

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, AL
CITY COUNCIL BUSINESS MEETING AGENDA
Monday, November 7, 2022
6:00 P.M.

1. **CALL TO ORDER**
2. **ROLL CALL**
INVOCATION Dr. Barry Carpenter, Resurrection Church
PLEDGE OF ALLEGIANCE
3. **APPROVE MINUTES:** October 17, 2022 regular meeting
4. **REPORTS OF STANDING COMMITTEES**
 - A. **FINANCE COMMITTEE** – Conaway
Review the minutes from the October 17th meeting.
 - Treasurer’s Report – September 2022
 - Unrestricted Fund Balance - \$23,722,472
 - Total Cash Balance - \$42,845,193Sales Tax – August 2022 - \$2,163,260
Lodging Tax – August 2022 - \$132,520
 - B. **BUILDINGS & PROPERTY COMMITTEE** – Phillips
 - C. **PUBLIC SAFETY COMMITTEE** – Hughes
Review the minutes from the October 10th meeting.
 - D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE** – Olen
 - E. **PUBLIC WORKS COMMITTEE** – Goodlin
Review the minutes from the September 6th 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
Review the minutes from the September 22nd meeting and the report from the October 27th meeting.
 - F. **RECREATION BOARD** – Hughes
 - G. **UTILITY BOARD** – Coleman
Review the minutes from the September 28th meeting.
6. **PUBLIC PARTICIPATION**
7. **MAYOR’S REPORT**
8. **CITY ATTORNEY REPORT**

City Council Agenda – November 7, 2022

9. DEPARTMENT HEAD REPORTS

10. CITY CLERK'S REPORT

MOTION to approve the Shadow Barons Mardi Gras Parade on February 18, 2023 from 6:45 – 8:30pm with a rain date of February 19, 2023.

MOTION to approve the publication and set a public hearing on December 19, 2022 for the Proposed Amendments to the Land Use and Development Ordinance, adding Article 41, Medical Overlay District.

MOTION to approve the publication and set a public hearing on December 19, 2022 for the Infirmary Health Systems, Inc. Pre-Zoning Amendment located Southwest of the intersection of U.S. Highway 90 and Alabama Highway 181.

MOTION to approve the publication and set a public hearing on December 19, 2022 for the Infirmary Health Systems, Inc. Annexation Petition.

MOTION to approve the publication and set a public hearing on December 19, 2022 for the Proposed Amendments to the Land Use and Development Ordinance: Amending Article 6, Procedures for the Transaction of Business, Article 11, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments, Article 13, District Requirements, Article 15, Procedures for Site Plan Review, Article 19, Landscape Standards and Tree Protection, Article 34, Schedule of Fees, and Article 37, Eastern Shore Park Overlay District General Provisions.

11. RESOLUTIONS & ORDINANCES

A. RESOLUTIONS:

2022 – 55 – Bid Award: FF-Drainage Repair at May Day Park - \$651,166

B. 2nd READ ORDINANCES:

2022 – 62 – Amending the Land Use and Development Ordinance, Article XI, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments and Article XVIII, Drainage, Storm Water Management Facilities and Erosion/Sediment Control

2022 – 63 – Amending the Mardi Gras Parade Ordinance 2003-17, Section Six, Throws

2022 – 64 – Ordinance Repealing and Replacing Ordinance 2017-34 – Regarding the Rules and Regulations for Daphne City Parks

C. 1ST READ ORDINANCES:

2022 – 65 – Ordinance Authorizing the Operation of Medical Cannabis Dispensing Sites within the City of Daphne

2022 – 66 – Appropriation: Drainage Repair at May Day Park - \$739,481

2022 – 67 – Ordinance Authorizing the Mayor to Execute a Real Estate Sales Agreement with Gulf Health Hospitals, Inc. to Purchase Certain Real Property Fronting U.S. Hwy 98 and Overlooking Mobile Bay

12. ELECTION OF OFFICERS

13. COUNCIL COMMENTS

14. ADJOURN

October 17, 2022
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:00 P.M.

1. **CALL TO ORDER:**

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

2. **ROLL CALL:**

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

COUNCIL MEMBERS ABSENT: Benjamin Hughes

Also Present: Candace Antinarella, City Clerk; Patrick Dungan, City Attorney; Mayor LeJeune; Captain Jud Beedy, Police; Troy Strunk, City Development; Chief LeAnn Tacon, Fire; Ange Baggett, Marketing; Kelli Reid, Finance; Charlie McDavid, Recreation; Josh Newman, Engineering; Adrienne Jones, Planning; Jackson Perhaes, Junior City Councilmember; and Jessica Linne, Assistant City Clerk.

INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Pastor Rife Stewart, Destiny Church.

PUBLIC HEARING: Josh Newman presented on the proposed amendments to the Land Use and Development Ordinance, Article 11, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments, and Article 18, Drainage and Storm Water Management Facilities and Erosion/Sediment Control.

Public hearing opened at 6:10pm. No one came forward to speak.

Public hearing closed at 6:11pm.

3. **APPROVAL OF MINUTES:**

The minutes from the October 3, 2022 regular meeting were approved.

4. **REPORT OF STANDING COMMITTEES:**

A. **FINANCE COMMITTEE**

Councilwoman Conaway said the report from the Finance meeting will be given at the next Council meeting.

B. **BUILDINGS & PROPERTY COMMITTEE**

Councilwoman Phillips said the September 2022 new construction and building reports were in the packet: certificates of occupancy: 40; permits issues: 328; new residential home permits: 53; and total fees: \$140,065.18. She said the next Buildings and Property meeting is November 14th at 5:15pm

C. **PUBLIC SAFETY COMMITTEE**

**MOTION by Councilman Coleman to authorize the Mayor to execute the Alabama Fire College contract. No second was needed.
MOTION CARRIED UNANIMOUSLY.**

D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE**

Councilman Olen said the Committee met earlier and the next meeting is Monday, November 7th at 4:30pm.

E. **PUBLIC WORKS COMMITTEE**

Councilman Goodlin said the Committee met earlier and the next meeting is November 7th at 5:15pm.

**October 17, 2022
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:00 P.M.**

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments

Adrienne Jones said the minutes from the April 7th meeting and the summarization from the October 6th meeting are in the packet and there is no meeting in November.

B. Downtown Redevelopment Authority

Councilwoman Conaway said the next meeting is October 20th at 5:30pm.

C. Industrial Development Board

Councilman Scott said the next meeting is October 18th at 4:30pm.

D. Library Board

Councilwoman Phillips said the next meeting is November 10th at 4:30pm.

E. Planning Commission

Councilman Olen said the next meeting is October 27th at 5:00pm.

F. Recreation Board

Councilman Hughes was absent.

G. Utility Board

Councilman Coleman said the minutes from the August meeting are in the packet and the next meeting is October 26th at 5:00pm.

6. PUBLIC PARTICIPATION:

Public Participation opened at 6:14pm. No one came forward to speak.

Public Participation closed at 6:15pm.

7. MAYOR'S REPORT:

Mayor LeJeune said Jubilee Festival the past weekend was a great event. He reminded everyone of the upcoming events: Turkey Trot 5k, Eastern Shore Children's Business Fair and the Out of the Darkness Walk.

8. CITY ATTORNEY REPORT:

City Attorney said there was no report.

9. DEPARTMENT HEAD COMMENTS:

Captain Beedy, Police, gave an update on the recent cases the Police Department are working on.

Chief Tacon, Fire, shared about Fire Prevention Month events.

Ange Baggett, Marketing, thanked the staff for their help with Jubilee Festival and reminded everyone Sunday start the "Welcome Center Retreat"

Ronnie Huskey, Public Works, updated the Council on the gateway signage at Highway 181 and other City projects.

Charlie McDavid, Recreation, shared about upcoming tournaments at the Sports Complex and reminded everyone the Splash Pad closes for the season on October 31st.

**October 17, 2022
CITY COUNCIL MEETING
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Adrienne Jones, Planning, shared with the Council the recent Planning Commission elections.

Josh Newman, Engineering, updated on improvement projects within the City.

10. CITY CLERK'S REPORT:

MOTION by Councilman Goodlin to approve the road closure at the entrance and exit of Guarisco Street beside Macedonia Baptist Church on October 30, 2022 from 10:00am – 3:00pm for their Fall Fellowship Festival. Seconded by Councilman Olen.

MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Scott to approve the Public Hanukkah Menorah Lighting on City Hall steps on December 22, 2022 from 5:30pm – 9:00pm. Seconded by Councilman Goodlin.

MOTION CARRIED UNANIMOUSLY.

City Clerk welcome Junior Councilmember Jackson Perhaes to the meeting and gave an update on the recent Junior City Council meeting.

11. RESOLUTIONS & ORDINANCES:

A. RESOLUTIONS:

ORDINANCES:

B. 2nd READ ORDINANCES:

C. 1ST READ ORDINANCES:

2022 – 62 – Amending the Land Use and Development Ordinance, Article XI, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments and Article XVIII, Drainage, Storm Water Management Facilities and Erosion/Sediment Control

2022 – 63 – Amending the Mardi Gras Parade Ordinance 2003-17, Section Six, Throws

2022 – 64 – Ordinance Repealing and Replacing Ordinance 2017-34 – Regarding the Rules and Regulations for Daphne City Parks

12. COUNCIL COMMENTS:

Councilwoman Conaway reminded everyone the Education Advisory Committee will meet Monday, October 24th at 11:00am.

Councilman Scott said he enjoyed his time spent at the Jubilee Festival and feels Lott Park is a great choice for venue. He suggested animals currently available for adoption be featured at the Festival.

Councilwoman Phillips thanked all who participated in the Jubilee Festival,

Councilman Coleman commended the Chamber of Commerce for their work with the Jubilee Festival.

**October 17, 2022
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
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6:00 P.M.**

13. ADJOURN:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, COUNCIL ADJOURNED INTO EXECUTIVE SESSION AT 6:33 PM.

Respectfully submitted by,

Certification of Presiding Officer,

Candace G. Antinarella, CMC, City Clerk

Joel Coleman, Council President

**CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
OCTOBER 17, 2022
4:30 P.M.**

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 4:30 p.m.

Present were:

Chairperson Mrs. Tommie Conaway
Councilman Mr. Steve Olen
Councilman Mr. Joel Coleman
Councilman Mr. Doug Goodlin

Councilman Mr. Ron Scott
Councilwoman Mrs. Angie Phillips

Also Present: Mayor Robin LeJeune, Finance Director Mrs. Kelli Reid, Accountant III Mrs. Suzânn Henson, Revenue Officer Julie Koptis, Human Resource Deputy Director Mrs. Hannah Noonan, City Clerk Mrs. Candace Antinarella, Executive Director of City Development Troy Strunk, Fire Chief Mrs. LeAnn Tacon, Director of Events and Marketing Mrs. Ange Baggett, City Attorney Mr. Patrick Dungan, and Engineer Mr. Andy Bobe, Dewberry.

II. PUBLIC PARTICIPATION

There was no public participation.

III. APPROVE MINUTES FOR THE PREVIOUS MEETING

The previous minutes were approved.

IV. HUMAN RESOURCES BUSINESS

A. Update on Human Resources Department Activity

Mrs. Hannah Noonan reviewed the Human Resources Report:

- Posted/Reposted Positions – 22
- Reviewing/Testing/Interviewing/Background check - 12
- Promotion/Internal Transfer - 2
- New Hires – 2

Mrs. Noonan reviewed the monthly Safety Committee meeting topics and discussed other Human Resources projects and events.

Safety Committee:

- Next Safety meeting on October 26th. Quarterly safety award drawing.

Other HR projects/meetings/events:

- Flu Clinic October 5th
- Update new pay scale with 2% COLA
- Input pay changes for reclassifications

Discussion was made concerning applicants for the Police Chief and the status of various positions.

V. BUSINESS LICENSE REPORT

A. Report: New Business Licenses – September, 2022

Mrs. Koptis reviewed the following reports and information:

- Code enforcement issued 6 warnings resulting in businesses becoming compliant and \$585 in revenue.
- New Businesses with a physical location in Daphne - 11
- Simplified Sellers Use Tax collections - \$150,363.64 and YTD collections - \$1,638,589.62

BUSINESS LICENSE COUNT through 9/30/2022	
New Licenses	73
Renewal Licenses (2022)	31
Total Issued THIS MONTH	104
Total Issued THIS MONTH - PREVIOUS YEAR	103
Net Gain/-Loss Current VS Previous Yr MONTH	1
Total Issued YTD 2022	4,576
Total Issued YTD - PREVIOUS YEAR	4,474
Net Gain/-Loss Current VS Previous Yr YTD	102

**Business License Fee
Historical Comparison
2021 / 2022**

	FY 21	FY 22	Previous Year	<u>Budget 2022</u> <u>\$2,545,000</u>
October	\$13,897.75	\$7,131.66	(\$6,766.09)	(\$2,537,868.34)
November	\$8,573.66	\$4,092.86	(\$4,480.80)	(\$2,533,775.48)
December	\$38,677.07	\$13,273.04	(\$25,404.03)	(\$2,520,502.44)
January	\$1,084,222.56	\$1,186,552.24	\$102,329.68	(\$1,333,950.20)
February	\$1,174,301.94	\$1,131,305.82	(\$42,996.12)	(\$202,644.38)
March	\$203,323.46	\$443,911.19	\$240,587.73	\$241,266.81
April	\$94,667.02	\$59,414.89	(\$35,252.13)	\$300,681.70
May	\$26,245.05	\$27,258.20	\$1,013.15	\$327,939.90
June	\$26,364.10	\$21,183.05	(\$5,181.05)	\$349,122.95
July	\$8,965.64	\$15,138.04	\$6,172.40	\$364,260.99
August	\$9,495.47	\$8,110.58	(\$1,384.89)	\$372,371.57
September	\$19,158.85	\$39,810.03	\$20,651.18	\$412,181.60
Year to Date	\$2,707,892.57	\$2,957,181.60	\$249,289.03	\$412,181.60
All amounts include penalty and interest.				

Discussion was made on the delinquent business and the legal process for resolving their past due account. Additionally, Mayor LeJeune noted that an ordinance for short term rentals including Air B&B type rentals was being worked on and would be presented to the Ordinance Committee once legal has reviewed. Mayor LeJeune noted that the City of Foley has an ordinance in place and Mrs. Koptis has been gathering information on how their Revenue department handles these short-term rentals.

VI. SALES & LODGING TAX REPORT

A. Sales and Use Taxes: August, 2022

Mrs. Henson reviewed the Sales & Use Tax Reports: \$2,163,260.05 was collected for August, 2022 which was up \$198,165.66 from August 2021's collections:

- YTD Variance over Budget - \$4,271,892.53

B. Lodging Tax Collections, August, 2022

Mrs. Henson reviewed the Lodging Tax Collections Report and noted the collections for August, 2022 were \$132,520.41 which is down (\$3,713.11) from August 2021's collections.

- YTD Variance over Budget - \$363,736.64

C. Lodging Tax Fund: Statement of Revenues over Expenses, September, 2022

Mrs. Henson reviewed the Lodging Tax Statement of Revenues over Expenditure report for September, 2022.

- Recreation for related purchases - \$622,302.77
- Unreserved balance for Bayfront related purchases - \$2,914,919.26

Mr. Bobe gave an update on the Bayfront Streetscape project from information he had just received today. Discussion continued on a potential change order due to a signed easement not received from a property owner. Mayor LeJeune discussed the status of the project and noted an update would be given after the new information was reviewed and discussed.

VII. FINANCIAL SCHEDULES & REPORTS**A. Financial Reports****1. Treasurer's Report: September, 2022**

Mrs. Reid reviewed the Treasurer's Report:

TREASURER'S REPORT					
As of September 30, 2022					
Account Type/Title	9/30/2022	8/31/2022	Increase (Decrease) from last Month	9/30/2021	Increase (Decrease) from Last Year
GENERAL FUND & ENTERPRISE FUNDS	\$ 13,561,328	\$ 11,448,157	\$ 2,113,172	\$ 15,839,174	\$ (2,277,846)
INVESTMENT FUND	10,161,143	10,340,417	(179,274)	5,961,515	\$ 4,199,628
CREDIT CARD ACCOUNT	-	-	-	74,545	\$ (74,545)
Total Unrestricted Cash Balance	23,722,472	21,788,574	1,933,898	21,875,234	1,847,238
SPECIAL REVENUE FUNDS					
4 CENT GAS TAX	207,449	202,026	5,422	245,260	(37,811)
7 CENT GAS TAX	183,742	176,874	6,867	184,209	(467)
10 CENT GAS TAX	252,017	235,223	16,795	255,434	(3,417)
TREE & FLOWER	22,660	22,660	-	22,660	(0)
COVID RELIEF FUND	3,419,583	3,432,397	(12,814)	1,482,002	1,937,581
ANIMAL SHELTER FUND	957,355	957,441	(86)	1,000,000	(42,645)
FEDERAL DRUG FORFEITURES	235,796	231,260	4,536	176,907	58,889
LOCAL DRUG FORFEITURES	75,915	75,915	-	60,580	15,335
LIBRARY	26,144	25,204	940	26,283	(139)
COURT TRAINING & EQUIPMENT	42,775	43,213	(438)	43,828	(1,053)
COURT CORRECTION	532,822	520,209	12,613	442,826	89,996
LODGING TAX	3,455,491	3,619,630	(164,139)	3,645,997	(190,506)
AGENCY FUNDS					
MUNICIPAL COURT	-	-	-	250	(250)
SELF INSURANCE	232,281	235,623	(3,342)	221,399	10,882
FLEX SPENDING	20,044	17,936	2,107	18,257	1,787
OPEB TRUST INVESTMENT FUND	880,609	931,866	(51,257)	813,891	66,718
	10,544,682	10,727,477	(182,795)	8,639,783	1,904,899
CAPITAL PROJECT FUNDS					
CAPITAL RESERVE	8,070,950	7,879,499	191,451	4,627,753	3,443,197
	8,070,950	7,879,499	191,451	4,627,753	3,443,197
DEBT SERVICE FUNDS					
DEBT SERVICE	507,090	226,064	281,026	472,053	35,037
Total Restricted Cash Balance	19,122,722	18,833,041	289,681	13,739,589	5,383,133
Total City Cash Balance	\$ 42,845,193	\$ 40,621,614	\$ 2,223,579	\$ 35,614,823	\$ 7,230,370
Encumbrance Total as of			9/30/2022	\$ 183,625.70	

Discussion was made on the Riviera Utilities PILOT collections check and that the amounts collected the last couple years are still below the 2019 collections. Mr. Scott discussed looking further into the decrease in collections received. Mrs. Reid noted that the City bank accounts that have been switched to Regions will still have the old account (PNC) open until all outstanding checks have been cleared.

