera Utilities. Regular maintenance does not include replacement of lamps, luminaries or standards which are damaged or destroyed due to vandalism or any other cause beyond the utility's control. Such facilities damaged or destroyed under such circumstances

shall be replaced by the utility company at the property owner's expense.

(c) Placement of Street Signage for Subdivisions and Developments:

Proper signage in accordance with the latest edition of the "Manual of Uniform Traffic Control Devices" (MUTCD) as adopted by Alabama Department of Transportation (ALDOT) shall be installed prior to receiving final plat approval and maintained in all subdivisions until such time as roads are dedicated and accepted for maintenance by the City Council resolution. All proposed signage shall be shown and detailed on the construction plans. The following minimum standards shall be adhered to:

(1) R1-1 Stop Sign:

High intensity prismatic-minimum 0.080 inch thick, thirty (30) inches for all internal street intersections; thirty-six (36) inches for all intersections with existing city, county, state and federal roads.

(2) Street Name Sign:

Nine (9) inch aluminum extruded blade, high intensity prismatic, six (6) inch tall all-capital lettering on green background for streets proposed to be public; six (6) inch tall white all-capital lettering on blue background for streets proposed to remain private. Brackets: Vulcan type VS-8 vandal proof or an approved equivalent.

(3) All other signs, engineering grade or better:

Minimum 0.080 inch thick.

(4) Post for Street Signs:

Minimum ten (10) foot long, two and three eighth (2-3/8th) inch galvanized round post. Street signs must be mounted on separate post from the stop sign, unless approved by ~~the City Engineer~~[Public Works Director](#). If street signs and stop signs are approved to share the same post, in no case shall the street sign be attached directly to the stop sign. Stop signs shall be attached using a flanged bracket such as Vulcan Part #222491-501 or equivalent.

(5) Post for all Other Signs:

#3 Galvanized U-channel of appropriate height embedded not less than three (3) feet below the finished grade elevation.

(f) Location of Concrete Monuments and Pins:

Right-of-way and property line monuments shall be placed in each subdivision. Concrete monuments three-and-one-half (3-1/2) inches square and two (2) feet long shall be driven flush with the grade at the intersection of all street rights-of-way and radius points.

Iron pins one-half (1/2) inch in diameter and two (2) feet long shall be driven flush with the grade at each lot corner and at each point where the property line changes direction.

(g) Annexation Provision for Extraterritorial Planning Jurisdiction Subdivisions:

Proposed residential and/or commercial subdivisions located in the extraterritorial planning jurisdiction which are contiguous to the corporate limits and are served by a public community water and sanitary sewer system of the Utilities Board of the City of Daphne, shall be required to annex into the City of Daphne prior to approval of said subdivision, if it is deemed by the Planning Commission to be in the best interest of the City.

(h) Common Open Space and Recreation Provisions:

Common open space and recreation area set asides shall include formal recreation areas and/or natural open space areas. There are two types of formal recreation areas: passive and active.

Passive recreation areas may include but shall not be limited to: open areas that include arranged plantings, gardens, gazebos or similar structures, fountains, sculptures, and other forms of public art, pedestrian walk ways, dog parks, picnic areas, general landscaped areas, flower gardens, and other uses typical for passive recreation. Active recreation uses may include but shall not be limited to: playground or park for local or neighborhood use with swing sets, ball fields, tennis courts, jogging trails, clubhouses, swimming pools, including accompanying accessory structures, and any other similar use suitable for the common enjoyment of the residents.

Natural open space areas that preserve and conserve the natural condition and hydrology of the property should be included as well as tree groves, wetlands, associated wetland buffers, rock outcrops, pastoral areas, floodplains, lakes, streams, rivers, wildlife habitat, utility and conservation easements, and scenic vistas and trails. Detention ponds and related storm water facilities, especially low impact development measures, may also be included.

(1) Applicability:

Ten percent of each proposed single family or multifamily residential development shall be set aside for common open space and recreation area. Common Open Space and Recreation Provisions shall apply to each residential development within the corporate limits and extraterritorial jurisdiction of the City of Daphne except as exempted below.

(2) Exemptions:

Common Open Space and Recreation Provisions shall not apply in the following cases:

- (a) Where a unified planned single family residential development (i.e., under single ownership and planned in multiple phases) is five acres (5 ac) or less in total area and the minimum lot size exceeds twenty thousand square feet (20,000 sq. ft.); or,
- (b) Where the entire subdivision is zoned R-1, Low Density Single Family Residential.

(3) Intentionally Left Blank

(4) Phasing/Implementation:

A common open space and recreation area plan shall be provided as a component of the subdivision master plan for single family or multifamily residential subdivision development, except where herein exempted.

Upon preliminary plat submission for the first phase of the development an agreement shall be established for the implementation of the common open space and recreation area plan. The agreement shall be made using appropriate forms as provided by the city and shall include:

- (a) The proposed common open space and recreation area plan;
- (b) A cost estimate of all work associated with the common open space and recreation area plan improvements (this excludes land and/or utility costs), and;

- (c) A renewable surety bond valid for two years in the amount of one hundred and ten percent (110%) of the cost estimate or a letter of credit drawn on an Alabama based bank.

(5) Performance Standards:

The following factors shall be considered to determine the location for common open space and recreation areas.

- (a) Where possible and appropriate, common open space and recreation areas shall be readily accessible and useable by property owners.
- (b) To the maximum extent practical, a portion of the common open space and recreation area should provide focal points for the development.
- (c) Common open space and recreation areas shall have at least one direct access to a public right-of-way.
- (d) The common open space and recreation areas shall be compact and contiguous unless the land is used as a continuation of or link to an existing or planned adjacent open space resource or where specific natural or topographic features require a different configuration.
- (e) In all developments, due regard shall be shown for all natural features such as large trees, heritage trees, water courses, historical spots, and similar community assets which, if preserved, will add attractiveness and value to the overall development.

(Section amended 09/03/13)

--End--

ARTICLE XIII DISTRICT REQUIREMENTS

Revised 07/25/16: Add new B-1(a) zoning district per Ordinance #2016-39

Amended 01/10/20: Added language to 13-6 per Ordinance #2020-02

The following limitations and requirements are hereby placed on uses in each district. Such limitations established by this Article are in accordance with the stated purpose and intent of this Ordinance.

13-1 GENERAL

(a) Permitted Uses:

The following are permitted uses in all residential districts, unless otherwise provided herein: customary accessory structures, satellite receiving dishes, gardens, playgrounds, parks, public buildings including schools and libraries, agriculture or farming including horticulture, plant nurseries, market gardening, field crops, orchards and home occupations meeting all requirement as prescribed in *Article 31, Home Occupations, Automobile Service Stations, Cemeteries, Bed & Breakfast Establishments, Extended Stay Hotel Facilities*.

(b) Uses Permitted by Special Exception:

Certain public and semi-public uses are essential and desirable for the general convenience and welfare but may not fit compatibly within residential neighborhoods. When it is established by the Board of Zoning Adjustment through site plan review that the location, design, and proposed activities will not adversely affect the public health, safety, morals, and general welfare of the surrounding neighborhood, the following public and semi-public uses may be permitted within a residential district by special exception. Such uses shall thereafter be submitted to the Planning Commission for site plan review and approval:

- (1) Public elementary, intermediate, and high schools, church schools, private or parochial elementary or high schools having a curriculum approximately the same as ordinarily given in public elementary and high schools and meeting all standards of the State Board of Education for instruction and site size.
- (2) Churches, synagogues, and other places of worship including parish houses, rectories, and other facilities normally incidental to places of worship but excluding funeral homes.
- (3) Cultural activities not carried on as a gainful business, including

art galleries, non-public libraries, and museums.

- (4) Convalescent and nursing homes for the aged.
- (5) Recreation facilities, country clubs, community centers, and clubs which would draw a substantial number of users from the immediate neighborhood in which they are located, excluding residential accommodations and any activity carried on as a gainful business other than incidental concessions.
- (6) Day care centers, whether public or private, kindergartens, or play schools, upon approval of the State and the Department of Human Resources.

(c) Prohibited Uses:

Any use not permitted or permitted by special exception, except as otherwise determined under *Section 13-3, Compliance with District Requirements*. Commercial and Industrial uses such as garages, repair, storage yards, warehouses, buildings used as correctional institutions, and industrial type operations of any kind.

(d) Unlisted Uses:

In any case where a requested use is not specifically referred to in the Table of Permitted Uses, its status shall be determined by the Planning Commission by reference to the most clearly analogous use or uses that are specifically referred to in the Table of Permitted Uses.

When the status of a use has been so determined by the Planning Commission, such determination shall thereafter have general application to all uses of the same type and shall be added to the Table of Permitted Uses.

13-2 TABLE OF PERMITTED USES—DEFINED

The uses permitted in each of the zoning districts are listed in the *Table of Permitted Uses, Article 35*, in three categories, as follows:

(a) Uses by Right:

Uses in the Table identified by as “by right”, are subject to the conditions specified in the Table or otherwise provided herein.

(b) Uses Requiring Planning Commission Approval:

Uses in the Table identified as “Planning Commission Approval” are permitted upon approval by the Planning Commission of the location and the site plan appropriate with regard to transportation, access, water supply, waste disposal, fire, police protection, and other public facilities; as not causing undue traffic congestion or creating a traffic hazard; and in harmony with the orderly and appropriate development of the district in which the development is to occur.

(c) Special Exceptions by the Board of Zoning Adjustment:

Uses in the Table identified by “Special Exceptions by the Board of Zoning Adjustment” are subject to the same approval of location and site plan as uses requiring planning approval. These uses are subject to approval of the Board of Zoning Adjustment in accordance with the provisions provided in *Article 13, Uses Permitted by Special Exception*, and are subject to site plan review by the Planning Commission.

13-3 COMPLIANCE WITH DISTRICT REQUIREMENTS

Any use permitted in any district whether by Right, Planning Approval, Administrative Approval, or as a Special Exception, must comply with the requirements of the district in which it is located, unless a variance from such requirement is specifically requested and granted by the Board of Zoning Adjustment; unless approved as a Planned Unit Development with modifications as required by the Planning Commission provisions of *Article 11-5, Subdivision Exceptions and Exemptions*.

(a) Planning Approval:

Any use requiring planning approval is subject to review and approval of the Planning Commission. Each application to the Planning Commission for approval must be accompanied by a site plan prepared by the applicant or his/her authorized agent. The Planning Commission shall review the application at its next meeting and take into consideration all existing regulations and ordinances of the City of Daphne, as well as, recommendations from the ~~Zoning Administrator~~, Director of Community Development, ~~the City Engineer~~~~the Director of Public Works~~, the Building Official or his/her designee, the Code Enforcement Officer, the Baldwin County Health Department, public and/or private utility entities and any other such local official. The Planning Commission may either approve the use request as is, approve the request with conditions, or deny the request.

(b) Special Exception:

Any use permitted by special exception is subject to review and approval of the Board of Zoning Adjustment. Each application shall be accompanied by a site plan. The Board of Zoning Adjustment shall consider the recommendations of the ~~Zoning Administrator~~, Director of Community Development, ~~the City Engineer~~~~the Director of Public Works~~ and the Building Official or his/her designee, and make such recommendations a part of the record of any public hearing held on an application for a special exception, prior to making a decision on the application. If the decision of the Board of Zoning Adjustment is not consistent with such recommendations, the minutes of the meeting at which such decision is made shall set forth the particular reasons for deviating from such recommendations.

If the special exception is approved, the site plan shall then be submitted to the Planning Commission for review and consideration.

13-4 REQUIREMENTS FOR LOT AREA, WIDTH, COVERAGE, DENSITY, HEIGHT AND OTHER FACTORS

The following shall apply in districts as outlined, except Planned Unit Developments or Innovative Design for Single Family, and as provided below:

MINIMUM LOT REQUIREMENTS

	Minimum Lot Area Square feet (sq ft)	Minimum Lot Width at Setback Line (ft)	Maximum Lot Coverage Percent (%) ^a	Maximum Density ^b (units/acre)	Maximum Height ^e (stories) (ft)
R-1, Low Density Single Family	20,000	100	25	2.0	2.5 stories 35 ft
R-2, Medium Density Residential	15,000	90	25	2.5	2.5 stories 35 ft
R-3, High Density Single Family	12,000	80	30	3.5	2.5 stories 35 ft
R-4, High Density Single Family-- Multi-Family--	5,000 7,500 ^c	50 85	38 35	8.0 14.0	3 stories 50 ft
R-5, Mobile Homes	See	Articles	25 & 26	for	Details
R-6(G) Garden/Patio Homes	5,000	50	38	8	2.5 stories 35 ft
R-6(D), Duplex, R-7(A), R-7(M), R-7(T) respectively: Apartments, Mid Rise Condominium, Townhouses	See	Section	13-9	for	Details
B-1, B-1(a), B-2, B-3 Business Districts and Mixed Use Districts	N/A	N/A	N/A	N/A	4 stories 50 ft
Extra-territorial Planning Jurisdiction	12,000 ^d	80	30	3.5	2.5 stories 35 ft

a. Maximum lot coverage percentages do not apply to lots of record smaller than required in the district in which they are located. b. Maximum density = total number of dwelling units per gross acre to be developed. c. Minimum lot area determined by adding 7,500 square feet for one (1) unit plus two thousand five hundred (2,500) square feet for each additional unit. d. Applies to unzoned lots contained within any subdivision located in the extraterritorial planning jurisdiction where the size of the development exceeds ten (10) acres. e. Maximum height does not apply to overlay districts (see specific applicable overlay districts. Structures up to seventy-five (75) feet may be permitted on sites zoned B-2 or R-7 upon approval by the Planning Commission. In no case shall such building exceed seventy-five feet in height.

13-5 REQUIREMENTS FOR LOT AREA, WIDTH, COVERAGE AND OTHER FACTORS FOR PUBLIC AND SEMI-PUBLIC BUILDINGS**(a) Definition:**

A public building is one which is used exclusively for public purposes by any department or branch of government. A semi-public building is one of an institutional nature and serving a public need, such as a house of worship; hospital; school; library; museum; post office; police, rescue and fire stations; and public utilities and services.

(b) Minimum Lot Area and Lot Width:

None specified; however, the lot shall be large enough to provide the minimum yards as specified herein.

(c) Yard Regulations:

(1) Front Yard: Each lot shall provide a front yard with a minimum depth of forty (40) feet.

(2) Side Yard: Each lot shall have a side yard of a minimum of thirty-five (35) feet on each side.

(3) Rear Yard: Each lot shall have a rear yard with a minimum depth of thirty-five (35) feet.

(d) Maximum Building Height:

No structure shall exceed a height of thirty-five (35) feet, except a church may have a maximum height of fifty (50) feet, provided one (1) foot shall be added to all minimum yard requirements for each additional foot of height in excess of thirty-five (35) feet (does not apply to a church sanctuary).

(e) Maximum Building Coverage:

The maximum land covered by a building shall be no more than fifty (50) percent of the total lot area.

(f) Minimum Landscaping:

A minimum of twenty (20) percent of the lot area shall be maintained as a landscaped common area designed in accordance with the provisions of *Article 19, Landscape Standards and Tree Protection*.

13-6 Minimum Zoning District Setback Requirements

The following setback requirements shall apply in districts as outlined below, except in a Planned Unit Development, the Olde Towne Daphne District, the Village Overlay District, the Eastern Shore Park Overlay District, or the Jubilee Retail Overlay District, unless otherwise provided in said overlay district.

SETBACKS

Zoning District	Front Yard				Rear Yard	Side Yard	Corner Lot Side Yard	
	Arterial & Collector Streets	Local Streets & Service Roads	U.S. Highway 98 ^e	U.S., State or County Roads			Arterial & Collector Streets	Local Streets & Service Roads
R-1	40	40	50	e	40	15	40	25
R-2	35	35	50	e	35	10	35	20
R-3	30	30	50	e	30	10	30	20
R-4SF& R6(G)	25	25	50	e	25	6	30	20
R-4 TF	30	30	50	e	30	a	30	20
R-4 MF	30	30	50	e	30	a	30	20
R-5	See Article 25			e				
New MF Districts	See Section 13-9, Minimum Requirements for Fixed Dwellings			e				
Innovative Design SF	25	25	50	e	25	6	30	20
ET SF*	30	30	50	e	30	10	30	20
B-1, B-1(a)	30	20	50	e	20	b,d	30	25
B-2	30	20	50	e	b,d	b,d	30	25
B-3	30	20	50	e	b,d	b,d	30	25
C/I	50	30	50	e	c, d	c, d	30	20
MU	30	30	n/a	n/a	30	a	30	25

See notes on the following page.

NOTES FOR PREVIOUS TABLE:

(a) Side yards shall be ten (10) feet plus two (2) additional feet for each floor above two stories, but not exceeding twenty (20) feet; when the dwelling unit faces the side yard, the dwelling unit shall be at least twenty-five (25) feet from the side lot line.

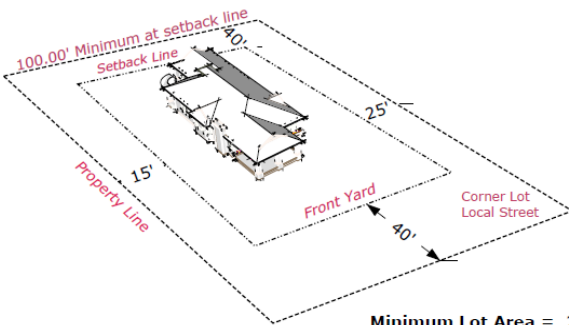
(b) None, except it will be five (5) feet where abutting an alley, or where abutting a residential district it shall be at least thirty (30) feet.

(c) Yard shall be twenty (20) feet, except when abutting any part of a Residential or Business district, a setback at least forty (40) feet is required.

(d) Where a public or semi-public use, multi-family residential, or mixed use district abuts any part of a single family residential district, a buffer zone ten (10) feet wide shall be required. Where a B-2 district abuts any part of a single family residential district, a buffer zone fifteen (15) feet wide shall be required. Where an industrial district abuts any part of a business or mixed use district, a buffer zone of twenty (20) feet shall be required. Where an industrial district abuts any part of a residential, a buffer zone of thirty (30) feet shall be required. Each buffer zone shall be designed in compliance with the provisions established in *Article 19, Landscape Standards & Tree Protection*.

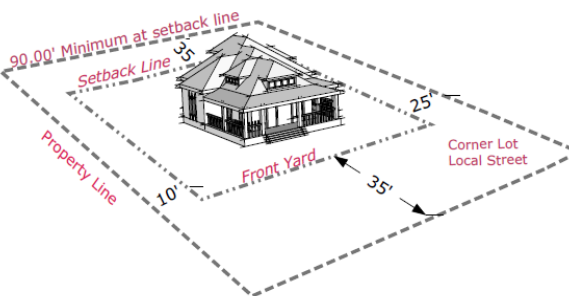
(e) Per Act No. 94-572 of the Legislature of Alabama enacted April 21, 1994 as amended, the following setbacks shall apply for any state or county road or highway and measured from the centerline of the R.O.W: principal arterials—Interstate 10 and U.S. Highway 98—require a hundred twenty five (125) foot setback; minor arterials—U.S. Highway 90, State Highway 181 and U.S. 31 require a hundred (100) foot setback; major collectors—County Road 64 requires a seventy five (75) foot setback.

Lot Orientation: On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. **ET-SF*:** Applies to unzoned lots contained within any subdivision located in the extraterritorial planning jurisdiction where the size of the development exceeds ten (10) acres. **Side yards on buildings between fifty (50) feet and one hundred twenty five (125) feet in height:** all yard setbacks shall be at least fifty (50) feet on each side of building. Additional provisions are outlined in the *Article 38, Residential High Rise Condominium Development District*.

R-1 Low Density Residential**Setback Requirements:**

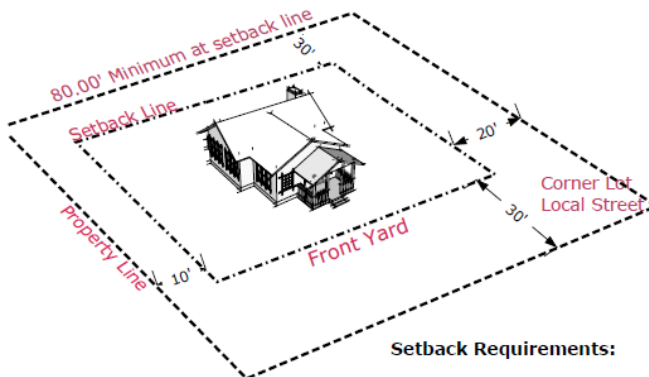
Front Yard -
 40' Arterial or collector streets
 40' Local Streets & service rds
 50' U.S. Highway
 Rear Yard - 40'
 Side Yard - 15'
 Side Yard/Corner Lot-
 40' Arterial or collector streets
 25' Local streets or service rds

Minimum Lot Area = 20,000 sq. ft.
 Minimum Width at Setback Line = 100 ft.

R-2 Medium Density Residential**Setback Requirements:**

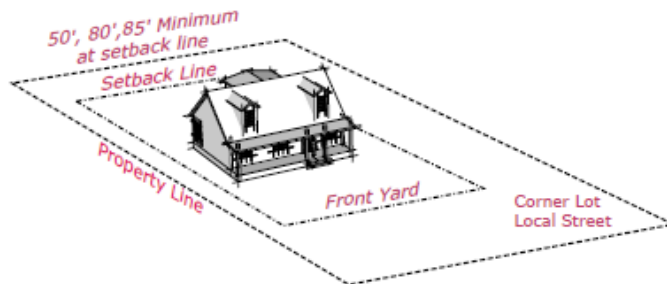
Front Yard -
 35' Arterial or collector streets
 35' Local Streets & service rds
 50' U.S. Highway
 Rear Yard - 35'
 Side Yard - 10'
 Side Yard/Corner Lot-
 35' Arterial or collector streets
 20' Local streets or service rds

Minimum Lot Area = 15,000 sq. ft.
 Minimum Width at Setback Line = 90 ft.

R-3 High Density Single Family Residential**Setback Requirements:**

Front Yard -
 30' Arterial or collector streets
 30' Local Streets & service rds
 50' U.S. Highway
 Rear Yard - 30'
 Side Yard - 10'
 Side Yard/Corner Lot-
 30' Arterial or collector streets
 20' Local streets or service rds

R-4 High Density Single & Multi-Family Residential



Minimum Lot Area:
 Single family 5,000 sq. ft.
 Two family 10,00 sq. ft.
 Multiple family 7,500 sq. ft.

R 4 Setback Requirements:

Single Family

Front Yard -
 25' Arterial or collector streets
 25' Local Streets & service rds
 50' U.S. Highway
Rear Yard - 25'
Side Yard - 6'
Side Yard/Corner Lot-
 30' Arterial or collector streets
 20' Local streets or service rds

Two-Family

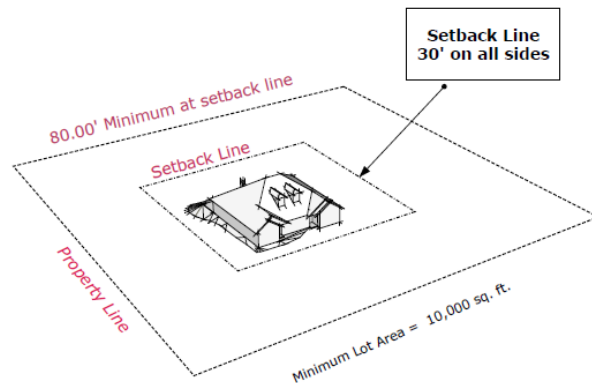
Front Yard -
 30' Arterial or collector streets
 30' Local Streets & service rds
 50' U.S. Highway
Rear Yard - 25'
Side Yard - *
Side Yard/Corner Lot-
 30' Arterial or collector streets
 20' Local streets or service rds

Multi-Family

Front Yard -
 30' Arterial or collector streets
 30' Local Streets & service rds
 50' U.S. Highway
Rear Yard - 30'
Side Yard - *
Side Yard/Corner Lot-
 30' Arterial or collector streets
 20' Local streets or service rds

*10 feet plus 2 additional feet for each floor above 2 stories, not exceeding 20 feet; when dwelling unit faces the side yard, the dwelling unit shall not be less than 25 feet from side lot line.

R-6 Duplex Two Family District



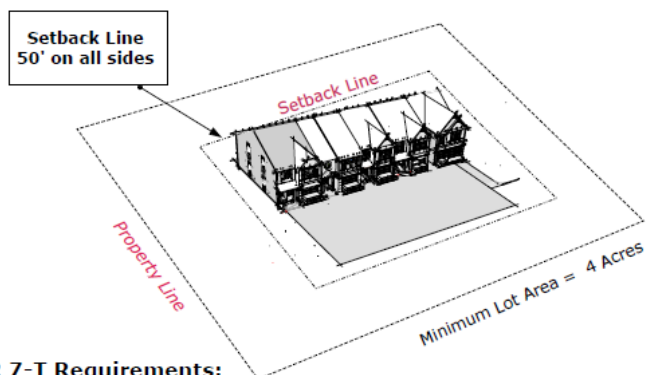
R 6 Requirements:

Minimum Setback Lines - front/rear/side/corner - 30'

Maximum Height - 35 feet
Maximum Stories - 2 stories

Minimum Distance Between Bldgs:
facing front-to-back - 100' (25'
minimum from back of curb)
facing back-to-back - 100'
side-to-side - 1/2 sum of height of
both bldgs

R-7 Townhouse District



R 7-T Requirements:

Minimum Setback Lines - front/rear/side/corner 50'

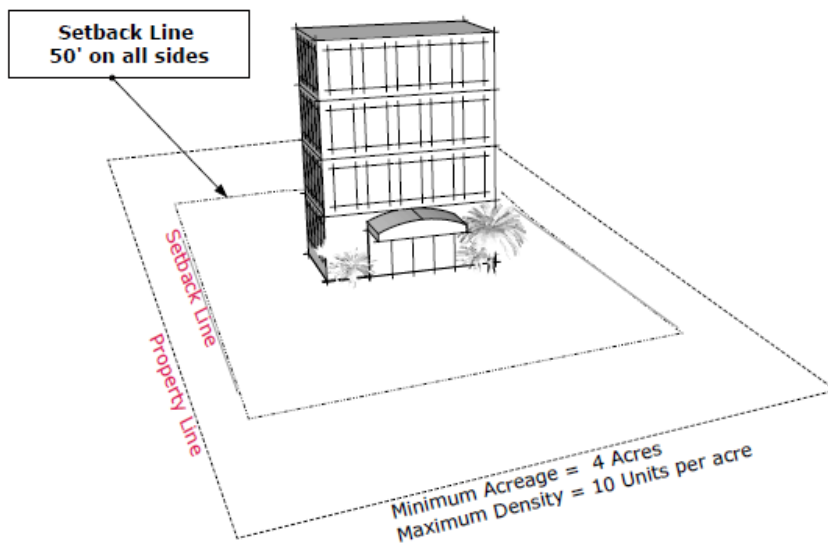
Maximum Height - 35 feet
Maximum Stories - 2 stories

Minimum Distance Between Bldgs:
facing front-to-back - 100' (25'
minimum from back of curb)
facing back-to-back - 100'
side-to-side - 1/2 sum of height of
both bldgs

Greenbelt Area:

Along Perimeter Roadway - 25' in addition to minimum setback.
Remaining Project Boundary - 25' located within setbacks.

R-7 Mid-Rise Condominium District



R-7 M District Requirements

Minimum Building Setback Lines:
front/rear/side/corner - 50'

Maximum Height: 50 feet
 Maximum Stories: 3 stories

Minimum Distance Between Bldgs:
facing front-to-back 100' (25' minimum from back of curb)
facing back-to-back 100'
side-to-side 1/2 the sum of height of both bldgs.

Greenbelt Area:
Along Perimeter Roadway: 25' in addition to minimum setback
Remaining Project Boundary: 25' (may be located within setbacks)

13-7 PERFORMANCE STANDARDS FOR NONRESIDENTIAL DISTRICTS

In all nonresidential districts (with commercial, institutional and/or industrial uses) where facilities are permitted lots shall comply with the following minimum standards:

- (a) Lots shall be of sufficient size to be used for the purpose intended, provide adequate parking and loading facilities in addition to space required for conduct of other operation of the business, and otherwise comply with the provisions provided herein.
- (b) The minimum lot size for marinas shall be one (1) acre and shall be constructed above mean sea level.
- (c) No entrances or exits shall direct traffic into adjacent residential districts.
- (d) Noise, air pollutants including dust emissions, and surface runoff shall not exceed background levels by more than ten percent (10%).
- (e) Uses in all business districts must comply with all applicable health and safety standards, including sanitary facilities; paved and landscaped parking areas, and all other requirements of this Ordinance, as well as pertinent State and Federal regulations.
- (f) Nonpermanent structures such as trailers, sheds, and other such buildings used for business purposes may be permitted in business districts on a temporary basis pending construction of a permanent building. Such structures may be permitted by the Building Official for a three (3) month period, renewable upon written request from the business owner, up to a maximum of one (1) year. Said nonpermanent structure shall be removed immediately upon completion of construction. Delayed removal of the nonpermanent structure may be allowed for no more than thirty (30) calendar days upon review and approval of the Building Official.
- (g) All non-residential structures shall be so designed as to present an aesthetically pleasing appearance that is generally compatible with existing buildings in the district, except those less desirable in appearance that have been grandfathered under this Ordinance.
- (h) Every effort to make structures aesthetically pleasing shall be made by the developer. Depending upon the location of the proposed facility, as a means to ensure compatibility with existing development or to encourage a higher standard along major corridors, subsequent improvements and changes to building architecture may be required by the Planning Commission.
- (i) In all non-residential zoning districts the following are preferred building materials for any wall area facing a public street: brick, textured concrete block,

wood, metal veneers, stucco or Exterior Insulation and Finish Systems (E.I.F.S), concrete, steel, vinyl or stone panels provided they contain some architectural relief and exhibit structural strength.

- (j) Metal buildings may be permitted in a C/I zone district only, except where located along County Road 13, Highway 98, Highway 90, Highway 181, Olde Towne Daphne, the Village Overlay District, Eastern Shore Overlay District and Jubilee Retail Overlay District.

13-8 FIXED DWELLINGS**(a) R-6(D), DUPLEX-TWO FAMILY DISTRICT PROVISIONS:****(1) Duplex-Two Family Definition:**

A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from basement to roof, and not exceeding two and one-half (2 ½) stories or thirty-five (35) feet in height. (See also Definition of Building Height).

(2) Regulation for Buildings and Yards:

The following list provides the minimum yard setbacks, minimum lot requirements, and maximum allowable building height for R-6(D), Duplex Districts.

R-6(D) DUPLEX-TWO FAMILY MINIMUM REQUIREMENTS

Minimum Acreage	0.5 acre
Minimum Lot Width	80 feet
Maximum Density	8 dwelling units/acre or 4 duplexes/acre
Maximum Lot Coverage	
Impervious surfaces	
Buildings/structure	30%
Maximum Height	35 feet
Stories	2 stories
Minimum Building Setback Lines	
Front	30 feet
Rear	30 feet
Side	15 feet
Interior corner	15 feet
Street side corner	30 feet
Minimum Parking	2 spaces per dwelling unit

Greenbelt Area for Subdivision Development:

<i>Along Perimeter Roadway</i>	30 feet wide in addition to minimum building setback.
<i>Remaining Project Boundary</i>	25 feet wide, maybe within minimum building setbacks.

(b) R-7(A), APARTMENT DISTRICT:

(1) Multiple Family Garden Apartments Definition:

One or more two or three story, multi-family structures containing 8 to 20 (eight to twenty) dwelling units and including related off-street parking, open space and recreation facilities, and not exceeding fifty (50) feet in height. Structures shall not exceed two hundred (200) feet in length. Access may be from a common hall or individual entrance. Dwelling units may be located back to back, adjacent, and on top of one another.

(2) Regulation for Buildings and Yards:

See *Article 13, Minimum Requirements for Fixed Dwellings*, for the minimum yard setbacks, minimum lot requirements, and maximum allowable building height for R-7(A), Apartment Districts.

(c) R-7(T), TOWNHOUSE DISTRICT:

(1) Town House – Single Family Definition:

A one family dwelling with ground floor outside access, attached to three or no more than five, one family dwellings by common vertical fire resistant walls without openings, and not exceeding two and one half (2 ½) stories or thirty-five (35) feet in height. (See also Definition of Building Height).

(2) Regulation for Buildings and Yards:

See *Article 13, Minimum Requirements for Fixed Dwellings*, for the minimum yard setbacks, minimum lot requirements, and maximum allowable building height for R-7(T), Townhouse District.

(d) R-7(M), MID-RISE CONDOMINIUM DISTRICT:

(1) Condominium, Mid-Rise Definition:

A building, if containing three to seven stories in which dwelling units, offices, or floor area owned by all owners or a proportional, undivided basis. Underground parking facilities are not counted in the height; however, ground level parking beneath the building shall be counted as a story. Structures of more than fifty (50) feet in height may be permitted subject to the approval of the City Council with the Planning Commission's recommendation; however, in no event shall a mid-rise condominium be approved for a height greater than seventy five (75) feet. See *Article 38 for High Rise Condominium requirements*.

(2) Regulation for Buildings and Yards:

See *Article 13, Minimum Requirements for Fixed Dwellings*, for the minimum yard setbacks, minimum lot requirements, and maximum allowable building height for R-7(M), Mid-Rise Condominium District.

13-9 MINIMUM REQUIREMENTS FOR FIXED DWELLINGS

The following fixed dwelling minimum requirements shall apply in districts as outlined below, except in overlay districts.

Fixed Dwelling Minimum Requirements	R-7(A) Apartments	R-7(T) Townhouse	R-7(M) Mid Rise Condo
Minimum Acreage	4 ac	4 ac	4 ac
Minimum Lot Width	None	None	None
Maximum Density	10 units/acre	10 units/acre	10 units/acre
Maximum Height	50 feet or 3 stories	35 feet or 2 ½ stories	50 feet or 4 stories
Minimum Building Setback Lines Front/rear/side/corner	50 feet	50 feet	50 feet
Minimum Distance between Buildings -facing front to back	100' (25' minimum from back of curb)	100' (25' minimum from back of curb)	100' (25' minimum from back of curb)
-facing back to back	100'	100'	100'
-side to side	½ the sum of the height of both building	½ the sum of the height of both building	½ the sum of the height of both building
Maximum Lot Coverage Impervious surfaces Buildings/structures	30%	30%	30%
Greenbelt Area Width Along Perimeter Roadway In addition to minimum setback	25 ft	25 ft	25 ft
Width on Remaining Project Boundary(s) Greenbelt may be located within setbacks	25 ft	25 ft	25 ft
Minimum Landscaping See Article 19			
Minimum Parking Spaces per dwelling unit	2	2	2
Additional Provisions See Article 28			

13-10 REQUIREMENTS FOR LOT AREA, WIDTH, COVERAGE AND OTHER FACTORS FOR OUTDOOR AMUSEMENT USES**(a) Definition:**

Public, private, or semi-private property which is used exclusively for recreational and amusement purposes, generally these activities are not enclosed within a building.

(b) Permitted Uses:

Outdoor Amusement facilities permitted in the City of Daphne are listed in *Article 35, Table of Permitted Uses*.

(c) Minimum Lot Area and Lot Width:

None specified, however, the lot shall be large enough to provide the minimum yards as specified herein.

(d) Setback Regulations:

(1) Front: Each lot shall provide a front yard with a minimum depth of forty (40) feet.

(2) Side: Each lot shall have a side yard of a minimum of forty (40) feet on each side.

(3) Interior Side Exception: The interior side setback may be reduced to fifteen (15) feet where abutting property zoned B-1, Local Business, B-2, General Business, C/I, Commercial/Industrial, or where abutting a public or semi-public use.

(4) Rear: Each lot shall have a rear yard with a minimum depth of thirty-five (35) feet.

(5) Rear Yard Exception: The rear setback may be reduced to ten (10) feet where abutting property zoned B-1, Local Business, B-2, General Business, or C/I, Commercial/Industrial, or where abutting a public or semi-public use.

(e) Maximum Building Height: Fifty (50) feet.**(f) Maximum Building Coverage:**

The maximum land covered by a building shall be no more than twenty-five percent (25%) of the total lot area.

(g) Minimum Landscaping:

A minimum of twenty (20) percent of the lot area shall be maintained as a landscaped common area designed in accordance with the provisions of *Article 19, Landscape Standards and Tree Provisions*.

(h) Performance Standards:

(1) Amusement and recreation services must be so arranged that noise, vibration, lights, and all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation of the establishment will not unduly interfere with the use and enjoyment of properties in the surrounding area.

(2) Unless otherwise noted herein, any permanent or temporary building or structure shall be one hundred (100) feet from any property line.

(i) Parking Requirements:

All parking requirements shall be based upon the most current industry standard for each particular outdoor amusement use, modifications to said parking standard may be considered as deemed appropriate by the Planning Commission.

13-11 REQUIREMENTS FOR LOT AREA, WIDTH, COVERAGE AND OTHER FACTORS FOR GOLF COURSE USES**(a) Definitions:**

- (1) *Golf course*: A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses, shelters, putting greens, and or driving ranges. Included would be executive or par three golf courses. Specifically excluded would be independent driving ranges and any miniature golf course.
- (2) *Green space*: An area of land covered in grass or other vegetation or a natural water feature. Uses in green space may include stormwater areas, wooded slopes, graded and re-vegetated slopes, required yards on both residential and non-residential lots, landscaped areas, and other land covered in vegetation.

(b) Permitted Uses:

Any green space and/or golf course as defined above shall be permitted in the GC zone. Additional information on permitted uses is listed in *Article 35, Table of Permitted Uses*.

(c) Minimum Lot Area and Lot Width:

None specified, however, the lot shall be large enough to provide the minimum yards as specified herein.

(d) Building Setback Regulations:

- (1) **Front**: Each lot shall provide a front yard with a minimum depth of forty (40) feet.
- (2) **Side**: Each lot shall have a side yard of a minimum of forty (40) feet on each side.
- (3) **Interior Side Exception**: The interior side setback may be reduced to fifteen (15) feet where abutting property zoned B-1, Local Business, B-2, General Business, C/I Commercial/Industrial, or where abutting a public or semi-public use.
- (4) **Rear**: Each lot shall have a rear yard with a minimum depth of thirty-five (35) feet.
- (5) **Rear Yard Exception**: The rear setback may be reduced to ten (10) feet where abutting property zoned B-1, Local Business, B-2, General Business,

or C/I Commercial/Industrial, or where abutting a public or semi-public use.

(e) Maximum Building Height: fifty (50) feet.

(f) Maximum Building Coverage:

The maximum land covered by a building shall be no more than twenty-five percent (25%) of the total lot area.

(g) Minimum Landscaping:

A minimum of twenty (20) percent of the lot area shall be maintained as a landscaped common area designed in accordance with the provisions of *Article 19, Landscape Standards and Tree Protection*.

(h) Performance Standards:

(1) Golf courses must be so arranged that noise, vibration, lights, and all other possible disturbing aspects are enclosed, screened or otherwise controlled so that operation of the establishment will not unduly interfere with the use and enjoyment of properties in the surrounding area.

(2) Unless otherwise noted herein, any permanent or temporary building or structure shall be one hundred (100) feet from any property line.

(i) Parking Requirements:

All parking requirements shall be based upon the most current industry standard for golf courses, modifications to said parking standard may be considered as deemed appropriate by the Planning Commission.

ARTICLE XIV

THE OLDE TOWNE DAPHNE DISTRICT

Revised 07/25/16: Add new B-1(a) zoning district per Ordinance #2016-39

Revised 01/23/17: Add menu-type signs per Ordinance #2017-04

Revised 01/10/20: Allow residential in B-1, B-2, B-3 districts per Ordinance #2020-02

14-1 PURPOSE

The intent of this Article is to provide for the creation of the district in order to establish minimum standards and provisions for residential, business, or commercial development in the areas outlined the map provided herein and to achieve a healthy, beautiful, and safe community by the following means:

- **Aesthetics:**

Improve the appearance of all areas through the incorporation of innovative landscaping and open space into development in ways that harmonize and enhance the natural beauty of the environment.

- **Land Values:**

Maintain and increase the value of land by incorporating innovative designs and criteria into development, thus becoming itself a valuable capital asset.

- **Human Values:**

Provide direct and important physical and psychological benefits to human beings through the use of landscaping and tree preservation as a buffer zone between residential and business development to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.

- **Improved Design:**

Promote innovative and cost conscious approach to the design and construction of the District.

- **Improved Administration and Enforcement:**

Establish procedures and standards for the administration and enforcement of this Article.

14-2 USES PERMITTED**(a) General**

The following zoning districts provided herein established and most specifically defined in Article 12, Establishment of Districts: B-1, Local Business, B-1(a) Limited Local Business District; B-2, General Business, B-3, Professional Business, R-4, Single Family and Multi-Family Residential, and MU, Mixed Use. Article 35, the Table of Permitted Uses and Conditions, outlines the restrictions for each district, except with regard to mixed-uses as provided in the following subsections. (See also Article 12, Establishment of Districts).

The Planning Commission shall no longer consider zoning or rezoning amendments for B-2, General Business or R-4 zoning districts. All existing B-2, General Business and R-4, High Density Single and Multi-Family Residential Districts shall be developed in accordance with the standards provided herein. For any new request, the following districts shall be considered in lieu of R-4: R-6(G) for all garden/patio homes developments; and, R-6(D) for duplexes.

(b) Mixed-Use Developments in the Olde Towne Daphne District.

It is the intent of the City to encourage mixed-use developments in the Olde Towne Daphne District. Zoning districts that will allow mixed-use developments by right include MU, Mixed Use; B-1, Local Business; B-2, General Business; and B-3, Professional Business. Said mixed-use development may have a vertical configuration, meaning the primary business is located on the ground floor and the secondary use is located on an upper floor, or may otherwise meet the provisions of an accessory dwelling unit as provided in section (c) below.

(c) Accessory Dwelling Units (ADU) in the Olde Towne Daphne District shall adhere to the following provisions.

1. Detached accessory dwelling is defined as a dwelling unit separate from the principal structure. The dwelling shall be clearly subordinate in size, height, and purpose to the principal structure, it shall be located on the same lot as the principal structure, but may be served by separate utility meter(s), and is detached from the principal structure if approved by the Building Official. A detached accessory dwelling may be an independent structure, a dwelling unit above a garage, or attached to a workshop or other accessory structure on the same lot as the principal structure.
2. It is the intent of this ordinance to allow, where deemed appropriate by the Planning Commission, accessory dwelling units that maintain an appropriate proportional relationship to the adjacent principal structure(s) on the same site.
3. The accessory dwelling unit may function as purely residential use or as a mixed use building that allows separate commercial and residential usage.
4. While these provisions apply to detached accessory dwelling units, the provisions do not supersede or override applicable life safety standards found in the applicable codes adopted by the city.
5. When deemed appropriate by the Planning Commission, in business and commercial districts located in the Olde Towne Daphne district, a detached accessory dwelling may be considered where such detached accessory dwelling complies with the following requirements:
 - a) A recreational vehicle (RV) shall not be considered as an ADU.
 - b) Shall not exceed 60% of the size (measured in square feet) of the principal building.
 - c) Shall not be located on a lot by itself, nor be located in or extend into the front yard.

- d) Shall not be constructed to exceed more than two (2) stories.
- e) Shall not be constructed to exceed thirty (30) feet mean roof height; however, the accessory dwelling unit shall not exceed the height of the primary business or commercial building.
- f) Shall not encroach into any easement.
- g) Shall maintain a side yard setback and rear yard setback of not less than six (6) feet where abutting property zoned for business or commercial use.
- h) Where the adjacent property is zoned for residential use, the side yard and rear yard setback shall be no less than the standard zoning district setback requirement.
- i) Requests for variances to the provisions of this section shall be submitted to the Board of Zoning Adjustment.
- j) There shall be one (1) power meter to service both the primary business and the accessory structure, unless a second power meter is approved by the Building Official. The decision of the Building Official may be appealed to the Board of Zoning Adjustment in accordance with provisions established herein.
- k) Prefabricated accessory structures (such as utility sheds, conex storage boxes and the like) shall not be utilized for the purpose of habitation.
- l) No more than one detached accessory dwelling shall be permitted on a single lot in conjunction with the principal structure.
- m) The detached accessory dwelling may not be divided from the property ownership of the principal dwelling.
- n) The detached accessory dwelling shall be of similar style, design and material color as used for the principal structure and shall use similar architectural characteristics, including roof form and pitch, to the existing principal structure.

14-3 SPECIAL PROVISIONS

The following shall apply:

- (a) The provisions of this Article shall be required for all residential projects involving the construction of two (2) or more dwelling units including apartments, town homes, condominiums, planned unit developments, subdivisions, business, commercial, industrial, and/or institutional structures; all existing structures which increase the gross floor area by thirty (30) percent or more, except a single family residence; construction of a park, public way, open space, public building or structure; construction of a public utility whether publicly or privately owned; and other uses as required by the Planning Commission.
- (b) A site plan review for minor expansions of commercial or institutional uses, renovations or changes in use shall be subject to administrative review and approval by the Director of Community Development to determine compliance with the provisions of this Ordinance.
- (c) Whenever a major development is proposed the developer should informally consult with the Department of Community Development prior to site plan application to ensure compliance with the required regulations. No fee shall be charged for the review and no formal application shall be required.
- (d) Any development which is to be constructed in phases or units shall require a master plan of the site which shall be submitted to the Planning Commission for approval prior to submitting a site plan application. The subdivider shall submit to the Department of Community Development, a written request for review and approval by the Planning Commission and a copy of said master plan. The master plan shall be of sufficient detail to show the proposed street and lot layout, drainage, utilities, detention, common, recreational, landscaped areas and maximum density (gross and net).
- (e) Size of properties reserved or laid out for business, or commercial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

- (f) A site plan review shall be accomplished by the recommendation of the Director of Community Development and approval of the Planning Commission to assure compliance with the provisions of the Land Use and Development Ordinance in conformity with its purpose as stated in Article I, Purpose, Repeals, Enactment and Short Title, as well as, applicable Building and Fire Codes, latest edition.
- (1) Site plan approval shall become void one (1) year from the date of Planning Commission approval if no site disturbance permit has been acquired for the project. The site disturbance permit and site plan shall both become void one (1) year from the issuance of the site disturbance permit if no substantial building or construction activity has occurred.
- (2) Prior to expiration, a one (1) year extension of time may be granted for the approved site plan and the site disturbance permit by the Director of Community Development, upon written request of the applicant stating good reason.
- (3) If no construction activity has occurred after the expiration of the extended time, an additional one (1) year extension of time may be considered by the Planning Commission. At no time shall any site plan and related site disturbance permit be granted an extension beyond this time. The site plan and site disturbance permit shall automatically be deemed null and void.
- (g) After site plan approval and before the issuance of a site disturbance permit, a pre-construction conference shall be held between the developer, contractors, the Departments of Community Development, ~~the City Engineer~~Public Works, Environmental Programs, Building Inspections; Riviera Utilities, Daphne Utilities; any other applicable public or private utility company, local, state, and/or federal agency. At the pre-construction conference, involved parties will discuss issues related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.
- (h) When all required improvements are installed in accordance with the site plans and specifications approved by the Planning Commission, the developer or owner shall request a final inspection by the design engineer and the registered landscape architect. Both shall forward compliance letters to the Director of Community Development. Upon receipt thereof the Director or his/her duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed prior to signing the certificate of occupancy or final plat.

14-4 SITE PLAN APPLICATION

Prior to making any improvements, the developer/owner shall submit to the Planning Commission a site plan of the project for review in accordance with the following procedure. These items shall be received in the Department of Community Development not less than thirty (30) days prior to a regularly scheduled meeting of the Planning Commission at which meeting the site plan is to be formally submitted for review.

(a) Developer's Responsibility-the developer shall submit to the Department of Community Development:

(1) Completed application on prescribed forms signed by the property owner or authorized agent; an agent authorization letter—if applicable; a copy of the recorded warranty deed of the subject property (as proof of ownership); the Owner's Indemnification and Maintenance Agreement Form for Commercial Developments; drainage calculations; Certification of Engineering Design form; applicable State and/or Federal permit applications; in accordance with specifications provided in the Site Plan Supplemental Documentation List in the Appendix; the site plan; documentation of all applicable utility companies' service availability and willingness to provide services; the filing fee as specifically enumerated in Article 34, Schedule of Fees.

(2) The developer shall submit a site plan and utility sheets to each utility company for review. Paper and electronic copies shall be provided to the City Engineer-the Department of Public Works, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities and the—Building DepartmentEnvironmental Programs. The subdivider shall submit a site plan and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agencies for review. Sign details shall be submitted to the Code Enforcement Officer for review.

(a) Site Plan Content:

The site plan shall contain all information as reflected on the current Site Plan Supplemental Documentation List and the Site Plan Review checklist as provided in the Appendix. Either may be modified at the discretion of the Director of Community Development when applicable. However, any modifications to either the checklist or supplemental list shall be requested of the applicant and approved by

the Director of Community Development during or as a result of a pre-application conference. Incomplete submissions shall not be accepted by the Department of Community Development.

Site plans shall be designed and certified by a professional design engineer. Landscape plans shall be designed and certified by a registered landscape architect. Site plans shall include the following sheets: boundary survey, existing conditions, tree survey, site plan, geometric plan, utility plan, water and sewer plan, grading and drainage plan, construction best management practices plan, applicable construction details and notes as may be applicable, an overall master plan, if applicable, landscape plan and irrigation plan, building elevations, floor plans, and sign details. Site plans shall be designed to meet all applicable provisions of this Ordinance.

(b) Posting Notice of Site Plan Review:

Applicant shall be responsible for posting a sign providing public notice of site plan review. Failure to post said sign fifteen (15) days prior to Planning Commission review, shall cause the application to be withdrawn from the meeting agenda. Said sign shall not be an advertisement sign for the proposed project, but an advertisement of the Planning Commission meeting dates and times in accordance with the standards established for such provided in the Supplemental Information.

14-5 WAIVER

The Director of Community Development may waive certain requirements contained in this Article if, in his/her opinion, the requirements are not essential to a proper decision on the project; or, he/she may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development.

14-6 BOND REQUIREMENT FOR OFF-SITE IMPACTS

- (a) Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial, public, semi-public or multi-family, or mixed use project that, in the opinion of the Director of Community Development constitutes a land disturbing activity which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a non-cancelable performance bond in the name of the permittee, a letter of credit or cashier's check, to the City prior to the issuance of a site disturbance permit.

- (b) At the time of the site plan approval, the bond shall become effective and shall extend for a period of at least two (2) years following the issuance of the certificate of occupancy by the City. The bond shall be in the amount of twenty percent (20%) of the total cost for the performance of all site work. Said bond shall cover drainage, erosion and siltation damage, if any.
- (c) The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as, the adequacy and the security thereon.

14-7 FEES & APPLICATION WITHDRAWAL PROCEDURES

An application for site plan review, site disturbance permit and extension requests shall be accompanied by the appropriate fee as specifically enumerated in Article 34, the Schedule of Fees. If, for any reason, an item scheduled for initial presentation before the Planning Commission is requested to be tabled or withdrawn within seven (7) calendar days of submission to the Department of Community Development, then the application fee and notification fee will be credited toward re-submittal of the application; however, beyond the seven (7) calendar day period, fees shall not be refunded nor credited toward subsequent submittals. The request to withdraw or table the item shall be submitted in writing to the Department of Community Development prior to the scheduled hearing date.

14-8 ISSUANCE OF SITE DISTURBANCE PERMIT

Each person, firm, corporation, utility, entity or agent thereof preparing to engage in any site preparation and/or construction activities shall acquire a site disturbance permit from the Department of Community Development prior to commencement of such activities as established pursuant to the provisions of this Article and no such activity shall commence prior to the approval of a site plan by the Planning Commission if required by Section 14-3(a) or administrative review by the Director of Community Development if required by Section 14-3(b). Fees for said permit and permit extension requests are enumerated in Article 34, Schedule of Fees.

14-9 ISSUANCE OF BUILDING PERMIT

Upon approval of the site plan either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Official may issue a building permit for a portion or all of the proposed development provided that the application is in compliance with all applicable city, county, state and federal requirements.

14-10 PARKING REQUIREMENTS

Any business use located within the Olde Towne Daphne District with a lot frontage of fifty (50) feet shall require a minimum of four (4) parking spaces, with a lot frontage of twenty-five feet shall require a minimum of two (2) parking spaces, and shall also comply with the minimum design and improvements standards as otherwise outlined in this Ordinance and ADA requirements.

Off-street parking for multi-use buildings or mixed use developments shall be located in the rear of the building(s) adjacent to the street.

For any use for which the above referenced parking requirement cannot be met due to the unique conditions of a particular parcel of property as documented on the site plan, off-street parking spaces of the public type may be considered toward the requirements necessary to comply with the Article upon determination of the Director of Community Development and approval of the Planning Commission.

14-11 SIGNAGE

The maximum allowable square footage established in each zoning designation and/or overlay district shall apply as provided in each district. Said allowable area shall not be exceeded. In the event that channel letters, as defined in Article 8, Definitions, are proposed, then the maximum allowable square footage shall be calculated at a rate of eighty percent (80%) in lieu of the standard rate of one hundred percent (100%).

(a) Nonconformance:

Any sign in existence on the date of the adoption of this Ordinance that is not in conformance shall be considered a nonconforming sign and shall be permitted to continue to exist, subject to the conditions and prohibitions set forth in the provisions of Article 33, Sign Provisions.

(b) Single-Use Building (A commercial building with one commercial tenant):

Signs indicating the name of a business or retail use permitted in this District with a single-use building shall have one (1) sign not to exceed fifteen (15) square feet in area per face, five (5) feet in height, of the ground sign or pylon type, and have two (2) faces.

Each establishment of a business or retail use permitted in this District with a single-use building may acquire an additional permit for a wall-mounted sign of a size not to exceed ten percent (10%) of the surface frontal area of its building or portion of the building. Signs mounted on mansards, marquees, windows, and awnings are deemed to be wall signs.

- (c) Multi-Use Building (A commercial building which houses more than one commercial tenant:

Signs indicating the name of a business or retail use permitted in this District with a multi-use building shall have one (1) sign not to exceed thirty-two (32) square feet in area per face, ten (10) feet in height, of the ground sign or pylon type, and have two (2) faces.

Each establishment of a business or retail use permitted in this District within a multi-use building may acquire an additional permit for a wall-mounted sign of a size not to exceed ten percent (10%) of the surface frontal area of its building or portion of building. Signs mounted on mansards, marquees, windows, and awnings are deemed to be wall signs.

(d) Menu Type Signs:

(1) Drive-Thru Service:

One menu type sign shall be permitted not to exceed twenty-one (21) square feet in area, five (5) feet in height and two (2) faces.

(2) Wall mounted menu for walk-up service:

One wall mounted menu board shall be permitted for walk-up service not to exceed twelve (12) square feet in area.

--Amended per Ordinance 2017-04--

(e) Fees:

Signs permitted under this Article shall require a permit as more specifically enumerated in Article 33, Sign Provisions. Fees for each permitted sign are specifically enumerated in Article 34, Schedule of Fees.

14-12 SIDEWALKS

A sidewalk of a minimum six (6) feet in width shall be required to be located adjacent to the front property line and in the interior of multi-use developments.

14-13 LANDSCAPE STANDARDS

(a) General Requirements:

The developer of any use in this District shall suitably landscape at least five percent (5%) of the subject property and also comply with the requirements of Article 19, Landscape and Tree Protection.

If the landscape design is determined to be compatible with the character of the District, an innovative landscape design, to include planters and/or hanging plants, as well as, a “natural cluster of trees” may be approved if recommended by the Director of Community Development and given approval by the Planning Commission.

More stringent design and landscape standards may be required if it is determined that the design would be more compatible with the development and more beneficial to the aesthetics of the Olde Towne Daphne district.

(b) Off-Street Parking Landscape Requirements:

The design and appearance of parking areas are intended to be compatible with the character of the community. Toward this objective, the following landscaping standards shall be observed in the construction of off-street parking areas:

- (1) Landscaped areas and perimeter areas shall be so graded as to receive a reasonable portion of the rainfall from the surrounding pavement. Protective curbing around landscaped areas will leave openings for the flow of water onto unpaved areas.
- (2) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- (3) The owner, tenant, occupant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.
- (4) Adjacent residential property owners may jointly agree on the establishment of a common landscaped or fenced area between their properties which meets the requirements of this Article.

(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.

(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

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.

The Director of Community Development shall determine whether the barrier is satisfactory via site inspection prior to approval.

14-14 SUPERVISION

The landscape architect shall be responsible for the supervision of all plantings. After completion, the landscape architect shall certify in writing to the City of Daphne that the submitted, approved landscape plan has been implemented and complies with the requirements of this Article.

14-15 CERTIFICATE OF OCCUPANCY

A certificate of occupancy shall not be issued until the submitted, approved landscape plan has been implemented or cash or cashier's check has been submitted in an amount equal to one hundred and fifty percent (150%) of the actual landscape cost which shall be certified by a professional landscape architect with a signed/sealed cost estimate for incomplete work.

14-16 PENALTIES

The Code Enforcement Officer of the City of Daphne shall serve the owner of said property, each person, firm or corporation engaged in the activities regulated hereunder in which the activities are being conducted in violation of any provision of this Article with a Summons and Complaint citation.

The person(s) shall be fined upon conviction, not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) and costs of the court for each offense.

14-17 SETBACKS

MINIMUM DISTRICT REQUIREMENTS^d				
Zoning Districts	Front Yard	Rear Yard	Side Yard	Corner Lot Side Yard
R-4 ^c , Single Family R-6(D or G), Duplex or Garden or Patio Home	15	20	6	25
R-4 ^c , Multi-Family	15	20	a	25
B-1, Local Business B-1(a), Limited Local 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).

14-18 MAXIMUM BUILDING HEIGHT

Except as otherwise provided herein, no structure shall exceed thirty-five (35) feet in height in any R-4, Single Family and Multi-Family Residential, district or more than 50 (fifty) feet in height in any Business or Mixed Use District. Structures of more than fifty (50) feet shall not be permitted. (See Definition of Building Height in Article 8, Definition of Terms).

14-19 DRAINAGE

Any use in this District shall comply with Article 18, Drainage and Storm Water Management Facilities and Erosion/Sediment Control.

14-20 DISTRICT MAP

The Olde Towne District Map, Exhibit B, is hereby adopted and as a part of this Ordinance. (See Appendix I, Table of Contents).

ARTICLE XV PROCEDURES FOR SITE PLAN REVIEW

15-1 USE AND APPLICABILITY

- (a) The provisions of this Article shall be required for all residential developments involving the construction of two (2) or more dwelling units including apartments, town homes, condominiums, business, commercial, industrial, and/or institutional structures; all existing structures which increase the gross floor area by thirty percent (30%) or more, except a single family residence; construction of a park, public way, open space, public building or structure; construction of a public utility whether publicly or privately owned; and other uses as required by the Planning Commission.
- (b) A site plan review for minor expansions of commercial or institutional uses, renovations or changes in use shall be subject to administrative review and approval by the Director of Community Development to determine compliance with the provisions of this Ordinance.

15-2 PRE-APPLICATION & PRE-CONSTRUCTION CONFERENCES

- (a) Pre-Application Conference:

Whenever a major development, one which is five (5) acres or more or as deemed appropriate by the Director of Community Development, is proposed within the corporate limits, the developer should informally consult with the Department of Community Development prior to site plan application to ensure compliance with the required regulations. No fee shall be charged for the review and no formal application shall be required.

- (b) Pre-Construction Conference:

After site plan approval and before the issuance of a site disturbance permit, a pre-construction conference shall be held between the developer, contractors, the representatives from the Departments of Community Development, the Public Works City Engineer, Environmental Programs, Building Inspections; Riviera Utilities, Daphne Utilities, any other applicable public or private utility company, local, state, and/or federal agency. At the pre-construction conference, participants will discuss issues related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.

15-3 MASTER PLAN SUBMITTAL

Any development which is to be constructed in phases or units shall require a master plan of the site which shall be submitted to the Planning Commission for approval prior to submitting a site plan application. The subdivider shall submit to the Department of Community Development, a written request for review and approval by the Planning Commission and a copy of said master plan. The master plan shall be of sufficient detail to show the proposed street and lot layout, drainage, utilities, detention, common, recreational, landscaped areas and maximum density (gross and net).

15-4 SPECIAL PROVISIONS

The following shall apply:

- (a) Water, sewer, gas, electric power, telephone, cable television, and other utility lines shall be installed underground by the developer and/or owner in all new residential, commercial, and industrial developments, expansions, and/or renovations of existing said developments shall be connected to a central distribution system, unless for good reasons other than cost, the Planning Commission approves a modification or waiver of this requirement in part or in whole, or if a special condition requires otherwise.
- (b) Size of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (c) A site plan review shall be accomplished by the recommendation of the Director of Community Development and approval of the Planning Commission to assure compliance with the provisions of the Land Use and Development Ordinance in conformity with its purpose as stated in *Article I, Purpose, Repeals, Enactment and Short Title*, as well as, applicable Building and Fire Codes, latest edition.
- (d) Planning Commission approval shall be the first step in the construction permitting process. After approval, the owner or developer shall provide to the Department of Community Development, the appropriate signed application form, a cost estimate for site work certified by the design engineer, the fee for a site disturbance permit as enumerated in *Article 34, Schedule of Fees*, applicable state and/or federal permits, and proof of the contractor's Daphne Business license.
 - (1) Site plan approval shall become void one (1) year from the date of Planning Commission approval if no site disturbance permit has been acquired for the project. The site disturbance permit and site plan shall both become void one (1) year from the issuance of the site disturbance permit if no substantial building or construction

activity has occurred.

- (2) Prior to expiration, a one (1) year extension of time may be granted for the approved site plan and the site disturbance permit by the Director of Community Development, upon written request of the applicant stating good reason.
 - (3) If no construction activity has occurred after the expiration of the extended time, an additional one (1) year extension of time may be considered by the Planning Commission. At no time shall any site plan and related site disturbance permit be granted an extension beyond this time. The site plan and site disturbance permit shall automatically be deemed null and void.
- (e) When all required improvements are installed in accordance with the site plans and specifications approved by the Planning Commission, the developer or owner shall request a final inspection by the design engineer and the registered landscape architect. Both shall forward compliance letters to the Director of Community Development. Upon receipt thereof the Director or his/her duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed prior to signing the certificate of occupancy or final plat.