The Treasurer's Report as of SEPTEMBER, 2022 Total Unrestricted Cash Balance - \$23,722,472 and Total City Cash Balance - \$42,845,193 was presented to be filed for audit.

2. Encumbrance Report

- Encumbrance balance - \$183,625.70 as of September, 2022.

Mrs. Reid reviewed the Encumbrance Report and gave the status on the projects/line items that were remaining. Mrs. Reid noted she had been working hard to clear out as many encumbrance line items as possible. Discussion was made on the when the selection of a new Education Commission would be.

3. Outstanding Appropriations

Mrs. Reid reviewed several of the projects on the report and when the final payouts were anticipated. Discussion continued on the new Pickleball Court project that would start soon. Mr. Strunk noted the contractor mobilized today for the project and reviewed the project process. Discussion was made on putting up signs to let the pickleball players know construction would start soon and give the public some information on the project.

4. Financial Overview: Debt Summaries & Monthly Financial Statements, September, 2022

Mrs. Reid reviewed the following Financial Statements:

- Debt Summary Schedules (General & Enterprise Funds), September, 2022

Mrs. Reid noted the monthly financial statements would be presented again after the annual audit was complete.

5. Summary of Budgetary Amendments

Mrs. Reid reviewed the General Fund budgetary amendments made to the FY2022 Budget.

- Total Appropriations Year to Date – \$7,424,345
- Adjusted Expenses over Revenue – (\$7,421,201)

6. Unfunded Future Projects Expenditure Summary

Mrs. Reid reviewed the Unfunded Future Projects Expenditure Summary and noted that appropriation requests for approximately \$8 million for several projects will be presented soon: Highway 98 Improvements (CR64 to Van), Pollard Road/CR64 Improvements, and Animal Shelter.

B. Bills Paid Reports – September, 2022

The Bills Paid Report was previously presented electronically.

VIII. BIDS (Resolution) and APPROPRIATION REQUESTS: (Ordinance)

A. 2022-FF-Drainage Repair at May Day Park

Mrs. Reid stated that the low bid came in at \$651,166 and the total construction cost will be \$756,282.60. Mrs. Reid noted that an appropriation in the amount of \$739,481 would be needed and American Rescue Plan Act (ARPA) funds (Covid-19 Relief Fund) are available for this project. The bid tabulation and recommendation from the engineers to award to James Brothers Excavating, Inc. was included in the packet.

MOTION BY Mr. Goodlin to recommend to Council to

1. Award the 2022-FF-Drainage Repair at May Day Park bid to James Brothers Excavating, Inc. in the amount of \$651,166 as bid.

2. Recommend to Council to adopt the Ordinance amending the budget to appropriate \$739,481 out of the out of the Covid-19 Relief Fund.

Seconded by Mr. Olen.

MOTION CARRIED UNANIMOUSLY

IX. NEW BUSINESS

There was no new business discussed.

X. OLD BUSINESS

There was no old business discussed

XII. ADJOURN The meeting adjourned at 5:18 p.m.

October 10, 2022
PUBLIC SAFETY MEETING MINUTES
1705 MAIN STREET
DAPHNE, AL
4:30 P.M.

1. **CALL TO ORDER:**

There being a quorum present, Councilman Ben Hughes called the meeting to order at 4:30pm.

2. **ROLL CALL:**

COUNCIL MEMBERS PRESENT: Mayor LeJeune, Councilwomen Tommie Conaway and Angie Phillips, Councilmen Ron Scott, Steve Olen, Benjamin Hughes, Joel Coleman, and Doug Goodlin.

ABSENT: None

Also Present: Candace Antinarella, City Clerk; Patrick Dungan, City Attorney; Troy Strunk, City Development; Chief Tacon, Fire Department; Captain Beedy, Police Department; Christina Brazell, Recording Secretary.

3. **PUBLIC PARTICIPATION:**

Victoria Phelps (Lake Forest) – Area of Bayview & Ridgewood, problem area where accidents are occurring and vehicles have hit the AT&T box. Requested traffic calming device or a way to alert drivers of the upcoming turn.

There was a request from the council for the city to attempt to contact AT&T about the issue as well.

4. **APPROVAL OF MINUTES FROM PREVIOUS MEETING**

Minutes from September 12, 2022 Public Safety meeting were approved as presented.

5. **POLICE DEPARTMENT**

Old Business: Stats provided for last month by Captain Gulsby.

New Business: None

6. **FIRE DEPARTMENT:**

Old Business: Stats provided by Chief Tacon, one transport last month. DFD responded to an attic fire in Lake Forest.

New Business:

Regarding the Regional Training Center Fire College, the information was turned over to legal.

Motion made to move to council. (Councilwoman Phillips, seconded by Councilman Coleman)

October 10, 2022
PUBLIC SAFETY MEETING MINUTES
1705 MAIN STREET
DAPHNE, AL
4:30 P.M.

7. OTHER BUSINESS

Traffic Calming Discussion:

Addressed conversation along with Lake Forest (signage and AT&T box/ accidents)

5:01 p.m. **ADJOURNMENT**



CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES
September 6th, 2022 - 5:15 P.M.
DAPHNE CITY HALL

I. CALL TO ORDER

II. COMMITTEE MEMBERS PRESENT:

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

Others Present: William Eringman, Public Works Deputy Director; Jay Ross, City Attorney; Troy Strunk, Executive Director, City Development; Candace Antinarella, City Clerk; Josh Newman, City Engineer; Lindsey Johnson, Public Works Administrative Assistant; Tim White, Environmental Programs Manager; Suzanne Henson, Accountant III; Victoria Phelps, LFPOA; Selena Vaughn, Daphne Beautification; LeAnn Tacon; Fire Chief

III. PUBLIC PARTICIPATION & CORRESPONDENCE

Correspondence and Public Participation—Miles Paisant lives at 9641 Poets Corner and is the President of the Canterbury Place Homeowners Association. Mr. Paisant brought up the signs and ropes that are put up by Daphne High School on Champions Way and Hwy 13 to prevent parking. Mr. Paisant feels that they are a safety issue and an eyesore to the Canterbury Place Subdivision. Mr. Paisant emphasized that he and the homeowners of Canterbury Place are big supporters of DHS, however, the homeowners are frustrated with the no parking ropes and the location of where they are. Mr. Paisant suggested some solutions including removing the ropes and posts that only remain up during home games, or the school could add the parking price into the ticket price. Mr. Paisant ended by thanking the various departments for making the City of Daphne a desirable place to live.

Councilman Scott suggested a no parking sign instead of the rope and posts. Councilman Goodlin inquired with William Eringman, the City's Right-of-Way Manager, about whether or not DHS has put in for a permit for use of the ROW for their signs and posts. Mayor LeJeune interjected by saying that the decision to let DHS use the ROW was approved through the Mayor's office, but he is willing to work with the Council and Canterbury Place to find a solution. Councilman Coleman inquired for the reason that the posts and signs are put up by the school. Councilman Goodlin answered that they are put up so the school can charge for parking during the home games. Councilman Coleman asked if there was a way to compromise with the school and Canterbury Place. Mayor LeJeune emphasized that the City does not have the manpower to retrieve and put up the posts for every game or have an officer ticket residents who park in the no parking zone. Councilman Coleman asked where the ticket money goes. Mayor LeJeune replied it goes to the DHS band. Councilwoman Phillips suggested removing to posts in front of Canterbury Place when the games are not in play. Mayor LeJeune stated the band would need to be in charge of those posts because Public Works does not have the staff to maintain them. Mr. Paisant stated there are several



CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES
September 6th, 2022 - 5:15 P.M.
DAPHNE CITY HALL

volunteers from the DHS band parents that help with the posts and signs.

Victoria Phelps from LFPOA thanked Public Works for all their help that they provide for Lake Forest and for the City. Ms. Phelps also talked about a speeding problem on Ridgewood Drive and thanked Ronnie Huskey for putting out a speed trailer to gather data. Ms. Phelps also talked about the AT&T box that was fixed, but it is still a problem because a resident almost hit it again. She suggested lighting the area or putting up signs to deter this problem.

IV. OLD BUSINESS

Approval of Minutes – August 1st, 2022—Minutes were reviewed and approved by the committee.

V. NEW BUSINESS

Asset Disposition & Request for Replacement – Garbage Truck #1710 – William Eringman talked about the issues with garbage truck #1710. He stated that to repair the truck it would be around \$177,000, however, there is a quote for a new truck for \$314,000. Mr. Eringman emphasized that it would be ideal to put that money towards a new truck, rather than fixing an old one. He continued by stating that Public Works would like to expedite this process because it has been a struggle to get trucks and this vendor could provide a new truck by the end of the year. Councilman Olen asked if this money is set aside in the 2023 capital budget for Public Works. Mayor LeJeune stated that the issues with the truck came up after the capital request was already submitted and approved. Mayor LeJeune continued by saying it was in the capital budget to fix this truck for \$177,000, however, the opportunity came up to buy a new one, hence the reason it is being brought to Council. Councilman Olen expressed that he would rather this go into next fiscal year's capital budget, which is a month away, rather than push it through this current budget. Councilwoman Phillips inquired if this truck was at the end of its life. Mr. Eringman stated the truck was to be replaced by the end of next year with the current truck replacement plan. The Council discussed the budget and potentially replacing this truck. Councilman Scott asked if the truck is drivable. Mr. Eringman responded no, it cannot be used right now. The Council discussed if the truck can be sold and how much the City could potentially get for it and the normal life expectancy of these trucks. Councilman Scott asked if the Solid Waste Department is running behind because of this truck. Mr. Eringman confirmed this. Councilwoman Phillips expressed that she is on board with getting a new truck, but the truck replacement plan needs to be revisited so it does not occur at the end of the fiscal budget year again.



CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES
September 6th, 2022 - 5:15 P.M.
DAPHNE CITY HALL

MOTION by Councilwoman Phillips to recommend to Council to put Garbage Truck #1710 on the Finance agenda.

Seconded by Councilman Hughes

Aye – Conaway, Phillips, Goodlin, Hughes, Coleman, Scott Nay – Olen

MOTION CARRIED.

Councilman Coleman asked, if the repairs were made, what would be the life expectancy of the truck. Mr. Eringman estimated three to five years. Councilman Coleman recommended fixing the truck as well as buying a new one.

Proposed Sidewalk Plan for Review – Mayor LeJeune stated this is the revised sidewalk plan that will be in the budget.

Drainage Improvements at North Main Street at FS#2 – Suzanne Henson brought Resolution 22 that states the negotiated bid from McElhenney Construction is reasonable and to award that bid to them.

MOTION by Councilman Goodlin to recommend to Council to push Resolution 22 to the City Council agenda.

Seconded by Councilman Hughes

MOTION CARRIED UNANIMOUSLY.

Ms. Henson approached the Council about Ordinance 2022 which states the funds for Resolution 22 will be taken out of the COVID Relief Fund.

MOTION by Councilman Goodlin to recommend to Council to push Ordinance 2022 to the City Council agenda.

Seconded by Councilman Hughes

MOTION CARRIED UNANIMOUSLY.

VI. City Engineer's Report (Separate Handout)

Josh Newman stated the D'Olive Bay Boat Launch has started, the North Main St. project is going to Council for funding, the drainage improvements at Lake Shore Drive will start next week, the sidewalk TAP Grant project will have its bid opening next week, and the Sports Complex bathrooms will be completed next month.

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

CITY OF DAPHNE PUBLIC WORKS COMMITTEE MINUTES
September 6th, 2022 - 5:15 P.M.
DAPHNE CITY HALL

- A. Work Request Report – July 2021 & July 2022
The Public Works Department completed 548 work orders in July 2022.
- B. Vehicle/Equipment Maintenance Reports – FY2021-2022 YTD
- C. Public Works Related Overtime Report — 91.67% of the year used; \$123,946.85 Used
YTD as of August 30th, 2022.
- D. Street Sweeper Report — July 19th – August 18th, 2022

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

- A. Monthly Recycle Tonnage Report (Tonnage Comparison) — No Report
- B. Solid Waste New Customer Report – July 2022— 43 new residential; 0 new commercial
- C. Tallent Lane Facility Report – No Report

IX. MOSQUITO CONTROL SERVICES

- A. Mosquito Report— July 2022

X. MUSEUM COMMITTEE

- A. Minutes – August 8th, 2022

XI. BEAUTIFICATION COMMITTEE

- A. Minutes – No Report

XII. ENVIRONMENTAL ADVISORY COMMITTEE

- A. Minutes – July 25th, 2022

XIII. FUTURE BUSINESS

- A. Next Meeting – Tuesday October 3rd, 2022

XIV. ADJOURNMENT

Motion by Joel Coleman, seconded by Benjamin Hughes to adjourn. Meeting adjourned at 5:56 p.m.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of September 22, 2022
Council Chamber, City Hall - 5:00 P.M.**

Call to Order:

Chairwoman called the regular meeting of the City of Daphne Planning Commission to order at 5:06 p.m. The number of members present constitutes a quorum.

Call of Roll:

Members Present:

Kevin Spriggs
Phillip Hodgson, Secretary
Marybeth Bergin, Chairwoman
Adam Manning
Steve Olen
Andrew Prescott, Vice Chairman

Staff Present:

Adrienne Jones, AICP, Director of Community Development
Jan Vallecillo, Planning Coordinator
Patrick Dungan, Attorney
Troy Strunk, Executive Director, City Development
Joshua Newman, City Engineer
Tim White, Environmental Programs Manager

The first order of business is the approval of the minutes.

Chairwoman asked for questions, comments or corrections to the minutes ***of the regular meeting of August 22, 2022. There being none, minutes are approved as submitted.***

The next order of business is master plan and site plan review for 7 Brew.

An introductory presentation was given by David Dichiaro, Engineering Design Group, requesting master plan and site plan review for a coffee shop and strip shopping center with associated parking, drainage, and landscaping located southeast of the intersection of Alabama Highway 181 and Papa George Street. He advised of ALDOT's review comments regarding the elimination of the left turn lane on Alabama Highway 181 and requested a right-out only onto Papa George Street.

Chairwoman asked for Commission questions or comments. Mr. Olen apologized to Mr. Dichiaro for his comments made at site preview meeting regarding information contained in the traffic impact study.

Chairwoman referred to staff comments. Mr. Newman advised of his concerns regarding traffic and receipt of final approval from ALDOT for a connection to Papa George Street and Alabama Highway 181. Mr. Olen advised the applications should be tabled until those issues are resolved.

Chairwoman asked for a motion to table the associated applications.

Two **Motions** were made by Mr. Olen and **Seconded** by Mr. Manning **to table 7 Brew master plan and the site plan until the regular meeting of October 27, 2022. There was no discussion on the motion. Mr. Spriggs abstained from the votes. The Motion carried.**

The next order of business is preliminary/final plat review for the Resubdivision of Lot 4, Friendship Park, A Resubdivision of Lots 1 & 2, Trione Trace.

An introductory presentation was given by Melissa Currie, Goodwyn, Mills & Cawood, requesting preliminary/final plat review of a three-lot subdivision located in Baldwin County District 15 consisting of five-point zero-one acres located southeast of the intersection of Friendship Road and Athlete Drive for the purpose of the construction of a facility for Mobile Ballet of Eastern Shore.

Chairwoman asked for Commission questions or comments and asked about access. Ms. Jones stated the access is the thirty-foot access and utility easement along the southern boundary of the lots.

Chairwoman opened the floor to public participation and no one came forth. She closed public participation and asked for a motion.

A **Motion** was made by Mr. Prescott and **Seconded** by Mr. Hodgson **to approve the Resubdivision of Lot 4, Friendship Park, A Resubdivision of Lots 1 & 2, Trione Trace preliminary/final subdivision plat. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is site plan for Cambria Daphne.