15-5 SITE PLAN APPLICATION

Prior to making any improvements, the developer/owner shall submit to the Planning Commission a site plan of the project for review in accordance with the following procedure. These items shall be received in the Department of Community Development not less than thirty (30) calendar days prior to a regularly scheduled meeting of the Planning Commission at which meeting the site plan is to be formally submitted for review.

- (a) Developer's Responsibility-the developer shall submit to the Department of Community Development:
 - (1) Completed application on prescribed forms signed by the property owner or authorized agent; an agent authorization letter—if applicable; a copy of the recorded warranty deed of the subject property (as proof of ownership); the Owner's Indemnification and Maintenance Agreement Form for Commercial Developments; drainage calculations; Certification of Engineering Design form; applicable State and/or Federal permit applications; in accordance with specifications provided in the Site Plan Supplemental Documentation List in the Appendix; the site plan; documentation of all applicable utility companies' service availability and willingness to provide services; the filing fee as specifically enumerated in *Article 34, Schedule of Fees*.

- (2) The developer shall submit a site plan and utility sheets to each utility company for review. Paper and electronic copies shall be provided to the ~~Department of Public Works~~City Engineer, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities and ~~the Building Department~~Environmental Programs. The subdivider shall submit a site plan and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agencies for review. Sign details shall be submitted to the Code Enforcement Officer for review.

(a) Site Plan Content

The site plan shall contain all information as reflected on the current Site Plan Supplemental Documentation List and the Site Plan Review checklist as provided in the Appendix. Either may be modified at the discretion of the Director of Community Development when applicable. However, any modifications to either the checklist or supplemental list shall be requested of the applicant and approved by the Director of Community Development during or as a result of a pre-application conference. Incomplete submissions shall not be accepted by the Department of Community Development.

Site plans shall be designed and certified by a professional design engineer. Landscape plans shall be designed and certified by a registered landscape architect. Site plans shall include the following sheets: boundary survey, existing conditions, tree survey, site plan, geometric plan, utility plan, water and sewer plan, grading and drainage plan, sedimentation and erosion control plan, best management practices plan, applicable construction details and notes as may be applicable, an overall master plan if applicable, landscape plan and irrigation plan, building elevations, floor plans, and sign details. Site plans shall be designed to meet all applicable provisions of this Ordinance.

(b) Posting Notice of Site Plan Review

Applicant shall be responsible for posting a sign providing public notice of site plan review. Failure to post said sign fifteen (15) calendar days prior to Planning Commission review shall cause the application to be withdrawn from the meeting agenda. Said sign shall not be an advertisement sign for the proposed project, but an advertisement of the Planning Commission meeting dates and times in accordance with the standards established for such provided in the Supplemental Information.

15-6 WAIVER

The Director of Community Development may waive certain requirements contained in this Article if, in his/her opinion, the requirements are not essential to a proper decision on the project; or, he/she may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development.

15-7 ISSUANCE OF SITE DISTURBANCE PERMIT

Each person, firm, corporation, utility, entity or agent thereof preparing to engage in any site preparation and/or construction activities shall acquire a site disturbance permit from the Department of Community Development prior to commencement of such activities as established pursuant to the provisions of this Article and no such activity shall commence prior to the approval of a site plan by the Planning Commission or administrative review by the Director of Community Development as required in *Article 15, Site Plan Review* § 15-1. Fees for said permit and permit extension requests are enumerated in *Article 34, Schedule of Fees*.

15-8 BOND REQUIREMENT FOR OFF-SITE IMPACTS

- (a) Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial, public, semi-public or multi-family, or mixed use project that, in the opinion of the Director of Community Development constitutes a land disturbing activity which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a non-cancelable performance bond in the name of the permittee, a letter of credit or cashier's check, to the City prior to the issuance of a site disturbance permit.
- (b) At the time of the site plan approval, the bond shall become effective and shall extend for a period of at least two (2) years following the issuance of the certificate of occupancy by the City. The bond shall be in the amount of twenty percent (20%) of the total cost for the performance of all site work. Said bond shall cover drainage, erosion and siltation damage, if any.
- (c) The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as, the adequacy and the security thereon.

15-9 RELEASE OF BOND

- (1) At the expiration of two (2) years from the issuance of the Certificate of Occupancy, the Director of Community Development and the Site Containment Officer or designee of the Building Official shall determine if the drainage design implementation of the project has:
 - (a) Been performed in accordance and continues to functions within the parameters of the design standards as set forth by the project engineer;
 - (b) Had any impact on any streams, waterways, or third parties that have been minimized through mitigation efforts;
 - (c) Received from the project engineer a certificate of performance which states the drainage facilities have been constructed in accordance with the plans, specifications, and engineering guidelines.
- (2) The City may release the developer and/or the bondholder from further obligations under said bond based upon the evaluation and recommendation of the Director of Community Development, ~~Director of Public Works~~ Environmental Programs, ~~the Site Containment Officer, or designee of the Building Official, and the~~ City Engineer ~~and the Planning Commission~~.
- (3) If it is determined that the requirements of this section have not been met, then the bond may be extended for one six (6) month interval to allow the developer and/or bondholder additional time to correct the deficiencies which prohibit the release of bond. If the site contractor is unable and/or unwilling to satisfy the deficiencies as enumerated by the Director of Community Development, ~~Director of Public Works and/or the Site Containment Officer, or designee of the Building Official or,~~ City Engineer and Environmental Programs, the entire bond shall be forfeited with the bond being payable to the City of Daphne for the direction of such work and/or activities necessary for the completion of the improvements. The developer and/or bondholder of the property thereof shall be liable for any additional cost incurred.

15-10 ISSUANCE OF BUILDING PERMIT

Upon approval of the site plan, either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Official may issue a building permit for a portion or all of the proposed development provided the application is in compliance with all applicable City, County, as well as, state and federal requirements.

15-11 FEES & APPLICATION WITHDRAWAL PROCEDURES

An application for site plan review, site disturbance permit and extension requests shall be accompanied by the appropriate fee as specifically enumerated in *Article 34, the Schedule of Fees*. If, for any reason, an item scheduled for initial presentation before the Planning Commission is requested to be tabled or withdrawn within seven (7) calendar days of submission to the Department of Community Development, then the application fee will be credited toward re-submittal of the application; however, beyond the seven (7) calendar day period, fees shall not be refunded nor credited toward subsequent submittals. The request to withdraw or table the item shall be submitted in writing to the Department of Community Development prior to the scheduled hearing date.

ARTICLE XVII PROCEDURES FOR SUBDIVISION REVIEW

Revised 03/21/17: Adding mandatory sidewalk installation, bond, renegotiation and release provisions per Ordinance #2017-21 adopted 03/20/17

Revised 07/19/18: Amending mandatory sidewalk installation 17-4(b) adding procedures for extensions per Ordinance 2018-25 adopted 07/02/18

17-1 PRE-APPLICATION & PRE-CONSTRUCTION CONFERENCES

(a) Pre-Application Conference:

Whenever the subdivision of a tract of land within the extraterritorial planning jurisdiction of the Planning Commission is proposed, the subdivider should consult informally with the planning staff of the City of Daphne and Baldwin County, prior to submittal with the Planning Commission(s) to ensure compliance with the required regulations. No fee shall be charged for the review and no formal application shall be required.

(b) Pre-Construction Conference:

After preliminary plan approval and before the issuance of a site disturbance permit, a pre-construction conference shall be held between the developer, contractors, the representatives from the Departments of Community Development, ~~Public Works,~~ Building Inspections, the City Engineer, Environmental Programs, Riviera Utilities, Daphne Utilities, any other applicable public or private utility company, local, state, and/or federal agency. At the pre-construction conference, participants will discuss issues related to permitting, construction safety, general expectations during construction, final inspection protocol, etc.

17-2 MASTER PLAN SUBMITTAL

Any subdivision or development which is to be developed in phases or units shall require a master plan of the proposed subdivision or development which shall be submitted to the Planning Commission for approval prior to submitting a preliminary plat application.

The subdivider shall submit to the Department of Community Development a written request for review and approval by the Planning Commission and a copy of said master plan. The master plan shall be of sufficient detail to show the proposed street, sidewalk and lot layout, drainage, utilities, detention, common, recreational, and landscaped areas.

17-3 PRELIMINARY PLAT APPLICATION

Prior to making any improvements, the subdivider shall submit to the Planning

Commission a preliminary plat of the proposed subdivision for review in accordance with the following procedure. These items shall be received in the Department of Community Development not less than thirty (30) calendar days prior to a regularly scheduled meeting of the Planning Commission at which meeting the subdivision plat is to be formally submitted for review.

(a) Subdivider's Responsibility:

The subdivider shall submit to the Department of Community Development the following:

- (1) Completed application on prescribed forms; a copy of a recorded warranty deed of the subject property (as proof of ownership); the preliminary plat and subdivision construction plans in accordance with *Section 17-3, Plat Content*; Owner's Indemnification and Maintenance Agreement Form for Detention Facilities and Common Areas; a list of adjacent property owners and a Certification of Property Owners Notification Form in accordance with specifications provided in the Preliminary Plat Supplemental Documentation List in the Appendix; documentation of all applicable utility companies' service availability and willingness to provide services; and the filing fee as specifically enumerated in *Article 34, Schedule of Fees*.
- (2) The subdivider shall submit a preliminary plat and utility sheets to each utility company for review. Electronic copies shall be provided to ~~the the City Engineer~~Department of Public Works, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities and ~~the Building Department~~Environmental Programs. The subdivider shall submit a plat and applicable documents as may be necessary to any and all applicable utility companies, local, state and/or federal agency for review. Sign details shall be submitted to the Code Enforcement Officer for review.

(b) Plat Content:

The preliminary plat shall contain all information as reflected on the current Preliminary Plat Supplemental Documentation List as provided in the Appendix. The checklist may be modified at the discretion of the Director of Community Development when applicable.

(c) Fees & Application Withdrawal Procedures:

An application for plat review shall be accompanied by the appropriate fee as enumerated in *Article 34, the Schedule of Fees*.

(1) Withdrawal of Application by the Applicant:

If, for any reason, an item scheduled for initial presentation before the Planning Commission is withdrawn without having been presented, then the applicant shall re-file a new application and applicable fees. The written request to withdraw shall be signed by the applicant and authorized agent and shall be submitted to the Department of Community Development prior to the scheduled hearing date.

If the project is withdrawn within seven (7) calendar days of submission, then the application fee shall be credited toward re-submittal of the application; however, beyond the seven (7) calendar day period, fees shall not be refunded nor credited toward subsequent submittals. The application fees shall be required for any future application. The request to withdraw or table the item shall be submitted in writing to the Department of Community Development prior to the scheduled hearing date.

(2) Request by the Applicant to Table Final Plat Prior to Hearing Date:

If, for any reason, an item scheduled for initial presentation before the Planning Commission is requested to be tabled without having been presented, then the applicant shall incur the costs required to re-notify adjacent property owners of the future meeting or hearing at which time the item will be considered in accordance with this subsection. If the project is withdrawn within seven (7) calendar days of submission, then the application fee and notification fee will be credited toward re-submittal of the application; however, beyond the seven (7) calendar day period, fees shall not be refunded nor credited toward subsequent submittals. The written request to table the item and reschedule said meeting shall be accompanied by additional mailing labels, certified property owner's list and certification form and the appropriate fee as enumerated in *Article 34, Schedule of Fees*.

(d) Department of Community Development Review:

The Department of Community Development shall proceed with the preliminary plat review as follows:

(1) Plat Study:

During the thirty (30) calendar days prior to the next regularly scheduled meeting, ~~the the City Engineer~~~~Department of Public Works~~, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities, ~~Building Inspections Department~~~~Environmental Programs~~ and any applicable utility company, local, state, and/or federal agency shall review plans and submit recommendations to the Director of Community Development prior to the initial hearing on the preliminary plat.

- (a) Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial, public, semi-public or multi-family, or mixed use project that, in the opinion of the Director of Community Development constitutes a land disturbing activity which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a non-cancelable performance bond in the name of the permittee, a letter of credit or cashier's check, to the City prior to the issuance of a site disturbance permit.
- (b) At the time of the preliminary plat approval, the bond shall become effective and shall extend for a period of at least two (2) years following final plat approval by the City. The bond shall be in the amount of twenty percent (20%) of the total cost for the performance of all site work. Said bond shall cover drainage, erosion and siltation damage, if any.
- (c) The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as the adequacy and the security thereon.

(2) Notice of Public Hearing:

The Planning Coordinator or designee of the Director of Community Development shall distribute public notice of the time and place of the hearing and shall send notice of public hearing on said preliminary plat by certified mail to the owner of record, the subdivider, and the owners of record of abutting land at least five (5) calendar days prior to the hearing.

(3) Commission Action:

The preliminary plat is considered to be formally and officially submitted at the regularly scheduled meeting of the Planning Commission. Per Section 6-6 “An affirmative vote of not less than six (6) members shall be required for approval of subdivisions, pursuant to Section 11-52-10, the Code of Alabama, 1975, (as amended).”

At this meeting, the Commission may either:

- (a) Approve the preliminary plat.
- (b) Conditionally approve the preliminary plat:

In this case, the conditions shall be stated in the hearing and presented to the subdivider in writing. If necessary, the Commission may require the subdivider to submit a revised preliminary plat prior to acquiring a site disturbance permit.

- (c) Disapprove the preliminary plat:

If disapproved, the reasons for such action shall be stated in the public hearing and presented to the subdivider in writing, and if possible, recommendations made as to the basis on which the plat will be approved. The subdivider may resubmit the plat with due consideration to the recommendations stated by the Planning Commission at any subsequent regularly scheduled meeting of the Commission in accordance with these regulations.

- (d) Delay action on the preliminary plat:

The Commission shall act to approve or disapprove a subdivision plat within thirty (30) calendar days after its formal submission at a regularly scheduled Planning Commission meeting. If the applicant waives this requirement and consents to an extension, then the Commission may delay action on the plat up to thirty (30) additional calendar days.

If no action is taken within the initial thirty day period, or if no action is taken upon the thirty (30) calendar day extension, said plat shall be deemed to have been approved and correspondence to that effect shall be issued by the Commission on request.

In any case, the Commission shall notify the subdivider either verbally or in writing of the action taken at the hearing. If any of the requirements of these regulations are modified or waived, they shall be specified and the reasons therefore given.

(e) Effect of Preliminary Plat Approval:

- (1) Approval shall be authorization for the subdivider to acquire a site disturbance permit as prescribed herein from the Department of Community Development. The owner or developer shall provide to the Department of Community Development, the appropriate signed application form, any applicable state/federal permits, a cost estimate for site work, the fee for a site disturbance permit as enumerated in *Article 34, Schedule of Fees*, and proof of the contractor's Daphne business license.
 - (a) Preliminary plat approval shall become void one (1) year from the date of Planning Commission approval if no site disturbance permit has been acquired for the project. The site disturbance permit and preliminary plat shall both become void one (1) year from the issuance of the site disturbance permit if no substantial building or construction activity has occurred.
 - (b) Prior to expiration of the initial site plan and/or site disturbance permit, a one (1) year extension of time may be granted for the approved preliminary plat and the site disturbance permit by the Director of Community Development, upon written request of the applicant, stating good reason.
 - (c) If no construction activity has occurred after the expiration of the extended time, an additional one (1) year extension of time may be considered by the Planning Commission. At no time shall any preliminary plat and related site disturbance permit be granted an extension beyond this time. The plat and site disturbance permit shall automatically be deemed null and void. The subdivider shall be required to resubmit the preliminary plat application and follow procedures as outlined in *Section 17-3(a), Subdivider's Responsibility*.
- (2) Said approval shall be authorization to begin work, to proceed with the construction of all minimum improvements as enumerated in

Article 11, Minimum Standards and Required Improvements, including the grading of streets, and staking of lots, etc.

- (3) Preliminary plat approval does not constitute final plat approval nor does it authorize official recording of the plat nor does it constitute or effect an acceptance by the City of Daphne of any street or other open space shown on the preliminary plat.
- (4) When all required improvements are installed the developer or owner shall in accordance with *Article 11, Minimum Standards and Required Improvements*, request a final inspection by the design engineer, the registered landscape architect, all applicable City departments, public and/or private utility companies, and when applicable, Baldwin County officials. Said inspections shall be conducted prior to submitting an application for final plat approval. Final inspection reports shall be provided with the application for Final Plat approval.

17-4 FINAL PLAT APPLICATION

- (a) Financial Guarantee of Performance in Lieu of Full Installation of Minimum Improvements:
 - (1) The subdivider shall be responsible for the full installation of all required minimum improvements except sidewalks in the proposed subdivision prior to the submission of a final plat application to the Planning Commission or after no less than ninety percent (90%) of the minimum improvements have been installed, the subdivider may issue a financial guarantee with surety to the City of Daphne that the remaining minimum improvements shall be completed.
 - (2) As such, one (1) or more of the following may be accepted as financial guarantee with surety payable to the City of Daphne: a letter of credit or certified check from an Alabama lending institution in an amount not to exceed one hundred and fifty percent (150%) of the cost of the required improvements remaining.
 - (3) A cost estimate for any remaining civil improvements shall be certified and submitted by the design engineer with the application for final plat approval; a cost estimate of any remaining landscaping improvements must be certified and submitted by the professional landscape architect with the application for final plat approval and the financial guarantee.
 - (4) Sidewalks around all common areas shall be installed prior to final plat approval. A surety for remaining sidewalk improvements

shall be determined as provided in Section (b) Maintenance Bonds Subsection (2) provided herein.

(b) Maintenance Bonds:

- (1) Street Maintenance Bond. The developer/owner shall submit to the Department of Community Development a Street Maintenance Bond payable to the City of Daphne which shall be valid for a period of two (2) years. The bond shall be in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision. Said bond shall be required as a condition to dedication and acceptance of any new streets within the corporate limits. The Director of Community Development or ~~the City Engineer~~ ~~Director of Public Works~~ or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The Street Maintenance Bond period shall begin upon the acceptance of the street and drainage improvements by resolution of the City Council. No less than thirty (30) calendar days prior to the expiration of said maintenance bond, an inspection shall be conducted by ~~the City Engineer~~ ~~the Department of Public Works~~ and the Environmental Programs ~~Manager or Site Containment Officer~~ to ensure that the improvements are in satisfactory condition prior to acceptance.

The ~~Planning Commission~~ ~~Director of Community Development~~, upon ~~receipt of the~~ recommendations of ~~the City Engineer~~ ~~the Department of Public Works or designee thereof~~ and ~~the Environmental Programs Manager or designee thereof~~, may release or extend a street maintenance obligation. An extension of the Street Maintenance Bond shall be for a period of time no greater than one (1) year. Upon approval of an extension of the original Street Maintenance Bond period, the developer/owner or assign thereof shall submit to the Department of Community Development sufficient proof of the extended bond, and the Director of Community Development or ~~the City Engineer~~ ~~Director of Public Works or other administrative official as designated by the City Council~~ shall determine the adequacy of said extended bond and security thereon.

- (2) Sidewalk Installation Bond. If applicable, the developer/owner shall submit to the Department of Community Development a Sidewalk Installation Agreement, a cost estimate for all undeveloped portions of the planned sidewalk network certified by the project civil engineer, and a financial guarantee of performance

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to be used by the City of Daphne which shall be valid for a period of two (2) years. The Sidewalk Installation Bond shall be in an amount equal to two hundred percent (200%) of the cost of the required sidewalk improvements for the applicable phase of the subdivision. The Director of Community Development or the City Engineer ~~Director of Public Works~~ or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The developer/owner may request renegotiation of the Sidewalk Installation Agreement with the City once fifty percent (50%) of the planned sidewalk network has been constructed. If the planned sidewalk network is not fully installed prior to the expiration date of the Sidewalk Obligation Bond period, or any extension thereof, the City shall cause the sidewalk network to be completed using the funds from the bond.

Prior to the original expiration date of the Sidewalk Obligation Bond period, the developer/owner or assign thereof may submit a request to the Director of Community Development for an extension of the original sidewalk obligation. The sidewalk obligation may be extended beyond the originally specified period with sufficient cause as documented by the developer or assign as follows:

- i. Small Subdivisions. Any recorded subdivision or subdivision phase with less than one thousand (1,000) linear feet of sidewalk shall not qualify for an extension.
- ii. Medium Subdivisions. Any recorded subdivision or subdivision phase with over one thousand (1,000) linear feet of sidewalk but less than five thousand (5,000) linear feet of sidewalk shall be eligible for a 12-month extension.
- iii. Large Subdivisions. Any recorded subdivision or subdivision phase with over five thousand (5,000) linear feet of sidewalk shall be eligible for a 24-month extension.

Upon approval of an extension of the original Sidewalk Obligation Bond period, the developer/owner or assign thereof shall submit to the Department of Community Development sufficient proof of the extended bond, and the Director of Community Development or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The ~~Planning Commission~~ Director of Community Development, upon the receipt of recommendations of ~~the City Engineer the Department of Public Works or designee thereof~~ and the Environmental Programs Manager or designee thereof, may release any Sidewalk Installation Bond obligation or portion thereof.

(c) Subdivider's Responsibility:

Within one (1) year of the date of preliminary plat approval or prior to the expiration of an extension granted by the Director of Community Development or the Planning Commission as prescribed in *Section 17-3, Effect of Preliminary Plat Approval*, the subdivider shall submit the following to the Department of Community Development:

- (1) File the required application on the prescribed forms;
- (2) Submit a copy of the final plat and as-built drawings of the site in accordance with *Section 17-3, Plat Content*;
- (3) Submit a petition for street acceptance on prescribed forms accompanied by a street maintenance bond in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision; certification of improvements form signed and sealed by the design engineer and a street test report from an independent testing laboratory noting satisfactory condition of the street;
- (4) Submit filing fee as enumerated in *Article 34, the Schedule of Fees*;
- (5) If applicable, submit a financial guarantee of performance of the remaining ten percent (10%) of the minimum improvements, except sidewalks, and a certified cost estimate of any/all remaining work to be completed;
- (6) Private restrictive covenants and deed restrictions;
- (7) All inspection reports and permits; and,
- (8) Applicable test reports.

These items shall be received in the Department of Community Development not less than thirty (30) calendar days prior to a regularly scheduled meeting of the Planning Commission at which meeting the subdivision plat is to be formally submitted for review.

(d) Final Plat Content:

The final plat shall conform to the conditions of the approved preliminary plat. It shall show sufficient detailed data to readily determine and to accurately reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line, and building line.

The plat shall be clearly drawn on a 24 x 36 inches sheet, at a scale of not less than one hundred (100) feet to the inch, and shall contain all information shown on the current departmental check list for a final plat (see Appendix), which may be modified at the discretion of the Director of Community Development when applicable.

(e) Fees and Application Withdrawal Procedures:

Said fees and procedures are as prescribed in *Article 17-3, Fees & Application Withdrawal Procedures*, herein.

(f) Department of Community Development Review:

The Department of Community Development shall proceed with the final plat review as follows:

(1) Plat Study:

During the thirty (30) calendar days prior to the next regularly scheduled meeting, the Department of Community Development shall review the final plat for compliance with the subdivision regulations and submit any recommendations to the Planning Commission at its meeting.

(2) Commission Action:

The final plat is considered to be formally and officially submitted at the regularly scheduled meeting of the Planning Commission. At this meeting, the Commission may either:

(a) Approve the final plat.

(b) Disapprove the final plat:

Such action may result if the final plat is found to be in conflict with the approved preliminary plat or with the subdivision regulations.

A statement of the reasons for disapproval shall be forwarded by letter to the subdivider and one copy being filed in the records of the Department of Community Development. No certificate of

approval shall be given. The subdivider may resubmit the final plat application for another hearing after the corrections as noted by the Planning Commission have been made to the plat.

(c) Delay action on the final plat:

The Commission shall act to approve or disapprove a subdivision plat within thirty (30) calendar days after its formal submission at a regularly scheduled Planning Commission meeting. If the applicant waives this requirement and consents to an extension, then the Commission may delay action on the plat up to thirty (30) additional calendar days.

If no action is taken within the initial thirty (30) calendar day period, or if no action is taken upon the (30) thirty calendar day extension, said plat shall be deemed to have been approved and correspondence to that effect shall be issued by the Commission on request.

(3) Records:

In any case, the Planning Commission shall retain one (1) copy of the final plat as presented to the Planning Commission in its files with indication in writing of the action taken at the hearing.

If any of the requirements of these regulations are modified or waived, they shall be specified and the reasons therefore given.

(g) Effect of Final Plat Approval:

Approval of the final plat by the Planning Commission shall authorize the owner, subdivider, or his agent, to have said plat recorded in the Office of the Judge of Probate of Baldwin County.

The plat shall be filed prior to the sale of any lot in the subdivision. Copies of all private covenants, deed restrictions, and certifications shall be filed with the final plat. Once approval has been given and endorsed in writing on the plat by the Planning Commission and/or the Director of Community Development, no changes, erasures, modifications or revisions shall be made on said plat.

In the event that any subdivision plat, when recorded, contains changes which have not been approved by the Planning Commission, said plat shall be considered null and void, and the Planning Commission shall then

file the corrected plat as approved, noting the reason for such filing. Any erasures made on a plat prior to its signing shall be initialed and dated by the Planning Commission Chairman or other authorized agent and/or the Director of Community Development, at the time of the signing.

The approval of the final plat shall be recorded within a period of one (1) year following the date of such approval. Upon recording, the owner or developer shall furnish to the Department of Community Development a copy of the recorded plat and recorded restrictive covenants. Additionally, the Articles of Incorporation for the establishment of a property owner's association shall be furnished to Community Development upon recording. In any event, the developer or assign thereof shall guarantee that the sidewalk installation surety is sufficient in cost and that said surety shall be valid for a period of two years after the first building permit is issued by Building Inspections.

Approval and recordation of the final plat does not result in the acceptance of any street or other public space shown on the plat. Council resolution accepting dedication of streets is required as noted in *Section 17-4, Streets*, herein.

(h) Streets - Legal Status:

The City of Daphne shall not accept, open, improve, maintain, grade or light any street right(s)-of-way and/or drainage and utility easement; authorize water mains, sanitary sewer, or connections to be made to any street, unless:

- (1) The street right(s)-of-way is a part of a subdivision plat approved by the Planning Commission; and,
- (2) Such street has been accepted or otherwise granted the legal status of a public street; and,
- (3) The right(s)-of-way corresponds with a street shown on the Comprehensive Plan; and,
- (4) Petition for acceptance and dedication of the street right(s)-of-way and drainage and utility easement(s) has been accepted and adopted by City Council Resolution.

ARTICLE XVIII

DRAINAGE, STORM WATER MANAGEMENT FACILITIES AND EROSION/SEDIMENT CONTROL

Amended 03/18/13: Section 18-1(A) per Ordinance #2013-12

18-1 GENERAL

A. Purpose:

The purpose of this section is to provide a guide for development wherein the ecological impacts to the environment are minimized through appropriate design, landscaping, erosion control, stormwater management, and proper planning. The intent of the City of Daphne is to protect valuable natural resources, the natural environment and the quality of life for all its citizens. In order to preserve the integrity, stability and the value of land, the City encourages the use of innovative, LEED-certified (Leadership in Energy and Environmental Design) and/or other “green” practices in development design. Where such methods/practices are proposed for a development said practices shall be designed in accordance with Appendix O, The Low Impact Development and Green Infrastructure Project application and certified by a credentialed professional in his/her design field.

B. Applicability and Use:

The following requirements shall apply to uses and developments in each overlay district and zoning district within the Daphne corporate limits, except where noted herein. As a general policy the objective of each drainage system design shall be the safety and protection of the traveling public, the environment, the City of Daphne and private property.

C. Jurisdiction:

All projects which fall under the inspection, permitting, or extraterritorial planning jurisdiction of the City, on items related to stormwater management and site development within the corporate limits of the City.

D. Permitting:

No land disturbing activity shall take place on any site prior to the issuance of a Site Disturbance Permit in accordance with *Article 15, Procedures for Site Plan Review in Section 15-4(d), Special Provisions* and *Article 17, Procedures for Subdivision Review, Section 17-3(e), Preliminary Plat Application*, of this Ordinance. All permitted sites within the city limits shall post a waterproof Site Disturbance Permit Identification Sign on site during construction. This sign shall identify the permit number, permit holder, contractor and contact phone number. Any and all state/federal permits for such activities shall be obtained and submitted to the City prior to issuance of the site disturbance permit.

E. Technical Reference:

The current version of the Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas is hereby adopted as a reference and shall be considered a part of the Land Use and Development Ordinance as an expansion of erosion control provisions not listed. Herein, the book shall be referred to as the "Alabama Handbook for Erosion Control."

F. Professional Civil Engineer:

All engineering plans and specifications submitted for review and/or approval shall be prepared by and under the direct supervision of a registered professional civil engineer, licensed in the State of Alabama. Said professional engineer shall carry Errors and Omissions Insurance at a minimum coverage of one million dollars (\$1,000,000). All plans and specifications shall meet the minimum standards and requirements of the City and other applicable local, state or federal authorities.

- (1) Plan, profile and special drawing sheets for a project submitted for review shall bear a legible stamp and signature of the professional design engineer in charge. If the name or license number is not clear, the signature and number shall be added.
- (2) The professional design engineer shall be qualified in the area of drainage as per the State of Alabama engineering registration laws.
- (3) Upon completion of the project, an inspection of the site and drainage facilities shall be conducted by the design engineer. Correspondence in the form of a letter along with a set of as-built final plan sheets and an electronic version in a format deemed acceptable by the City shall thereafter be submitted to the Department of Community Development from the design engineer certifying that all drainage and related facilities have been installed in accordance with approved plans and specifications.

G. Liability:

Use of the information contained herein for placement of any structure or use of land, shall not constitute a representation, guarantee, or warranty of any kind by the City, its offices or employees, of the practicability, adequacy or safety and shall not create liability upon or cause action against any such public body, office, or employee for any damage that may result pursuant thereto.

- (1) Any liability associated with the design, performance and operation of the drainage, stormwater management or erosion and sediment control facilities remains with the developer/owner and the project design engineer.

- (2) Stormwater management facilities shall be designed in accordance with good engineering practice. The design criteria establish minimum elements of design which must be implemented with good engineering and good workmanship.

H. Pre-Design Conference:

The developer and the design engineer are encouraged to contact the City for a pre-design conference at the conceptual stage of the project. Such conference would be mutually beneficial to outline the complexity and scope of design, applicability of criteria and elimination of possible items of conflict during the review process. Subsequent conferences, during the preparation of plans may be arranged by the design engineer or the developer to obtain preliminary, informal decisions on items in need of clarification.

I. Letter of Transmittal:

In order to facilitate review of plans, all projects shall be submitted with a letter of transmittal which shall include the name of the project, name and address of the owner and/or developer, telephone number of the engineer, and clarification as to the purpose of submittal.