An introductory presentation was given by Nate Fuss, Bohler Engineering, requesting site plan review of a retail office, showroom and warehouse with associated parking, drainage and landscaping located south of Equity Drive and County Road 64.

Chairwoman referred to staff comments. Mr. Newman advised that his comments were minor and have been addressed.

Chairwoman asked for Commission questions or comments or a motion.

A **Motion** was made by Mr. Hodgson and **Seconded** by Mr. Olen **to approve Cambria Daphne site plan. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is site plan for Daphne Avenue Mixed Use.

An introductory presentation was given by Larry Smith, S.E. Civil, requesting site plan review of a mixed-use building consisting of commercial and residential units with associated parking, drainage and landscaping located northeast of the intersection of Main Street and Daphne Avenue.

The City of Daphne
Planning Commission Minutes
Regular Meeting of September 22, 2022
Council Chamber, City Hall - 5:00 P.M.

Mr. Smith said that a revised traffic impact study was provided and the developer has agreed to some of the improvements to Daphne Avenue near U.S. Highway 98.

Chairwoman asked for Commission questions or comments and advised of staff comments. Mr. Newman advised of his concerns about additional traffic and required improvements to Daphne Avenue near U.S. Highway 98. Mr. Olen said this appears to be another application that should be tabled until traffic improvement issues are resolved.

Mr. Spriggs stated that he does not see a need to delay action on a project for outstanding engineering details that can be addressed by the City Engineer.

Mr. Olen stated that he is adamantly opposed to this project until the traffic concerns are fully and completely addressed.

Mr. Smith noted that the improvements recommended in the traffic impact study are based on existing traffic congestion on Daphne Avenue with or without this development.

Mr. Hodgson stated that he is in favor of the project and would like to see the development move forward.

Chairwoman asked for Commission questions or comments and for a motion.

A Motion was made by Mr. Olen and Seconded by Ms. Bergin to table Daphne Avenue Mixed Use site plan for the final traffic study and required improvements until the regular meeting of October 27, 2022. There was no discussion on the motion.

Upon roll call vote, **the Motion carried.**

Mr. Spriggs	Nay
Mr. Hodgson	Aye
Ms. Bergin	Aye
Mr. Olen	Aye
Mr. Manning	Aye
Mr. Prescott	Aye

The next order of business is site plan for Timber Circle Office.

An introductory presentation was given by Andy McCartney, TTL, Inc., requesting site plan review of an office building with associated parking, drainage and landscaping located northwest of Timber Circle and Mill Lane.

Chairwoman referred to staff comments. Mr. Newman advised that his comments were minor and have been addressed. Ms. Jones stated the outstanding comments were minor and can be addressed prior to or at the preconstruction meeting.

Chairwoman asked for Commission questions or comments or a motion.

A **Motion** was made by Mr. Prescott and **Seconded** by Mr. Manning **to approve Timber Circle Office site plan. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is an administrative presentation of a proposed amendment to the Land Use and Development Ordinance.

Ms. Jones provided an overview of a proposed amendment to the Land Use and Development Ordinance to add a Medical Overlay District with associated uses relative to a B-2(a), General Business Alternate, district. The District will entail the properties currently owned by Infirmary Health Systems, Inc. to encompass Infirmary Health Malbis Medical Office and Thomas Hospital Emergency - Malbis located southwest of Alabama Highway 181 and U.S. Highway 90. The district map provided defines the full extent of the district. She provided an overview of the noted modifications discussed at the site preview meeting and said that the document has been submitted for review, discussion and requested action.

Mr. Prescott asked for clarification about the ten percent landscape requirement. Mr. Dungan responded ten percent of the site. Mr. Strunk advised that the district could encompass more than the Infirmary Health Malbis Office Building in a future setting; therefore, each site outlined in the master plan must meet the ten percent landscape requirement.

Mr. Dungan stated typically, a section of the overlay district will state that anything not expressly enumerated in this ordinance shall refer back to the underlying zoning designation.

Commission discussed the provisions of the district and expressed concerns with regard to signage, setbacks, landscaping and buffers and several members requested that the amendment be tabled until those issues are addressed.

Chairwoman asked for Commission questions or comments and or a motion.

A **Motion** was made by Mr. Olen and **Seconded** by Ms. Bergin **to table the proposed Land Use Ordinance amendment to add Article 41, Medical Overlay District until the regular meeting of October 27, 2022. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is a pre-zoning and annexation request for Infirmary Health Systems, Inc.

An introductory presentation was given by Joe Stough, Chief Operating Officer of Infirmary Health Systems, Inc., requesting pre-zoning and annexation a thirty-six point one eight acre parcel owned by Infirmary Health Systems and its affiliates consisting of residential and commercial zoning located southwest of the intersection of U.S. Highway 90 and Alabama Highway 181 as B-2(a), General Business Alternate.

Chairwoman asked for Commission questions or comments and advised that there was no information provided regarding an expansion of facilities.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of September 22, 2022
Council Chamber, City Hall - 5:00 P.M.**

Chairwoman stated the presentation only pertains to pre-zoning and annexation of the subject property.

Chairwoman opened the floor to public participation for the pre-zoning request.

Ms. Jones provided correspondence received from Demetrias Mathews and Angelo Mathews, Malbis Memorial Foundation President, regarding the request.

Willard Simmons, 9628 Malbis Lane, spoke in favor of the pre-zoning, commented about the relocation of the lake and advised of his plans to annex his property into the city.

Angelo Mathews, Malbis Memorial Foundation President, 29300 State Highway 181, spoke in opposition to express his concerns about traffic, construction impact, lighting, historic preservation, setback, permitted uses, trees and landscaping.

Chairwoman advised that there was no information provided regarding the expansion or any permitted uses planned near Malbis Lane.

Clark Gerken, 9511 Malbis Lane, spoke in opposition to express his concerns about the use of his property as turn around on Malbis Lane.

Betty Godwin, 9780 Malbis Lane, spoke in opposition to express her concern about the setback from the centerline of Alabama Highway 181 and Malbis Lane.

George Kalasountas, 9563 Malbis Lane, spoke in support of the requests and commented that the facilities are an asset to the community.

Demetrias Mathews, 29289 State Highway 181, spoke in opposition to express his concerns about traffic, quality of life, lighting, drainage, setbacks and requested the installation of a privacy fence and landscaping along Malbis Lane.

Chairwoman closed public participation and asked for a motion.

Chairwoman asked should the associated applications be considered or tabled to run concurrent with the overlay district. Mr. Stough advised that he would like to table the applications.

A Motion was made by Mr. Olen and Seconded by Ms. Bergin to table the pre-zoning and annexation until the regular meeting of October 27, 2022. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is the election of officers.

Chairwoman opened the floor for nominations for Chair. Mr. Olen nominated Ms. Bergin. The nominations were closed. With no other nominations, Ms. Bergin is Chairwoman.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of September 22, 2022
Council Chamber, City Hall - 5:00 P.M.**

Chairwoman opened the nominations for Vice Chairman. Ms. Bergin nominated Mr. Prescott. The nominations were closed. With no other nominations, Mr. Prescott is Vice Chairman.

Chairwoman opened the nominations for Secretary. Mr. Hodgson nominated Mr. Peterson. The nominations were closed. With no other nominations, Mr. Peterson is Secretary.

The next order of business is public participation.

Chairwoman asked for public participation.

Nick Catranis, AEOS, L.L.C., spoke in opposition to 7 Brew and expressed his concerns about its impact on the parking area on the property to the south, traffic and rights associated with the forty-five foot parking and access easement.

The next order of business is the attorney's report.

Mr. Dungan had no report.

The next order of business is commissioner's comments.

Chairwoman advised that she had concerns about the Medical Overlay District and is not at a point where she is comfortable moving forward until the issues are addressed.

The next order of business is director's comments.

Director presented the upcoming meeting dates. Site Preview is October 19, and the Regular Meeting is October 27, 2022.

There being no further business, the meeting was adjourned at 6:58 p.m.

Respectfully submitted by:


Jan Vallecillo, Planning Coordinator

Approved: October 27, 2022


Andrew Prescott, Vice Chairwoman

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 27, 2022
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

Report

1. **CALL TO ORDER:** 5:00 p.m.
2. **CALL OF ROLL** Andrew Prescott, Kevin Spriggs, Steve Olen, Nathan Jones, John Peterson, Adam Manning, Ronnie Huskey and Phillip Hodgson
3. **APPROVAL OF MINUTES:**
Review of minutes of the regular meeting of September 22, 2022. (**Approved**)
4. **PRESENTATION:** Envision Daphne 2042 Update by Orion Planning + Design (**No action taken**)
5. **OLD BUSINESS:**
 - A. **7 BREW MASTER PLAN AND SITE PLAN REVIEW:**
 1. File MPR22-06: (**Approved contingent upon right-of-way approval by ALDOT**)

Presentation by David Dichiara or Austin Lutz, Engineering Design Group, of a master plan review of 7 Brew.

Site: 7 Brew Daphne

Zoning: B-2, General Business

Location: Southeast of the intersection of Alabama Highway 181 and Papa George Street
Area: 1.73 Acres $\pm$
Owner: Malbis Plantation, Inc. - Lewis Stirling, President
Developer: GMC 7B Real Estate, L.L.C.
Engineer: Engineering Design Group - David Dichiara or Austin Lutz
 2. File SP22-14: (**Approved contingent upon right-of-way approval by ALDOT**)

Site: Daphne Avenue Mixed Use

Zoning: B-2, General Business

Location: Northeast of the intersection of Main Street and Daphne Avenue
Area: 1.73 Acres $\pm$
Owner: Olde Towne Investments, L.L.C. - Geoff Lane
Developer: Stoic Equity Partners - Jeremy Friedman and Grant Reeves
Engineer: S.E. Civil - Larry Smith
 - B. **SITE PLAN REVIEW:**
 1. File SP22-18: (**Approval contingent upon staff review and approval of the roadway improvement design. Site disturbance permit shall not be issued until such time as roadway improvements have been reviewed and approved by staff. Prior to the issuance of a certificate of occupancy, the developer shall provide a copy of the recorded cross easement agreement**)

Site: Daphne Avenue Mixed Use

Zoning: B-2, General Business

Location: Northeast of the intersection of Main Street and Daphne Avenue
Area: 1.73 Acres $\pm$
Owner: Olde Towne Investments, L.L.C. - Geoff Lane
Developer: Stoic Equity Partners - Jeremy Friedman and Grant Reeves
Engineer: S.E. Civil - Larry Smith

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 27, 2022
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

Report

C. ADMINISTRATIVE PRESENTATION:

PROPOSED AMENDMENTS TO THE LAND USE AND DEVELOPMENT ORDINANCE:

1. File AP22-08: (Favorable recommendation to City Council)

Presentation to be given by Adrienne Jones, Director of Community Development, to amend the Land Use and Development Ordinance to add Article 41, Medical Overlay District.

D. INFIRMARY HEALTH SYSTEMS, L.L.C. PRE-ZONING AMENDMENT AND ANNEXATION:

1. File PZA22-05: (Favorable recommendation to City Council)

Applicant: Infirmary Health Systems, Inc.

Present Zoning: *B-2, Neighborhood Business, and RSF-1, Residential Single Family, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne*

Proposed Zoning: *B-2(a), General Business Alternate*

Area: 36.18 Acres $\pm$

Location: Southwest of the intersection of U.S. Highway 90 and Alabama Highway 181

Owner: Infirmary Health Systems, Inc. - D. Mark Nix

Agent: Infirmary Health Systems, Inc. - Joe Stough, Chief Operating Officer, Ormand Thompson, President of Thomas Hospital or Dennis Summerford, Senior Vice President, Facilities and Construction, Infirmary Health Systems, Inc.

2. ANX22-05:

A presentation to be given by Joe Stough, Chief Operating Officer, Ormand Thompson, President of Thomas Hospital, Dennis Summerford, Senior Vice President, Facilities and Construction, Infirmary Health Systems, Inc., requesting annexation of 36.18 acres owned by Infirmary Health Systems, Inc. located southwest of the intersection of U.S. Highway 90 and Alabama Highway 181. The subject property is currently zoned B-2, Neighborhood Business, and RSF-1, Residential Single Family, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne. **(Favorable recommendation to City Council)**

6. NEW BUSINESS:

A. SITE PLAN REVIEW:

1. File SP22-20: (Approved)

Site: Christian Brothers Automotive

Zoning: *B-2, General Business*

Location: Northeast of Renaissance Boulevard and U.S. Highway 90

Area: 1.12 Acres $\pm$

Owner: United Bank - Justin Jennings

Developer: Christian Brothers Automotive - Latoya Moten

Engineer: Gaskins & LeGraw - Thomas Dugan or Mark LeCraw

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 27, 2022
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

Report

B. SOUTH BRANCH MASTER PLAN REVISION, MODIFICATION TO BUFFER REQUIREMENT AND SOUTH BRANCH, PHASE ONE PRELIMINARY PLAT:

1. Request for modification to buffer requirement for wetland area. (Tabled until the regular meeting of November 17, 2022)

2. File MPA22-01: (Tabled until the regular meeting of November 17, 2022)

Presentation to be given by Jason Wooten, Wooten Engineering, requesting a master plan revision of South Branch Subdivision.

3. File SDP22-09: (Tabled until the regular meeting of November 17, 2022)

Subdivision: South Branch, Phase One

Present Zoning: R-3, High Density Single Family Residential

Location: East side of Pollard Road, north of Creekside Subdivision

Area: 24.87 Acres $\pm$, (47) lots

Owner(s): S. Hickory, Inc. - Charles K. Breland, Jr.

Engineer: Wooten Engineering - Jason Wooten

C. ADMINISTRATIVE PRESENTATION:

PROPOSED AMENDMENTS TO THE LAND USE AND DEVELOPMENT ORDINANCE:

1. File AP22-09: (Favorable recommendation to City Council)

Presentation to be given by Adrienne Jones, Director of Community Development, to amend the Land Use and Development Ordinance to add certain architectural and traffic calming standards; to amend procedures for the placement of public notice signs; and, to properly assess the cost for newspaper advertisements for applications that require public notice.

7. **PUBLIC PARTICIPATION:** None presented

8. **ATTORNEY'S REPORT:** No report

9. **COMMISSIONER'S COMMENTS:** Mr. Hodgson announced that this is his last Planning Commission meeting because his term has ended.

10. **DIRECTOR'S COMMENTS:** Director presented the upcoming meeting dates. Site Preview is November 9, and the Regular Meeting is November 17, 2022. Ms. Jones thanked Mr. Hodgson for his service and dedication during his time on the Planning Commission.

11. **ADJOURNMENT:** 6:15 p.m.

Accepted by:

Chairman, Daphne Utilities



APPROVED MINUTES

Utilities Board Meeting

Council Chambers, Daphne City Hall ♦ September 28, 2022 ♦ 5:00 p.m.

I. Call to Order

The regular September 2022 Board meeting for the Utilities Board of the City of Daphne was held on September 28, 2022, in the Council Chambers at Daphne City Hall and called to order at 5:00 p.m. by Chairwoman Selena Vaughn, followed by the Roll Call:

II. Roll Call

Members Present: Selena Vaughn, Chairwoman
Tim Patton, Vice Chairman
Billy Mayhand, Secretary/Treasurer
Councilman Joel Coleman, Board Member

Members Absent: Mayor Robin LeJeune, Board Member

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

Others Absent: Jerry Speegle – Board Attorney
Lexus Carlee – Finance Specialist

III. Pledge of Allegiance

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

IV. Approval of Minutes

Utilities Board Meeting Minutes August 31, 2022

The Chairwoman requested any additions, corrections, or deletions for the submitted minutes of the August, 2022, Daphne Utilities Board meeting.

With no additions, deletions, or corrections, the Chairwoman declared that the submitted August 31st, 2022 minutes would stand approved.

V. OLD BUSINESS - No Old Business.

VI. NEW BUSINESS –

A. Recommendation for Bid Award for: WRF Grit System Improvements (GMC Project No. CMOB210101) SRF Project No. CS010231-06 in the amount of \$1,982,000.00. (Board Action – MOTION)

General Manager Scott Polk clarified the project details noting that the bid is in line with the GMC projections and the DU budget, if approved, stating everything looks to be correct and acceptable. Mr. Polk also answered Board questions.

MOTION by Tim Patton to award the WRF Grit System Improvements (GMC Project No. CMOB210101) SRF Project No. CS010231-06 project to J&P Construction Company, Inc. in the amount of \$1,982,000.00; Motion was Seconded by Billy Mayhand.

AYE: Coleman, Mayhand, Patton, Vaughn NAY: ABSENT: LeJeune ABSTAIN: MOTION CARRIED

B. Proposed FY22-23 Budget and Capital Improvement Plan – (Board Action – MOTION)

Mr. Scott Polk advised there have been no adjustments since the work session.

MOTION by Tim Patton to approved the proposed Fiscal Year 2022/2023 Budget and Capital Improvement Plan; Motion was Seconded by Billy Mayhand.

AYE: Coleman, Mayhand, Patton, Vaughn NAY: ABSENT: LeJeune ABSTAIN: MOTION CARRIED

C. Board Officer Election – (Board Action – MOTION)

1. Chairperson

MOTION by Billy Mayhand to nominate Selena Vaughn for the officer position of Chairperson; Motion was Seconded by Tim Patton.