18-2 DRAINAGE AND STORMWATER MANAGEMENT ENGINEERING PLAN CONTENTS

A. General Requirements:

For all developments affecting city rights-of-way and for all proposed subdivisions and site development plans, the developer or the professional design engineer shall submit signed and sealed detailed drainage plans and drainage computations to the City for review and approval. Said drainage plans shall contain a map, narrative and supplemental items as follows:

(1) Map Information:

- i. Existing and proposed contours in 1 (one) foot increments (topography shall be based upon the NAVD 88 datum;
- ii. Location of existing improvements including roads, parking areas and building footprints along with their proposed finished floor elevations;
- iii. Existing drainage system, including but not limited to, pipes, culverts, inlets, ditches, and ponds with data providing invert elevations, slopes, permanent water elevation and other related dimensional data;
- iv. Flood zone designation and certification;

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- v. Elevation of the regulatory lowest floor level, including basement, of all proposed structures;
 - vi. Elevation to which any non residential structures will be flood proofed;
 - vii. Drainage basin boundaries, showing direction of flow, including total tributary drainage areas entering the improved area, taking into account any off-site runoff being routed through or around the project in its undeveloped condition;
 - viii. Size, location, slopes, inverts, types and general configuration of all primary drainage facilities required to route, collect, treat and dispose of stormwater runoff, generated by or passing through the development;
 - ix. Location of on-site water bodies, ephemeral streams and/or wetlands with details of size and vegetative cover to include normal water elevation, side slopes, and depths of water bodies and for wetlands, the general surface elevation and the wet season water elevation;
 - x. CBMPP (Construction Best Management Practices Plan) in accordance with the *Erosion Control provisions stated in Section 18-6* below;
 - xi. Reference the 100 (one hundred) year flood elevation if applicable;
 - xii. All final plats shall have a section that details that the City reserves the right to require the owners of all drainage facilities to perform needed maintenance to prevent potential flooding hazards.
- (2) Narrative:
- i. Proposed project including its size, percent pervious versus impervious land usage, total wetlands within site boundaries, and a breakdown of wetland acreage preserved, by type, and acreage removed, by type.
 - ii. All acres solely for water management purposes shall be noted and the legal method to ensure areas remain devoted.
 - iii. Times of concentration, intensity, runoff coefficients used for determining runoff for all tributary areas and areas within the development at pre- and post-construction rates.
 - iv. Discharge rate in cubic feet second (cfs), discharge velocity in feet per second (fps), and any other additional hydraulic data needed to establish that the drainage system will safely convey the flow to an adequate outlet without eroding any property or the channel of flow. Armoring of the receiving channel

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shall be required where velocities exceed the scour velocity for the given soil conditions. Discharge and runoff coefficients should be based on full or ultimate build out of the parcel and contributing watershed.

- v. Proposed start and completion date for the project.
- vi. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, if applicable.

(3) Supplemental Information:

- i. Design storms used including depth, duration, and distribution;
- ii. Staged storage calculations for the project and stage discharge computations for the outfall structure(s);
- iii. Differential runoff evaluation consists of determination of rates of runoff before and after development, determination of required volume of retention/detention and verification of adequacy of discharge and control structures.
- iv. Runoff routing calculations showing discharges, elevations and volumes retained/detained during applicable storm events;
- v. Draw down calculations for detention;
- vi. Base flood elevation data for all proposed developments greater than 50 (fifty) lots or 5 (five) acres, whichever is less; if not established refer to the Flood Damage Prevention Ordinance No. 2009-01;
- vii. Calculations required for determination of minimum building floor and road elevations;
- viii. Calculations for flood plain encroachment, if applicable;
- ix. Copies of all federal and state permit applications for the activity.

(4) Acreage in a tabular format:

Sample Table

	Existing		Proposed	
	Acres	%	Acres	%
Total Area				
Building				
Pavement				
Impervious total				
Pervious total				
Wetlands				
Common area				
Recreation area				

B. Provision for Additional Engineer's Review:

The intent of this provision is to protect and improve water quality and stream conditions within the City of Daphne, particularly those on the ADEM 303(d) List of Impaired Streams. The purpose of this provision is to mitigate the impact of potential or future development in support of the Daphne MS4 permit program and to uphold the provisions of this article.

Where deemed appropriate by the Planning Commission, any drainage and stormwater management plan submitted for review by the Planning Commission that could impact a stream listed on the ADEM 303(d) Impaired Streams list, may be subject to an additional review by a qualified professional civil engineer with experience in stormwater management (consultant engineer). The applicant/developer/owner may be required to modify stormwater and drainage plans to accommodate the recommendations of the consultant engineer.

All costs incurred for this additional engineer's review shall be paid by the developer/owner/applicant.

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18-3 DRAINAGE AND STORMWATER MANAGEMENT**A. General Requirements:**

- (1) Each subdivision plat and site plan submitted for review shall make adequate provisions for stormwater or flood water runoff channels or basins. Storm drains and drainage structures shall be designed and installed as required herein and in accordance with current good engineering practices and standards. The responsible professional design engineer shall submit signed and sealed design computations with said plans.
- (2) The professional engineer shall make certain that any spring or surface water that may either exist prior to or as a result of the proposed subdivision or site development design shall be carried away by vegetative swale, pipe, open concrete paved ditch, or any alternate drainage facility certified by the design engineer and subsequently approved by the Planning Commission. Drainage conveyance structures may be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width. Said drainage conveyance structures shall be constructed in accordance with the Alabama Department of Transportation (ALDOT) Standard Specifications.
- (3) Where a public storm drainage system is accessible, the professional engineer shall design stormwater drainage facilities to connect thereto. Storm drainage provisions for each development shall be subject to the specifications and calculations submitted by the design engineer. If no outlets are within a reasonable distance then adequate provisions shall be made for the disposal of stormwater.
- (4) Where a public storm drainage system is not accessible, the subdivider shall install all drainage structures necessary to convey the water to a location acceptable to the City and obtain all required easements thereto.
- (5) If, in a phased development, a connection to a public storm drainage system will be provided in a future phase of construction then a phasing plan for the project, a master storm drainage plan for the overall development and a bond in the amount of 150% of the cost of installing the appropriate facilities as enumerated in *Article 17, Procedures for Subdivision Review*, Section 4(a) Final Plat Application, shall be submitted upon application for final plat approval. Said master drainage plan shall show the arrangements anticipated for future stormwater disposal.
- (6) No development shall be approved unless adequate drainage is provided to the natural drainage watercourse or an existing drainage facility.

- i. For all developments, upstream drainage areas shall be accommodated and considered in designing drainage facilities. A culvert, pipe, or other drainage facility, shall in any case, be of sufficient size to accommodate potential stormwater runoff from its upstream drainage area, whether inside or outside the subdivision or development site boundary. The design engineer shall determine the necessary size of the facility based on drainage calculations and provisions of the construction standards and specifications.
 - ii. For all developments, downstream drainage areas shall be considered in designing drainage facilities. The design engineer shall review the effect of each development on existing downstream drainage facilities outside the area of the development. These drainage studies, together with such other studies as shall be appropriate, may serve as a guide to needed improvements and shall be incorporated into the drainage report to be submitted with the development application.
 - iii. Stormwater drainage facility design shall note the calculation of a runoff coefficient by measuring the total area of each sub-drainage basin within the project and the areas of each land use which will occur in each basin after construction is complete. These areas shall include off site drainage onto the site as well as the development area. These calculations should also consider future development or build-out on the upstream contributing area based on current land use or zoning.
- (7) Where it is anticipated that additional runoff incidental to the development will overload an existing downstream drainage facility, approval of the development may be: denied, delayed, or withheld until provisions have been made to prevent and/or remedy such occurrence by the developer/owner submitting of an Off-Site Impact Bond, as provided in *Article 15, Procedures for Site Plan Review*, and *Article 17, Procedures for Subdivision Review*, prior to preliminary plat or site plan approval.
- (8) The City of Daphne reserves the rights to enforce all Federal and State water quality regulation, as amended
- (9) In a site plan review, the Planning Commission may require additional water quality enhancement through the use of stormwater treatment measures such may include, but shall not be limited to oil/gas/grease separators.

B. Flood Prevention:

- (1) All proposed developments shall provide adequate storm drainage facilities.
- (2) All proposed developments shall meet standards established in the Flood Prevention Ordinance 2009-01, as amended.
- (3) Any areas subject to periodic flooding or flooding caused by poor drainage facilities will not be accepted unless the developer or subdivider makes necessary provisions to eliminate such flooding in conformity with the National Flood Insurance Program.
- (4) The floor elevations of houses or buildings shall be high enough to be above the regulatory flood.
- (5) The floodway easement shall be wide enough to provide for future enlargement of the stream channel as adjacent areas become more highly developed and runoff rates are increased.
- (6) Fill may not be used to raise land in areas subject to flood and/or excessive erosion unless permitted by the Flood Plain Manager in accordance with the Flood Prevention Ordinance and provisions provided herein.
- (7) If fill is permitted to raise land in areas subject to flood and/or in areas of excessive erosion, said fill shall be subject to the following requirements:
 - i. Fill shall not restrict the natural flow of water,
 - ii. Fill shall not advance erosion,
 - iii. Fill shall not unduly increase flood heights,
 - iv. Fill shall not be comprised of staining materials, e.g., red clay.

C. Easements:

Easements shall meet all specifications provided herein and shall be labeled on the record plat and/or site development plan.

- (1) Where topography or other conditions are such as to make impractical the inclusion of drainage conveyance structures/facilities within road rights-of-way, perpetual unobstructed easements for such drainage conveyance structure/facilities shall be, a minimum of twenty (20) feet in width and located across said property, outside the road lines and with satisfactory access to the road. Drainage easements shall be carried from the road to the natural watercourse or to other drainage facilities.

- (2) Where a subdivision or development of land is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such water course, and of such width and construction or both as shall be adequate.
- (3) The subdivider shall dedicate by easement land in its natural state on both sides of any existing stream, of an adequate width and to a distance that is adequate to discharge flood waters without cumulatively increasing the water surface elevation more than one foot. Per *Section 18-3(d) Streams and Wetland Buffers*, the easement shall be at least fifty (50) feet wide.
- (4) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication shall be preserved and retained in their natural state as drainage ways, except where improvements are warranted and deemed necessary by the design engineer and subsequently approved by the Planning Commission. Said low-lying areas shall be appropriately delineated on the record plat.

D. Stream and Wetland Buffers Zones:

- (1) For any flowing or ephemeral water body, a fifty (50) ft wide vegetated non-disturbed buffer zone shall be provided on both sides of the stream from the bank. These buffer zones shall be shown on the plat, field verified by the design engineer, flagged prior to project implementation and protected by appropriate measures during all construction phases.
- (2) For any delineated wetland area, a thirty (30) ft wide vegetated non-disturbed buffer zone shall be provided around the wetlands. These buffers shall be shown on the plat/site plan, field verified by the design engineer, flagged prior to project implementation and protected during all construction phases.
- (3) When wetlands border, abut, and/or adjoin a stream, the undisturbed buffer zone must extend a minimum of fifty (50) ft from each stream bank and a minimum of thirty (30) ft from the delineated wetland boundary. The wetland buffer is not applicable where the U.S. Army Corps of Engineers has permitted wetland fill for a linear transportation crossing or utility crossing. However, the wetland and/or stream buffer requirements are still applicable to areas adjacent to the permitted activity.
- (4) Modifications to the stream or wetland buffers shall be approved by the Planning Commission on a case by case basis. If a modification is requested, the design

engineer shall demonstrate through safety or design specifications the need for the modification.

- (5) Existing subdivisions platted, prior to the acceptance of this ordinance, are grandfathered from the buffer requirements.
- (6) Individual property owners within existing subdivisions shall be responsible for compliance with US Army Corp of Engineers 404 Wetland Regulations. *At any time during or prior to site disturbance, if it is determined by the City of Daphne or a consultant thereto that the parcel potentially has wetlands, the City shall require a wetland delineation of the parcel.*

E. Operations in Lakes or Natural Watercourses:

Land-disturbing activity in connection with construction, in, on, over, under a lake, or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. Any and all state and federal permits for such activities shall be obtained and submitted to the City prior to issuance of the Site Disturbance Permit.

F. Permanent Downstream Protection of Stream Banks and Channels:

Provision shall be made for the permanent protection of off-site stream banks and channels from the erosive effects of increased velocity and volume of stormwater runoff resulting from certain land-disturbing activities.

G. Phasing and Platting:

The effective acreage for a project is not limited to a fractional part of the total concept, rather if a project is developed in phases of small plats, the total acreage of the conceptual project shall be considered. Phasing is required on all site disturbance areas of seventeen and one half (17.5) acres, i.e., seven hundred-fifty thousand square feet (750, 000 sq. ft.) or more. The size of each phase will be limited to 17.5 acres or as deemed appropriate by the Planning Commission. The Planning Commission may allow exceptions to the phasing requirement on a case by case basis. In such case, the design engineer shall provide enhanced construction best management practices to ensure maximum mitigation to prevent off-site and water quality impacts.

H. Borrow and Waste Areas:

- (1) When the person conducting the land-disturbing activity is also the person conducting borrow or waste disposal activities, areas from which borrow is obtained

shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated.

- (2) When the person conducting the land-disturbing activity is not the person obtaining borrow and/or disposing waste, these areas shall be considered a separate land-disturbing activity.

I. Access and Haul Roads:

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

18-4 STORMWATER MANAGEMENT FACILITY DESIGN

A. Conveyance Systems:

(1) Culverts:

- i. Culverts under arterial roadways shall accommodate a minimum 50 (fifty) year, 24 (twenty four) hour storm frequency design storm unless conditions dictate that 100 (one hundred) year frequency design storm must be accommodated. Design storm criteria will be used by the design engineer based on the site specific conditions that warrant life and property protection.
- ii. All culverts within City road rights-of-way must be approved by the City of Daphne and shall conform to Alabama Department of Transportation (ALDOT) standards.
- iii. All culverts within State road rights-of-way must be approved and permitted by the ALDOT. In conjunction with the required subdivision or site plan application material, the developer/engineer shall submit a conceptual approval letter from ALDOT to the Department of Community Development for Planning Commission review. A copy of the official ALDOT permit must be submitted to the City prior to final inspection or issuance of the Certificate of Occupancy.
- iv. Concrete box culverts shall be designed and constructed according to the latest edition of the Standards and Specifications for Road and Bridge construction, ALDOT.
- v. Culvert head walls shall be required on pipe culverts and shall be reinforced concrete.
- vi. Special types of head walls may be required by the City when deemed necessary for erosion control.

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- vii. Riprap may be required at the upstream and downstream end of culverts and shall be placed at these locations based on the velocities at that location.
- viii. All roadway cross drain pipes shall be made of reinforced concrete and shall have a minimum diameter of eighteen (18) inches or greater.
- ix. Any pipe proposed within a City right-of-way or drainage easement shall be made of reinforced concrete. If other piping is installed therein, said road right-of-way or drainage easement dedication shall not be favorably recommended by the Planning Commission and may not be accepted by the City Council except where deemed appropriate by ~~the City Engineer~~the Department of Public Works Director.

(2) Bridges:

Bridges shall accommodate a minimum one hundred (100) year, 24 (twenty-four) hour frequency design storms. Design storm criteria will be used by the design engineer based on the site specific conditions that warrant life and property protection. All bridges shall be designed and constructed according to the latest edition of the Standards and Specifications for Road and Bridge construction, ALDOT.

(3) Open Channels and Ditches:

- i. Storm drain pipes, open channels, open ditches or swales may be implemented when properly engineered based on site conditions. Open channels and ditches shall be designed to safely accommodate traffic and to prevent hazardous erosion.
- ii. The maximum side slope shall be 3:1 (three to one) ratio for all open channels and ditches, unless approved by the Planning Commission upon recommendation of ~~the City Engineer~~the Director of Public Works. Drainage calculations shall show the volume and velocity for each separate ditch section. Adequate ditch lining shall be determined based on the ditch calculations. Where two open channels converge, some form of energy dissipation, such as riprap, shall be provided.
- iii. Where a driveway or ingress/egress easement must cross an existing or proposed ditch, the design engineer shall note upon the plat, the required culvert size(s) necessary to accommodate said crossing(s).
- iv. Headwalls and end-walls shall be installed on street culverts.

- v. Within any public right-of-way, flared headwalls or slope paved headwalls with a 4:1 (four to one) slope or flatter shall be used.
- vi. The recommended maximum flow velocities shall be in accordance with the ranges recommended in the latest edition of the ALDOT Hydraulics Manual.
- vii. All open channels and ditches shall be permanently vegetated upon final inspection. Neither seed, mulch, nor a combination thereof will be accepted as vegetation or as a substitute for permanent vegetation. Where sod is used on slopes or around corners, it shall be pinned as specified in the Alabama Handbook for Erosion Control.

(4) Street & Inlets:

- i. Inlets shall be provided so that surface water is not carried across any intersection, or carried for a distance of more than five hundred (500) feet in the gutter. When calculations indicate curb capacities are exceeded at a point, catch basins shall be used to intercept flow at that point. The minimum pipe diameter of each storm drain shall be eighteen (18) inches. The stormwater drainage system shall be separate and independent of any sanitary sewer system. In no case shall stormwater empty into the sanitary sewer system.
- ii. Profile grades and typical roadway sections shall be submitted with all construction drawings.

(5) Clean Out Access:

Clean out accesses shall be provided at least every three hundred (300) feet for continuous pipes of twenty-four (24) inches in diameter or less and at least every four hundred (400) feet for larger continuous pipes if required. Clean out accesses shall be provided at each angle point and at each change in grade.

B. Stormwater Drainage Detention/Retention Facilities:

(1) General Requirements:

- i. Developments which produce an increase in the amount of stormwater runoff shall be required to construct stormwater detention /retention ponds or other approved types of detention devices.
- ii. The developer/engineer shall submit, detailed engineering plans to the City including historical runoff, developed runoff, detention/retention pond details, method of discharge, and other information as required for review.

- iii. Stormwater detention/retention facilities shall meet all specifications provided herein and shall be labeled as a lot on the record plat and/or site development plan as common area.

(2) Minimum Requirements for Stormwater Management Detention/Retention Facilities:

- i. Differential runoff is the difference in rate and volume of stormwater runoff from a parcel or project in its undeveloped natural condition and its developed condition. Post-development release rates shall not exceed pre-development rates. Where practical, the differential runoff should be less.
- ii. Detention basins shall detain the first flush from a storm event and release the subsequent runoff water at a pre-development rate for sites twenty (20) acres or less based on the rational method or modified rational method. For sites larger than twenty (20) acres, the pre- and post- calculations shall be based on the Natural Resource Conservation Service (NRCS) Curve Number Method or other accepted engineering methodology. There should also be adequate sizing of the detention basin to store an accumulation of one-half inch ($\frac{1}{2}$ ") sediment during construction of the infrastructure. The first flush volume for any stormwater detention structure must be contained and then slowly released over a minimum time period of 24 (twenty- four) hours and maximum time period of 72 (seventy-two) hours.
- iii. The purpose of installing detention structures is to slow or attenuate the peak flows downstream by controlling the release rate. The post-development peak outflow rate shall be limited to the pre-development peak outflow rate as the basis of detention design.
- iv. All stormwater detention structures must attenuate the post-development peak flow rates from the 2 year, 5 year, 10 year, 25 year, 50 year and 100 year 24 hour design storms to release a graduated discharge at or below pre development peak flow rates.
- v. The following conditions and limitations should be observed in location, selection and use of the method of detention:
 - a. Detention facilities shall be located within the parcel limits of the project under consideration.
 - b. No detention or ponding shall be located within public road rights-of-way.
 - c. Location of detention facilities immediately upstream or downstream of the project may be considered by special request if proper documentation is submitted with reference to practicality, feasibility and proof of ownership or right-of-use of the area proposed.

- vi. During construction of a residence, allowances for silting under denuded soil conditions for a period not less than one (1) year is recommended.
- vii. All permitted site development projects shall incorporate stormwater detention and first flush treatment as part of the design. Stormwater detention is not required in the following two situations:
 - a. The project discharges stormwater runoff directly into a tidally influenced water body. This does not include discharges of stormwater runoff that flows through a public drainage system or across a downstream property boundary prior to entering the tidal water body.
 - b. Where stormwater detention for a project site is either unwarranted or impractical, the design engineer shall submit complete hydrologic and hydraulic computations to support this conclusion. This conclusion must be affirmed by the Department of Community Development. Typically this might occur in the very lowest downstream reaches of a major watershed, if it can be proved that un-detained stormwater should be discharged quickly to avoid peak discharge timing for the entire watershed. The hydrologic analysis should include more than one representative downstream location for comparing hydrographs.
 - c. Even if stormwater detention is waived by the Planning Commission for the above two situations, the site development must still provide first flush treatment, oil/gas/grease separation, and/or any other filtration system deemed appropriate in order to protect water quality.
- viii. All detention basin slopes shall be permanently stabilized with a perennial vegetative cover prior to final inspection. Seed and mulch will not be accepted.
- ix. Detention facilities are to be built prior to storm drainage installation and prior to any building or roadway construction and/or grading. Since these facilities are intended to control increased runoff, they must be fully operational prior to any clearing of the vegetation.
- x. In accordance with *Article 11, Minimum Standard and Required Improvements, Section 14(h), Special Provisions*, dry detention facilities shall be located on common grounds within the development; however, detention facilities shall not be considered to be a part of the informal open space area, unless otherwise approved by the Planning Commission. Wet detention/retention facilities also known as lakes may be considered as part of the formal open space/ recreational areas.

- xii. Projects developed under these procedures shall establish, in the recorded plat, maintenance and access easements for the detention facilities and include provisions for maintenance in the restrictive covenants or Trust Indentures.
- xiii. The hydraulic elevations of the drainage system shall not adversely affect adjoining properties.
- xiv. All common ground areas, including but not limited to stormwater facilities, recreational spaces and open spaces must be permanently stabilized upon final inspection. Seed and mulch will not be accepted at final inspection.
- xv. Wetland areas shall not be used for the purpose of stormwater detention.

(3) Dry Detention Basins:

- i. Dry detention basins provide limited pollutant removal benefits and are not intended for water quality treatment. Detention-only facilities must be used in conjunction with other structural controls that provide stormwater treatment.
- ii. Seventy-five (75) acres is the maximum contributing drainage area to be served by a single dry detention basin. Routing calculations must be used to demonstrate that the storage volume is adequate.
- iii. Vegetated embankments shall be no more than twenty (20) feet in height and shall have a maximum side slope of a three to one (3:1) ratio. Riprap protected embankments shall have a maximum slope of a two to one (2:1) ratio. Geotechnical slope stability analysis is required for embankments greater than ten (10) feet in height. The detention basin shall be setback such that the outfall is at least twenty-five (25) feet from the property line.
- iv. Areas above the normal high water elevations of the detention facility should be sloped toward the basin to allow drainage and to prevent standing water.
- v. Inflow channels shall be stabilized with flared riprap aprons, or the equivalent thereof. A sediment forebay sized to 0.1 (one tenth) inches per impervious acre of contributing drainage shall be provided for dry detention basins that are part of the treatment process.
- vi. The outlet structure shall be sized based on hydrologic routing calculations and may consist of a weir, orifice, outlet pipe, combination outlet, or other acceptable control structure which would achieve the required graduated discharge.
- vii. Riprap, plunge pools or pads, or other energy dissipaters must be placed at the end of the outlet to prevent scouring and erosion.

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- viii. An emergency spillway shall be included in the stormwater pond design to safely pass the extreme flood flow. The spillway must prevent pond water levels from overtopping the embankment and causing structural damage. A minimum of one foot of freeboard must be provided, measured from the top of the water surface elevation for the extreme flood, to the lowest point of the dam embankment not counting the emergency spillway. Special consideration for smaller basins may be considered as long as the design engineer can show that the practice is warranted.

(4) Stormwater Ponds:

- i. Stormwater ponds also known as wet ponds, retention ponds, and or permanent lakes are constructed stormwater retention basins that have a permanent pool of water throughout the year. Runoff from each rain event shall be detained and treated in the pool through gravitational settling and biological uptake until it is displaced by runoff from the next storm. The permanent pool must protect deposited sediments from re-suspension. Above the permanent pool level, additional temporary storage shall be provided for runoff quantity control. The upper stages of a stormwater pond shall be designed to provide extended detention of the two year, twenty-four (24) hour storm event for downstream channel protection, as well as normal detention of larger storm events.
- ii. Channel protection may be achieved by releasing the two (2) year, twenty-four (24) hour storm runoff volume over twenty-four (24) hours. A stormwater pond shall provide the required storage above the permanent pool and meet the specified graduated allowable release. Where required, stormwater ponds shall also be used to provide detention to control the one hundred (100) year storm event. Where this is not required, said pond structure shall be designed to safely pass extreme storm flows.
- iii. Minimum setback requirements for stormwater pond facilities:
 - a. Twenty-five (25) feet from property line to outward toe of berm;
 - b. One hundred (100) feet from private wells;
 - c. Fifty (50) feet from a septic system tank/leach field;
 - d. Five hundred (500) feet from public well.
- iv. The stormwater pond shall consist of a permanent pool of water, the overlying zone in which runoff control volumes are stored, and a shallow littoral zone along the edge of the permanent pool that acts as a biological filter. All

stormwater pond designs shall include a sediment forebay at the inflow to the basin to allow heavier sediments to drop out of suspension before the runoff enters the permanent pool. Additional pond design features include an emergency spillway, maintenance access, safety bench, pond buffer and appropriate native landscaping.

- v. Proper geometric design shall be implemented to prevent hydraulic short-circuiting. The minimum length-to-width ratio for the permanent pool shape is one and one-half to one (1.5:1), and should ideally be greater than three to one (3:1) to avoid short-circuiting. In addition ponds should be wedge-shaped when possible so that flow enters the pond and gradually spreads out, improving the sedimentation process.
- vi. To avoid stratification and anoxic conditions, the maximum depth of the permanent pool shall generally not exceed eight (8) feet. Minimum depth for the pond bottom shall be three (3) feet.
- vii. Side slopes to the pond shall not exceed three to one (3:1) without the use of safety precautions. Side slopes to the pond shall not exceed three to one (3:1) if mowing is anticipated. Said should terminate on a safety bench. The safety bench requirement may be waived if slopes are four to one ratio (4:1) or gentler.
- viii. The perimeter of all deep pool areas should be surrounded by two benches: safety and aquatic. For larger ponds, the safety bench shall extend approximately fifteen (15) feet outward from the normal water edge to the toe of the pond side slope. The maximum slope of the safety bench should be sixteen to one or six percent (16:1 or 6%). An aquatic bench should extend inward from the normal pool edge, fifteen (15) feet on average, and should have a maximum depth of eighteen (18) inches below the normal pool water surface elevation.
- ix. The sediment forebay should consist of a separate cell, formed by an acceptable barrier. The forebay must be sized to contain 0.1 (one tenth) inches per impervious acre of contributing drainage. A fixed vertical sediment depth marker shall be installed in the forebay to measure sediment deposition over time. The bottom of the forebay may be hardened to make sediment removal easier. Inflow channels are to be stabilized with flared riprap aprons, or the equivalent. Exit velocities from the forebay must be non- erosive.

- x. Flow control from a stormwater pond is typically accomplished with the use of a concrete or corrugated metal riser and barrel. The riser should be located within the maintenance easement for access, safety and aesthetics. Higher flows should pass through openings or slots protected by trash racks further up on the riser. After entering the riser, flow is conveyed through the barrel and discharged downstream. Anti-seep collars should be installed on the outlet barrel to reduce the potential for pipe failure.
- xi. Riprap, plunge pools or pads, or other energy dissipaters must be placed at the end of the outlet to prevent scouring and erosion. If pond daylights to a channel with dry weather flow, care should be taken to minimize tree clearing along the downstream channel, and to re-establish a forested riparian zone in the shortest possible distance.
- xii. An emergency spillway shall be included in the stormwater pond design to safely pass the extreme flood flow. The spillway must prevent pond water levels from overtopping the embankment and causing structural damage. A minimum of 1 foot of freeboard must be provided, measured from the top of the water surface elevation for the extreme flood, to the lowest point of the dam embankment not counting the emergency spillway. Special consideration for smaller basins may be considered as long as the design engineer can show that the practice is warranted.
- xiii. A maintenance right-of-way or easement must be provided to a pond from a public or private road. Maintenance access should be at least fifteen (15) feet wide, having a maximum slope of no more than fifteen percent (15%) and be appropriately stabilized to withstand maintenance equipment and vehicles. The maintenance access must extend to the forebay, safety bench, riser, and outlet and, to the extent feasible, be designed to allow vehicles to turn around.
- xiv. The principal spillway opening should not permit access by small children, and end walls above pipe outfalls greater than forty-eight (48) inches in diameter should be fenced to prevent access. Warning signs should be posted near the pond to prohibit swimming and fishing in the facility.

(5) Other Methods of Stormwater Drainage Detention/Retention:

- i. Other methods of detention such as seepage pits, French drains, etc., may be considered. If these methods are proposed, proper documentation of soils data, percolation, geological features, shall be provided for review and consideration.
- ii. The use of underground detention shall consist of the following elements designed in accordance with acceptable engineering practices:
 - a. An outlet structure with emergency release provisions;
 - b. An emergency spillway;
 - c. Maintenance access;
 - d. Maintenance schedule; and
 - e. Sediment trap on inflow structure.

i. Parking Lot Detention:

- a. Detention within parking lots is only permitted within overflow parking areas the maximum depth of said detention shall be eight (8) inches. In no case should the maximum limits extent of ponding be designed closer than twenty (20) feet from a building unless water proof of the building and pedestrian accessibility is properly documented on plans.
- b. The minimum freeboard from the maximum ponding elevation to the lowest sill elevation shall be one (1) foot.

(6) Stormwater Management Detention/Retention Control Structures:

- i. Detention facilities shall be provided with obvious and effective control structures. Plan view and sections of the structure with adequate detail shall be included in plans.
- ii. Sizing the low-flow pipe shall be by inlet control or hydraulic gradient requirements.
- iii. Low-flow pipes shall not be smaller than eight (8) inches in diameter to minimize maintenance and operating problems, except in parking lot and roof retention where minimum size of opening shall be designed specifically for each condition.

- iv. The overflow opening or spillway shall be designed to accept the total peak runoff of the improved tributary area.
- v. Proper engineering judgment shall be exercised in analysis of secondary routing of discharge of greater intensity than the basic design storm in order to avoid economic losses or damage downstream.

(7) Stormwater Management Detention/Retention Discharge Systems:

- i. Sizing of the system located below the control structure shall be based upon the total improved peak runoff tributary to the structure with no allowance for detention.
- ii. When existing downstream pipe sizing, outside the developers control jurisdiction, is inadequate, an evaluation for under sizing of pipes may be undertaken by the City upon receipt of written request from the engineer specifying the run or runs desired to be undersized.
- iii. Requests for under sizing shall be accompanied by plans and profiles of the entire undersized system downstream if less than five hundred (500) feet in length or a minimum of five hundred (500) feet.
- iv. When hydraulic gradients of the proposed undersize system affect the performance or capacity of structures maintained by the City, no under-sizing will be allowed.

18-5 VERIFICATION OF ADEQUATE DESIGN, EASEMENTS AND MAINTENANCE**A. Verification of Adequacy:**

Analysis of all elements of design shall be performed by the registered professional design engineer. The following outline is provided to ascertain that critical elements of design are in workable compliance with the aims of design:

- (1) Volume of retention for the total project;
- (2) Tributary (Q) peak runoff to basin;
- (3) Balanced maximum outflow rate from the low-flow structure;
- (4) Ratios of inflow to outflow;
- (5) Sizing of the overflow facilities;
- (6) Permeability rates, and geotechnical data where applicable;
- (7) Stability of dikes;
- (8) Safety features; and
- (9) Maintenance features.

For projects up to two hundred (200) acres, routing calculations for all ponds shall be submitted in legible tabulated form with documented verification of adequacy according to scope and complexity of design. Proof of adequacy of volume of retention and sizing computations for low-flow structures shall also be submitted and certified by the design engineer. Features of stability and safety may also need to be documented if the scope of the project requires special attention in this area of design.

B. Stormwater Management Detention/Retention Easements:

Two (2) types of easements shall be provided in plans for stormwater detention/retention facilities.

(1) Maintenance Easement:

- i. All stormwater management facility reservoirs, with the exception of parking lot and roof detention, shall be enclosed by a maintenance easement. The limits of the said easement shall extend ten (10) feet beyond the top elevation of the reservoir.

- ii. When a stormwater management facility is adjacent to a public right-of-way, the limits of the easement shall extend twenty-five (25) feet beyond the elevation of the reservoir on the public right-of-way side.

(2) Drainage Easement:

A minimum fifteen (15) feet wide drainage easement shall be provided within the reservoir area connecting the tributary pipes and the discharge system along the best possible routing of a piping system for possible future elimination of managed stormwater.

C. Maintenance of Stormwater Detention/Retention Facilities and Liability:

- (1) All final plats shall have a section that details that the City reserves the right to require the owners of all drainage facilities to perform needed maintenance to prevent potential flooding hazards.
- (2) Operation and maintenance of any existing and future stormwater management facility (detention or retention basin) is the responsibility of the property owner(s).
- (3) Any liability associated with the design, performance and operation of the facility remains with the owner and the project design engineer. The project design engineer shall be responsible for disclosing information regarding and instructing the owner of required operation and maintenance of the facility(s). Prior to final plat approval by the Planning Commission, a completed *Stormwater Management Indemnification Form* (Appendix) shall be submitted to the City. Said agreement shall require among other things that the landowner, its successors, and, or assigns or any property owner who discharges to or benefits from the maintenance or improvements to the real property shall, annually, inspect the stormwater facility and submit said inspection report to the Environmental Programs Manager or designee of the Building Official. The landowner, its successors, and, or assigns of any property owner within the subdivision who discharges to or benefits from the maintenance or improvement to the real property shall have a Qualified Credential Professional (QCP) inspect the facility at least once every three years. Upon completion of the inspection the QCP shall submit to the City of Daphne in report form a copy of said inspection detailing but not limited to the following items: facility as-built engineered floor elevation, existing floor elevation, sedimentation, vegetative cover, debris, fencing (if required), outlet structure and inlets. The facility shall be subject to at least an annual inspection by the City to ensure that it functions in accordance with its original design criteria and to follow up on submitted inspection and/or respond to citizen complaints. Entry to the stormwater management facility shall be granted by the owner, developer or property owners association.

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- (4) Any defects discovered by the City during the annual inspection process shall be furnished to the owner of the stormwater management facility in writing by the City. The notice shall be in the form of Certified Mail-Return Receipt Required, through the United States Postal Service. The owner shall have fifteen (15) business days from the date of mailing of said notice by the City to submit a written plan detailing the actions that will be instituted to correct noted defects and thirty (30) business days thereafter to implement a corrective plan. If said repairs involve engineered practices, then the plan shall be signed by an engineer licensed in the State Alabama. Also, if the repair plan results in land disturbance greater than one thousand (1,000 sq. ft.) square feet, a City of Daphne Land Disturbance Permit (Ordinance # 2008-54) shall be required. The City may, at its discretion, allow the owner additional time as deemed appropriate for the corrective work to be performed. Failure by the owner to perform the corrective action may result in enforcement by the City which may include, but not be limited to, the issuance of a Municipal Offense Citation and or the declaration of the facility as a public nuisance.

D. Abatement of Detention/Retention Facility Public Nuisance:

It shall be unlawful for any person to maintain a public or private nuisance upon any public or private property.

(1) Resolution of Abatement:

Whenever any such public nuisance occurs, the City Council may, by resolution, declare the same to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known, describe the property upon which, or in front of which, the public nuisance exists, by giving a legal description thereof and no other description of the property shall be required. Any number of streets, sidewalks or parcels of property may be included in one and the same resolution.

(2) Notice of Declaration:

- i. After the passage of the resolution, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed a minimum of thirty (30) days prior to the date of the public hearing and shall inform the owner of the time, date and place of the public hearing and reason therefore. The notice shall be mailed to the owner of the property as it appears of record in the Baldwin County Revenue Commissioner's office.
- ii. Notice shall also be given by publication in a local newspaper of general circulation once a week for two (2) consecutive weeks. The first notice shall be

published at least fourteen (14) days prior to the date of the scheduled public hearing.

- iii. In addition thereto, signs shall be conspicuously posted at sixty-foot intervals along the frontage of the property. The caption of the signs shall not be less than one (1) inch in height and shall be in substantially the same form as expressed in the public notice.
- iv. The notice shall be posted at least seven (7) days prior to the time of the hearing of the City Council.

(3) Hearing on Nuisance Declaration:

If objections are filed with the City Clerk's office prior to the time stated in the notice, the City Clerk's office shall hear and consider all evidence, objections and protests regarding the proposed compliance issues. The council may continue the assessment hearing from time to time, as needed. Upon the conclusion of an assessment hearing, the Council, by resolution, shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The City Council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to such property or part thereof. The decision of the governing body on the matter shall be deemed final and conclusive.

(4) Order for Abatement:

- i. After the Council passes the resolution finding the conditions of the property to be a public nuisance and ordering its abatement, all employees and duly authorized agents of the City are hereby expressly authorized to enter upon private property for that purpose.
- ii. The City may, at its option, engage and authorize city employees and/or private contractors, companies, enterprises or individuals to abate and remove the nuisance. The Council, by resolution, shall designate the City employees and/or private contractors, companies, enterprises or individuals who may perform the work.
- iii. Any property owner shall have the right to abate any public nuisance at his own expense, providing the same is done prior to the time City employees or agents commence work.

(5) Liability Insurance:

Private contractors engaged by the City in accordance with this article shall be required to provide proof of liability insurance in the amounts routinely required by the City for similar projects and will accept responsibility for any damages to subject lots and surrounding areas which may occur during the cutting/cleaning of subject property. The insurance policy shall contain an endorsement that the same shall not be canceled without giving to the City ten (10) days written notice.

(6) Billing and Collection:

- i. The City shall keep an account of the cost of abating each nuisance in front of or on each separate lot or parcel of land where work is completed by it or its employees, or by a duly authorized private contractor, company, enterprise or individual, and shall render a written itemized report to the City Council showing the cost of removing a particular public nuisance; provided that before the report is submitted to the governing body, a copy of the same shall be posted for at least five (5) days prior thereto on or near the chamber door of the City Council, together with a notice of the time when the report shall be submitted to the City Council for confirmation.
- ii. Prior to the time fixed for the City Council to receive and consider the report, the administrative appeal process of filing, hearing and ruling upon complaints and objections shall have been completed. Contested assessments shall be appealed to the City Council, at the property owner's request upon filing a timely notice with the City Clerk at least seven (7) days prior to the time fixed by the City Council to receive and consider the report.
- iii. The cost of abating such nuisance in front of or upon the various parcels of land mentioned in the report shall constitute a special assessment and as thus made and confirmed shall constitute a lien on the property for the total amount of such assessment along with any administrative costs, respectively. After confirmation of the report, the City shall attempt to collect the lien. If this attempt by the City proves futile, a copy of the lien confirmation report will be turned over to the Baldwin County Revenue Commissioner who, under the "optional method of taxation," is charged with the collection of the City's municipal taxes pursuant to Code of Alabama, Sections 11-51-40 through 11-51-74, (1975). It shall be the duty of the Baldwin County Revenue Commissioner to add the amount of the respective lien to the next regular bill for taxes levied against the respective lots and parcels of land, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are

collected and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency pursuant to Code of Alabama, Sections 11-51-40 through 11-51-74 (1975).

18-6 EROSION AND SEDIMENT CONTROL

A. Purpose:

During the construction process, soil is most vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of watercourses. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for the citizens of Daphne.

B. General Requirements:

- (1) Construction Best Management Practices Plan (CBMPP) shall be designed by a qualified credentialed professional (QCP as defined in *Article 8, Definition of Terms*) such as a professional engineer.

CBMPP map shall include the following:

- i. Identify topography, natural features such as watercourses, waterways, and wetlands and proposed construction areas.
- ii. Identify critical areas which are subject to severe erosion and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation. Critical areas shall be identified and shall receive special attention and protection. Critical areas include but are not limited to cut and fill slopes, streams and wetlands.
- iii. Erosion and sediment controls used throughout all phases of construction and details of permanent stabilization methods to be used at completion.
- iv. Provisions for maintenance of erosion and sediment controls and periodic inspections for effectiveness of controls.

C. Submittal, Review and Approval Procedures:

- (1) CBMPP shall be submitted with application material required for Planning Commission review.

- (2) No land disturbance shall take place prior to review and approval of the project CBMPP.

D. Modifications to the CBMP Plan:

- (1) Major modification, such as relocation of detention facility, to the CBMPP shall be submitted to the Department of Community Development and shall be processed and approved, or disapproved, by the Environmental Programs Manager or designee of the Building Official and the Director of Community Development or his/her designee. Where deemed necessary by the Director of Community Development, approval for such modification may be required upon Planning Commission review.
- (2) Minor modifications, such as the addition of additional silt fence, to the CBMPP may be addressed on site as needed to ensure compliance with the provisions outlined.

E. Design Requirements:

Erosion control practices, and sediment control practices, shall meet the design criteria set forth in the most recent version of the Alabama Handbook for Erosion and Sediment Control and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Environmental Programs Manager or designee of the Building Official.

(1) Clearing and Grading:

- i. Clearing and grading of natural resources, such as wetlands, waterways, and watercourses, shall not be permitted, except where in compliance with all other sections of this Land Use and Development Ordinance and as permitted by the United States Army Corps of Engineers, if applicable.
- ii. Clearing techniques that retain natural vegetation and natural drainage patterns are strongly encouraged.
- iii. Phasing shall be required in accordance with provisions provided in *Article 18, Drainage and Stormwater Management Facilities and Erosion/Sediment Control*, Section 3(g) Phasing and Platting, on all sites seventeen and one half (17.5) acres or greater, with the size of each phase to be no more than seventeen and one half (17.5) acres.
- iv. Clearing, except as necessary to establish sediment basin and other sediment control devices, shall not begin until all sediment control devices have been installed.
- v. Cut and fill slopes shall be no greater than three to one (3:1), except as approved by the City of Daphne to meet other community or environmental objectives.

F. Erosion Control:

- (1) Soils must be stabilized within thirteen (13) days of clearing or inactivity in construction.
- (2) If vegetative erosion control methods, such as seeding, have not become established within four (4) weeks, the City of Daphne may require that the site be reseeded, or that a non-vegetative option be employed.
- (3) On steep slopes or in drainage ways, special techniques that meet design criteria outlined in the Alabama Handbook shall be used to ensure stabilization.
- (4) Soil stockpiles are consider part of the site disturbance and therefore must be temporarily stabilized within thirteen (13) days of clearing or inactivity in construction.
- (5) Techniques shall be employed to prevent the blowing of dust or sediment from the site onto adjacent properties.
- (6) Appropriate techniques shall be employed to divert upland runoff past disturbed slopes.

G. Sediment Controls:

- (1) Sediment controls shall be provided in the form of sediment basins or sediment traps and perimeter controls.
- (2) Where possible, sediment basins shall be designed in a manner that allows adaptation to provide long term stormwater management. Permanent stormwater controls can be retrofitted to serve as sediment controls during construction.
- (3) Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.

H. Waterways and Watercourses:

- (1) When a watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and an approval obtained from the United States Army Corps of Engineers. The letter of permission or the permit from the USCOE must be submitted to the City prior to issuance of the Site Disturbance Permit.
- (2) When in-channel work is conducted, the channel shall be stabilized after work is completed.

- (3) All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the Alabama Handbook.
- (4) Outlets of all pipes and paved channels shall have adequate stabilization to prevent erosion. Riprap may be required for stabilization if vegetative measures prove to be ineffective at controlling erosion in waterways or watercourses.

I. Construction Site Access:

- (1) A stabilized construction access shall be required in order to ensure sediment is not tracked on to public streets.
- (2) If sediment tracking occurs on public streets and/or right-of-ways, the contractor will be required to remove accumulated sediments from streets and ditches.

J. ADEM “303(d)” Listed Streams:

Any site which discharges directly or indirectly to an ADEM 303(d) Listed Stream segment shall submit an enhanced CBMPP to minimize to the maximum extent practical the release of the listed pollutant to the stream. The enhanced CBMPP shall include enhanced BMPs and other measures which may include but not be limited to a water sampling component of the sites discharge for the 303(d) listed pollutant.

K. Other Provisions Related to Construction and/or Site Disturbance:

- (1) *Burning:* No open burning associated with property clearing is allowed during the months of May through October per State regulations. During certain permissible months, open burning is not allowed unless a smoke curtain or incinerator is used and permitted per the current City of Daphne Fire Code.
- (2) *Spill Prevention Control Counter-Measures Plan Requirement:* Sites that store onsite fuel, chemicals or other pollutants shall prepare implement and maintain a Spill Prevention, Control and Countermeasures Plan (SPCCP), as a separate document or as a component of the Erosion and Sediment Control Plan (CBMPP) for the site.
- (3) *Washout Areas:* A concrete washout area shall be designated on all sites during installation of drainage structures and in the residential construction phase.
- (4) *BMPs:* The placement of BMPs in/on City right-of-way is prohibited unless express written permission is granted by ~~the City Engineerthe Director of Public Works or his/her designee.~~

- (5) *Construction Debris*: CBMPP shall include measures to address construction debris during all phases of construction at the site.
- (6) *Sanitary Waste*: CBMPP shall include measures to address public health and safety in regards to restroom usage during all phases of construction.

L. Site Inspections:

The owner or contractor shall make daily inspections of all control measures throughout the construction process to ensure the overall effectiveness of the CBMPP; however, any permitted site shall be subject to at least the following inspections by the Site Containment Officer and/or Environmental Programs Manager:

- (1) Immediately after erosion and sediment controls are in place and prior to commencement of site clearing and grading;
- (2) After installation of stormwater detention/retention management facilities;
- (3) After clearing and grading has been completed;
- (4) After remaining drainage has been installed;
- (5) After streets and curb and gutter have been completed; and/or,
- (6) Before construction completion.

M. Enforcement of Erosion and Sediment Control Provisions:

- (1) ~~The Building Inspections Department~~ Environmental Programs and/or the City Engineer ~~Public Works Department~~ (where applicable) shall serve as a line of communication between the permit holder and the City in regard to permit compliance.
- (2) The City of Daphne may issue a stop work order and/or suspend or revoke the site disturbance permit where ~~the Site Containment Officer~~ Environmental Programs or ~~designee of the Building Official~~ or the City Engineer ~~the Director of Public Works~~ or ~~his/her designee~~ has found the following:
 - i. Violation(s) of the terms of the permit or site development which may adversely affect the health, welfare, or safety of persons residing or working in the neighborhood.
 - ii. Site development that is detrimental to the public welfare or injurious to property or improvements in the neighborhood.

(3) Compliance with Erosion Control/Sedimentation Requirements:

- i. If compliance cannot be achieved through the normal inspection process, the City may issue a Notice of Violation.

(4) Notice of Violation:

i. General:

Whenever the development is determined to be in non-compliance, the owner shall be notified of the violations and/or deficiencies. Upon notification, the owner shall have forty eight (48) hours to bring the site into compliance. The City may, at its discretion, allow the owner additional time as deemed appropriate for the corrective work to be performed. If the site fails to come into compliance, the owner may be found in violation of the Ordinance and guilty of a misdemeanor. Any person who violates this Ordinance shall, upon conviction thereof, be fined not more than five hundred dollars (\$500), and in addition shall pay all costs and expenses involved in the case. Each day during which any violation of any of the provisions of this Ordinance is committed, continued, or permitted shall constitute a separate offense. Nothing herein contained shall prevent the City of Daphne from taking such other lawful actions as are necessary to prevent or remedy any violation.

ii. Sediment Impact Violations:

Whenever the City of Daphne determines that significant sedimentation is occurring as a result of a land disturbing activity, despite application and maintenance of protective practices, the person conducting the land disturbing activity or the person responsible for maintenance will be required to take additional protective action. Furthermore, if it is determined that sedimentation has occurred off site onto right-of-way, in-stream, or into stormwater drainage systems, the sediments shall be removed. The owner, builder, or engineer shall be notified by a certified Notice of Violation.

- iii. The Notice of Violation shall detail the non-compliance and shall give the violator fourteen (14) days to submit a restoration plan to the Environmental Programs Manager (EPM). This plan shall include measures to mitigate any offsite sediment and measure including but not limited to stabilization measure for the impacted area. Upon receipt and review of the restoration plan, the Environmental Programs Manager at his or her discretion shall require the plan to be submitted to the Planning Commission, United States Corps of Engineers, and/or the Alabama Department of Environmental Management for further review and approval. Upon approval of the plan by the City and other regulatory agencies the violator shall have thirty (30) days to implement and complete the plan. Upon completion of the plan, the Environmental Programs Manager or

his/or her designee shall perform a follow-up inspection. If the site is compliant, then the violation shall be resolved.

iv. Intentional Circumvention of the Drainage, Stormwater Management Facilities and Erosion/Sediment Control provisions:

When an owner, builder or design engineer is found to have intentionally circumvented any provision of *Article 18*, the following steps shall be taken:

- a. The owner, builder, or engineer shall be notified of such by a certified Notice of Violation.
- b. The Notice of Violation shall detail the non-compliance and shall give the violator fourteen (14) days to submit a corrective action plan to the Director of Community Development for review of the applicable City inspector/complainant.
- c. Upon receipt and review of the corrective action plan, Director of Community Development at his/her discretion may require the plan to be submitted to the Planning Commission for further review and approval.
- d. Upon approval of the plan the violator will have thirty (30) days to implement and complete the plan.
- e. If the completion of the plan requires more than thirty days, the owner, builder, or engineer may formally request by letter a thirty (30) day extension from the Director of Community Development. Once the corrective action is complete, the Director of Community Development designee shall inspect the site for compliance with *Article 18, Drainage, Stormwater Management Facilities and Erosion/Sediment Control provisions*.
- f. If the site is compliant then the violation will be resolved. However, if the violation is not resolved during the allotted time the owner, builder, or engineer will be notified by a second (2nd) certified Notice of Violation stating that the Planning Commission shall consider a making a recommendation to City Council that said violator's city business license be revoked for a one year period the owner.

18-7 COMPLETION OF CONSTRUCTION ACTIVITIES, FINAL INSPECTION AND/OR CERTIFICATE OF OCCUPANCY REQUESTS

- A. All open channels and ditches shall be permanently vegetated with perennial vegetation upon final inspection. Seed and mulch shall not be accepted. If sod is used on slopes, corners will need to be pinned per the Alabama Handbook.
- B. Common areas, such as detention basins, shall be permanently stabilized upon final inspection with perennial vegetation. Seed and mulch shall not be accepted.
- C. All construction waste and debris, silt fences, hay bales, inlet protection, and other temporary BMPs shall be removed prior to final inspection.
- D. All final inspection submissions shall include the following:
 - (1) Signed set of as-built engineered drawings and an electronic version of the drawings compatible with ArcMap (10.1–10.9) or ArcGIS Pro 2.8 or the most current version thereof^{Are Info 9.3}: Projected Coordinate System: NAD_1983_State Plane_Alabama_West_FIPS_0102_Feet.
 - (2) Letter of acceptance from ~~the City Engineer, the City Site Containment Inspector and/or~~ Environmental Programs ~~Manager, Director of Public Works~~, Fire Marshall, Daphne Utilities, all applicable public utility providers, and applicable State/Federal agencies.
 - (3) Letter of completion from the project engineer.
 - (4) Letter of completion from the project landscape architect.
 - (5) Copy of all recorded drainage or right of entry easements.
 - (6) Maintenance bonds for streets and drainage, and any other applicable bonds.

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ARTICLE XXX

PLANNED UNIT DEVELOPMENT DISTRICT

Revised 04/06/15: Repealed previous Article 30 of Ordinance# 2011-54 and add new Article 30 per Ordinance# 2015-17 regarding Planned Unit Developments

30-1 GENERAL

The Planned Unit Development (PUD) District is designed to permit flexible development of projects which are comprehensively planned as a single development with a functional master development plan which fully considers the entire site as an integrated project and gives broad consideration to impacts and relationships to surrounding areas. The PUD District permits flexibility in locating buildings, mixtures of building types, land uses and open spaces. In permitting such flexibility, the City Council should consider goals in the City comprehensive plan and other broad public benefits demonstrated in a master development plan. Upon recommendation by the Planning Commission or with sufficient cause, the City Council may attach conditions to a master development plan proposed for a PUD to safeguard the public health, safety, morals and general welfare of the City of Daphne.

In theory, a PUD zoned development, could modify (increase or decrease) the minimum setbacks, lot area and lot width, increase building height, minimum sidewalk and street standards, minimum parking requirements, while providing a more desirable area for open space and amenities for public and private use. Where such flexibility is permitted as established in this section and in the subdivision regulations, PUD project design and construction shall follow a PUD General Plan which shall be prepared in accordance with the development procedure prescribed in this Article. Where PUDs are permitted, regulations adapted to the unified development are intended to accomplish the purposes of zoning and subdivision regulations.

Overall, the City desires PUD zoning to produce development that is superior to development designed under conventional zoning and subdivision regulations.

30-2 PURPOSE

The purpose of this Article is to provide standards for the Planned Unit Development (PUD) zoning district, and to provide the procedures for PUD review and amendment.

30-3 AUTHORITY

The City Council retains the legislative authority to determine the appropriateness

of PUD zoning regardless of whether the proposed development plan meets the standards prescribed in this Article.

30-4 INTENT

The intent of this zoning district is to provide an opportunity for the best use of land, protection of valuable natural features, provision of larger areas of recreational open space and more economical public services by encouraging unified development of land through the use of creative and flexible land planning concepts. Furthermore, the intents of this Article are as follows:

- a. to promote the efficient use of land to facilitate a more economic arrangement of uses, buildings, traffic circulation systems and utilities;
- b. to encourage the combination and coordination of uses, building forms, building relationships and architectural styles in the PUD design;
- c. to promote the preservation and enhancement of existing natural landscape features, their scenic qualities and amenities to the greatest extent possible and utilize such features in a harmonious fashion;
- d. to provide flexibility to conventional zoning regulations, upon City Council approval of alternate standards. Such standards may include minimum setbacks, minimum yard size, minimum greenbelts, minimum off-street parking regulations and other regulations to achieve the intent described herein; and,
- e. to provide the developer reasonable assurance of approval before commencing final engineering work while providing City officials with reasonable assurance that the development will retain the character envisioned at the time of approval.

30-5 PERMITTED USES

Permitted principal uses in a PUD zone district may include the following:

- a. Dwelling units of a permanent nature for ownership or rental.
- b. Public parks and specialized recreation centers. These areas may be counted toward the requirement for useable open space.
- c. Commercial, office, institutional and industrial.
- d. Any other use permitted by the City Council in accordance with Article 35, Table of Permitted Uses may be considered.

30-6 ACCESSORY USES

Accessory uses permitted in a PUD zone district may include the following:

- a. Home occupations.
- b. Facilities for the use of residents of the PUD development for recreation, children's nursery, kindergarten, laundry or similar services, and any similar facility.
- c. Off-street parking or parking garages.
- d. Any other use may be considered by the City Council where said use is permissible in accordance with Article 35, Table of Permitted Uses.

30-7 GENERAL REQUIREMENTS

The following general requirements shall apply to all PUDs:

- a. The PUD shall be consistent in all respects with the purposes and intents of this Article.
- b. The PUD shall consider the goals of the Comprehensive Plan or portion thereof as may be applicable.
- c. The PUD shall advance the general welfare of and benefit the City and shall minimize to the greatest extent possible adverse impacts upon the surrounding lands.
- d. The PUD shall provide, through desirable arrangement and design, benefits which justify deviations from conventional development standards which would otherwise apply.
- e. The PUD shall encourage connection between uses and adjoining development where applicable and where practical. Connection between mixed use and residential areas is required as a means to provide cohesiveness in the overall development site and transportation network. Cohesiveness shall be provided, for example, through the connectedness of land uses, streets, utilities, pedestrian and bicycle paths, greenways and signage. The design of any planned development should reflect great effort by the developer to plan land uses so as to blend harmoniously, not only within the development site, but with adjacent land uses to ensure compatibility, cohesiveness and connectivity.
- f. The PUD shall promote a sense of community, demonstrate flexibility and consequently more creative and imaginative design to accommodate planned associations of uses developed as integral land use units.

- g. The PUD shall establish the permitted uses, conditional uses and site development regulations for the property in accordance with an approved PUD General Plan.

30-8 OTHER APPLICABLE REGULATIONS

In addition to applicable local, state and federal regulations, all PUD development shall be in compliance with the following Articles of the Land Use & Development Ordinance unless excepted herein.

- a. Article 10, General Provisions
- b. Article 11, Minimum Standards & Required Improvements for Subdivisions & Commercial Site Developments, except that Sections 11-6 and 11-11(b) may be modified by approved PUD documents.
- c. Article 15, Procedures for Site Plan Review
- d. Article 17, Procedures for Subdivision Review
- e. Article 18, Drainage and Storm Water Management Facilities and Erosion/Sediment Control
- f. Article 34, Schedule of Fees
- g. Article 19, Landscape Standards and Tree Protection and Article 33, Sign Provisions, except, upon request of the developer, the City may consider modifications to Article 19, Landscape Standards and Tree Protection and Article 33, Sign Provisions. Request for said modifications to Article 19 and/or Article 33 shall be submitted with the proposed project PUD zoning application.

30-9 GENERAL PROVISIONS

- a. If it is determined that the development is a subdivision according to the laws of Alabama, it shall also be reviewed and approved according to the subdivision process of the City of Daphne as provided in Article 17, Procedures for Subdivision Review.
- b. No minimum land area shall be required for a PUD development. Lots shall be of sufficient size to be used for the purpose intended, provide adequate parking and loading facilities in addition to space required for conduct of other operation of the business, and otherwise comply with the provisions provided herein.
- c. All property shall be contiguous and under single ownership by a person, partnership, corporation, or multiple ownership with participation from all

owners with adequate frontage serving as the principal means of access to the property and project design accommodates all infrastructure, including but not limited to drainage, streets, open space, etc.

- d. All open space shall be designated as public, private or common. If not designated, the City shall assume that such open spaces are for common enjoyment of all property owners.
- e. Minimum open space shall be no less than ten (10) percent of the development with permanent useable open space determined by the nature of the development and of the site. Development of open space shall be in accordance with the provisions of Section 11-14 (h) Common Open Space and Recreation Provisions.
- f. The PUD may utilize alternative roadway designs and standards as may be allowed upon recommendation by the City Engineer~~the Public Works Director or designee thereof~~.
- g. The PUD may permit higher than typical densities of land in areas within the PUD in conjunction with provisions for more expansive functional open space and community services.
- h. The PUD may promote privacy by permitting the use of gates to control access on private streets; this is subject to approval by the City as part of the PUD and subdivision review process.
- i. All buildings and/or structures shall observe the minimum separation as allowed by the Fire Code. Lots or building envelopes with a zero (0) side building line must face a minimum five (5) foot wide maintenance easement upon the neighboring lot or building envelope for maintenance purposes.
- j. Design shall adequately address and plan for environmental protection, preservation and enhancement relating to water quality, trees, buffer zones and greenbelt areas, critical environmental features, soils, air quality, waterways, topography, and the natural character of the land, as well as areas, structures or sites that are of architectural, historical, archaeological, or cultural significance.
- k. Landscape design should be superior to that which is typically required by the minimum landscaping provisions of the City.
- l. The open space between buildings shall be so designed as to provide adequate privacy, safety and aesthetic value.
- m. All structures shall be accessible to service and emergency vehicles.
- n. Private and public streets shall comply with the intent of the PUD and

shall be designed as approved by the City.

- o. On-street parking may be permitted along easements or streets adequate in size and internal to the project, but not along peripheral streets or major thoroughfares that serve other uses.
- p. The outside perimeter building line setback is recommended to be no less than forty (40) feet except that the required setback may be increased or decreased by Council where deemed appropriate. An increased setback may be required to mitigate the impact of the proposed development on abutting land(s). Furthermore, a reduced setback may be permitted where the proposed use is considered compatible, consistent and otherwise harmonious with the abutting land.

30-10 LARGE-SCALE PUDS

Certain projects may call for additional requirements due to its location, size or combination thereof. In these instances, it shall be necessary to mitigate the anticipated impact of the large-scale planned unit development project. In no event shall a PUD three hundred (300) acres or less be deemed a Large-Scale PUD except where such designation is requested by the developer. It is the intent that projects three hundred acres or greater may be deemed a Large-Scale PUD; however, said determination shall not only take into consideration the site location and size but also the character, phasing, development time frame (example: 5 years, 10 years, 20 years), and/or number of developers.

For a project deemed large-scale, the following requirements shall be considered in addition to other applicable aforementioned requirements.

- a. In under-served areas, the Large-Scale PUD may be required to provide for public facilities and services that are adequate to support the proposed development. This may include fire, police, emergency service and/or school facilities.
- b. When necessary to mitigate adverse cumulative transportation impacts, the PUD design shall provide for appropriate transportation, appropriate connections to areas adjacent to the Large-Scale PUD as well as sidewalks, trails, and roadways.

30-11 PUD REVIEW PROCESS

- a. PUD Sketch Plan

Whenever a PUD is proposed the PUD developer or authorized agents thereof shall schedule a pre-application meeting with the Department of Community Development Director prior to submitting an application. The intent of the meeting is to discuss the scope and intent of the overall

concept. No fee shall be charged for this review and no formal application shall be required, however sufficient information including but not limited to a sketch plan that illustrates existing site conditions and conditions of its surroundings and the proposed PUD layout and potential development.

Fees shall be as required for each respective application (i.e., rezoning, site plan, preliminary plat, final plat, etc.) in accordance with Article 34, Fees.

b. Zoning Application

Any application for PUD zoning shall be considered either rezoning for land inside the corporate City limits or pre-zoning for land outside of the corporate limits. Zoning for a PUD district shall follow procedures as described in Article 22, Zoning Amendment. Established application procedures and public notice shall be adhered thereto. Said zoning application shall be supplemented by a PUD General Plan and associated PUD Documents. Public hearings for zoning may be held at the same time as associated preliminary plat public hearings when appropriate. Any subdivision review shall be in accordance with Article 17, Procedures for Subdivision Review.

1. Zoning Expiration & Reversion

Not more than three years after the effective date of the ordinance by which the PUD zoning classification was enacted, the developer must submit to the Planning Commission a Detailed Development Plan (site plan or preliminary plat) for the entire site or a portion thereof. Failure to submit said Plan(s) to the Planning Commission three years after the effective date of the ordinance shall automatically cause the expiration of the PUD General Plan.

Thereafter, the Community Development director or designee may request the City Council initiate rezoning of the property in accordance with Section 22-2, Reversionary Clause. Council action shall make void the PUD zoning and all related plans shall be automatically nullified. Said property shall revert to the prior zoning district or most similar zoning in effect at the time of reversion.

2. PUD Documents

The developer shall submit a document in a form acceptable to the City on behalf of the owner, their successors and assigns that will specify the following: proposed standards of each land use in the PUD including but not limited to minimum setbacks, lot area and width; maximum percentage of building coverage; minimum

parking regulations; minimum buffer requirements; maximum building height; maximum density; maximum floor to area ratio; and other site development regulations that may be required by the City in determining appropriateness of the proposed PUD.