AYE: Coleman, Mayhand, Patton NAY: ABSENT: LeJeune ABSTAIN: Vaughn MOTION CARRIED

2. Vice Chairperson

MOTION by Billy Mayhand to nominate Tim Patton for the officer position of Vice Chairperson; no other nominations were offered.

AYE: Coleman, Mayhand, Vaughn NAY: ABSENT: LeJeune ABSTAIN: Patton MOTION CARRIED

3. Secretary/Treasurer

MOTION by Tim Patton to nominate Billy Mayhand for the officer position of Secretary/Treasurer; no other nominations were offered.

AYE: Coleman, Patton, Vaughn **NAY:** **ABSENT:** LeJeune

ABSTAIN: Mayhand

MOTION CARRIED

VII. BOARD ATTORNEY'S REPORT

Mr. Tony Hoffman, filling in for Mr. Jerry Speegle, had nothing to add to the submitted report.

VIII. FINANCIAL REPORT

Finance Manager Teresa Logiotatos began her review by: answering a previous question from the Board regarding project numbers; advising the Board of the inventory process scheduled to take place in the warehouse and followed by auditors as a double check on the count; and concluding with highlighting the revenue, expenses, net income, graphs, income statement report, cash flow statement, and the check history report.

IX. GENERAL MANAGER'S REPORT

A. GM Report

General Manager Scott Polk updated the Board on: the Diamante well; well #12 that had gone down and was currently being repaired; 4th Street water/sewer expansion; the Grit Removal System bid status; the GOMESA grant for North Main Street Sewer Line Upgrade; the Administration office remodel; commended the Board on approving the budget; noted some issues with our call center during recent water outages and solutions to these issues. Mr. Polk also advised that the Daphne Utilities' benefits enrollment is underway. He concluded in thanking the Board members for their support and unpaid service to Daphne Utilities and the Daphne community.

B. Operations Report

Mr. Bobby Purvis gave a more detailed status of the failed pump and the actions being taken to get it repaired. He updated the Board on: third-party damage situations; a water main break on Well Road that was triggered by employees performing a bore and how it became a team-building exercise; aeration completion on the D'Olive Tank at the Water Reclamation Facility; lift station improvements and right-of-way clearing moving forward under the direction of JLee Pierce and his Wastewater Collection staff; commended the Facilities Support staff; finishing up the last phase of the natural gas rehab for the fiscal year. Mr. Purvis advised that new students are being welcomed for the upcoming class of Leadership Academy beginning at the first part of November and welcomed the Board members and engineering partners to address the new class. He answered questions from Board members.

C. Engineering & Consulting Reports – nothing further was added to the submitted reports.

X. **BOARD ACTION** – Previously addressed.

XI. **PUBLIC PARTICIPATION** –

Chairwoman Vaughn invited any public participants at 5:26pm to address the Board and with no participants, closed Public Participation at 5:26pm.

XII. **BOARD COMMENTS** –

Mr. Tim Patton thanked the staff for the comprehensive budget and thanked Johnny Grimes for his collaboration for teaching stormwater pollution lessons to three 6th grade classes at Daphne East Elementary.

XIII. **ADJOURNMENT**

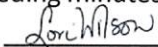
With no further discussions, the Chairwoman called for adjournment at 5:27pm.

MOTION by Billy Mayhand to adjourn; Motion was Seconded by Tim Patton.

AYE: Coleman, Mayhand, Patton, Vaughn **NAY:** **ABSENT:** LeJeune **ABSTAIN:** **MOTION CARRIED**

The meeting adjourned at 5:27pm.

Preceding minutes submitted to the Daphne Utilities Board by:



Lori Wilson, Executive Assistant, Daphne Utilities



City of Daphne

Event Permit Application

TYPE OF PERMIT:

- ☐ Special Event/Fundraiser ☒ Parade/Run (Streets Use) ☐ Walk (Sidewalks Only)
☐ Athletic Complex/Sporting Event ☐ Other: _____

APPLICANT & ORGANIZATION INFORMATION

ORGANIZATION NAME: Shadow Barons

APPLICANT NAME: Jeff Walding

STREET: P.O. Box 2770

CITY, STATE, ZIP: Daphne AL 36526

CONTACT PHONE: 251-377-0331

EMAIL: jeff@shadowbarons.com

"ON SITE" CONTACT PERSON DAY OF EVENT: Jeff Walding

CELL PHONE: 251-377-0331

EMAIL: jeff@shadowbarons.com

EVENT INFORMATION

EVENT NAME: Shadow Barons 2023 Mardi Gras Parade

TYPE OF/PURPOSE OF EVENT: mardi gras parade

EVENT DATE: February 18, 2023

TIME (START- END): 6:45 pm - 8:30 pm

ASSEMBLY TIME: 5:00 pm

PARTICIPANTS/VEHICLES: 30

EVENT LOCATION: Downtown Streets of Olde Towne Daphne

FULL DESCRIPTION OF EVENT (PLEASE LIST ANY TENTS, STAGING, PORT-O-LETS, OR SIMILAR ITEMS THAT WILL BE USED ON-SITE): Staging and line up on Main street behind library at Whispering Pines and in

Civic Center Parking Lot. Will follow Mardi Gras parade route through Olde Towne.

SPECIAL REQUESTS

ROAD CLOSURE(S) REQUESTS: ☒ Yes* ☐ No *If Yes, please indicate which City Route is requested: mardi gras

WILL YOUR EVENT REQUIRE BARRICADES: ☒ Yes* ☐ No *If Yes, please indicate quantity & location: _____

mardi gras route

WILL YOUR EVENT REQUIRE ELECTRICITY: ☐ Yes* ☒ No *If Yes, you must provide your own extension cords

WILL YOUR EVENT REQUIRE WATER: ☐ Yes* ☒ No *If Yes, you must provide your own hose(s)

OTHER SPECIAL ITEMS FOR RENT:

TENTS: 20' X 40' # _____ X \$321.00 10' X 10' # _____ X \$123.00/EACH

TABLES: 8' L # _____ X \$45.00/EACH CHAIRS: # _____ X \$12.00/EACH

OTHER SPECIAL REQUESTS: Rain date, if needed, will be Sunday, February 19, 2023.

MARKETING & COMMUNICATIONS

PLEASE NOTE: As a City permitted event, the City of Daphne should be listed as a sponsor on all marketing materials promoting your event, such as, but not limited to, posters, social media outlets, website(s), t-shirts, promo items, etc. It is the event organizer's responsibility to request the official City logo from our Marketing & Events Department in a proper format. No other City of Daphne logo should be utilized. Please initial acknowledgement: JW

Is your event open to the general public? ☒ Yes* ☐ No

* If Yes, do you wish for your event to be listed and/or shared on: www.daphneal.com? ☒ Yes ☐ No

Facebook.com? ☐ Yes ☐ No Instagram? ☐ Yes ☐ No LinkedIn? ☒ Yes ☐ No

MARKETING CONTACT (IF DIFFERENT THAN EVENT APPLICANT OR "ON SITE" EVENT CONTACT):

NAME: _____ CONTACT PHONE: _____

OTHER MARKETING REQUESTS: _____

REVENUE/BUSINESS LICENSE

WILL SALES BE GENERATED AT YOUR EVENT: ☐ Yes** ☒ No ** If Yes, please provide your City of Daphne Business License Number here: _____

PLEASE NOTE: If you are providing food trucks or other third-party vendors, they **MUST** be a licensed business with the City of Daphne.

INDEMNITY & HOLD HARMLESS AGREEMENT

In consideration of the permission granted to me by the City of Daphne to use grounds, sidewalks, and/or streets, I hereby indemnify and hold harmless the City of Daphne, its agents, servants and employees from any and all claims and causes of action that may arise from injury to me or third party using the grounds, sidewalks, and/or streets who are injured or suffer property damage that is in any way caused by my use of the grounds, sidewalks, and/or streets. This indemnity and hold harmless agreement is given to the City of Daphne to protect the City and its agents, servants, and employees from cost of defense and claims for injuries and damages that may be caused either directly or indirectly by my use of grounds, sidewalks, and/or streets.

Further, I have read and understand all rules and regulations according to the City of Daphne Ordinance No. 2017-35 as set forth by the governing body of the City of Daphne and will abide by these rules and regulations. I understand that damage to City property, grounds, sidewalks, and/or streets can and will result in additional fees. I also understand that if at any time the City of Daphne appointed Law Enforcement, Code Enforcement, or other personnel feel that said rules and regulations are not being followed the function will be terminated with no refund of said fees.

I have read and understand the above, including the cancellation and indemnity policies.

APPLICANT SIGNATURE: Jeff Walding DATE: October 20, 2022

INTERNAL USE ONLY

DATE REC'D: October 20, 2022 CITY CLERK: _____
FIRE DEPT: L.A. Taron APPROVED ROUTE: Mardi Gras
POLICE DEPT: Dundley ROUTE MAP ATTACHED: ☐ Yes ☐ No
PUBLIC WORKS: 4/4
SPORTS & RECREATION: _____ EVENT FEE: ☐ Paid \$ _____ CHK# _____
MARKETING & EVENTS: _____ ☐ Waived: _____
** REVENUE: _____ PROOF OF INSURANCE REC'D: ☐ Yes ☐ No

**COMMUNITY DEVELOPMENT
INTERNAL MEMORANDUM**



DATE: October 31, 2022
TO: Office of the City Clerk
FROM: Adrienne Jones, AICP, Director of Community Development 
SUBJECT: Proposed Amendments to the Land Use and Development Ordinance

At the October 27, 2022 regular meeting of the City of Daphne Planning Commission, eight members were present. The motion carried unanimously to set forth a favorable recommendation to the City Council to add Article 41, Medical Overlay District, to the Land Use and Development Ordinance.

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

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

Please set this hearing and the public hearing for the Infirmary Health Systems, Inc. pre-zoning and annexation together. This should be the first of the three items.

Thank you,
ADJ/jv

Attachment

cc: file

ARTICLE XLI MEDICAL OVERLAY DISTRICT

41-1 PURPOSE AND INTENT

Whereas the City of Daphne promotes a quality living environment that sustains a balanced mix of developments that serve the day-to-day needs of its residents and promotes its image as a desirable and economically stable community. The Medical Overlay District (MOD) is hereby created to recognize and reinforce the importance of the major medical facilities within the City of Daphne. The intent is to enhance and encourage the diversity of businesses and the establishment of new healthcare institutions near the Interstate 10 (I-10) corridor.

The MOD is intended to establish a regulatory framework for the comprehensive unified planned development of medical institutions, professional services, and other noted complementary land uses in a campus-type setting.

All requirements imposed by The Daphne Land Use and Development Ordinance for the applicable underlying zoning designation of each parcel within the MOD shall remain applicable unless modified by the provisions of this Article.

41-2 DISTRICT REQUIREMENTS

The following zoning district shall be allowed as established and most specifically defined in Article 7, Establishment of Districts: B-2 (A), General Business Alternate.

(a) Permitted Uses:

Permitted uses in the B-2(A) zone are as provided in Article 35, Table of Permitted Uses. Article 35, Table of Permitted Uses and Conditions, outlines the restrictions for each district.

In addition to those uses, the following shall be permitted by right within the MOD boundaries:

1. Ambulatory or other surgical centers;
2. Bed and breakfast facilities to accommodate families of patients;
3. Colleges or universities which educate medical professionals;
4. Drug store;
5. Fitness center;
6. Heliport;
7. Hospital and all supporting activities such as cafeteria, gift shop, laundry, and sterile processing facility;
8. Hotel;

9. Independent living and assisted living facilities;
 10. Nursing homes and convalescent centers;
 11. Medically related out-patient services including surgery, diagnostic and therapy services;
 12. Vocational or trade schools associated with or developing skills to be used within the medical field;
 13. Warehouse(s) and accessory structures in support of medical uses; and,
 14. Retail sales of food and other establishments that provide support to employees, visitors, and patients of the various medical facilities located within the MOD such as bakery, café, grill, deli, and restaurant with the exception that a grocery store shall not be permitted.
- (b) Other allowable uses denoted in the underlying zoning classification may be permitted as specifically enumerated in Article 35, Table of Permitted Uses and Conditions.

41-3 SPECIAL PROVISIONS

The following shall apply:

- (a) 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. Review shall be accomplished by technical staff review and approval of the Planning Commission to determine appropriateness. The applicant 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. At a minimum, the master plan shall include the locations of buildings/structures, streets and/or private drive layouts, pedestrian paths, stormwater detention/retention area(s), loading and parking areas. Substantial modifications to any approved master plan shall require additional review by the Planning Commission.
- (b) The provisions of this Article shall be required for all projects involving construction including all development within the MOD, construction of a park, public way, open space, building, or structure; construction of a public utility whether publicly or privately owned; and all existing structures which increase the gross floor area by thirty (30) percent or more; and other uses as required by the Planning Commission.
- (c) Size of properties reserved or laid out for immediate or future use shall be adequate to provide for service and parking facilities required by the type of use and development contemplated.

- (d) A site plan review shall be accomplished by technical review 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, as well as, applicable Building and Fire Codes, latest edition.
- (e) Said Site Plan approval shall be authorization to begin work, subject to the issuance of a Site Disturbance Permit by the City. Such approval shall become void upon two (2) years from the date of approval if no such permit has been acquired and/or if no such building or construction activity has occurred.
- (f) When all required improvements are installed, the developer/owner shall call for a final inspection. The Director of Community Development or duly authorized representative(s) shall inspect the site to determine if the required improvements are satisfactorily installed according to the approved plans and specifications.
- (g) All provisions of Article 11, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments and Article 18, Drainage and Storm Sewers, shall apply unless otherwise noted within this Article.
- (h) Any subdivision of the land shall conform to the provisions of Article 17, Procedures for Subdivision Review.

41-4 SETBACKS

(a) Front Setback

- i. Buildings shall be setback one hundred (100) feet from the centerline of the right-of-way of U.S. Highway 90 and Alabama State Route 181.
- ii. Front setbacks along interior streets shall be twenty-five (25) feet.

(b) Rear Setback

- i. Buildings shall be setback twenty (20) feet from the rear property line, except where abutting a residential district. Where abutting a residential district that is undeveloped or being utilized for dwelling or habitation, the rear setback shall be thirty (30) feet and shall also include a fifteen (15) feet wide planted buffer therein and a privacy fence no less than eight (8) feet in height.

(c) Corner Side Setback

- i. Buildings shall be setback one hundred (100) feet from the centerline of the right-of-way of U.S. Highway 90 and Alabama State Route 181.
- ii. Corner setbacks along interior streets shall be fifteen (15) feet from the right-of-way.

(d) **Interior Side Setback**

- i. Building setback shall be ten (10) feet from the right-of-way.

(e) **Malbis Lane Setback**

- i. Buildings that abut Malbis Lane shall maintain a minimum setback of thirty-five (35) feet and shall be measured from the property line.

41-5 BUILDING HEIGHT

(a) **Height Exceptions**

Mechanical equipment, chimneys, air conditioners, elevator penthouses, clock towers, parapet walls, and similar appurtenances are excluded from height restrictions. However, the exclusions apply only to those elements that are appurtenant to the structure. The excluded element shall not exceed the maximum height by more than fifteen (15) feet.

(b) **Minimum Building Height**

All buildings shall be a minimum of nineteen (19) feet in height.

(c) **Maximum Building Height**

- i. Hospital tower(s): ninety-five (95) feet.
- ii. Buildings used exclusively for medical offices: ninety-five (95) feet.
- iii. Parking garage(s): seventy-five (75) feet.
- iv. All other buildings including multi-use buildings: seventy-five (75) feet.

41-6 PARKING REQUIREMENTS

- (a) Parking spaces shall be provided with vehicular access to a street or alley and shall be at a rate of one space per two hundred (200) square feet of building area.
- (b) The design of the parking deck shall be compatible with the design of the principal structure and shall be submitted as a part of the overall master plan and site plan. The parking deck shall comply with the minimum requirements of this Ordinance.
- (c) Design standards for parking spaces shall be as enumerated in Article 16, Parking Provisions, Section 16-3.

41-7 SIDEWALKS

It is the intent of this section to require the installation of six feet wide sidewalks along the rights-of-way within and along the perimeter of the MOD. Construction of sidewalks shall comply with the standards enumerated in Sections 11-11. Additional sidewalks shall provide connectivity to each building, parking garage, parking lot, and open space.

41-8 LANDSCAPE STANDARDS AND TREE PROTECTION**(a) General**

Landscape and Tree Protection standards shall apply as provided in Article 19 except where otherwise enumerated within this section.

- i. A minimum of ten (10) percent of the site shall be landscaped.
- ii. Stormwater retention facilities shall count towards the landscaping requirement provided that the retention facility includes a fountain.
- iii. Change in use or ownership provision of 19-2 (b) shall not apply to the MOD.
- iv. The landscape and irrigation plan shall be reviewed and approved during the site plan review process.
- v. The Planning Commission may allow the removal of heritage trees. The property owner/developer shall plant one replacement tree for each significant heritage tree removed except for the Live Oak which is outlined below.