3. Violation of PUD General Plan

Any deviation from the PUD General Plan which is not approved in accordance with this article shall constitute a violation of the ordinance establishing that Planned Unit Development District and will cause the developer to be subject to procedures and penalties set forth in Section 45-7, Penalties and Remedies.

4. Phasing & Time Limits

For any PUD to be constructed in multiple phases, the construction of the first phase must begin no more than three years from the date of the approval of the PUD zoning and PUD General Plan by the City Council. Failure to begin shall result in zoning expiration and reversion as described herein above.

c. PUD Detailed Development Plan(s)

After receiving PUD zoning designation, the developer may submit a Master Plan and Detailed Development Plans for construction to the Planning Commission.

Master Plan review for a multi-phased PUD should occur prior to the approval of Detailed Development Plans. The Master Plan shall be of sufficient detail to show proposed street and site layout, maximum density (gross and net), stormwater management ponds, and common areas.

The purpose of the Master Plan review is to ensure that each phase of the PUD is consistent with the approved General Plan, intents, general requirements and general provisions of this Article. Each Detailed Development Plan submittal shall be in accordance with the approved PUD General Plan, approved Master Plan and processed in accordance with Article 15, Site Plan Review or Article 17, Subdivision Review as applicable.

Where the developer seeks to change or modify an approved master plan, a modified PUD master plan shall be submitted to the Planning Commission for review. Upon approval of said modified PUD master plan, the developer shall then submit Detailed Development Plans for approval.

Once Detailed Development Plans have been approved by the Planning Commission, minor changes may be approved administratively; however, major changes shall be considered for approval by the Planning Commission.

1. Amendments to Plan(s)

Modifications are permissible where in conformity with the PUD General Plan. Lack of conformity shall not be permitted. Non-conforming modifications shall not be acted upon until the City Council has granted approval of said changes in the zoning amendment process.

2. Final Detailed Plan(s)

Upon receiving final approval of PUD Detailed Development Plan(s) from the Planning Commission said plan(s) shall be recorded by the developer in the Office of the Judge of Probate in Baldwin County.

ARTICLE XXXIX

JUBILEE RETAIL DISTRICT OVERLAY

Amended 03/17/14: Sign Provision, Section 39-16 per Ordinance# 2014-11

Amended 03/07/16: Minimum Zoning District Setback Requirements, Section 39-2(b) per Ordinance# 2016-20

39-1 GENERAL PROVISIONS

(a) Purpose of the Jubilee Retail Overlay District:

Whereas the City of Daphne promotes a quality living environment that sustains a balanced mix of commercial development that serves the day-to-day needs of its residents and promotes its image as a desirable and economically stable community. The Jubilee Retail Overlay District is hereby created to recognize and reinforce the importance of the existing interstate retail business corridor as a major commercial center for the City of Daphne. The intent is to enhance and encourage the retention of existing businesses and the establishment of new entrepreneurial businesses along Interstate 10 as demonstrated in the Eastern Shore Park District Overlay.

(b) Boundaries:

The Jubilee Retail Overlay District is hereby established. The boundaries are as shown on the Jubilee Retail Overlay District Map and shall be considered an amendment to the Official Zoning Map of the City of Daphne. The map shall be amended in the same manner as any other zoning district permitted by the Land Use and Development Ordinance, and shall be amended in accordance with the provisions of *Article 3, Official Maps and Plans*.

This District shall be in addition to and shall overlay all other zoning districts where it is applied, so that any parcel of land lying in such an overlay district shall lie in one or more other zoning districts provided for by the Land Use and Development Ordinance.

39-2 DISTRICT REQUIREMENTS

The following zoning districts shall be allowed as established and most specifically defined in *Article 7, Establishment of Districts*: B-2, General Business and B-3, Professional Business.

(a) Permitted Uses:

Permitted uses in the District are as provided in *Article 35, Table of Permitted Uses*. *Article 35, Table of Permitted Uses and Conditions*, outlines the restrictions for each district. Furthermore, the outdoor display of merchandise is

permitted by the operator of a store, provided that the outdoor areas for such activities are limited to off-street parking areas and sidewalks in the District. Any outdoor sales for special events shall require a special permit issued by the City.

(b) Setbacks:

The following setback requirements shall apply in districts as outlined below.

MINIMUM ZONING DISTRICT SETBACK REQUIREMENTS

Zoning District	Front ^d Yard (ft)			Rear Yard	Side Yard	Corner Lot ^c Side Yard (ft)	
	Arterial & Collector Streets	Local Streets & Service Roads	U.S., State or County Roads ^e			Arterial & Collector Streets	Local Streets & Service Roads
B-2	30	20	100	a, b	a, b	30	25
B-3	30	20	100	a, b	a, b	30	25

Table Notes:

a. None, except it will be five (5) feet where abutting an alley, or where abutting a residential district it shall be at least thirty (30) feet.

b. Where a public or semi-public use abuts any part of a single family residential district, a buffer zone ten (10) feet wide shall be required. Where a commercial district abuts any part of a residential district a buffer zone of twenty (20) feet shall be required. Said buffer zone shall be designed in compliance with the provisions established in Section 19-10.

c. Lot Orientation: On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

d. The front setback for property that does not front U.S. Highway 90 shall be a minimum of fifty (50) feet as measured from the front property line.

e. Where abutting U.S. Highway 90, the front setback shall be measured from the centerline of the U.S. Highway 90 R.O.W.

Section 39-2(b) amended per Ordinance# 2016-20

(c) Maximum Building Height:

Structures of more than five (5) stories or sixty-five (65) feet shall not be permitted.

(d) Performance Standards for the District:

All lots in the District, and improvements thereon, shall comply with the following minimum standards:

- (1) Lots shall be of sufficient size to be used for the purpose intended, provide adequate parking and loading facilities in addition to space required for conduct of other operations of the business, and otherwise comply with the provisions provided herein.
- (2) No entrances or exits shall direct traffic into adjacent residential districts.
- (3) Noise, air pollutants including dust emissions, and surface runoff shall not exceed background levels by more than ten percent (10%).
- (4) Uses in all business districts must comply with all applicable health and safety standards, including sanitary facilities, paved and landscaped parking areas, and other requirements of this Ordinance, as well as, State and Federal regulations.
- (5) Non-permanent structures such as trailers, sheds, and other such buildings used for business purposes may be permitted in business districts, provided, however, that such structures may only be located at the rear and side of permanent structures and must be adequately screened by landscaped buffers or opaque fencing.
- (6) All dumpsters shall be enclosed on all four sides in order to conceal them from public view and screened from public view with an opaque fence or wall of permanent construction.

39-3 IMPROVEMENT STANDARDS

- (a) All streets in the District, whether private or dedicated for public use, shall be paved and adequately drained.
- (b) The full width of any public road improvements in the District shall be graded, including the subgrade of the areas to be paved. This requirement may be modified for the purpose of preserving the natural beauty of an area. A base course consisting of at least eight (8) inches of a sand-clay mixture with one hundred percent (100%) standard compaction shall be laid on a soundly prepared subgrade. A prime coat shall be sprayed uniformly over the base course. An approved type wearing surface compliant with State Highway Standard 416-A

- one and one-half (1-1/2) inches thick compacted shall be laid over the prime coat. If curbs and gutters are required, they must conform to approved State and County Highway Department standards.
- (c) All grading in the subdivision shall be related to the topography and environmental features of the surrounding area. Unpaved areas within a dedicated street right-of-way shall also be graded and shall be seeded in a manner that enhances the appearance of the environment.
 - (d) All water mains, sanitary sewers and laterals, and storm sewers shall be installed as necessary to prevent the future cutting of the pavement of any street, sidewalk, or other required pavement.

39-4 MINIMUM STREET REQUIREMENTS

	Major Street	Collector Street	Local Street	Cul-de-Sac (Turnaround)	Alley
Minimum Right-of-Way:	100'	60'	50'	50' (100' diam.)	30'
Minimum Pavement: As Req'd	36'	27'	28'	20' (80' diam.)	20'
Maximum Grade:	3%	5%	5%	5%	5%
Minimum Angle of Intersection in Degrees:	80°	60°	60°	60°	60°
Minimum Curb Radius at Intersection:	40'	30'	15'	15'	15'
Minimum Horizontal Curve Radius:	300'	250'	100'	100'	100'
Minimum Reverse Curve Tangent:	100'	100'	100'	100'	100'

Table Notes:

1. Cul-de-sacs shall not be longer than six hundred (600) feet measured from the centerline of the intersecting street to the center of the turnaround.
2. Minimum pavement width is measured from back of curb to back of curb.
3. Maximum grade may vary with topography subject to Planning Commission approval based on recommendation of ~~Director of Public Works~~, Community Development or City Engineer.

39-5 SIDEWALKS & PEDESTRIAN WALKWAYS

It is the intent of this section to require the installation of five (5) feet wide concrete or asphalt sidewalks on both sides of the street in the District in order to encourage vehicles and pedestrian connectivity within the City of Daphne. Sidewalks are counted toward the improvement standards of all streets and shall be installed prior to the issuance of a Certificate of Occupancy unless an agreement for future installation has been presented to the City by the developer. In no case shall the City of Daphne be responsible for the installation of sidewalks within any subdivision development.

(a) Installation:

Sidewalks shall provide for pedestrian traffic and design thereof shall encourage safe means of access that minimize conflicts between vehicles and pedestrians. The use of pervious and/or permeable material or other innovative low impact design measures that promote may be considered by the Planning Commission in lieu of typical sidewalk installation. Due consideration shall be given to the practicality and feasibility of sidewalk installation depending upon the proposed development and the location. Except where exempted or modified by the Planning Commission, sidewalks shall be installed as follows:

- (1) Along the perimeter of all developments where adjacent to City right-of-way.
- (2) Along the right-of-way where adjacent to the perimeter of any common area within the development; except where walking trails and/or paths are incorporated into the design for formal/recreational open space as provided in *Article 11, Minimum Standards and Required Improvements*. No final plat shall be approved until this provision is satisfied.
- (3) At the discretion of the Planning Commission, the subdivider(s)/developer(s) may be required to provide access through greenways and common areas by sidewalk or trail. In such an instance, a trail may be implemented in lieu of the installation of sidewalks or to augment the sidewalk system. The trail path and design shall be reviewed and approved by the Planning Commission. Said trail shall be no less than ten (10) feet wide and shall be composed of permeable, porous paving materials.
- (4) Pedestrian crosswalks, not less than ten (10) feet wide, shall be required where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, bus stops, and other community facilities.
- (5) For all new subdivisions, restrictive covenants, as are required in *Article 17, Subdivision Review*, shall provide for the installation sidewalks and/or trails by the developer.

- (6) The Planning Commission may, at its discretion, approve a final plat prior to the installation of sidewalks upon receipt of an agreement to install sidewalks, a cost estimate for sidewalk installation and a surety in the amount of 200% of the estimated cost. Said surety shall not expire prior to a 24 month period.

39-6 WATER AND SEWER CONNECTIONS

All developments, individual lots, or parcels shall be properly connected to a public community water and public sanitary sewer system.

39-7 DRAINAGE AND EROSION CONTROL REQUIREMENTS

Article 18, Drainage and Storm Sewers, of the Land Use Ordinance is incorporated herein by reference.

39-8 SPECIAL PROVISIONS

(a) Utility Placement:

Water, sewer, gas, electric power, telephone, cable television, and other utility lines shall be installed underground by the developer and/or owner in all new commercial or industrial developments, expansions and/or renovations of existing development. Said developments shall be connected to a central distribution system, unless for good reasons other than cost, the Planning Commission approves a modification or waiver of this requirement in part or in whole, or if a special condition requires otherwise.

(b) Location of Roadway Fire Hydrants:

Roadway fire hydrants shall be installed along each street at the center of each block and at one corner of each roadway intersection, provided, however, that in no event shall fire hydrants be spaced so that any fire hydrant is located more than six hundred (600) feet from another fire hydrant. The water supply and pressure shall be sufficient to provide adequate fire protection and the future needs of the intended land use. Additional fire hydrant placement may be required on the interior of developed lots pursuant to local ordinance and fire regulations as adopted by the City.

(c) Location of Street Lighting:

Lighting shall be installed at all intersections, curves, and cul-de-sacs. If additional lighting is deemed necessary, the Director of Community Development shall require the developer to present a street lighting plan developed in conjunction with the appropriate utility company having jurisdiction within the area.

(d) Placement of Street Signs:

Appropriate permanent type street name signs shall be placed at all intersections within the subdivision. The developer may select signs consistent with the theme of the development, subject to approval of the Director of Community Development.

39-9 COMMENCEMENT OF CONSTRUCTION OR SITE DISTURBANCE

Each person, firm, corporation, utility, entity, or agent thereof engaged in any site preparation and/or construction activities shall acquire a Site Disturbance Permit from the Department of Community Development prior to commencement of such activities pursuant to the provisions of this Article and no such activity shall commence prior to the approval of either a preliminary plat or site plan as is applicable. Fees for said permit shall be as are more specifically enumerated in *Article 34, Schedule of Fees*.

39-10 FINAL INSPECTION OF IMPROVEMENTS

To ensure compliance with development regulations the project shall be inspected by all applicable entities prior to final approval by the City of Daphne. Under no circumstance shall the City be held liable for faulty workmanship, defects or improper engineering for private property.

Street Improvements:

To certify that streets are installed to minimum design standards, the developer/owner shall select an independent testing laboratory to perform necessary tests and submit test results to the Department of Community Development prior to final inspection.

When all required improvements are installed and test results are submitted, the developer/owner shall call for a final inspection. Inspections shall be made in regard to the following: implementation of engineering design for stormwater management and related improvements, utility improvements, environmental stability, landscaping, compliance with Fire Code and Building Code standards.

All appropriate entities including but not limited to the Director of Community Development, ~~Public Works~~, and/or the City Engineer or a duly authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications prior to final plat approval or issuance of a certificate of occupancy.

39-11 SUBDIVISION REGULATIONS

Article 17, Procedures for Subdivision Review, of the Land Use Ordinance is incorporated herein by reference.

39-12 PROCEDURES FOR SITE PLAN REVIEW

(a) Use and Applicability:

The District Regulations shall be complied with for all development in the District, regardless of whether such development involves the construction of business and commercial structures, additions thereto, construction of a park, public rights-of-way, open space, public building or structure, or public utility, whether publicly or privately owned, and other uses as required by the Planning Commission.

(b) Special Provisions:

The following shall apply:

- (1) A site plan review shall be accomplished by the recommendation of the Director of Community Development and approval of the Planning Commission to assure compliance with the provisions of these District Regulations, as well as applicable building and fire codes.
- (2) Said approval shall be authorization to begin work, subject to a pre-construction meeting and the issuance of a Site Disturbance Permit. Such approval shall become void upon one (1) year from the date of approval if a site disturbance permit has been acquired and no building or construction activities have occurred on the permitted site.
- (3) When all required improvements are installed, the developer/owner shall call for a final inspection. The Director of Community Development, and/or the City Engineer ~~and/or Director of Public Works~~ or authorized representative shall inspect the site to determine if the required improvements are satisfactorily installed according to the plans and specifications.

(c) Plan Content:

The plan shall contain all information as reflected on the current departmental checklist for a site which may be modified at the discretion of the Director of Community Development when applicable.

(d) Reconsideration of Certain of Requirements:

The Director of Community Development may waive certain requirements contained in this Article if it is determined that the requirements are not essential to a proper decision on the proposed development; or, may supplement the list with other requirements deemed necessary to clarify the nature of the proposed development. The Director of Community Development may waive the requirement for a pre-construction conference if it is determined that the project would create minimum impact to the surrounding properties.

(e) Issuance of Site Disturbance Permit:

Each person, firm, corporation, utility, entity or agent thereof engaged in any site preparation and/or construction activities shall acquire a Site Disturbance Permit from the Department of Community Development prior to commencement of such activities as established pursuant to the provisions of this Article and no such activity shall commence prior to the approval of a site plan by the Planning Commission. Fees for said permit shall be as are more specifically enumerated in *Article 34, Schedule of Fees*.

(f) Issuance of Building Permit:

Upon approval of the site plan, either as submitted or with changes and/or special conditions required by the Planning Commission, the Building Official may issue a building permit for a portion or all of the proposed development provided the application is in compliance with all applicable City, County, State and Federal requirements.

(g) Requirement of Bond:

Whenever a person, firm, corporation, developer or other entity proposes to develop a commercial site that, in the opinion of the City Engineer ~~or~~ Director of Community Development ~~or Public Works~~, constitutes a land disturbing activity, which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a performance bond to the City prior to the issuance of a site disturbance permit.

At the time of approval of the site plan by the Planning Commission, the bond shall become effective and shall extend for a period of at least two (2) years following the issuance of the Certificate of Occupancy by the City. The bond shall be in the amount of ten percent (10%) of the total cost for the performance of all site work on the said location with bond to cover such drainage, erosion and siltation damage, if any.

The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as the adequacy and the security thereon.

(h) Release of Bond:

At the expiration of twenty four (24) months from the issuance of the Certificate of Occupancy, the City Engineer ~~Director of Public Works~~ shall determine if the drainage design implementation of the project has:

- (1) Been performed in accordance with and functions within the parameters of the design standards as set forth by the project engineer;
- (2) Received from the project engineer a Certificate of Performance which states the drainage functions have been constructed in substantial accordance with the plans, specifications, and engineering guidelines;
- (3) Had any material adverse impact on any streams, waterways or third parties; and,
- (4) Complied with all ADEM regulations in effect at the time of said completion.

Upon the Director of Community Development's receipt and evaluation of the criteria as enumerated in this Section and upon recommendation of the Planning Commission, the City shall release the developer and/or the bondholder from further obligations under said bond.

If it is determined that the requirements of this Section have not been met then the bond may be extended for one six (6) month interval to allow the developer and/or bondholder additional time to correct the deficiencies which prohibited the release of the bond. If a site contractor is unable and/or unwilling to satisfy the deficiencies as enumerated by the City Engineer/~~Director of Public Works~~, the bond shall be forfeited with the bond being payable to the City for the direction of such work and/or activities necessary for the completion of the improvements. The developer and/or bondholder of the property thereof shall be liable for any additional cost incurred.

39-13 PARKING REQUIREMENTS FOR OVERLAY DISTRICTS

(a) General:

Off-street automobile storage or parking space shall be provided with vehicular access to a street or alley. Parking shall comply with the minimum requirements noted.

PARKING SCHEDULE

LAND USE ON LOT		PARKING REQUIREMENTS
(a) Dwellings:		
(1) Hotels/Motels: Without restaurants, lounges, and banquet facilities		One and a half (1.5) space for each bedroom
(With in-house restaurants, convention/meeting capabilities):		One and one-half banquet facilities, or one and a half (1.5) spaces for each guest bedroom
(b) Public Assembly:		
(1) Theaters, Auditoriums, Coliseums, Stadiums, and Similar Places of Assembly:		One (1) space for each four (4) seats
(c) Health Facilities:		
(1) Hospitals, Sanitariums, Nursing Homes, Homes for the Aged and Similar uses:		One (1) space for each four (4) beds, plus one (1) space for each employee on the maximum shift.
(2) Kennels and Animal Hospitals		A parking area equal to thirty (30) percent of the total enclosed or covered area.
(3) Medical, Dental and Health Offices and Clinics:		One (1) space for each two hundred (200) square feet of floor area used for offices and similar purposes.
(4) Mortuaries and Funeral Parlors		Ten (10) spaces per parlor, chapel unit or one
(d) Business:		
(1) Restaurants (including bars, grills, diners, cafes, taverns, night clubs, lunch counters, and all similar dining and/or drinking establishments		Ten (10) parking spaces for each one thousand (1,000) square feet of floor area.
(2) Commercial and Shopping Centers:		One (1) space per two hundred fifty (250) square feet of floor area.
(e) Uses Not Listed Above		
CALCULATION OF FLOOR AREA: In the calculation of floor area to determine parking ratios, the term "floor area" shall mean enclosed areas which are heated and cooled.		Expressly excluded from this term are garden center floor areas and outdoor storage areas or outdoor sales areas.

(b) Design Standards:

(1) Definition:

An off-street parking space is an all-weather surfaced area not in a street or alley, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords unobstructed ingress and egress to each space.

(2) Parking Area Dimensions:

The design and dimensions of the standard parking area shall have a minimum nominal dimension of eighteen (18) feet in depth and nine (9) feet in width.

The design and dimension of handicap parking areas shall be in accordance with the Americans with Disabilities Act.

(3) Width of Two-Way Access Driveways:

The minimum width of two-way access driveways within parking areas shall be twenty-four (24) feet.

(4) Paving Standards:

Parking spaces and driveways shall be paved to the standards established by the City.

(5) Drainage:

Off-street parking facilities shall be drained to prevent damage to abutting property and streets, and to prevent pollutants from draining onto such streets and the adjacent lots. Landscape and perimeter areas shall be so graded as to direct runoff to the storm drainage system. The storm drainage system shall be designed to include water quality measures for the first one (1) inch of rainfall.

(6) Off-Street Loading and Unloading Space:

Off-street loading/unloading spaces shall be provided as hereinafter required by these District Regulations.

(a) Size of Spaces:

Each off-street loading/unloading space shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty-five (55) feet in length.

However, upon sufficient demonstration a particular loading space will be used exclusively by shorter trucks, the Planning Commission may, upon request, reduce the minimum length accordingly to as much as thirty-five (35) feet.

(b) Connection to Street or Alley:

Each required off-street loading and unloading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.

(c) Floor Area More Than Ten Thousand (10,000) Square Feet:

There shall be provided for each commercial building, or similar use requiring the receipt or distribution of materials or merchandise and having a floor area of more than ten thousand (10,000) square feet, at least one (1) off-street loading and unloading space. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, or alley.

(d) Location:

All required off-street loading and unloading spaces shall be located on the same lot as the building which they are intended to serve or on an adjacent lot when shared with the user occupying said adjacent lot.

39-14 LANDSCAPE AND TREE PROTECTION

(a) Purpose:

The intent of this Section is to establish minimum standards for the provision, installation, and maintenance of landscape plantings and trees in order to achieve a healthy, beautiful, and safe community.

(b) Applicability and Use:

(1) Applicability:

The provisions of this Article apply to all projects within the District involving the construction of business and commercial structures, all existing structures which increases the gross floor area by thirty (30) percent or more and other projects as required by the Planning Commission.

(2) Use or Ownership Provision:

In the event of a change in: (a) use of property, (b) occupancy, or (c) ownership regardless of name change to any business, commercial, or industrial development, it shall be the responsibility of the owner to comply with the provisions of this Article within one hundred and eighty (180) days from the date in which the change occurs.

(c) Buffer Zone Requirements:

Where a business district in the District abuts, without any intervening public road right-of-way, any part of an adjoining residential area, a buffer zone twenty (20) feet wide 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 recommended and 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 years it will provide an impervious visual barrier.

(3) Natural Forest:

A natural forest is in its 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 twenty-five (25) feet and shall be shown on the landscape plan. The Director of Community Development shall determine whether the barrier is satisfactory via site inspection prior to final approval.

(d) Landscape Standards:

(1) Site Plan Review:

A site plan shall not be approved by the Planning Commission without an acceptable landscape and irrigation plan. A Certificate of Occupancy shall not be issued for any development project unless a certification of compliance letter has been submitted from the design engineer and the design landscape architect. Said certification shall include the following: inspection date; signature and seal of said engineer and landscape architect; list of deficiencies and/or deviations from plans approved by the Planning Commission; and a statement regarding compliance with plans submitted.

(2) Subdivision Review:

A subdivision shall not be approved by the Planning Commission without an acceptable landscape and irrigation plan, as the same is defined pursuant to the provisions of this Section of the District Regulations.

All subdivisions shall require a landscape plan for the common areas of the subdivision: the entrance, detention pond, and other areas which are deemed appropriate by the Planning Commission.

(3) Jubilee Retail Overlay District Landscaping Retrofit:

Jubilee Retail Overlay District shall be developed as a Low Impact Development (LID) wherein the Planning Commission shall consider innovative low impact development landscape design, techniques and methods as a means to decrease stormwater runoff, pollution, erosion and to recharge groundwater. Bio-retention areas, porous asphalt, permeable pavers, pervious walkways, elevated landscape beds, bio-retention cells, vegetated swales, infiltration trenches, and dry wells to increase storage volume and facilitate infiltration are encouraged.

(4) Interstate 10 Landscaping:

To the extent the City has authority to do so; it authorizes the developer/owner to remove some trees in that portion of Interstate 10 which abuts the northern boundary of the District. Such removal is conditioned upon the following:

- (a) Submission to and approval by the Planning Commission of a landscaping plan prepared by the developer/owner;
- (b) Obtaining any necessary permits from the Alabama Department of Transportation for the installation of landscaping improvements within the area from which trees are removed; and,
- (c) The developer/owner's installation of the landscaping improvements according to the approved landscaping plan.

(e) Revisions to Landscape Plan:

If proposed construction shall cause changes in the landscape or irrigation plan, a revised plan shall be submitted to the Director of Community Development for re-evaluation.

(f) Issuance of Site Disturbance Permit:

A landscape and irrigation plan shall be submitted for review by and the recommendation or other comments of the Director of Community Development and shall be subject to the approval of the Planning Commission prior to the issuance of a Site Disturbance Permit.

(g) Compliance with Landscape Provisions:

All subject properties, as well as those owned by the City, shall comply with the provisions of this Article.

(h) Certification and Plan Requirements:

Landscape plans shall be drawn and stamped by a licensed landscape architect registered in the State of Alabama.

The landscape plan shall be of professional quality and include the following:

- (1) Date, scale, north arrow, title, and names and contact information for property owner(s), developer, and the landscape architect.
 - (2) Location of existing boundary line dimensions of the building site, existing water sources, significant drainage features, existing and proposed streets or alleys, existing or proposed utility easements on or adjacent to the building site, rights-of-way, setbacks, locations of proposed parking spaces, and location of existing and/or proposed sidewalks.
 - (3) The location(s) and dimension(s) of the proposed landscaped areas within the parking area(s) including a description of new trees and plant materials to be placed within landscaped area(s). Both common and botanical names shall be included.
 - (4) Locations, type, and design of the proposed irrigation system.
 - (5) Location and species of buffer zone vegetation.
- (i) Certification by Alabama Licensed Landscape Architect:

Any and all landscape plans as required in this Section shall, in addition to any other requirements, be reviewed and approved by an Alabama licensed and registered landscape architect to be designated by the Planning Commission with the professional costs for such services to be reimbursed to the City by the party submitting the plans for approval. Such landscape architect's review shall include the design, irrigation, location and type of planting, and any and all other criteria necessary so as to ensure that the planting and design is consistent with local standards.

If the landscape architect's review fee is known at the time of the plan's submission, the submitting party shall pay the fee upon submission. Otherwise, the fee shall be paid by the submitting party within ten (10) days of receipt of a statement of the amount of the fee.

39-15 OFF-STREET PARKING FACILITIES

The design and appearance of parking areas are intended to be compatible with the character of the community. Toward this objective, the following landscaping standards shall be observed in the construction of off-street parking areas which accommodate six (6) or more parking spaces:

- (a) At least fifteen percent (15%) of the total lot area intended for off-street parking shall be suitably landscaped.
- (b) Interior portions of the parking area at intervals of twelve (12) parking spaces shall be broken by provision of landscaped islands. Such landscape islands shall

- include the placement of shade or flowering trees at least two and one-half (2-½) inches or greater in caliper and ten (10) feet in height at planting.
- (c) Each separate landscaped area must be a minimum of two hundred eighty (280) square feet if it is to be counted toward the minimum landscaped area requirements.
 - (d) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
 - (e) The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.
 - (f) A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities.
 - (g) If required, such areas shall be planted with a combination of trees, shrubs, and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Director of Community Development.
 - (h) Innovative landscape designs using “natural cluster of trees” rather than the required one (1) tree at intervals of twelve (12) parking spaces may be used if approved by the Planning Commission.

39-16 SIGN PROVISIONS

a) Signs Prohibited in the Jubilee Retail Overlay District:

The following signs are prohibited:

(1) Prohibited Placement:

Any sign erected or painted upon a sloped roof, fence, tree, stand pipe, fire escape, or utility pole is prohibited, except that a manufacturer’s or installer’s identification (ID) plate shall be permitted, provided that such plate does not exceed 5 x 8 inches in size.

(2) Prohibited Wording:

Any sign which is not a traffic control sign and uses the word “Stop” or “Danger” prominently displayed and/or which is a copy or imitation of official traffic control signs is prohibited.

(3) Flashing Signs Prohibited:

(a) General Prohibition:

Except as otherwise provided in subsection (b) (1) below, flashing signs, signs which contain intermittent illuminations. Digital LED signs/reader boards are prohibited, except upon the issuance of a sign permit as prescribed in Article 33, General Sign Provisions.

Section 39-16(a)(3) amended per Ordinance# 2014-11, Section 10.0

(b) Exceptions:

This subsection does not prohibit the following:

1. Signs required for traffic control; and,
2. Signs which exhibit time, date, temperature, and other customary public information.

(4) Prohibited Sign Types:

Portable signs, bench signs, snipe signs, sandwich signs, except as allowed in *Article 33, Sign Provisions*, ladder-type signs, billboard signs or off-premises signs. “Billboard” is defined as “an off-premises or off-site sign advertising an establishment, merchandise, product, service, or entertainment which is not sold, provided, manufactured, or furnished on the property on which said sign is located.” “Off-premises sign” is defined as “a billboard or other sign on which any portion thereof relates to a premises (or activities thereon) other than the property on which said sign is located.”

(5) Prohibited Sign Effects:

Signs which produce sound, noise, cause interference with radio, telephone, television or other communication transmission, produce or reflect motion pictures; emit visible smoke, vapor, particles, odor, are animated, or produce any rotation, motion, or movement.

(6) Illuminated Tubing:

(a) General Prohibition:

Illuminated tubing or strings of lights that outline property lines, sales area, roof lines, doors, windows, wall edges, similar areas or other architectural features of a building are prohibited.

(b) Exception:

This prohibition shall not apply to temporary displays erected in connection with holiday decorations and community decorations.

b) Permitted Signs:

The following signs are permitted, subject to review by the Planning Commission to determine compliance with the sign criteria provided below in this and further subject to the requirement that permitted signs shall have internal illumination only.

The maximum allowable square footage established in each zoning designation and/or overlay district shall apply as provided in each district. Said allowable area shall not be exceeded. In the event that channel letters, as defined in *Article 8, Definitions*, are proposed, then the maximum allowable square footage shall be calculated at a rate of eighty percent (80%) in lieu of the standard rate of one hundred percent (100%).

(1) Monument and Pylon Signs:

Except as otherwise provided in these District Regulations, the following monument and pylon signs are permitted in the District.

(2) Jubilee Retail Overlay District Pylon Sign:

- (a) The developer/owner or designee thereof is permitted to install and maintain one (1) on-premise pylon sign on their development at a location approved by the Planning Commission. This sign is permitted to have panels for multiple businesses in the District, provided that the panel space on each side of the Jubilee Retail Overlay District Interstate Pylon Sign shall not exceed nine hundred (900) square feet in the aggregate and no individual panel shall have more than two hundred and fifty (250) square feet or less than one hundred and fifty (150) square feet per side.

- (b) The height of the Jubilee Retail Overlay District Interstate Pylon Sign shall not exceed ninety (90) feet and shall be determined based on a sight line study obtained by the developer/owner and approved by the Planning Commission as justification for the proposed height and to insure that the top panel on the sign is visible while traveling in any direction on Interstate 10.

The sight line study shall consider the following:

- a. The topographical elevation of the location of the Jubilee Retail Overlay District Interstate Pylon Sign;
 - b. Any obstruction to the sign panels by trees, other signs, structures or items along Interstate 10.
- (c) Any lot in the District which abuts Interstate 10 and either has at least two hundred (200) feet along the right-of-way of Interstate 10, or is located at the intersection of the Interstate 10 ramp/right-of-way and Highway 90, shall be permitted one (1) individual lot interstate pylon sign at or near said lot's common boundary with Interstate 10.
- (d) Permitted individual lot interstate signs shall not exceed fifteen (15) feet in width, or forty-five (45) feet in height, and shall have a maximum area of three hundred (300) square feet per face. Lots in the Jubilee Retail Overlay District which border Interstate 10, other than those described immediately above may not have an individual lot interstate pylon sign unless approved as a variance by the Board of Zoning Adjustment.

(3) Shopping Center or Development Signs:

One (1) sign is permitted on U.S. Highway 90 identifying the development. Each side may also have panels beneath the development identification not exceeding one hundred and fifty (150) square feet each for multiple businesses within the District. No sign shall exceed twenty-one (21) feet in height or fifteen (15) feet in width.

(4) Monument Signs:

Each lot having frontage on U.S. Highway 90, or any other public road or right-of-way within or abutting the District shall be permitted to have one (1) monument sign for each public road right of way which the lot abuts. The sign shall be placed perpendicular to the said highways and/or right of way. If the lot's road frontage is three hundred (300) feet or less, then the

permitted sign area shall not exceed fifty (50) square feet per face. If the lot's road frontage exceeds three hundred (300) feet then the permitted sign area shall not exceed one hundred (100) square foot per face. All monument signs shall have a pedestal. The sign shall not exceed fifteen (15) feet in height, pedestal included.

(5) Directional Signs:

Directional Signs shall be permitted at the intersection of all roads in the Jubilee Retail Overlay District. Directional Signs shall not exceed sixteen (16) square feet per face.

(6) Wall-Mounted Signs:

Each establishment/business premises under sixty-five thousand (65,000) square feet of building area in B-1, Local Business and B-2, General Business districts may acquire an additional permit for a wall-mounted sign of a size not to exceed the lesser of four hundred (400) square feet or forty (40) percent of the surface frontal of the surface frontal area of the building. Each establishment sixty-five thousand (65,000) square feet of building area or larger may acquire a permit for wall mounted signage of a size not to exceed six and one-half (6.5) percent of the surface frontal area of the building. Signs mounted on mansards, marquees, and awnings are deemed to be wall signs.

Section 39-16(b) amended per Ordinance# 2014-11

(a) Side Surface Area Wall-Mounted Signage:

A business establishment sixty five thousand (65,000) square feet of building area or more may have two (2) additional wall-mounted signs of a size not to exceed five percent (5%) of the surface area of the side of the building. Said signage shall be limited to one side of the building, either the left or right side or the rear of the building.

(b) Accessory Use Advertisement Wall-Mounted Sign:

A business establishment between forty thousand (40,000) square feet of building area to one hundred thousand (100,000) square feet of building area may have one (1) additional wall-mounted sign of a size not to exceed one hundred (100) square feet for the purpose of advertising an accessory use.

A business with over one hundred thousand (100,000) square feet of building area may have two (2) additional wall-mounted signs of a size not to exceed one hundred (100) square feet each for the purpose of

advertising accessory uses. No business establishment may have more than three (3) wall-mounted signs.

(7) Menu Type Signs:

One menu type sign per drive-thru window service shall not exceed forty (40) square feet in area or eight (8) feet in height.

(8) Gasoline and Fuel Signs:

Gasoline or other motor vehicle fuel pricing signs, in addition to permitted name or identification signs, are permitted in any business or industrial district. Such signs shall not exceed twelve (12) square feet in area and must comply with the other applicable sign requirements for the Jubilee Retail Overlay District.

(9) Temporary Signage:

(a) General Provision:

Temporary non-illuminated signs not more than thirty-two (32) square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress may be permitted. One (1) such sign, no greater than ten (10) feet in height, is allowed for each street frontage. Such signs shall be removed upon completion of the project.

(b) Temporary Advertising Sign:

A temporary advertising sign will be permitted to the owner for the development for each individual business premises, shopping center premises provided the area of each sign shall not exceed thirty-two (32) square feet, is non-illuminated, and is within the confines of the development. These signs shall be the height no greater than ten (10) feet mounted from the ground, for no more than one (1) sign, either single or double faced, per street frontage.

(c) Temporary Promotional Banners:

Two (2) temporary signs or banners not exceeding fifty (50) square feet each in area and temporary decorative flags, bunting, pennants and streamers for recognizing grand openings are permitted. Said temporary banners shall be kept in good condition and shall be permitted no more than fourteen (14) days. Furthermore, decorative seasonal banners are permitted on light standards at all times, provided that the same are maintained in good condition.

(d) Large Promotional Tents & Tethered 3-D Inflatables:

One promotional tent which is greater than one hundred forty four (144) square feet in area may be used upon obtaining a permit from the Code Enforcement Officer for no more than ninety days per calendar year. Said tent should be located within the minimum setbacks of the property and sufficiently anchored or tethered to ensure safety.

A plot plan showing the proposed location of the tent and the distance from the nearest property lines and public right-of-way shall accompany the permit application. Small promotional tents or those equal to or less than one hundred forty four (144) square feet in area are exempt from these provisions.

One tethered inflatable three dimensional (3-D) object may be used upon obtaining a permit from the Code Enforcement Officer for no more than ninety days per calendar year. Said inflatable shall be setback at least one hundred (100) feet from the property line. The maximum height shall not exceed fifty (50) feet. A plot plan showing the proposed location of the 3-D tethered inflatable and the distance from the nearest property lines and public right-of-way shall accompany the permit application.

Either one promotional tent or one tethered inflatable three dimensional (3-D) object may be allowed at one time. A promotional tent which is greater than one hundred forty four (144) square feet shall not be erected at the same time that a tethered 3-D inflatable object is displayed.

Section 39-16(d) added per Ordinance# 2014-11

39-17 DISTRICT MAP

Jubilee Retail Overlay District Map, Exhibit F is hereby adopted as a part of this Ordinance (See Appendix).

Land Use and Development Ordinance Sections to Strike and Replace

Article	Sections
11 Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments	11-6 notes 2, 3 11-8 (c) Notes 11-9 paragraph 3 11-10 (a through f) 11-11 (a), (f) 11-12(a) 11-14 (d) 11-14(e)(4)
13 District Requirements	13-3 (a) and (b)
14The Olde Towne Daphne District	14-4(a)(2)
15 Procedures for Site Plan Review	15-2(b) 15-5(a)(2) 15-9(2 and 3)
17 Procedures for Subdivision Review	17-1(b) 17(3)(a)(2) 17(3)(d)(1) 17-4(b)(1) and (2)
18 Drainage Storm Water Management Facilities and Erosion/Sediment Control	18-4(A)(1)(ix) 18-4(A)(3)(ii) 18-6 (K)(4) 18-6 (M)(1 and 2) 18-7(D)(1 and 2)
30 Planned Unit Development	30-9(f)
39 Jubilee Retail Overlay	39-4 (note 3) 39-10 paragraph 3 39-12(b)(3) 39-12(g) 39-12(h) paragraph 1 and 39-12(h)(4)

Land Use and Development Ordinance Sections to Strike and Replace

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-15**

**AMENDING ORDINANCE 2020-22 - THE RIGHT-OF-WAY ORDINANCE
SCHEDULE OF RIGHT-OF-WAY PERMIT FEES**

WHEREAS, on July 20, 2020, the City Council of the City of Daphne adopted Ordinance 2020-22, which amended the City's Right-of-Way Ordinance, as codified at Section 18, Article II; and

WHEREAS, the City Council desires to further amend the 2020 Right-of-Way Ordinance, upon recommendation from City staff, to revise the Schedule of Right-of-Way Permit Fees attached to the Right-of-Way Ordinance as Appendix A.

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

SECTION 1. AMENDMENT OF APPENDIX A OF THE 2020 RIGHT-OF-WAY ORDINANCE.

Appendix A to Ordinance 2020-22 is hereby deleted in its entirety and replaced with Appendix A hereto.

SECTION 2. ORDINANCE 2020-22 TO REMAIN IN EFFECT.

Ordinance 2020-22, adopted by the City Council of the City of Daphne on July 20, 2020, shall remain in full effect to the extent not amended by this Ordinance.

SECTION 3: SEVERABILITY.

If any provision of this Ordinance is held to be invalid or unenforceable for any reason, such holding shall not in any way affect the remaining portions hereof, which shall remain in full force and effect.

SECTION 4: EFFECTIVE DATE.

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE
THIS ____ DAY OF _____, 2022.**

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

**APPENDIX A
SCHEDULE OF RIGHT-OF-WAY PERMIT FEES**

Description	Permit Fee
Administration Fee	\$25.00 (all non-wireless permits)
Aerial utility construction	\$0.50 per L.F.
Utility poles including guy and anchor	\$2.00 per pole
Longitudinal and transverse excavation for all new projects (paved areas)	\$3.00 per L.F. (minimum fee \$100.00)
Longitudinal and transverse excavation for all new projects (unpaved areas)	\$0.75 per L.F.
Longitudinal and transverse excavation for point repairs, service lines, storm drains, manholes, etc. (paved areas)	\$20.00 per square yard
Longitudinal and transverse excavation for point repairs, service lines, storm drains, manholes, etc. (unpaved areas)	\$6.00 per square yard
Excavation for utility construction, point repairs (unpaved areas)	\$6.00 per square yard
Directional boring and jacking operations, tunneling, retrofit or repair of existing utilities by bore, stitch boring, plowing, irrigation systems, etc.	\$0.40 per L.F. (minimum fee \$25.00)
Directional boring for fiber optic cable (new installation)	\$0.10 per L.F.
Communication towers (new installation)	\$50.00 per tower
Terminal boxes, junction boxes, equipment cabinets, splice boxes, regulator stations, meters & valves in paved areas, vaults, utility pedestals	\$5.00 each
Sidewalk, driveway, curb, gutter, mitered-end sections (new construction, replacement, or repair):	(See below)
- 0 sq. yds. to 2 sq. yds.	\$10.00
- 2 sq. yds. to 25 sq. yds.	\$30.00
- 25 sq. yds. to 100 sq. yds.	\$50.00
- 100 sq. yds. to 200 sq. yds.	\$100.00
- 200 sq. yards. or greater	\$0.50 per SY
Steps, ramps (ADA compliant), etc.	\$50.00 per location
Monitoring wells	\$50.00 each
Temporary pedestrian walkway	\$50.00 per location
Balconies, canopies	\$10.00 per location
Wireless Facility (Non-refundable application fee for up to 5 wireless facilities)	\$500.00
Non-refundable, additional application fee per each wireless facility over the 5 wireless facilities contained in the Wireless Facilities application	\$100.00 each
Annual recurring fee assessed to each Wireless Facility permittee	\$270.00 per year

Note: Applicants may be allowed, if determined by the department to obtain, in advance, an annual, quarterly, or semi-annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation as defined by the ROW Manager. Permit fees shall be calculated based upon the actual work completed during the term and due for payment at the end of the term. Bi-weekly summary submittals will be required of blanket permit applicants covering the type and extents of work, locations, durations, etc. These summary submittals will be used to verify fees based on the actual work completed under that blanket permit. Excluding wireless facilities, a twenty-five dollar (\$25.00) application fee plus all fees will be charged at the end of the permit term.

**** Please note: all fees are non-refundable****

OBSTRUCTION FEES

The following conditions shall apply in determining obstruction fees:

- (1) The obstruction of commercial pedestrian walkways will be charged at the rate of five dollars (\$5.00) per calendar day for each twenty (20) linear feet of length.
- (2) The planned obstruction of any portion of a roadway for any reason will be charged at the rate of ten dollars (\$10.00) per calendar day for each twenty (20) linear feet of length.
- (3) Fees will not be charged for obstruction of less than eight (8) hours.

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-16**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AND
SALE AGREEMENT WITH BURTON PROPERTY GROUP, LLC TO CONVEY
CERTAIN REAL PROPERTY NO LONGER NEEDED FOR PUBLIC OR MUNICIPAL
PURPOSES LOCATED AT THE NORTHEAST CORNER OF HIGHWAY 98 AND
LAVENDER LANE**

WHEREAS, the City of Daphne (the “City”) owns a certain parcel of real property located at the northeast corner of Highway 98 and Lavender Lane, having an area of approximately 49,121 square feet, being a part and portion of that certain property identified by the Baldwin County Revenue Commissioner as Parcel 05-43-04-20-2-000-065.000, being more particularly described on Appendix 1, attached hereto and incorporated herein by reference (the “Property”); and

WHEREAS, the City Council of the City of Daphne has determined that the Property is no longer needed for public or municipal purposes; and

WHEREAS, the City had the Property appraised by Courtney & Morris Appraisals, Inc., and, as of February 19, 2021, the fair market value of the Property was determined to be \$920,000.00; and

WHEREAS, the City solicited offers from multiple potential purchasers and, after reviewing same, the offer made by Burton Property Group, LLC (“BPG”) in the amount of \$1,450,000.00 (the “Purchase Price”) was the highest offer received; and

WHEREAS, the City Council wishes to accept BPG’s offer and authorize the Mayor to convey title to the Property to BPG, subject to and contingent upon the satisfaction of certain terms and conditions of a Purchase and Sale Agreement by and between the City and BPG, substantially in the form attached hereto as Appendix 2 (the “Agreement”).

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

1. It is hereby established and declared that the real property of the City of Daphne, Alabama, described and depicted on Appendix 1 hereto is no longer needed for public or municipal purposes.

2. The Mayor and the City Clerk are hereby authorized and directed to execute and attest, respectively, for and on behalf of the City of Daphne, the Agreement in substantially the form attached hereto as Appendix 2, subject to final approval by the City Attorney, a fully executed copy of which shall be on file in the office of the City Clerk.

3. The Mayor and the City Clerk are hereby authorized and directed, subject to the terms and conditions of the Agreement, to execute and attest, respectively, for and on behalf of the City, a general warranty deed, a copy of which shall be on file in the office of the City Clerk, whereby the City shall convey the Property to BPG for and in consideration of the Purchase Price.

4. The Mayor is further authorized to execute any and all other documents and instruments reasonably necessary to complete the conveyance of the Property contemplated in the Agreement as requested by BPG and approved by the City Attorney.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

APPENDIX 1
SKETCH AND DESCRIPTION OF PROPERTY TO BE CONVEYED

DESCRIPTION:

A PORTION OF LANDS DESCRIBED IN REAL PROPERTY BOOK 491, PAGE 1287, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; RUN THENCE SOUTH ALONG THE WEST BOUNDARY OF SAID SECTION 20, A DISTANCE OF 990 FEET TO A POINT; THENCE RUN EAST 1546.65 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 98; THENCE RUN SOUTH 00°14'12" EAST, ALONG SAID EAST RIGHT-OF-WAY, A DISTANCE OF 195.54 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°14'12" EAST, ALONG SAID EAST RIGHT-OF-WAY, A DISTANCE OF 10.51 FEET; THENCE RUN NORTH 89°45'48" EAST, DEPARTING SAID EAST RIGHT-OF-WAY, A DISTANCE OF 104.31 FEET; THENCE RUN SOUTH 78°27'41" EAST, A DISTANCE OF 45.27 FEET; THENCE RUN ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 18.00 FEET, AN ARC DISTANCE OF 6.98 FEET, (CHORD BEARS SOUTH 89°34'42" EAST, A DISTANCE OF 6.94 FEET); THENCE RUN ALONG A COMPOUND CURVE TO THE LEFT, HAVING A RADIUS OF 117.00 FEET, AN ARC DISTANCE OF 26.90 FEET, (CHORD BEARS NORTH 72°43'04" EAST, A DISTANCE OF 26.84 FEET); THENCE RUN ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 121.09 FEET, AN ARC DISTANCE OF 131.75 FEET, (CHORD BEARS NORTH 32°39'42" EAST, A DISTANCE OF 125.35 FEET); THENCE RUN NORTH 00°43'53" EAST, A DISTANCE OF 99.45 FEET TO A POINT ON A LINE PARALLEL WITH AND 1.00 FEET SOUTH OF THE SOUTH LINE OF BAKER SUBDIVISION, AS SHOWN IN MAP OR PLAT THEREOF RECORDED IN SLIDE 1912-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 89°49'14" WEST, ALONG A LINE PARALLEL WITH AND 1.00 FEET SOUTH OF SAID SOUTH LINE OF BAKER SUBDIVISION, A DISTANCE OF 250.00 FEET TO A POINT ON A LINE PARALLEL WITH AND 1.00 FEET EAST OF THE EAST RIGHT-OF-WAY OF U.S. HIGHWAY NO. 98; THENCE RUN SOUTH 00°14'12" EAST, ALONG A LINE PARALLEL WITH AND 1.00 FEET EAST OF SAID EAST RIGHT-OF-WAY OF U.S. HIGHWAY NO. 98, A DISTANCE OF 186.02 FEET; THENCE RUN NORTH 89°45'48" EAST, A DISTANCE OF 10.00 FEET; THENCE RUN SOUTH 00°14'12" EAST, A DISTANCE OF 8.51 FEET; THENCE RUN SOUTH 89°45'48" WEST, A DISTANCE OF 11.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 49,121 SQUARE FEET (1.13 ACRES) MORE OR LESS, AND LIES IN SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

APPENDIX 2
FORM OF PURCHASE AND SALE AGREEMENT

(attached)

PURCHASE AND SALE AGREEMENT

This **PURCHASE AND SALE AGREEMENT** (this "Agreement"), dated as of the Effective Date, as defined below, is made by and between **The City of Daphne, Alabama**, an Alabama municipal corporation ("Seller"), and **Burton Property Group, LLC**, an Alabama limited liability company, or its assigns ("Purchaser").

In consideration of the mutual covenants herein contained, Seller and Purchaser agree as follows:

1.

PURCHASE AND SALE

1.1 **Purchase and Sale.** Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase from Seller, the following described property (herein collectively called the "Property"):

(a) **Land.** That certain tract of land (the "Land") located at the northeast corner of Highway 98 and Lavender Lane in the City of Daphne (the "City"), Baldwin County (the "County"), Alabama (the "State"), being a part and portion of that certain property with Baldwin County Revenue parcel identification number 05-43-04-20-2-000-065.000, being more particularly described or depicted on Exhibit A, attached hereto and incorporated herein by reference.

(b) **Improvements.** All improvements (the "Improvements") in and on the Land, if any.

(c) **Easements.** All easements, if any, benefiting the Land.

(d) **Rights and Appurtenances.** All rights and appurtenances pertaining to the foregoing, if any, including any right, title and interest of Seller, if any, in and to adjacent streets, alleys or rights-of-way.

1.2 **Certain Definitions.** For purposes of this Agreement, the following terms shall have the following meanings:

(a) "Effective Date" shall mean the date of execution of the last of Purchaser or Seller to execute this Agreement.

(b) "Environmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders, and decrees, now or hereafter enacted, promulgated, or amended, of the United States, the states, the counties, the cities, or any other political subdivisions in which the Property is located, and any other political subdivision, agency or instrumentality exercising jurisdiction over the owner of the Property, the Property, or the use of the Property, relating to pollution, the protection or regulation of human health, natural resources, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or waste or Hazardous Materials into the environment (including, without limitation, ambient air, surface water, ground water or land or soil).

(c) "Hazardous Materials" shall mean any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.) ("CERCLA") or any regulations promulgated under or pursuant to CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. §6901 et. seq.) ("RCRA") or regulations promulgated under or pursuant to RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. §2601 et seq.); (iv) gasoline, diesel fuel, or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or

materials which are now or hereafter classified or considered to be hazardous or toxic under Environmental Requirements (as hereinafter defined) or the common law, or any other applicable laws relating to the Property. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Property, (A) requires reporting, investigation or remediation under Environmental Requirements; (B) causes or threatens to cause a nuisance on the Property or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Property or adjacent property; or (C) which, if it emanated or migrated from the Property, could constitute a trespass.

(d) "Lavender Lane Improvements" shall mean roadway, curbing, traffic signal, traffic turn lanes and all related improvements to be constructed and installed by the Seller in Hwy. 98 adjacent to the Property and running along the east and south sides of the Property, as depicted in Exhibit B attached hereto.

2.

PURCHASE PRICE

2.1 Purchase Price. At and in the event of Closing (as defined in Section 6.1), Purchaser shall pay to Seller in cash, check or wired funds in United States currency the purchase price (the "Purchase Price") for the Property of One Million Four Hundred Fifty Thousand and No/100 Dollars (\$1,450,000.00).

3.

EARNEST MONEY

3.1 Earnest Money. Within five (5) days of the Effective Date, Purchaser shall deliver to Brock Title in Mobile, Alabama (the "Escrow Agent") as escrow agent, the sum of Fifty Thousand and No/100 Dollars (\$50,000.00) in cash, check or wired funds (such amount, together with all interest, if any, earned thereon and together with any additional deposits, if any, made to Escrow Agent in accordance with the terms of this Agreement, being referred to as the "Earnest Money"), to be invested by the Escrow Agent in a non-interest bearing account selected by Escrow Agent in the exercise of its reasonable discretion. If the sale of the Property is consummated pursuant to the terms of this Agreement, the Earnest Money shall be paid to Seller at Closing and applied to the payment of the Purchase Price.

4.

CONDITIONS TO CLOSING

4.1 Inspection Period.

(a) Seller Deliveries. Within five (5) days of the Effective Date, Seller shall deliver to Purchaser copies of all due diligence items in Seller's possession as listed on Exhibit C (together, the "Seller Deliveries").

(b) Title Commitment and Survey. At Purchaser's option and sole expense, Purchaser may obtain a title commitment (a "Title Commitment") for an Owner's Policy of Title Insurance issued by a title insurance company selected by Purchaser (the "Title Company"). Seller shall have an ALTA survey of the Property performed (the "Survey") and shall properly subdivide the Property in accordance with all applicable laws and regulations ("Subdivision"), all prepared by a licensed surveyor. Seller shall provide a copy of the Subdivision to Purchaser prior to submitting for approval or recording. The Survey and draft Subdivision shall be completed and submitted to Purchaser for review and approval within thirty (30) days from the Effective Date.

(c) Purchaser's Inspection Period. Purchaser's Inspection Period (as defined herein) shall commence one (1) day after the Seller has provided written notice to Purchaser that (i) the Subdivision has been approved by all necessary agencies of the Seller and the Subdivision plat is ready for recordation and (ii) the Lavender Lane Improvements have received all necessary permits and approvals for construction, including those from the Alabama Department of Transportation ("Inspection Commencement"). Purchaser shall have from the Inspection Commencement until the later to occur of (i) two hundred ten (210) calendar

days thereafter or (ii) the satisfaction of the Special Purchaser Contingencies (as defined herein) (the "Inspection Period") within which to: (A) approve or disapprove the Title Commitment and the Survey, including the information reflected therein, such approvals or disapprovals to be within Purchaser's sole discretion; (B) obtain a commitment for financing the purchase of the property, such financing to be accepted in the Purchaser's sole discretion; (C) conduct economic and feasibility studies to determine, in the Purchaser's sole discretion, if the Property is feasible for Purchaser's intended use; and (D) conduct such other investigations as the Purchaser, in Purchaser's sole discretion, shall determine to be necessary or appropriate. If Purchaser determines, for any reason or no reason, that the Property is not suitable for its purposes, Purchaser shall have the right to terminate this Agreement by written notice to the Seller given on or prior to the expiration of the Inspection Period.

(d) Title and Survey Objections. With respect to title and survey matters, if Purchaser disapproves any particular item by written notice to Seller during the Inspection Period, as it may be extended, Seller shall cure or attempt to cure Purchaser's objections to such item within fifteen (15) days after Purchaser's notice of disapproval, provided that Purchaser may, at its sole discretion, extend such ten (10) day period for cure. Purchaser shall not be required to give notice of objection to liens, and Seller shall have the obligation to remove any liens which may be removed solely by the payment of money. In the event Seller is unable to cure any one or more of Purchaser's objections pursuant to this Section 4.1, Seller shall notify Purchaser in writing of such election within such ten (10) day period. In the event Seller fails to notify Purchaser of its inability to cure any one or more of Purchaser's objections within such ten (10) day period, then such failure to notify Purchaser shall be deemed Seller's acknowledgement that Seller is unable to cure said objections. Purchaser shall then notify Seller as to whether Purchaser intends to: (i) waive the particular objection and continue under the terms of this Agreement, provided that the Purchase Price shall be reduced by an amount equal to the diminution in value associated with the uncured objection; (ii) to cure the uncured objection on behalf of Seller by acting as Seller's attorney-in-fact (the appointment of which Seller is deemed to approve by signing and accepting this Agreement) and then reduce the Purchase Price an amount equal to the costs to Purchaser to cure such an objection; or (iii) terminate this Agreement. If Seller elects to cure the objections on its own behalf or Purchaser elects to cure the uncured objections on behalf of Seller, then the accrual of timeframes and periods set forth herein shall be subject to a "standstill" arrangement commencing on the date of receipt by Seller from Purchaser of its notice of objections to title and/or survey and continuing until the date that the objections are cured in Purchaser's sole satisfaction, at which point the standstill arrangement shall terminate and Purchaser shall resume accruing days under said periods. Notwithstanding the foregoing, Purchaser shall be entitled to continue its inspection of the Property during the standstill period. The term "Permitted Exceptions", as used herein, shall mean (i) the title exceptions listed in Schedule B of the Title Commitment which Purchaser approves or is deemed to approve pursuant to this Section 4.1; (ii) any general exceptions and exclusions contained in the standard owner's policy of the Title Company that are not deleted pursuant to the delivery of a standard owner's title affidavit; and (iii) any documents specifically contemplated by this Agreement to be recorded at or prior to Closing. Purchaser shall have until the Closing Date in which to re-examine title to the Property and in which to give Seller written notice of any additional objections to title created after the date of the Title Commitment.

(e) Environmental and Geotechnical Review. With respect to any environmental or geotechnical inspections, investigations or assessments, Seller hereby permits Purchaser and Purchaser's agent(s) to enter upon the Property during normal business hours to conduct any such inspections, investigations or assessments that Purchaser or Purchaser's agent(s) may deem necessary or advisable. Seller acknowledges and agrees that Purchaser shall be entitled to undertake certain land disturbance to the Property in conducting ordinary geotechnical studies which Purchaser deems necessary or advisable (including, but not limited to, taking of samples for testing of evidence of hazardous or other toxic waste contamination or contamination by fuels, oils, lead paint or asbestos; clearing of brush and trees for such inspection activities; drilling a well to determine well-water availability and digging test pits to determine soil compliance for septic systems).

(f) Indemnity by Purchaser. Purchaser shall be liable for and shall indemnify Seller for all costs and expenses, and/or damage or injury to any person or property resulting from Purchaser's negligence in connection with any inspections undertaken by Purchaser.

(g) Termination. If this Agreement is terminated by Purchaser pursuant to this Section 4.1, or under other circumstances set forth in this Agreement pursuant to which Purchaser is entitled to terminate this Agreement, Escrow Agent shall, without being required to consult with Seller or obtain Seller's prior consent, refund the Earnest Money to Purchaser (less and excepting the sum of \$100 which shall be paid over to Seller in consideration of entering into this Agreement) within three (3) business days of receipt of a copy of such notice of termination, and neither party shall have any further obligations under this Agreement except with respect to the obligations that expressly survive termination as provided herein. If Purchaser does not terminate this Agreement prior to the expiration of the Inspection Period, Purchaser shall be entitled to continue its inspection and investigation of the Property at any time through the Closing Date, but Purchaser shall be deemed to have waived its right to terminate this Agreement set forth in Section 4.1 (except for Seller default or except where Purchaser is otherwise expressly allowed to terminate this Agreement as set forth elsewhere herein).

4.2 Special Purchaser Contingencies. Purchaser and Seller acknowledge that Purchaser intends to purchase the Property for purposes of commercial retail and restaurant sales (the "Intended Use"). Purchaser's obligations under this Agreement are subject to the following Purchaser contingencies (together, the "Special Purchaser Contingencies") which shall extend the Inspection Period until such time as Purchaser notifies Seller of the satisfaction thereof:

(a) The City, County, State or other applicable authorities approving the following, as applicable: (i) the development of the Property for the Intended Use, including site plan approval and any necessary re-zoning or zoning variance; and (ii) Purchaser's tenant obtaining a building permit.

(b) Seller has commenced construction of the Lavender Lane Improvements.

(c) Seller reserving the right to or causing Target to grant to Purchaser an easement for utilities, ingress and egress, as may be required, over and across the flag lot conveyed to or to be conveyed to Target by the Seller and adjacent to the Property.

So long as Purchaser or Seller, as may be required, is diligently pursuing the satisfaction of the foregoing Special Purchaser Contingencies, the Inspection Period shall continue to allow sufficient time to satisfy the Special Purchaser Contingencies. If the Purchaser reasonably determines that it will not be possible to satisfy the foregoing Special Purchaser Contingencies or Purchaser receives notice that Seller is unable to satisfy the foregoing Special Purchaser Contingencies as may be required of the Seller, Purchaser shall have the right to terminate this Agreement, the Earnest Money will be promptly refunded to Purchaser, and neither party shall have any further obligations under this Agreement, except with respect to the obligations that expressly survive termination, as provided herein.

Purchaser acknowledges that Seller is one of the approval authorities referenced in this Section 4.2, and that nothing in this Agreement obligates Seller, in its role as the City of Daphne and through its Planning Commission and other applicable departments, to provide any approvals related to the Property.

5.

REPRESENTATIONS AND WARRANTIES BY SELLER

5.1 Representations and Warranties. To induce Purchaser to purchase the Property from Seller, Seller represents and warrants to Purchaser as follows:

(a) Seller has no knowledge of, and has received no notice from, any governmental authority requiring any work, repairs, construction, alterations or installations on or in connection with the Property, or asserting any violation of any federal, state, county or municipal laws, ordinances, codes, orders, regulations or requirements affecting any portion of the Property, including, without limitation, the Americans with Disabilities Act and any applicable Environmental Requirements. There is no action, suit or proceeding pending or threatened against or affecting Seller or the Property or any portion thereof or relating to or arising out of the ownership of the Property, in any court or before or

by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality.

(b) No assessments or charges for any public improvements have been made against the Property which remain unpaid, no improvements to the Property or any roads or facilities abutting the Property have been made or ordered for which a lien, assessment or charge can be filed or made against the Property, and Seller has no knowledge of any plans for improvements by any governmental or quasi-governmental authority which might result in a special assessment against the Property. Seller has incurred no obligations relating to the installation of or connection to any sanitary sewers or storm sewers which shall be enforceable against the Property, and, to the extent that Seller is obligated to do so, all public improvements ordered, advertised, commenced or completed prior to the date of Closing shall be paid for in full by Seller prior to Closing.

(c) The Property is serviced by or able to be serviced by public water and electricity. Seller has no knowledge of and has received no notice of any present or threatened ban, moratorium or other limitation of any kind on new connections or additional flows to the sewage treatment plant serving or to serve the Property or the conveyance facilities leading to such sewage treatment plant.