(b) Tree Replacements

- i. The replacement trees shall be shade or flowering trees and shall be at least three inches or greater in caliper and ten (10) feet in height at the time of planting.
- ii. Live Oaks which are removed and have less than a twenty (20) inch caliper shall be replaced on a one for one basis.
- iii. Any tree that is located within a proposed building footprint shall be replaced on a one-for-one basis.
- iv. Live Oaks which are removed and have a caliper greater than twenty (20) inch caliper shall be replaced by adding the total caliper of all Live Oaks to be removed and dividing such total by eight and rounding up to the nearest whole number.
- v. If a tree ten (10) inches or larger is not protected and is damaged or removed during construction, then one additional tree will be required to replace the damaged or removed tree.

- vi. Tree credits may apply to trees for frontage areas, parking, and other impervious areas.

(c) Green Belt Zones

- i. To encourage an adequate buffer between the MOD and other zoning districts green belt zones may account for up to forty (40) percent of the required landscaping.
- ii. Frontage area requirements (front property line or area fronting along major roadways) shall apply with this MOD.
- iii. An overstory tree shall be planted for every fifty (50) linear feet of frontage area and these trees shall be planted within fifty (50) feet of the front property line. Trees shall be shade trees and shall be three inches or greater in caliper and ten feet in height at planting. Trees are allowed to be grouped as long as they are planted within the fifty (50) setback.
- iv. There shall be a minimum of one three (3) gallon shrub for every ten feet of frontage length and shall be coordinated with tree and sod planting requirements in this area. Either an overstory or understory tree shall be planted for every sixty (60) feet of perimeter length and meet the other greenbelt requirements in the MOD.
- v. A minimum of ten (10) feet of the required building setback shall be maintained as a green belt zone along the width of the property, except where curb cuts provide ingress and egress.
- vi. All fences or walls designed to identify property boundaries shall be located near the property line. There shall be no requirement to have a six-foot planting area on the interior side of such fences or walls unless such area is included in and required by a green belt zone. Only the new construction area is required to comply with green belt and buffer zones, however, a fence is required to separate the MOD from abutting zoning districts.

(d) Stormwater Facilities

Retention ponds shall have embankments planted with sod and/or shrubs, other grasses, or trees to enhance the appearance of the pond and stabilize the embankment. A water feature such as a fountain is encouraged to promote water movement.

41-9 SIGNAGE

The provisions of Article 33, Sign Provisions, shall apply except where otherwise enumerated within this section.

(a) Monument Signs

- i. The placement of monument signs within the MOD shall be in accordance with the MOD Sign Location Map (Exhibit H-1). There shall be up to three primary monument signs. There shall be no more than three secondary signs.
- ii. The primary monument sign, which includes the face and the base together, shall not exceed two hundred and forty (240) square feet in area and the maximum height of said primary monument sign shall not exceed (12) feet.
- iii. A secondary monument sign shall be permitted along each public ROW.
- iv. The secondary monument sign, which includes the face and the base together, shall not exceed one hundred and sixty (160) square feet in area or $2/3^{\text{rd}}$ of the primary monument sign area and the maximum height of said secondary monument sign shall not exceed ten (10) feet.

(b) Wall Signs

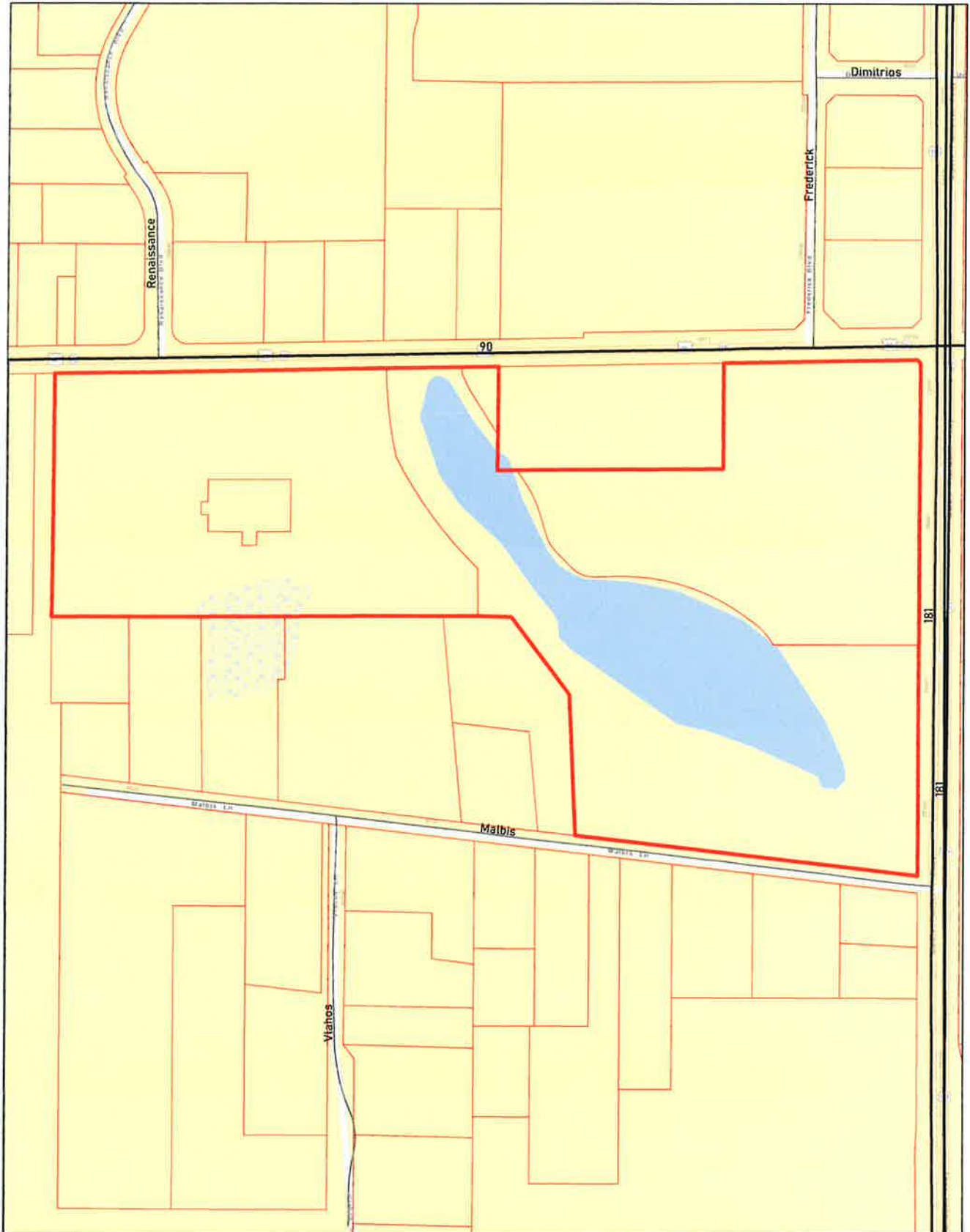
The aggregate area for wall-mounted signs shall be the lesser of (1) four hundred-fifty (450) square feet or, (2) thirty (30) percent of the building façade.

(c) Directional Signs

Interior street directional signage is permitted in the MOD.

41-10 DISTRICT MAP

The Medical Overlay District Map, Exhibit H, is hereby adopted as part of this Ordinance (See Appendix O).



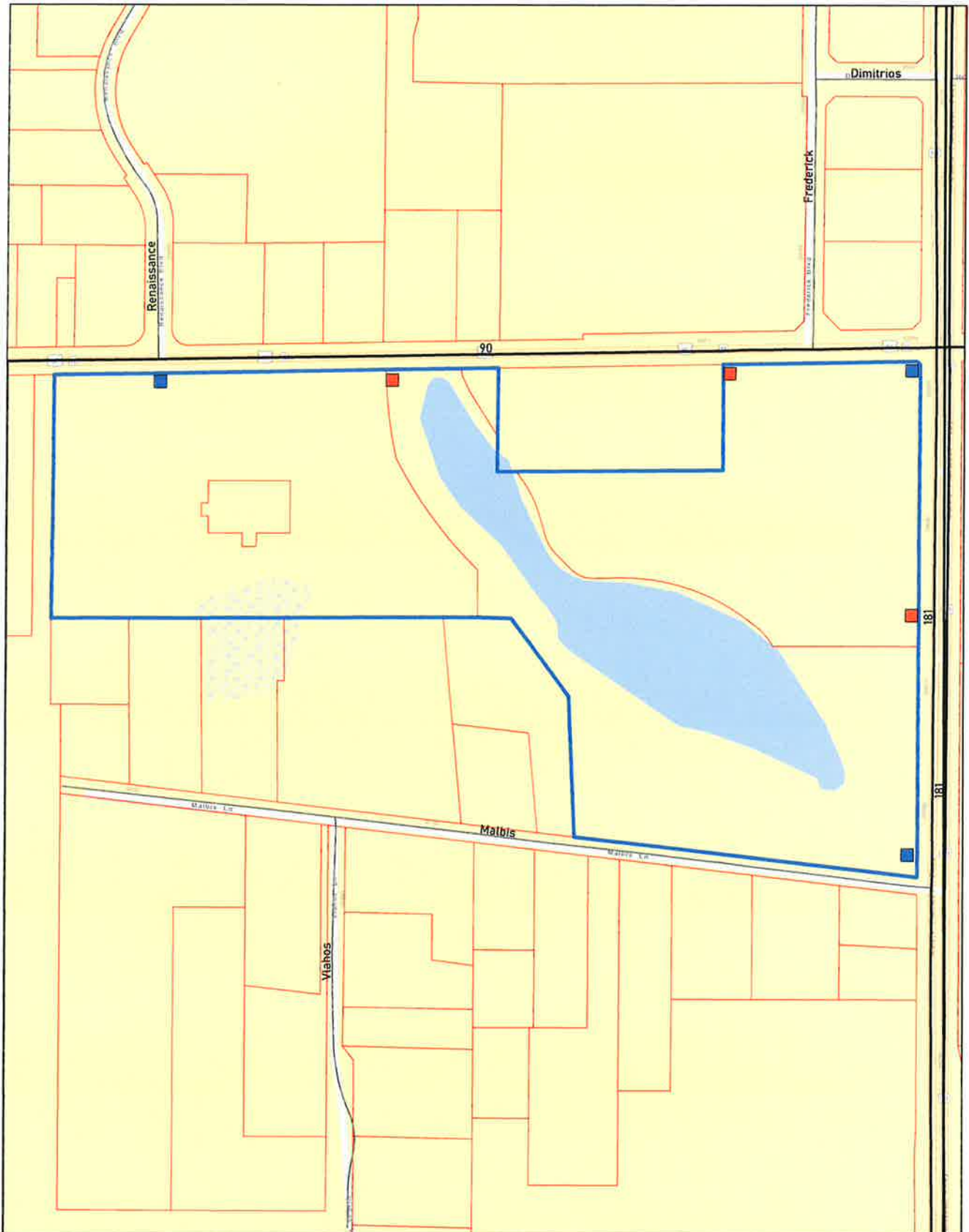
Maps are for graphical purposes only. They do not represent a legal survey.

The information contained in the data distributed by the City of Daphne is derived from a variety of public and private sources considered to be dependable, but the accuracy, completeness and currency thereof are not guaranteed. The City of Daphne makes no warranties, expressed or implied as to the accuracy, completeness, currency, reliability, or suitability for any particular purpose of the information or data contained in or generated from the City Geographic Information System. Additionally, the City of Daphne or any agent, servant, or employee thereof assume no liability associated with the use of the data, and assume no responsibility to maintain it in any manner or form. Any questions regarding zoning or any data should be directed to the City of Daphne Department of Community Development at 251-430-1000.

Basemap maintained by ESRI

- Medical Overlay District
- Other Parcels
- Major Roads
- Roads

Medical Overlay District Sign Locations



Maps are for graphical purposes only. They do not represent a legal survey.

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Basemap maintained by ESRI

0 0.05 0.1
Miles

- Medical Overlay District
- Other Parcels
- Major Roads
- Roads
- Sign Location Preferences**
- Primary
- Secondary



COMMUNITY DEVELOPMENT INTERNAL MEMORANDUM

DATE: October 31, 2022
TO: Office of the City Clerk
FROM: Adrienne Jones, AICP, Director of Community Development
SUBJECT: Infirmary Health Systems, Inc. Pre-Zoning Amendment

AJ
2

PRESENT ZONING: B-2, Neighborhood Business, and RSF-1, Residential Single Family, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne

PROPOSED PRE-ZONING: B-2(a), General Business Alternate

LOCATION: Southwest of the intersection of U.S. Highway 90 and Alabama Highway 181

RECOMMENDATION: At the October 27, 2022 regular meeting of the City of Daphne Planning Commission, eight members were present, and the motion carried unanimously for a favorable recommendation for the above captioned zoning amendment.

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

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

Thank you,
ADJ/jv

1. Community Development Report and Supplemental Documents
2. Pre-zoning Application
3. Legal Description (Exhibit A)
4. Boundary Survey (Exhibit B)
5. Adjacent Property Owners List

INFIRMARY HEALTH SYSTEMS, INC.

PRE-ZONING



INFIRMARY HEALTH SYSTEMS, INC

Prezoning Amendment

Zoning Classification:

Baldwin County – B-2, Neighborhood Business and RSF-1, Residential Single Family (ETJ)

Surrounding Zonings/Uses:

- **North**—B-2, General Business
- **South**—RSF-1, Residential Single Family
- **West**—B-2(a), General Business Alternate and RSF-1, Residential Single Family
- **East** —Unzoned (ETJ)

Existing Utility Service Providers: Riviera Utilities, AT&T, Daphne Utilities

Affected City Service Providers: Fire Station 3 or 4, Police Beat 3

Staff Recommendation to PC: Favorable recommendation to City Council as a B-2(a), General Business Alternate

Proposed Zoning:

B-2(a), General Business Alternate

Development Concept:

Medical Complex

Council District:

7

Existing Conditions:

36.18 ac

Planning Commission

Set forth a favorable recommendation to Council on 10/27/22.

The Comprehensive Plan

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

Goal: Provide a land use plan for the City of Daphne, which supports the City's economic development, housing, transportation, and open space, recreation and education goals in a manner that maintains and promotes Daphne's unique image and quality of life.

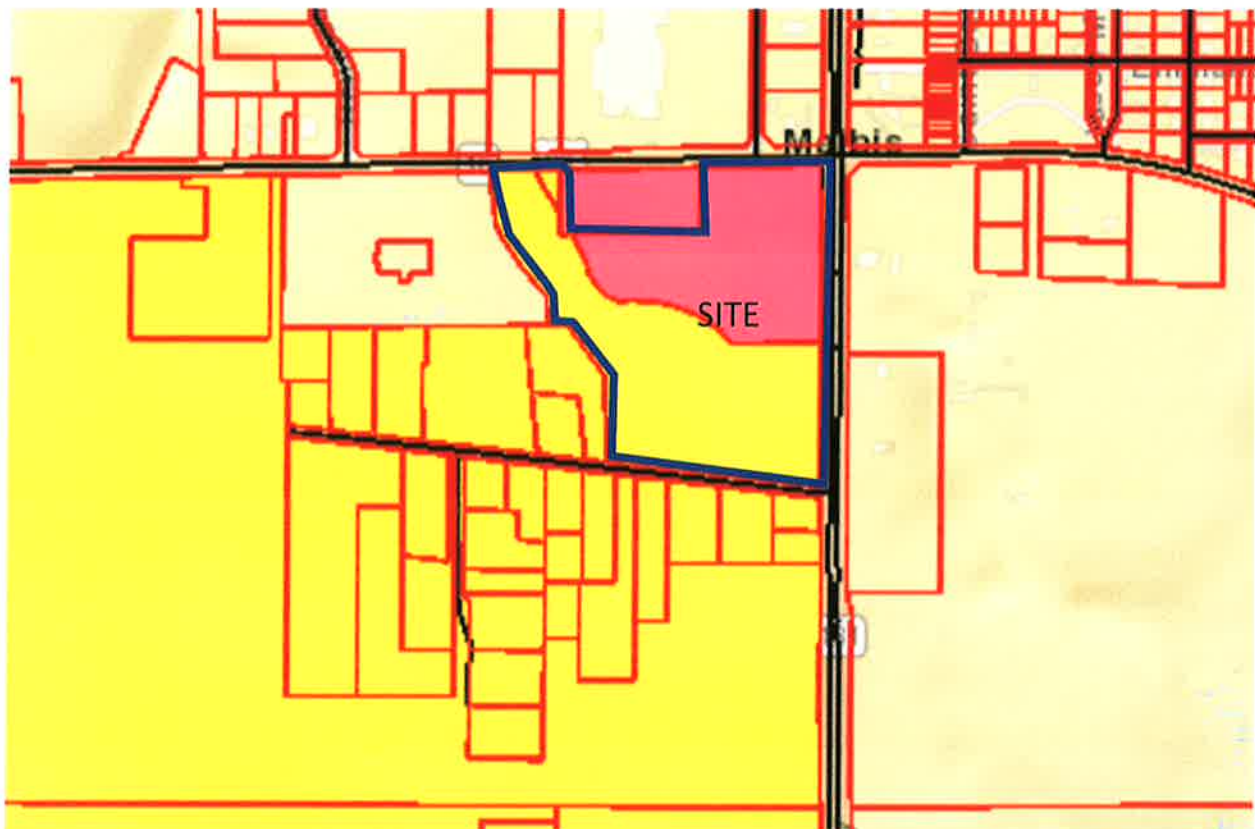
Goal: Grow sensibly by anticipating land use needs. Objective: Promote and manage growth on undeveloped lands in a manner that will be compatible with, and complementary to, existing adjacent developed properties. Objective: Encourage planned unit developments which are beneficial to residents and which creatively take advantage of available properties that otherwise would not be developed. Objective: Protect and preserve the character of Daphne through review of new developments, the encouragement of growth that enhances the community spirit, and through aesthetic considerations. Objective: Integrate recreational resources with residential neighborhoods to insure that all portions of Daphne's population have convenient access to parks and open space. Promote clustered commercial development in defined areas.