(d) To the Seller's knowledge: (i) there has been no disposal, burial or placement of Hazardous Materials on or about the Property; (ii) the Property and Seller are not in violation of any Environmental Requirements; (iii) there is no contamination, pollution or danger of pollution resulting from a condition on or under the Property or on or under any lands in the vicinity of the Property; (iv) there are no storage tanks on the Property; (v) Seller has disclosed to Purchaser all information in Seller's possession relating to the environmental condition of the Property. Seller has not received any information from neighboring property owners indicating they have any concerns about existing environmental conditions that could affect the Property or suggesting they might look to Seller for contribution to clean up such conditions.

(e) There are no management, employment, service, equipment, supply, maintenance, water, sewer, or other utility or concession agreements with municipalities (including improvement or development escrows or bonds) with respect to or affecting the Property which will burden the Property or Purchaser after Closing in any manner whatsoever, except for instruments of record.

(f) The Property has not been registered or certified as "historic" by any local, state or federal governmental entity or historic commission.

(g) There are no wetlands located upon the Property (as defined by applicable federal or state law), nor any wetland restrictions or riparian rights affecting the Property, and no portion of the Property is within the boundaries of the 100 year flood plain other than as delineated on surveys provided to Purchaser in connection herewith or to be provided to Purchaser during the Inspection Period.

(h) Seller is the holder of fee simple title to the Property and there are no other owners having any interest in the Property.

(i) There are no existing leases, whether oral or written, agreements of sale, options, tenancies, licenses or any other claims to possession affecting the Property.

(j) All mortgages affecting the Property, if any, are capable of being released at Closing by a payoff amount that is less than the Purchase Price.

(k) There are no proceedings pending or threatened by or against Seller in bankruptcy, insolvency or reorganization in any state or federal court.

(l) Seller is a municipality existing under the laws of the State of Alabama and has the power and authority to enter into this Agreement and to consummate the transactions herein contemplated. Neither the execution and delivery of this Agreement, nor compliance with the terms and conditions of this Agreement by Seller, nor the consummation of the sale, constitutes or will constitute a violation or breach of the organizational documents of Seller, or of any agreement or other instrument to which it is a party, to which it is subject or by which it is bound. The execution and delivery of this Agreement have been approved by all necessary actions required on the part of Seller to consummate the transaction contemplated hereby. The persons or officers executing this Agreement on behalf of Seller have all requisite authority to execute this Agreement, and this Agreement, as executed, is valid, legal and binding upon Seller.

(m) No representation, statement or warranty by Seller contained in this Agreement or in any exhibit attached hereto contains or will contain any untrue statements or omits or will omit a material fact necessary to make the statement of fact therein recited not misleading. If, after Seller's execution hereof, any event occurs or condition exists which renders any of the representations contained herein untrue or misleading, Seller shall immediately notify Purchaser.

The foregoing representations and warranties shall be deemed to be re-made as of Closing and shall survive Closing.

6. CLOSING

6.1 Closing. Unless the parties mutually agree upon another date, the closing (the "Closing" or the "Closing Date") shall be held on or before the earlier to occur of (a) forty-five (45) calendar days after the expiration of the Inspection Period or (b) fifteen (15) calendar days after Purchaser notifies Seller in writing of Purchaser's intent to close. Purchaser and Seller may be entitled to a "mail-away" closing if either so requests by notice to the other.

6.2 Possession. Possession of the Property shall be delivered to Purchaser at the Closing, subject only to the Permitted Exceptions.

6.3 Proration; Taxes. At Closing, pro-rations of income and expense and the apportionment of taxes shall be as follows:

(a) Income and Expenses. All rents, income, utilities and all other operating expenses and income (the "Income and Expenses") with respect to the Property, if any, for the month in which the Closing occurs, shall be prorated as of 12:01 a.m. on the date of Closing. Subsequent to the Closing, if any such Income and Expenses are actually paid or received, Purchaser and Seller agree to make appropriate adjustments of Income and Expenses after the Closing.

(b) Taxes. Real estate and personal property taxes and other assessments with respect to the Property, if any, for the year in which the Closing occurs shall be prorated as of 12:01 a.m. on the Closing Date. If the Closing shall occur before the tax rate or the assessed valuation of the Property is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation. Subsequent to the Closing, when the tax rate and the assessed valuation of the Property are fixed for the year in which the Closing occurs, the parties agree to adjust the proration of taxes and, if necessary, to refund or repay such sums as shall be necessary to effect such adjustment. If the Property is not assessed as a separate parcel for tax or assessment purposes, then such taxes and assessments attributable to the Property shall be reasonably calculated based upon a calculation of the applicable taxes per acre of the parcel of which the Property is a part. If, as of the Closing, the Property is not being treated as a separate tax parcel, then the Purchaser and Seller shall cooperate to ensure that the Property is assessed separately for tax and assessment purposes within no more than one year from the Closing Date.

(c) Special Assessments. In the event of any special assessments that are levied against the Property in the year of the Closing, such special assessments shall be allocated as follows: (i) Seller shall pay all special assessments related to improvements which have been substantially completed on or before the Closing; and (ii) Purchaser shall pay all special assessments related to improvements which have not been substantially completed on or before the Closing.

The agreements of Seller and Purchaser set forth in this Section 6.3 shall survive the Closing.

6.4 Closing Costs. Except as otherwise expressly provided herein, Seller shall pay, on the Closing Date, all of the cost of the preparation of the deed and customary Seller affidavits and certifications, and Purchaser shall pay, on the Closing Date, the cost of any title insurance policies or commitments, the cost of a title search or abstract of the Property, all recording costs, and the cost of any inspections. The parties shall split the closing agent's fee. Any other closing costs shall be adjusted in accordance with local custom for the County and State where the Property is located. Except as otherwise provided herein, each party shall pay its own attorneys' fees.

6.5 Seller's Obligations at the Closing. At the Closing, Seller shall deliver to Purchaser each of the following documents:

(a) Deed. A General Warranty Deed (the "Deed") executed by Seller conveying good, marketable and insurable fee simple title to the Land and the Improvements located thereon to Purchaser subject to no exceptions other than the Permitted Exceptions.

(b) Foreign Person. An affidavit of Seller certifying that Seller is not a "foreign person," as defined in the Federal Foreign Investment in Real Property Tax Act of 1980, and the 1984 Tax Reform Act, as amended.

(c) Owner's Affidavit. An executed affidavit or other document acceptable to the Title Company in issuing the Owner's Policy without exception for possible lien claims of mechanics, laborers and materialmen or for parties in possession, as applicable.

(d) Mortgage Payoff. Seller shall deliver to Purchaser's attorney any information necessary for Purchaser's attorney to obtain a payoff letter from any mortgagee of record, if any. Seller understands and agrees that the closing proceeds will be applied to terminate any mortgage or record prior to any disbursement being made to Seller.

(e) Closing Statement. A closing statement setting forth the allocation of closing costs, purchase proceeds, etc.

(f) Evidence of Authority. If the seller is a legal entity, such consents and authorizations as Purchaser may reasonably deem necessary to evidence authorization of Seller for the sale of the Property, the execution and delivery of any documents required in connection with Closing and the taking of all action to be taken by the Seller in connection with Closing.

(g) Cancellation of Agreements. Proof of cancellation of all agreements affecting the Property which would extend beyond the Closing Date which are not expressly assumed by the Purchaser.

(h) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the Purchaser or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

6.6 Purchaser's Obligations at the Closing. At the Closing, Purchaser shall deliver to Seller the following:

(a) Purchase Price. The balance of the Purchase Price by certified check, bank check or wire transfer of immediately available U.S. funds.

(b) Closing Statement. A closing statement setting forth the allocation of closing costs, purchase proceeds, etc.

(c) Certificate of Existence/Good Standing. If the Purchaser (or its assignee) is a legal entity, a certificate from the jurisdiction of organization of the Purchaser certifying that the Purchaser has corporate existence and is in good standing in such jurisdiction.

(d) Evidence of Authority. If the Purchaser (or its assignee) is a legal entity, such consents and authorizations as Seller may reasonably deem necessary to evidence authorization of Purchaser for the purchase of the Property, the execution and delivery of any documents required in connection with Closing and the taking of all action to be taken by the Purchaser in connection with Closing.

(e) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the Seller or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

6.7 Conditions Precedent to Purchaser's Obligations. Purchaser's obligations at Closing (including, but not limited to, the disbursement of proceeds and documents) are subject to the issuance of the Title Commitment by the Title Company, "marked down" through Closing, subject only to the Permitted Exceptions.

7. RISK OF LOSS

7.1 Condemnation. If, prior to the Closing, action is initiated to take any of the Property by eminent domain proceedings or by deed in lieu thereof, Purchaser may either (a) terminate this Agreement, or (b) consummate the Closing, in which latter event the award of the condemning authority shall be assigned to Purchaser at the Closing.

8. DEFAULT

8.1 Breach by Seller. In the event that Seller shall fail to perform its obligation to close the transaction as contemplated herein (A) for any reason other than (i) Purchaser's default, (ii) Purchaser's termination of this Agreement or (iii) as otherwise allowed herein; or (B) if Seller otherwise breaches its representations and warranties or other obligations pursuant to this Agreement, then Purchaser may, in its sole discretion, either (i) enforce this Agreement and the purchase and sale transaction contemplated herein by specific performance (except that Purchaser shall have all remedies in law and/or equity in the event specific performance is not an available remedy due to a willful breach of this Agreement by Seller) or (ii) terminate this Agreement, whereupon the Earnest Money shall be refunded to Purchaser, this Agreement shall be deemed canceled and terminated and neither party shall have any further obligation or liability to the other hereunder, except that Seller shall be responsible for reimbursing Purchaser its actual third party out of pocket expenses and fees relating to this Agreement, including, without limitation, its due diligence and approval efforts, up to a maximum of \$150,000.00. Notwithstanding the foregoing, the failure by either party to satisfy the Special Purchaser Contingencies set forth in Section 4.2 shall not constitute a breach by Seller and shall not entitle Purchaser to the reimbursement remedy described in this Section 8.1. Nothing contained in this Section 8.1 shall be deemed to limit or impair Purchaser's rights to seek damages from Seller for any breach by Seller of any of the representations and warranties set forth in Section 5 above discovered by Purchaser at any time after the Closing Date.

8.2 Breach by Purchaser. If Purchaser breaches this Agreement, Seller may, as Seller's sole remedy and relief hereunder, terminate this Agreement and thereupon be entitled to receive the Earnest Money as liquidated damages (and not as a penalty). Seller and Purchaser have made the above provision for liquidated damages because it would be difficult to calculate, on the date hereof, the amount of actual damages for such breach, and that these sums represent reasonable compensation to Seller for such breach.

8.3 Return/Delivery of Earnest Money. In the event the Earnest Money is delivered to the Seller, as provided in Section 8.2 above, upon the return or delivery of the same, the parties hereto shall have no further rights, obligations or liabilities with respect to each other hereunder, except for such obligations which expressly survive termination as provided in this Agreement.

8.4 Notice and Cure Rights. In the event of a default under any covenant contained in this Agreement, the non-defaulting party shall give the defaulting party notice of such default, specifying in reasonable detail the nature of the default. Thereafter the defaulting party shall have fifteen (15) days from the date notice of default is given to cure the default. If the defaulting party cures the default within the 15-day period, it shall not incur any liability to the other party for the default. Each party shall reasonably cooperate with any and all attempts by the other to cure any default within the cure-period.

9. SELLER COVENANTS

9.1 Future Operations. From the Effective Date until the Closing or earlier termination of this Agreement, Seller will (a) keep, maintain and, if applicable, operate the Property in substantially the same condition and manner as of the Effective Date, reasonable wear and tear excepted; and (b) promptly advise Purchaser within five (5) days receipt of notice of any of the following: litigation, arbitration or administrative hearing from the City, County, State or any other authority or otherwise concerning the Property arising or threatened of which Seller has written notice; special assessments or proposed increases in the valuation of the Property; condemnation or eminent domain proceedings affecting any portion of the Property; citations or notices regarding failures to maintain any permits or licenses for the Property; and liens affecting the Property. Seller shall take no action that might materially damage or adversely affect the value of the Property after the Effective Date, and shall not cause or suffer any waste of the Property. The Property shall be in substantially the same condition on the Closing Date as on the Effective Date except as otherwise provided in this Agreement, and Seller shall make all necessary repairs and replacements until the Closing as necessary to comply with the requirements hereof. Until Closing, Seller shall maintain such casualty and liability insurance on the Property as is presently being maintained.

9.2 Leases, Easements Etc. So long as this Agreement remains in effect, Seller shall not enter into any leases, easements or other documents affecting the Property without the prior written consent of the Purchaser. From the Effective Date through the Closing, Seller shall not undertake any action with respect to the Property or the operation thereof outside the ordinary course of business without Purchaser's prior written consent.

9.3 Seller Cooperation. Seller agrees to cooperate with Purchaser's efforts in obtaining such governmental approvals as may be necessary for Purchaser to develop the Property for Purchaser's Intended Use, including signing such affidavits, petitions and applications and attending such meetings as may be reasonably requested by Purchaser or required by governmental officials in the City, County and State in which the Property is located, provided that Seller shall not be obligated to incur any but nominal expense in the foregoing. Purchaser shall be responsible for all of its costs and expenses associated such approvals.

10. MISCELLANEOUS

10.1 Notices. All notices, demands and requests which may be given or which are required to be given by either party to the other under this Agreement, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective: (i) immediately, when personally delivered

to the intended recipient; (ii) five (5) business days after having been sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (iii) immediately, when delivered in person to the address set forth below for the party to whom the notice was given; (iv) the business day next following after having been deposited into the custody of a nationally recognized overnight delivery service, addressed to such party at the address specified below; or (v) immediately, upon actual receipt. Any notice sent as required by this section and refused by recipient shall be deemed delivered as of the date of such refusal. For purposes of this Section 10.1, the addresses and facsimile numbers of the parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

If to the Seller: Office of the Mayor
1705 Main St
Daphne, AL 36526
P: 251-620-2000

With a copy to:
City of Daphne – City Clerk
1705 Main St
Daphne, AL 36526

With a copy to:
Jay Ross, Esq.
Adams and Reese
11 North Water Street, Suite 23200
Mobile, AL 36602
P: 251-433-3234

If to the Purchaser: Philip G. Burton
41 West I-65 Service Road North Suite 310
Mobile, Alabama 36608
P: 251-380-7238

with a copy to:

Kathy Sherman
41 West I-65 Service Road North Suite 310
Mobile, Alabama 36608
P: 251-380-7234

10.2 Real Estate Commissions. Purchaser and Seller acknowledge that neither party has dealt with any brokers in connection with this transaction. Seller and Purchaser, each hereby agrees to indemnify and hold harmless the other from and against any and all claims for broker's fees or similar charges with respect to this transaction, arising by, through or under the indemnifying party, and each further agrees to indemnify and hold harmless the other from any loss or damage resulting from an inaccuracy in the representations contained in this Section 10.2. This indemnification agreement of the parties shall survive the Closing.

10.3 Time of Essence; Computation of Time. Time is of the essence in this Agreement. In computing any period of time prescribed or allowed by this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday under the laws of the United States or the State, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor a legal holiday, and the computation of any designated period of time that is calculated from the expiration

of a previous period that ended on the next day which is neither a Saturday, Sunday nor a legal holiday shall commence on said next day. For purposes of this Agreement, the term "business day" shall mean any day which is not a Saturday, Sunday or legal holiday.

10.4 Successors and Assigns; Assignment. This Agreement shall bind and inure to the benefit of Seller and Purchaser and their respective heirs, executors, administrators, personal and legal representatives, successors and assigns. Purchaser shall have the right to freely assign its rights under this Agreement.

10.5 Attorneys' Fees. In the event it becomes necessary for either party hereto to file suit to enforce this Agreement or any provision contained herein, the party prevailing in such suit shall be entitled to recover, in addition to all other remedies or damages, as provided herein, reasonable attorneys' fees, paralegal fees and cost incurred in such suit at trial, appellate, bankruptcy and/or administrative proceedings.

10.6 Section 1031 Exchange. Either Purchaser or Seller may consummate the sale and purchase of the Property as part of a so-called like kind exchange (the "Exchange") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, provided that: (i) the Closing shall not be delayed or affected by reason for the Exchange nor shall the consummation or accomplishment of the Exchange be a condition to the exchanging party's obligations under this Agreement; and (ii) the non-exchanging party shall not be required to acquire or hold title to any real property for purposes of consummating the Exchange; (iii) the non-exchanging party shall not, by this agreement or acquiescence to the Exchange have its rights under this Agreement affected or diminished in any manner; (iv) the non-exchanging party shall not be responsible for compliance with or be deemed to have warranted to the exchanging party that the Exchange in fact complies with Section 1031 of the Internal Revenue Code of 1986, as amended; and (v) all additional transaction costs incurred by reason of the Exchange shall be the sole responsibility of the exchanging party.

10.7 Standard Marketing Signage. Beginning on the Effective Date and continuing until the earlier of Closing or termination of this Agreement, Seller shall permit Purchaser to install Purchaser's standard, "For Information" sign on the Property.

10.8 Standstill. From and after the Effective Date and unless this Agreement is terminated in accordance with its terms, Seller hereby agrees that Seller shall not enter into any back-up agreements to sell, ground lease or otherwise convey the Property in the event that Purchaser fails to purchase the Property.

10.9 Confidentiality. Without the prior written consent of the other party, neither Seller nor Purchaser will disclose to any person or entity, other than their legal counsel, a proposed lender, prospective investors, prospective tenants, necessary governmental authorities and/or other agents with a reasonable need to know such information, either the fact that this Agreement has been entered into or any of the terms, conditions or other facts with respect thereto, including the status thereof. Notwithstanding the foregoing, Purchaser acknowledges that Seller is subject to the Alabama Open Meetings Act and public records laws and that Seller's disclosure of this Agreement may be required by law. Purchaser further acknowledges and agrees that Seller's disclosure of this Agreement shall not be considered a breach of this Agreement.

10.10 Force Majeure. Neither Purchaser nor Seller will have liability to the other, nor will any have any right to declare a default hereunder or terminate this Agreement because of the other's failure to perform any of its obligations in the Agreement if the failure is due to reasons beyond the party's reasonable control, including, without limitation, strikes or other labor difficulties, war, riot, civil insurrection, acts of God, governmental preemption in connection with a national emergency, hurricanes, and/or acts of terrorism, which for purposes of this Agreement shall be defined as reasons of "Force Majeure." If the party fails to perform its obligations because of any reasons of Force Majeure, the period for the party's performance will be extended day for day for the duration of the foregoing cause of such party's failure, provided notwithstanding such events, the party has in good faith, with due diligence, attempted to perform said obligations and continues to do so until completion thereof as soon as reasonably possible.

10.11 **Miscellaneous.** This Agreement embodies the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties, nor any representations made by either party relative to the subject matter hereof, which are not expressly set forth herein. This Agreement may be amended only by a written instrument executed by the party or parties to be bound thereby. This Agreement shall not be effective unless signed by both Purchaser and Seller. As used in this Agreement, the terms "execution of this Agreement", "Effective Date", "Date of this Agreement" or "date hereof" shall mean and refer to the date of execution of the last of Purchaser or Seller to execute this Agreement as set forth below. The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement. This Agreement shall be governed by the laws of the state in which the Land is located. All of the parties to this Agreement have participated freely in the negotiation and preparation hereof; accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto. As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each include the others whenever the context so indicates. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid, or unenforceable provision or by its severance from this Agreement. No delay or omission of one party to exercise any right or power arising from any default on part of the other party shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence thereto. Notwithstanding the confidentiality requirements of this Agreement, Purchaser shall be permitted to record a memorandum of this Agreement including those terms it deems appropriate in the public records of the County. The Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute the same instrument.

[Remainder of Page Left Blank Intentionally]

[Signature Page for Purchase and Sale Agreement]

For good and valuable consideration, the parties hereto have caused this Agreement to be executed under seal by persons duly empowered to bind the parties to perform their respective obligations hereunder the day and year set forth beside their respective signatures.

SELLER:

CITY OF DAPHNE, ALABAMA

Date: _____

By: _____
Robin LeJeune, its Mayor

ATTEST:

Candace G. Antinarella, City Clerk

PURCHASER:

BURTON PROPERTY GROUP, LLC

Date: _____

By: _____
Philip G. Burton, its President

WITNESS:

EXHIBIT A

LAND

DESCRIPTION:

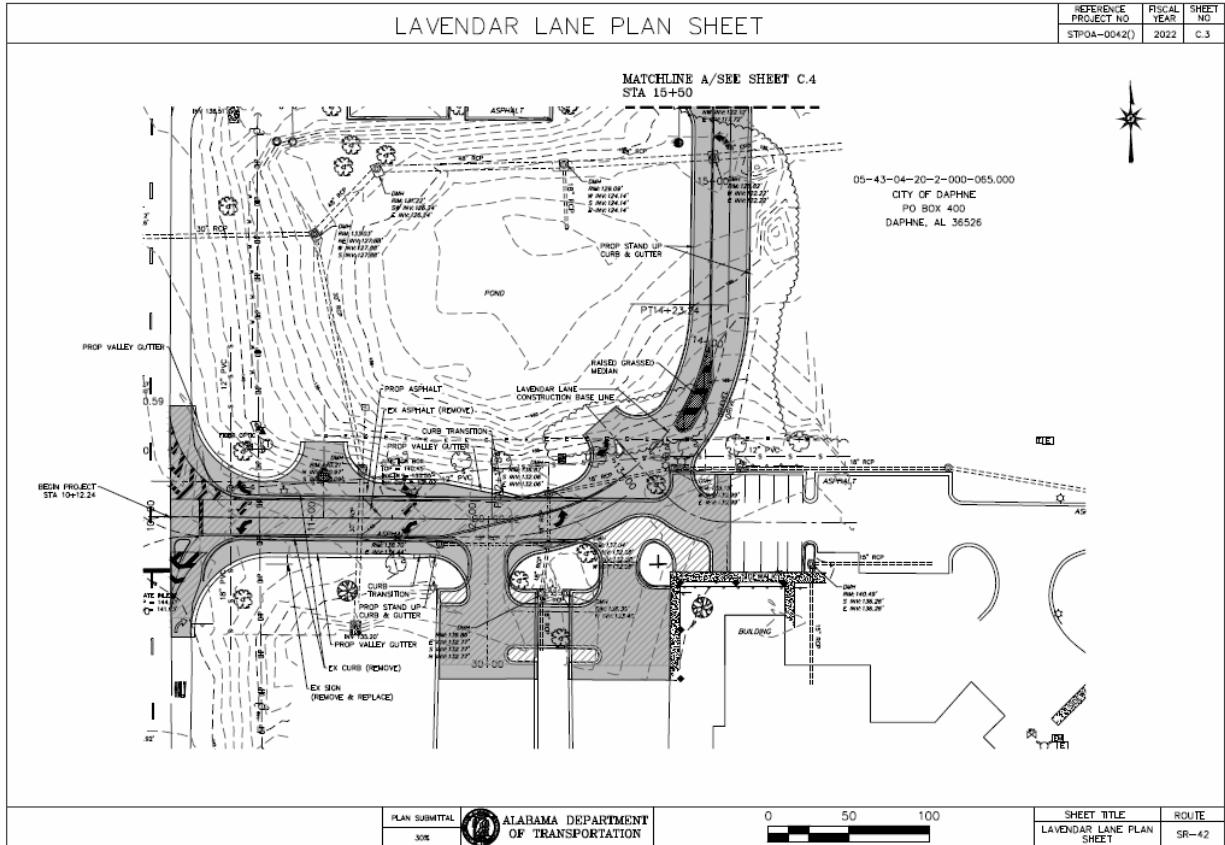
A PORTION OF LANDS DESCRIBED IN REAL PROPERTY BOOK 491, PAGE 1287, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; RUN THENCE SOUTH ALONG THE WEST BOUNDARY OF SAID SECTION 20, A DISTANCE OF 990 FEET TO A POINT; THENCE RUN EAST 1546.65 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 98; THENCE RUN SOUTH 00°14'12" EAST, ALONG SAID EAST RIGHT-OF-WAY, A DISTANCE OF 195.54 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°14'12" EAST, ALONG SAID EAST RIGHT-OF-WAY, A DISTANCE OF 10.51 FEET; THENCE RUN NORTH 89°45'48" EAST, DEPARTING SAID EAST RIGHT-OF-WAY, A DISTANCE OF 104.31 FEET; THENCE RUN SOUTH 78°27'41" EAST, A DISTANCE OF 45.27 FEET; THENCE RUN ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 18.00 FEET, AN ARC DISTANCE OF 6.98 FEET, (CHORD BEARS SOUTH 89°34'42" EAST, A DISTANCE OF 6.94 FEET); THENCE RUN ALONG A COMPOUND CURVE TO THE LEFT, HAVING A RADIUS OF 117.00 FEET, AN ARC DISTANCE OF 26.90 FEET, (CHORD BEARS NORTH 72°43'04" EAST, A DISTANCE OF 26.84 FEET); THENCE RUN ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 121.09 FEET, AN ARC DISTANCE OF 131.75 FEET, (CHORD BEARS NORTH 32°39'42" EAST, A DISTANCE OF 125.35 FEET); THENCE RUN NORTH 00°43'53" EAST, A DISTANCE OF 99.45 FEET TO A POINT ON A LINE PARALLEL WITH AND 1.00 FEET SOUTH OF THE SOUTH LINE OF BAKER SUBDIVISION, AS SHOWN IN MAP OR PLAT THEREOF RECORDED IN SLIDE 1912-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 89°49'14" WEST, ALONG A LINE PARALLEL WITH AND 1.00 FEET SOUTH OF SAID SOUTH LINE OF BAKER SUBDIVISION, A DISTANCE OF 250.00 FEET TO A POINT ON A LINE PARALLEL WITH AND 1.00 FEET EAST OF THE EAST RIGHT-OF-WAY OF U.S. HIGHWAY NO. 98; THENCE RUN SOUTH 00°14'12" EAST, ALONG A LINE PARALLEL WITH AND 1.00 FEET EAST OF SAID EAST RIGHT-OF-WAY OF U.S. HIGHWAY NO. 98, A DISTANCE OF 186.02 FEET; THENCE RUN NORTH 89°45'48" EAST, A DISTANCE OF 10.00 FEET; THENCE RUN SOUTH 00°14'12" EAST, A DISTANCE OF 8.51 FEET; THENCE RUN SOUTH 89°45'48" WEST, A DISTANCE OF 11.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 49,121 SQUARE FEET (1.13 ACRES) MORE OR LESS, AND LIES IN SECTION 20, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

EXHIBIT B

LAVENDER LANE IMPROVEMENTS



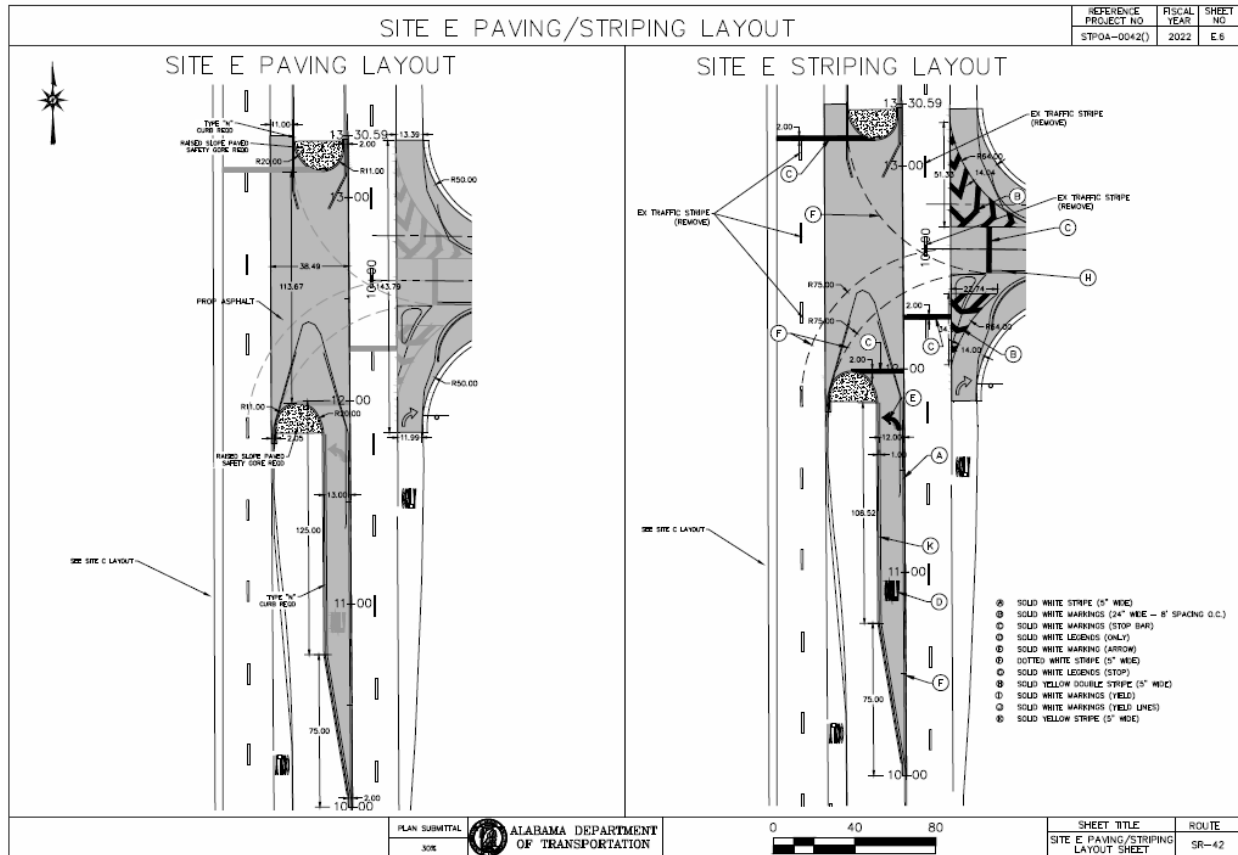


EXHIBIT C

SELLER DELIVERIES

- (a) all environmental assessments, reports and studies respecting the Property;
- (b) any existing geotechnical reports on the Property;
- (c) development plan(s), including all documents relating to PUD, Conditions of Approval placed on the Property by the applicable governing authorities, any Declarations, and any Reciprocal Easement Agreements affecting the Property or adjacent property;
- (d) any and all leases, rental agreements, licenses, contracts and(or) other agreements affecting the Property;
- (e) any wetland reports, studies and/or assessments affecting the Property;
- (f) copies of all building and other plans and specifications pertaining to the buildings and improvements located on the Property;
- (g) copies of all permits, approvals, consents, licenses and certificates concerning any construction on the Property and any current operations occurring on the Property (including, without limitation, any temporary or other certificate of occupancy);
- (h) evidence of zoning and zoning compliance;
- (i) warranties and guaranties issued in favor of Seller and/or its affiliates and/or agents relating to any portion of the buildings and improvements located on the Property;
- (j) copies of real estate tax bills for the current tax year and two (2) prior tax years for the Property;
- (k) any insurance claims history for the Property made during the time Seller has owned the Property, and current insurance bill; and
- (l) Seller's Owner's Title Policy, together with copies of all documents listed as exceptions herein.