PROPOSAL:

The applicant proposes to pre-zone the subject property to B-2(a), General Business Alternate, in order to develop a medical complex. The application includes both existing medical facilities and land for future development.

The City of Daphne in collaboration with the applicant proposes an amendment to the Land Use and Development Ordinance to create a Medical Overlay District (MOD) in order to facilitate the shared vision for a medical complex at this location. The MOD provisions would enumerate development standards for future site plans and future divisions of land. Thus, the three proposals are to be presented together in successive public hearings.

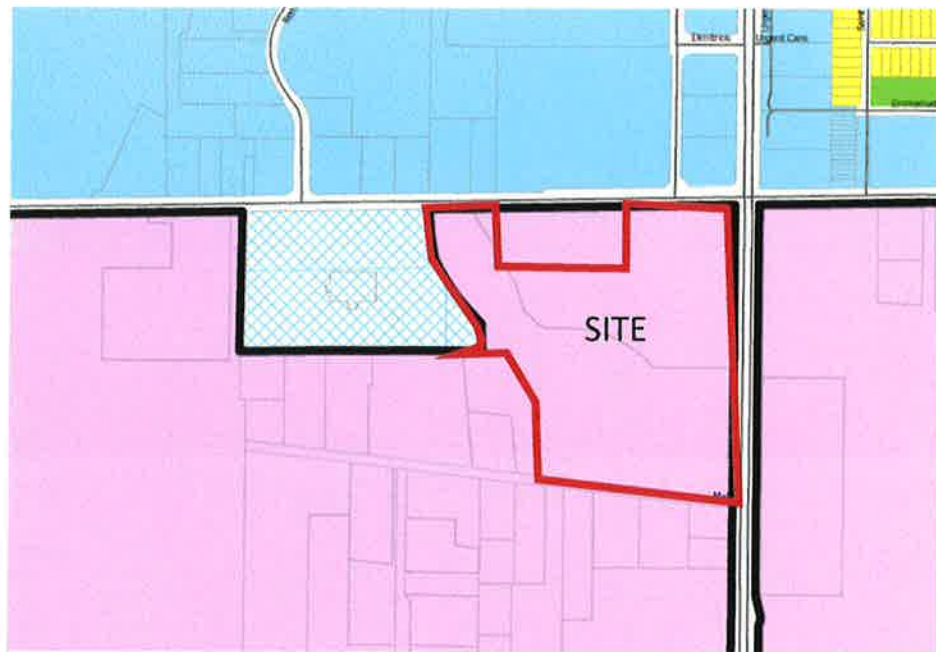
The proposed development is consistent with the Goals and Objectives noted in the Comprehensive Plan as stated above. Therefore, staff recommends the Planning Commission submit a favorable recommendation to City Council to adopt the Medical Overlay District, to pre-zone the site to B-2(a), General Business Alternate and to annex the land into the corporate limits.



COUNTY ZONING MAP EXCERPT

- ☒ County Zoning
- | | |
|---|--|
| Rural District (RR) | Residential Multiple Family District (RMF-6) |
| Rural Agricultural District (RA) | Residential Manufactured Housing Park District (RMH) |
| Conservation Resource District (CR) | Marine Recreation District (MR) |
| Residential Single Family Estate District (RSF-E) | Outdoor Recreation District (OR) |
| Residential Single Family District (RSF-1) | Tourist Resort District (TR) |
| Residential Single Family District (RSF-2) | Recreational Vehicle Park District (RV-1) |
| Residential Single Family District (RSF-3) | Professional Business District (B-1) |
| Residential Single Family District (RSF-4) | Neighborhood Business District (B-2) |
| Residential Two Family District (RTF-4) | General Business District (B-3) |
| Residential Single Family District (RSF-6) | Major Commercial District (B-4) |
| Residential Two Family District (RTF-6) | Light Industrial District (M-1) |
| | General Industrial District (M-2) |

CITY MAP EXCERPT



Zoning Key

	Daphne City limits
	R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
	R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
	R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
	R-4 HIGH DENSITY SINGLE MULTI-FAMILY RESIDENTIAL
	R-5 MOBILE HOME RESIDENTIAL
	R-6(D) DUPLEX - TWO FAMILY
	R-6(G) GARDEN OR PATIO HOME
	R-7(A) APARTMENT
	R-7(M) MID-RISE CONDOMINIUM
	R-7(T) TOWNHOUSE
	B-1 LOCAL BUSINESS
	B-2 GENERAL BUSINESS
	B-2(a) GENERAL BUSINESS ALTERNATE
	B-3 PROFESSIONAL BUSINESS
	C1 COMMERCIAL/INDUSTRIAL
	MU MIXED USE
	PUD PLANNED UNIT DEVELOPMENT
	C-2 OUTDOOR AMUSEMENT
	GC GOLF COURSE
	ET JURISDICTION



List of Adjacent Property Owners

Re: Infirmary Health Property Annexation

Willard B. Simmons, Jr.
9628 Malbis Lane
Daphne, AL 36526

Despina K. Pappas
104 Glencoe Way
Dothan, AL 36305

Rock-It Self Storage, LLC
122 Lower Woodville Rd. #15
Natchez, MS 39120

Infirmary Health System, Inc.
Dennis Summerford
5 Mobile Infirmary Circle
Mobile, AL 36607

United Bank
P.O. Box 8
Atmore, AL 36504

Lowe's Home Centers, Inc.
ATTN: Tax Dept. 1ETA
Mooresville, NC 28115

National Retail Properties, LP
450 South Orange Avenue
Orlando, FL 32801

Spriggs Enterprises, Inc.
1 Spanish Main
Spanish Fort, AL 36527

Malbis Plantation, Inc.
29470 St. Hwy. 181
Daphne, AL 36526

Malbis Memorial Foundation Trust
29300 St. Hwy 181
Daphne, AL 36526

Dimitrios G. Mathews
29289 St. Hwy. 181
Daphne, AL 36526

Angelo G. Mathews
29289 St. Hwy. 181
Daphne, AL 36526

Clifford R. Godwin
9780 Malbis Lane
Daphne, AL 36526

COMMUNITY DEVELOPMENT



September 9, 2022

Dear Sir/Ma'am,

NOTICE OF PUBLIC HEARING

A petition for PRE-ZONING will be considered by the Daphne Planning Commission for Infirmar Health Systems, Inc. containing 36.18 acres +/- located southwest of the intersection of U.S. Highway 90 and Alabama Highway 181, zoned B-2, Neighborhood Business, and RSF-1, Residential Single Family, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne, to be pre-zoned as B-2(a), General Business Alternate. A petition to annex said property has also been submitted.

Said petition will also be considered by the Daphne City Council pursuant to Alabama Code 11-52-85. The application is available for review at City Hall in the Department of Community Development, 1705 Main Street, during regular business hours. An informal site preview meeting will be held on Wednesday, September 14, 2022 at 8:30 a.m. in the Council Chambers of City Hall. The public is invited to attend: limited participation may be allowed by the chairwoman.

The public hearing will be held by the Daphne Planning Commission on Thursday, September 22, 2022 at 5:00 p.m. in the Council Chambers of City Hall. You may submit your views in writing, in person, or by representation.

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

Infirmar Health Systems, Inc. Pre-Zoning Amendment

APPLICATION & SUPPLEMENTAL INFORMATION



APPLICATION FOR REZONING OR PRE-ZONING

Office use only: Rev. 072816

Date Submitted

Application Number:

Planning Commission Public Aug. 18, 2022

ZA- or PZA- 22-05

Hearing Date: September 22, 2022

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

SITE DATA

Site Location (Address or General Proximity to Nearest Intersection): 29487 State Highway 181 (near intersection of hwy 181 & 90)		PPIN#(s): 274679 & 365189
Gross Site Area (acreage): 36.18	Requested Zoning or Pre-Zoning: B-2a	
Current Zoning Designation(s): B-2 & RSF-1 (Baldwin County)	Amended Request:	
	Initials: Date:	
Current Land Use: Business (medical) and Undeveloped	Anticipated Land Use: Business (medical)	
Provide Legal Description (if necessary attach separate page entitled "Legal Description for [Name of Applicant]": See attached survey for legal description		

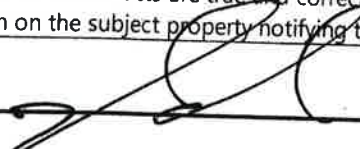
Specify other recently approved or pending requests related to the subject property. Circle the answer(s).

Annexation Subdivision Site Plan Special Exception Variance Specify Other NA

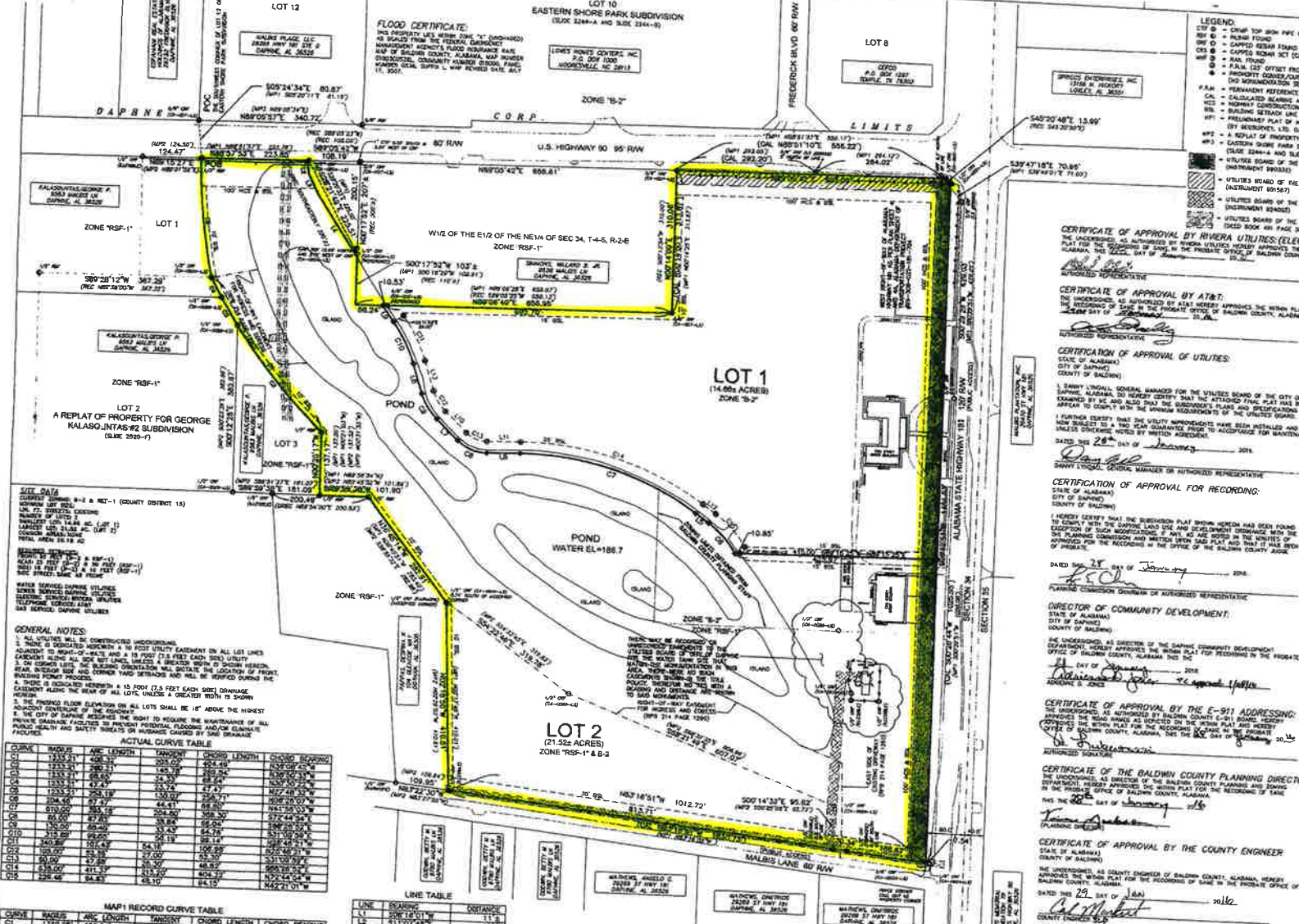
APPLICANT & AGENT INFORMATION

<i>*If an LLC or LLP or Corporation, provide name and signature of Registered Member or Agent and provide a copy of Articles of Incorporation.</i>		
Name of Current Owner: Infirmity Health System, Inc.		
Mailing Address: P.O. Box 2226, Mobile, AL 36652		Phone/Fax: 251-435-2400 E-mail:
Name of Authorized Agent: D. Mark Nix		
Mailing Address: P.O. Box 2226, Mobile, AL 36652		Phone/Fax: 251-435-5674 E-mail: mark.nix@infirmityhealth.org
Name of Developer*: NA		Phone/Fax: E-mail:
Other:		Phone/Fax: E-mail:

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

Applicant's Signature: 	Date 8/11/2022
Agent's Signature:	Date

*Public Hearing
Held 9.22.22*



GRAPHIC SCALE
0 1 MILE

PROPERTY LINE
ADJACENT TOWN OF PALM BEACH

VICINITY MAP
1" = 1 MILE

[illegible][illegible]

REVISED BY HAND AND IN THE DAY OF JANUARY 2018

[Signature]

SUBSCRIBER

ALABAMA LICENSE # 26614

IONIAN PLACE

JANUARY 21, 2016 - SHEET 1 OF 1 SHEETS

BOUNDARY SURVEY AND FLAT OF SUBDIVISION

DESIGN	D.E.D.	DRAWN	D.E.D.	CHKD.	D.E.D.
ENG.	J.N.E.	SURVEYOR	J.L.C.	PROJ. MGR.	J.C.A.

PREBLE-RISH L.L.C.
CONSULTING ENGINEERS & SURVEYORS
ONE - UNIVERSITY BLVD. - SUITE 1000
ANN ARBOR, MI 48106-1500
TEL: 734.769.8800 FAX: 734.769.8801

SCALE 1" = 100'
FILE NO. 050.0001
PLOT 5600001
SHEET 7 of 1

ALABAMA
SURVEYOR
DAVID E. CHASE

LEGAL DESCRIPTION OF IONIAN PLACE

COMMENCE AT 5/8 INCH CAPPED REBAR (CA-007-LS) AT THE SOUTHWEST CORNER OF LOT 12 OF EASTERN SHORE PARK SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED AT SLIDE 2244-A AND SLIDE 2244-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 05 DEGREES 24 MINUTES 34 SECONDS EAST, A DISTANCE OF 80.87 FEET TO A 1/2 INCH REBAR ON THE SOUTH RIGHT-OF-WAY OF U.S. HIGHWAY 90 FOR THE POINT OF BEGINNING: THENCE RUN NORTH 88 DEGREES 57 MINUTES 53 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID U.S. HIGHWAY 90, A DISTANCE OF 223.85 FEET TO A 1/2 INCH CAPPED REBAR (CA-0604-LS); THENCE RUN ALONG THE EAST BANK OF A POND THE FOLLOWING COURSE, TO WIT; SOUTH 08 DEGREES 18 MINUTES 01 SECONDS WEST, A DISTANCE OF 11 FEET, MORE OR LESS; SOUTH 11 DEGREES 07 MINUTES 45 SECONDS EAST, A DISTANCE OF 19 FEET, MORE OR LESS; SOUTH 25 DEGREES 40 MINUTES 16 SECONDS EAST, A DISTANCE OF 48 FEET, MORE OF LESS; SOUTH 32 DEGREES 27 MINUTES 19 SECONDS EAST, A DISTANCE OF 157 FEET, MORE OR LESS; TO THE WEST MARGIN OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00 DEGREES 17 MINUTES 52 SECONDS WEST, A DISTANCE OF 103 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE RUN NORTH 89 DEGREES 06 MINUTES 40 SECONDS EAST, A DISTANCE OF 658.95 FEET TO A 5/8 INCH CAPPED REBAR (CA-007-LS) AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE RUN NORTH 00 DEGREES 14 MINUTES 00 SECONDS EAST, ALONG THE EAST MARGIN OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 34, A DISTANCE OF 310.06 FEET TO A 5/8 INCH CAPPED REBAR (CA-007-LS) ON THE SOUTH RIGHT-OF-WAY OF SAID U.S. HIGHWAY 90; THENCE RUN NORTH 89 DEGREES 05 MINUTES 42 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID U.S. HIGHWAY 90, A DISTANCE OF 567.09 FEET TO A 1/2 INCH CAPPED REBAR (CA-0951-LS) ON THE WEST RIGHT-OF-WAY OF ALABAMA STATE HIGHWAY 181; THENCE RUN SOUTH 45 DEGREES 20 MINUTES 48 SECONDS EAST, ALONG THE WEST RIGHT-OF-WAY OF SAID ALABAMA STATE HIGHWAY 181, A DISTANCE OF 13.99 FEET TO A 1/2 INCH CAPPED REBAR (CA-0951-LS); THENCE RUN SOUTH 00 DEGREES 12 MINUTES 51 SECONDS WEST, ALONG THE WEST RIGHT-OF-WAY OF SAID ALABAMA STATE HIGHWAY 181, A DISTANCE OF 1491.53 FEET TO A 5/8 INCH CAPPED REBAR (CA-0033-LS) ON THE NORTH RIGHT-OF-WAY OF MALBIS LANE; THENCE RUN NORTH 83 DEGREES 16 MINUTES 51 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY OF MALBIS LANE, A DISTANCE OF 1012.72 FEET TO A 1/2 INCH CAPPED REBAR; THENCE RUN NORTH 02 DEGREES 18 MINUTES 50 SECONDS WEST, A DISTANCE OF 410.51 FEET TO A 1/2 INCH CAPPED REBAR (FAIRHOPE); THENCE RUN NORTH 36 DEGREES 45 MINUTES 14 SECONDS WEST, A DISTANCE OF 282.91 FEET TO A 1/2 INCH REBAR; THENCE RUN NORTH 89 DEGREES 59 MINUTES 38 SECONDS WEST, A DISTANCE OF 101.90 FEET TO A 1/2 INCH REBAR; THENCE RUN NORTH 00 DEGREES 20 MINUTES 17 SECONDS WEST, A DISTANCE OF 137.17 FEET TO A 1/2 INCH REBAR; THENCE RUN NORTHWESTERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 1233.21 FEET, AN ARC LENGTH OF 406.32 FEET, (CHORD BEARS NORTH 36 DEGREES 08

MINUTES 42 SECONDS WEST, A DISTANCE OF 404.49 FEET) TO ½ INCH CAPPED REBAR (CA-0604-LS); THENCE NORTHERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 1233.21 FEET, AN ARC LENGTH OF 259.19 FEET (CHORD BEARS NORTH 06 DEGREES 26 MINUTES 07 SECONDS WEST, A DISTANCE OF 258.71 FEET) TO THE POINT OF BEGINNING, TRACT CONTAINS 36.18 ACRES, MORE OR LESS, AND LIES SECTION 34, TOWNSHIP 4 SOUTH, RANGE, 2 EAST, BALDWIN COUNTY, ALABAMA.

CITIZEN INPUT

Jan Vallecillo

To: Adrienne Jones, AICP
Subject: FW: Proposed Medical Overlay District Draft

From: agmath08@yahoo.com <agmath08@yahoo.com>
Sent: Tuesday, September 20, 2022 5:09 PM
To: Adrienne Jones, AICP <ajones@daphneal.com>
Subject: Re: Proposed Medical Overlay District Draft

Adrienne,

Thank you for providing the Medical Overlay District Draft. This plus the preliminary informational site plan generated some comments. I thought it best to send you a written copy. There are a couple of things that cause significant concern but nothing that cannot be overcome with foresight and planning. Some comments seem to be not applicable or already addressed based on the preliminary informational site plan but they are included here because things change and because I may better help you understand my concerns.

As a life long resident of Malbis Plantation I am happy to have a new neighbor such as Mobile Infirmary Group as we see them as a stable and well respected addition to our community. That said due to the size and proximity of the project to my house I feel the need to take time now in the early stages to provide some comments below in the interest of maintaining my privacy, minimizing noise and preserving the quiet enjoyment of our homes and property in our historic community. There are 18 residences currently on the adjacent Malbis Lane that will be strongly impacted. I say strongly because of the obvious fact that this is no small project. It is large in scale and scope and is adjacent to a low density residential area. Below is a list of my both General rezoning comments as well as Medical Overlay specific comments.

General comments:

Traffic: What can be said here other than "No more please." This hospital will bring hundreds of additional cars a day into the middle of one of the busiest traffic areas in the county. The informational site plan shows Malbis Lane as the only entrance and exit to the site on Hwy 181. This is flatly unacceptable. With 18 homes on Malbis Lane as well as existing congestion on 181 it is already busy enough. A hospital with hundreds of employees and visitors every day needs its own access to 181 without burdening the residents here. This is our sole access to our homes. Making a left into my driveway would be particularly difficult as I would have to wait on cars backed up on Malbis Lane blocking my driveway and hope someone would let me cross left. I know of no other comparable case in the county where residents were allowed to be burdened this badly by a new large development. The Hospital must have its own independent access to Hwy 181 further north, close to where it currently has access. It is the best solution for everybody and could possibly even improve access for us on Malbis Lane by providing a better break in traffic. I urge the City of Daphne to lobby ALDOT if necessary to get this to happen.

Construction impact. The dust and vibration and early morning noise for such a long period of time is another heavy burden to take. It is expected that filling in the existing pond would require many (hundreds?) additional trucks of dirt. Traffic and noise from the hundreds of workers and heavy trucks to and from the site will require its own entrance - well away from current residences. Using Malbis Lane as a construction entrance will make all the homes there unlivable. The only solution here is a separate construction entrance and phased construction in small bites. I ask that the City of Daphne account for this when approving site plans and phases.

Lighting: The increase in stray light coming off the development sight should be kept to a minimum. We have the same comments as our neighbors further down Malbis Lane had with lights from the doctors office buildings and parking areas entering their homes.

The area encompassing Malbis is on both the Alabama and National Registers of Historic Places. What is being done to preserve any historic aspects of the property? Does Daphne have any historic preservation guidelines?

Medical Overlay Specific Comments:

Permitted Uses: Some of these permitted uses such as hotel, drug store or foodservice should not be stand alone next to residential properties as they do not belong there. Example a Hampton Inn or CVS or fast food place should not be 50 ft

from a residence due to extremely heavy noise and privacy impacts from these uses. Similar businesses were not allowed in the past for the same reasons. There is an open undefined lot next to my home, we do not want it to become one of these uses. Does this allow a separate commercial strip mall? I hope not.

Setback (Rear): In an interest to maintain our privacy we ask that the setback distance from existing residential areas be increased for taller buildings. As the ordinance is written it seems that a 95+ ft tall building can be placed just 30 ft from the right of way next to Malbis Lane. This is exceptionably close to where I live and gives me nowhere to go in my own yard that would not be on display to hundreds of anonymous strangers that work at or visit the hospital daily. Thankfully the current informational plan does not show tall buildings close to residences. But I think this would be a common sense good for the ordinance and good for residents too. Also there is no square footage requirement to the set backs. All of these proposed buildings are very large and would be out of place and hulk over a common house structure without additional setback.

As a suggestion:

- 1 story buildings - 50 ft setback from right of way
- 2 story - 75 ft
- 3 story - 125 ft
- 4 story - 200 ft
- 5 story or more - 300 ft

These setbacks can likely be accomplished by placing landscaping and parking between residences and very large buildings.

Trees: The trees on Malbis lane surrounding residential structures must not be touched. The oak trees around the house I live in provide us a strong protection from hurricanes and provide much needed cooling. They are essential to the quality of life we enjoy at home. But just as essential is the privacy they will also provide from the proposed tall buildings. These heritage oak trees hang well over our fence and it is difficult to see how they could be removed without severely damaging our property and landscaping. The development of Malbis Lane into a driveway for the Hospital would wipe these trees out and put the house just a few feet from constant heavy traffic. How can one sleep with ambulances bumping their siren trying to work through traffic just 50 ft from your bed?

Landscape: Trees, especially large fully grown trees, regardless if they are oaks or not, are critical in cutting winds from storms, cooling the surrounding area and providing privacy. This is critical to a development this large. We already have 80 acres of impermeable parking lots to the north. Adding another 30+ acres will push the entire area to be less livable, retain more heat at night and cause air conditioners to run harder for everybody around Malbis including the hospital. The amount of required landscaping is listed at 10%. This is too low. Considering the number of heritage oaks, full grown pine trees and other greenery that is being cleared, the green areas need to be more like 30%. The replacement trees will not capable of making a difference for 20 years or more. Green areas should be concentrated near residences. Making the hospital grounds greener and more beautiful will be a huge positive boost in making the hospital more successful. If well placed taller buildings will allow for more green space or even preservation of the lake then I am all for it. The lake is a gorgeous asset and should be highlighted as a public park.

With a development as large as this it seems that the 30% change to gross square footage seems excessive. If there is say 100,000 sqft built then 30,000 sqft could be added by right, without review. This means a very large and impactful building could be built without review. This could potentially be problematic.

The above comments are intended to be constructive and to provide my views on how to minimize the impact of this large development and keep the place more livable. I believe that all that I have suggested can be readily achieved with early planning and little if any burden on the hospital.

Thank you for your consideration. Let me know if you have any questions.

Sincerely,
Angelo Mathews
29289 State Hwy 181
Daphne, AL 36526
(251) 422-8744 cell

On Wednesday, September 14, 2022 at 10:26:39 AM CDT, Adrienne Jones, AICP <ajones@daphneal.com> wrote:

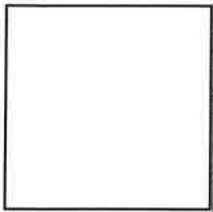
Good morning,

I've attached the proposed Medical Overlay District as per your verbal request. This does not include the changes discussed this morning by the Planning Commissioners.

Feel free to follow up with questions.

Take care,

Adrienne



Adrienne Jones, AICP

Community Development Director

ajones@daphneal.com

City of Daphne, Alabama - "The Jubilee City"

251-

Phone: 620- Web: <https://link.edgepilot.com/s/3242beb8/FuK35kETMUqgNKBTtoSJDng?u=http://www.daphneal.com/>
1700

Jan Vallecillo

To: Adrienne Jones, AICP
Subject: FW: Medical Overlay and Rezoning Comments from Malbis Memorial Foundation

From: agmath08@yahoo.com <agmath08@yahoo.com>
Sent: Thursday, September 22, 2022 3:33 PM
To: Adrienne Jones, AICP <ajones@daphneal.com>
Subject: Medical Overlay and Rezoning Comments from Malbis Memorial Foundation

As president of Malbis Memorial Foundation I would like to comment on the proposed zoning changes at Hwy 181 and Hwy 90 and their impacts on the Malbis Church. First we have no problem in principle with the enlarging of medical use and its increased presence there. We are happy to have a stable and respectable neighbor for years to come.

However there are some real, significant and very unfortunate impacts that need to be given consideration and action in order to be avoided. The biggest of which is additional noise from traffic. We desperately need to avoid any intersection near the Malbis Church. The current informational site plan shows a major intersection at Malbis Lane. This is unacceptably close. The church is built in a traditional style and has very efficient natural acoustics. Any small sound carries very easily throughout the building. There is no way to change this. Despite the church's heavy construction and setback, noise from the street is beginning to be a problem inside. Trucks using compression breaks, emergency vehicle sirens as well as trucks and motorcycles tuned for maximum noise are projecting impactful levels of sound into the building. Right now they are infrequent and short in duration. However with a light there is added volume, frequency and duration of noise. There is increased volume as loud vehicles accelerate. Increased frequency of this street noise as every two minutes the light changes. As vehicles are moving slower or idling in place the increased duration of this noise would make the noise literally constant. Imagine an emergency vehicle bumping its siren for 30 seconds or more directly in front of the church as it works through stopped cars every time one passes by. This would completely stop a service inside. Every time someone enters the church a blast of street noise would upset prayer inside. The only possible solution to the noise would be to build a large, tall, costly sound wall in front along 181. This is the last thing we want to do. The church was not built to be forced behind a wall, it was built to be seen and enjoyed. The wall would be devastating to our public image and function in the community. Who will bare the cost of this? We ask that the location of the entrance to the property be placed as far away as possible from the church to minimize the impacts of this development. The current location of the Emergency Center entrance should be maintained as the entrance to the future hospital as it offers some relief to our problem. Any site plan and zoning changes should not be approved without this stipulation.

Without this consideration the Foundation and the Church will be dealt a severe blow in our ability to maintain our function in the community. We have strived for decades to be a positive asset to the community. For almost 60 years we have been and continue to be open to the public to visit. Since its construction we have had services at our church continuously at least twice a month or more. Even back when there was little to see or do in Baldwin County we provided visitors from across the country a destination to enjoy and a reason to visit here. We are on the state and national registers of historic places. We are not only a well know local landmark but also a national landmark with our unique building. We implore the City of Daphne and the Infirmary Group to act on this request and avoid this very troubling and unnecessary impact.

Sincerely,
Angelo Mathews
Malbis Memorial Foundation, President
29300 State Hwy 181
Daphne, AL 36526
(251) 422-8744 cell

Jan Vallecillo

To: Adrienne Jones, AICP
Subject: FW: Concerns over the planned Hospital District in Malbis

From: micho <micho@mindspring.com>
Sent: Wednesday, September 21, 2022 8:29 PM
To: Adrienne Jones, AICP <ajones@daphneal.com>
Subject: Concerns over the planned Hospital District in Malbis

Dear Miss Jones,

As a long time resident of Malbis Plantation and property owner on Malbis Lane, I'm writing to you, and in general to the Daphne Planning Commission, in order to voice my concerns over the rezoning of the property adjacent to mine, which was purchased by the Infirmary Group and which is planned for major development into a Hospital district.

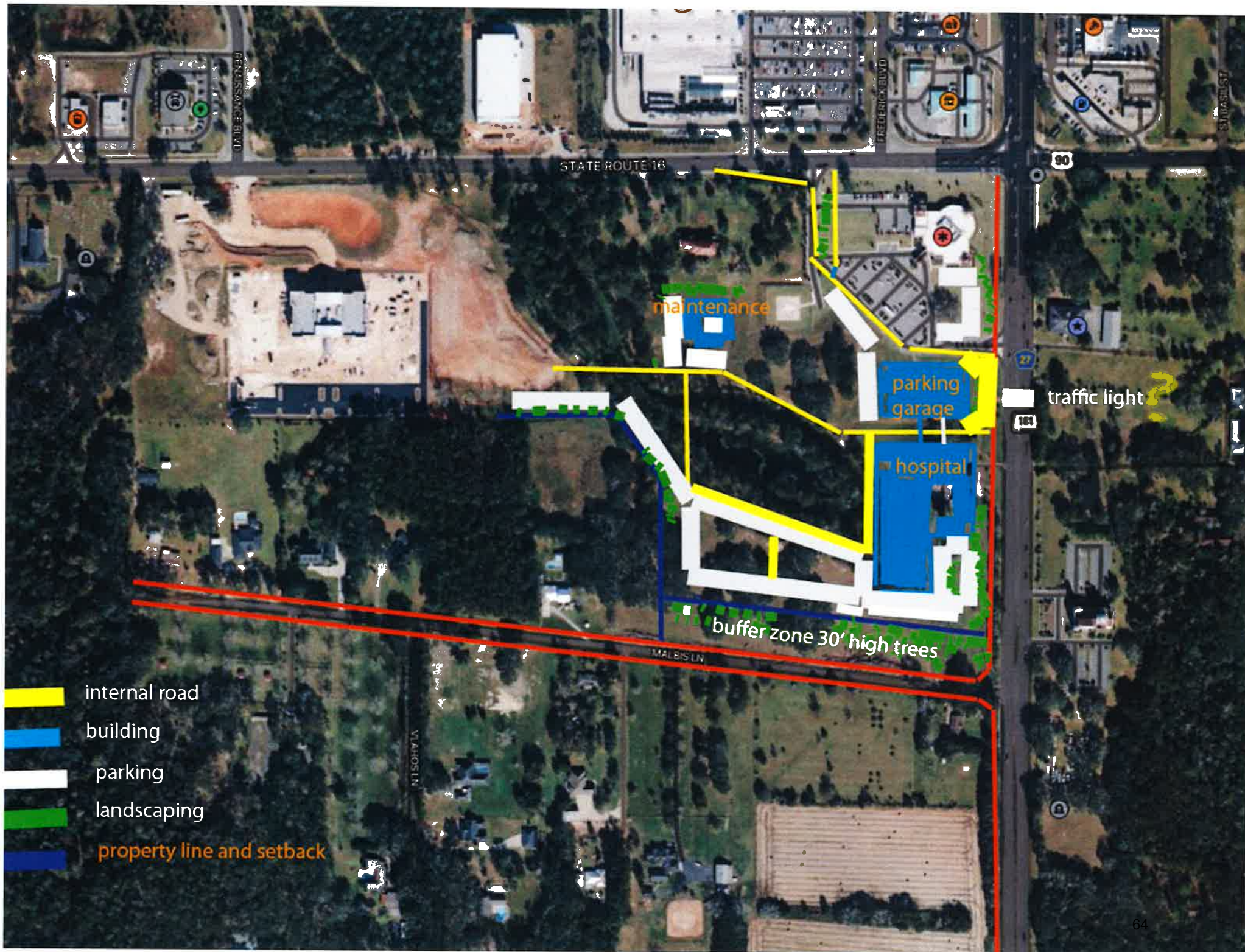
I believe that steps should be taken early to prevent the development from overwhelming the neighborhood on Malbis Lane with the effects of the growth initiated by the Hospital District's zoning allowances. In order to prevent the quality of life of the people living on and around Malbis Lane from being detrimentally affected, I propose that Malbis Lane be prohibited from being used by the developer for their business needs. I also propose that a significant 75' to 100' no-build set-back (including a fence and a row of large trees) be integrated into the property of the developer in order visually and physically separate the residences of Malbis Lane from the hospital district. Please look over the attached sketch, which shows what I have in mind.

Remember. We have to live with the effects of the development. Hospitals never close. They are always in operation. Businesses around the hospital would also negatively affect us if we had to share Malbis Lane. Parking lot lights and drainage will also be problematic if not handled properly. Currently, almost every week, traffic backs up from the US 90 light past the front of my house. The location that the Infirmary invested into is not a good one in my opinion due to traffic and the existing houses already in place.

Please consider the far-reaching implications on the residents of Malbis Lane resulting from this development when zoning changes ordinances, and ESPECIALLY construction plans for this particular district are being reviewed for approval. Thank you for your time.

Sincerely,
Dimitrios Mathews

Sent from Mail for Windows



**COMMUNITY DEVELOPMENT
INTERNAL MEMORANDUM**



DATE: October 31, 2022
TO: Office of the City Clerk
FROM: Adrienne Jones, AICP, Director of Community Development
SUBJECT: Infirmary Health Systems, Inc. Annexation Petition

PRESENT ZONING: B-2, Neighborhood Business, and RSF-1, Residential Single Family, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne

LOCATION: B-2(a), General Business Alternate

RECOMMENDATION: At the October 27, 2022 regular meeting of the City of Daphne Planning Commission, eight members were present, and the motion carried unanimously for a favorable recommendation for the above captioned for the above mentioned annexation petition.

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

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

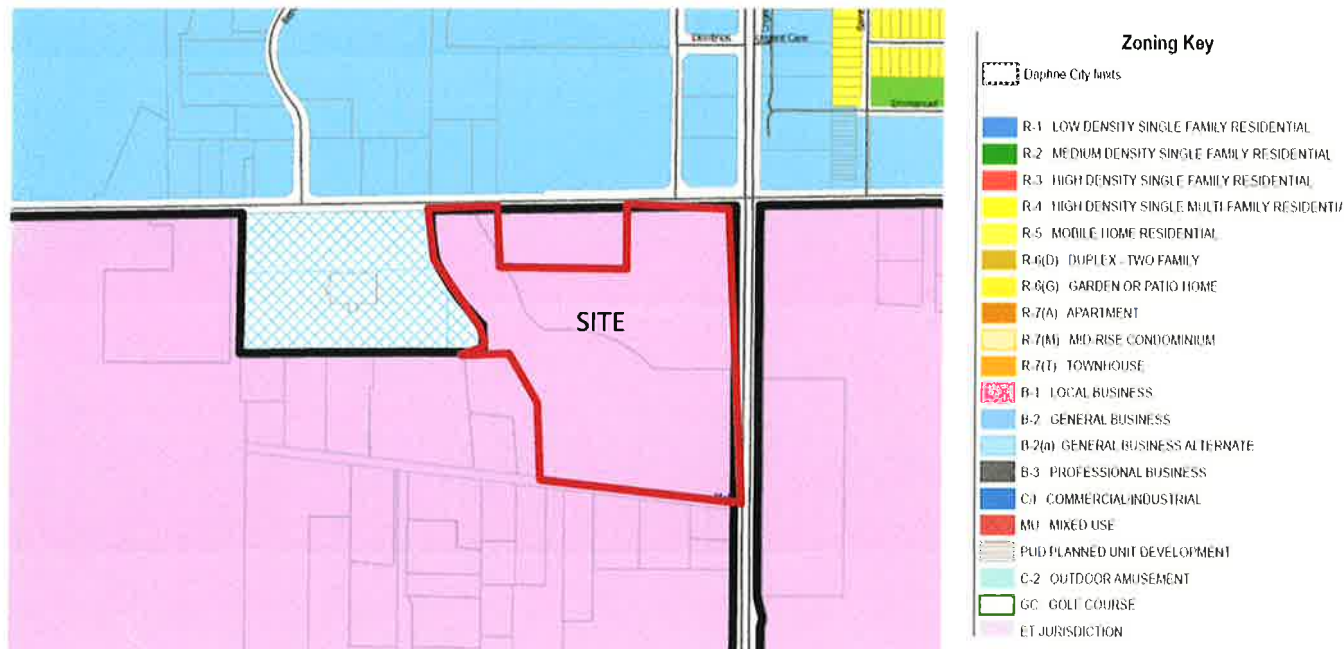
Thank you,
ADJ/jv

1. Community Development Report and Supplemental Documents
2. Petition for Annexation
3. Legal Description (Exhibit A)
4. Boundary Survey (Exhibit B)

INFIRMARY HEALTH SYSTEMS, INC. ANNEXATION PETITION

ANNEXATION REQUEST INFIRMARY HEALTH SYSTEMS, INC

Southwest Corner of U.S. Highway 90 and Alabama State Route 181



REQUEST

The applicant proposes to annex the subject property into the corporate limits. The site meets the contiguity requirement because it is abuts land in the City of Daphne.

RECOMMENDATION

The Comprehensive Plan encourages expansion and annexation of land contiguous to the existing corporate limits. Staff recommends approval of the request to annex this land into the City of Daphne.

Excerpt from Article 23-1 Procedure [for Annexation Requests]

The application shall be reviewed by the Planning Commission at its next regular meeting and said Commission shall have thirty (30) calendar days from said regular meeting within which to submit a recommendation to the City Council. If the Commission fails to submit a recommendation to the City Council within the thirty (30) calendar day period, it shall be deemed to have approved the proposed amendment...Before enacting any amendment to this Ordinance, a public hearing thereon shall be held by the City Council with proper notice as required by law. Said public hearing shall be held at the earliest possible time to consider the proposed annexation, and the Council shall take action on said proposed annexation within forty-five (45) calendar days from the date

of the public hearing except in the case where the tentative action is not in accordance with the Planning Commission's certified recommendation.

23-2 PROCEDURE FOR ZONING NEWLY ANNEXED LAND

Any land annexed to the City of Daphne hereafter shall be classified as an R-1, Low Density Single Family Residential District unless otherwise recommended by the Planning Commission through the zoning amendment procedure provided in Article 22-1, Zoning Amendment Procedures. In such case, City Council may consider, after due process of publication and hearing as required by law, specific applications to zone newly annexed land into one or more existing or proposed new zoning classifications recommended by the Planning Commission.

APPLICATION & SUPPLEMENTAL INFORMATION

**PETITION FOR ANNEXATION OF CERTAIN PROPERTY
INTO THE CORPORATE LIMITS OF THE MUNICIPALITY
OF THE CITY OF DAPHNE, ALABAMA**

(_____)
The undersigned corporation, Infirmary Health System, Inc., files this petition with the Clerk of the City of Daphne requesting the property hereafter described, commonly referred to as, Malbis Medical Park, to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of the petition:

1. **Description of Property:** The description of the property which the petitioner requests to be annexed into the City of Daphne is described in **Exhibit "A"** attached hereto and made a part of this petition as fully set out herein (the "**Property**").
2. **Map of Property:** Attached hereto as **Exhibit "B"** and made a part of this petition, is a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne.
3. **Owner:** The petitioner, Infirmary Health System, Inc., is the owner of the property hereby sought to be annexed into the corporate limits of the City of Daphne.
4. **Specific Conditions:** This petition is conditioned upon the adoption of an ordinance, which shall include specifically the conditions requested below upon annexing the said property into the corporate limits of the City of Daphne.

Requested zoning, if other than R-1: B-2a

Any other conditions which may apply upon annexation: The City adoption of a Medical Overlay District (MOD) and the inclusion of this property and the adjoining property owned by Infirmary Health System, Inc. (Parcel ID 102355) and the property owned by the Medical Clinic Board of the City of Daphne (parcel ID 383830)

5. **Code:** This Petition is filed pursuant to the provisions of Article 21, Chapter 42, Title 11, Code of Alabama, 1975, as amended.

DATED this 11th day of August, 2022

Respectfully submitted,

Infirmary Health System, Inc.

Name of Corporation

By:

Its: President/CEO

STATE OF ALABAMA
COUNTY OF BALDWIN

I, Lori H. Quimby, the undersigned Notary Public in and for said county and state, hereby certify that D. Mark Nix whose name as President/CEO of Infirmary Health System, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he/she as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 11th day of August, 2022.

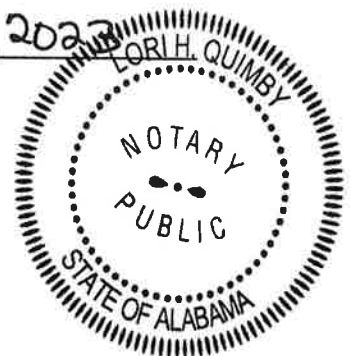
Lori H. Quimby
NOTARY PUBLIC

My commission expires:

5/9/2023

Corporation's Address

5 Mobile Infirmary Circle, Mobile AL 36607



ADDITIONAL INFORMATION

We, the undersigned, constituting all of the owners of the described real property do hereby execute and file this written petition asking and requesting that our property be annexed into the corporate limits of the City of Daphne, Alabama, under the authority of Section 11-42-20 through 11-42-24, Code of Alabama 1975.

Initials: DN

We further certify that said property is contiguous to the city limits of Daphne, Alabama. A map and written legal description of said property is hereto attached.

Initials: DN

We certify that the property is a single or multiple parcels under single or multiple ownership.
Circle appropriate response:

Initials: DN

We certify that we fully understand that upon annexation, the subject property shall be subject to all laws and codes administered by the City of Daphne, including, but not limited to, the zoning code, the subdivision regulations and the municipal code of the City of Daphne.

Initials: DN

SELECT ONE OF THE FOLLOWING OPTIONS

- ☒ Option# 1: We do hereby request pre-zoning of the subject property to the following zoning classification(s): B-2a, and certify that a petition for rezoning, associated fees and documents have been submitted prior to or concurrently with this petition.

Initials: DN

Or

- ☐ Option# 2: We do hereby certify that we understand fully that upon annexation the subject property will be zoned R-1, Low Density Single Family Residential.

Initials: _____

We do hereby request that the Planning Commission and City Council give such notice, hold such hearing and adopt such ordinance and do all such things or acts as is required by law so that the corporate limits of the City of Daphne, Alabama shall be rearranged so as to include such territory.

IN WITNESS WHEREOF, we have hereunto subscribed our names this, the 11 day of AUGUST, 2022.

Legal Description Attached (Exhibit A)? Yes Map or Survey Attached (Exhibit B)? Yes
Recorded Subdivision Plat OR Preliminary/Final Subdivision plat approved by Planning Commission Attached (Exhibit C)? Yes Acreage 36.18
Subdivision Name Ionian Place Lot Number(s) 1 & 2

Names and Signature of ALL property owners OR principle of corporation's designee:

Signature: [Signature] Signature: _____

Printed Name: D. Mark Nix Printed Name: _____

Mailing Address: 5 Mobile Infirmary Mailing Address: _____

Circle, Mobile, AL
36607

3

LEGAL DESCRIPTION OF IONIAN PLACE

COMMENCE AT 5/8 INCH CAPPED REBAR (CA-007-LS) AT THE SOUTHWEST CORNER OF LOT 12 OF EASTERN SHORE PARK SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED AT SLIDE 2244-A AND SLIDE 2244-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 05 DEGREES 24 MINUTES 34 SECONDS EAST, A DISTANCE OF 80.87 FEET TO A 1/2 INCH REBAR ON THE SOUTH RIGHT-OF-WAY OF U.S. HIGHWAY 90 FOR THE POINT OF BEGINNING: THENCE RUN NORTH 88 DEGREES 57 MINUTES 53 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID U.S. HIGHWAY 90, A DISTANCE OF 223.85 FEET TO A 1/2 INCH CAPPED REBAR (CA-0604-LS); THENCE RUN ALONG THE EAST BANK OF A POND THE FOLLOWING COURSE, TO WIT: SOUTH 08 DEGREES 18 MINUTES 01 SECONDS WEST, A DISTANCE OF 11 FEET, MORE OR LESS; SOUTH 11 DEGREES 07 MINUTES 45 SECONDS EAST, A DISTANCE OF 19 FEET, MORE OR LESS; SOUTH 25 DEGREES 40 MINUTES 16 SECONDS EAST, A DISTANCE OF 48 FEET, MORE OF LESS; SOUTH 32 DEGREES 27 MINUTES 19 SECONDS EAST, A DISTANCE OF 157 FEET, MORE OR LESS; TO THE WEST MARGIN OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00 DEGREES 17 MINUTES 52 SECONDS WEST, A DISTANCE OF 103 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE RUN NORTH 89 DEGREES 06 MINUTES 40 SECONDS EAST, A DISTANCE OF 658.95 FEET TO A 5/8 INCH CAPPED REBAR (CA-007-LS) AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE RUN NORTH 00 DEGREES 14 MINUTES 00 SECONDS EAST, ALONG THE EAST MARGIN OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 34, A DISTANCE OF 310.06 FEET TO A 5/8 INCH CAPPED REBAR (CA-007-LS) ON THE SOUTH RIGHT-OF-WAY OF SAID U.S. HIGHWAY 90; THENCE RUN NORTH 89 DEGREES 05 MINUTES 42 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID U.S. HIGHWAY 90, A DISTANCE OF 567.09 FEET TO A 1/2 INCH CAPPED REBAR (CA-0951-LS) ON THE WEST RIGHT-OF-WAY OF ALABAMA STATE HIGHWAY 181; THENCE RUN SOUTH 45 DEGREES 20 MINUTES 48 SECONDS EAST, ALONG THE WEST RIGHT-OF-WAY OF SAID ALABAMA STATE HIGHWAY 181, A DISTANCE OF 13.99 FEET TO A 1/2 INCH CAPPED REBAR (CA-0951-LS); THENCE RUN SOUTH 00 DEGREES 12 MINUTES 51 SECONDS WEST, ALONG THE WEST RIGHT-OF-WAY OF SAID ALABAMA STATE HIGHWAY 181, A DISTANCE OF 1491.53 FEET TO A 5/8 INCH CAPPED REBAR (CA-0033-LS) ON THE NORTH RIGHT-OF-WAY OF MALBIS LANE; THENCE RUN NORTH 83 DEGREES 16 MINUTES 51 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY OF MALBIS LANE, A DISTANCE OF 1012.72 FEET TO A 1/2 INCH CAPPED REBAR; THENCE RUN NORTH 02 DEGREES 18 MINUTES 50 SECONDS WEST, A DISTANCE OF 410.51 FEET TO A 1/2 INCH CAPPED REBAR (FAIRHOPE); THENCE RUN NORTH 36 DEGREES 45 MINUTES 14 SECONDS WEST, A DISTANCE OF 282.91 FEET TO A 1/2 INCH REBAR; THENCE RUN NORTH 89 DEGREES 59 MINUTES 38 SECONDS WEST, A DISTANCE OF 101.90 FEET TO A 1/2 INCH REBAR; THENCE RUN NORTH 00 DEGREES 20 MINUTES 17 SECONDS WEST, A DISTANCE OF 137.17 FEET TO A 1/2 INCH REBAR; THENCE RUN NORTHWESTERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 1233.21 FEET, AN ARC LENGTH OF 406.32 FEET, (CHORD BEARS NORTH 36 DEGREES 08

MINUTES 42 SECONDS WEST, A DISTANCE OF 404.49 FEET) TO ½ INCH CAPPED REBAR (CA-0604-LS); THENCE NORTHERLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 1233.21 FEET, AN ARC LENGTH OF 259.19 FEET (CHORD BEARS NORTH 06 DEGREES 26 MINUTES 07 SECONDS WEST, A DISTANCE OF 258.71 FEET) TO THE POINT OF BEGINNING, TRACT CONTAINS 36.18 ACRES, MORE OR LESS, AND LIES SECTION 34, TOWNSHIP 4 SOUTH, RANGE, 2 EAST, BALDWIN COUNTY, ALABAMA.

11



**COMMUNITY DEVELOPMENT
INTERNAL MEMORANDUM**



DATE: October 31, 2022
TO: Office of the City Clerk
FROM: Adrienne Jones, AICP, Director of Community Development *AG*
CC: Josh Newman, City Engineer, and Troy Strunk, Executive Director of City Development
SUBJECT: Proposed Amendments to the Land Use and Development Ordinance

At the October 27, 2022 regular meeting of the City of Daphne Planning Commission, eight members were present. The motion carried to set forth a favorable recommendation to the City Council to amend Article 6, Procedures for the Transaction of Business, Article 11, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments, Article 13, District Requirements, Article 15, Procedures for Site Plan Review, Article 19, Landscape Standards and Tree Protection, Article 34, Schedule of Fees, and Article 37, Eastern Shore Park Overlay District General Provisions. The vote was seven ayes and one nay.

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

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

Thank you,
ADJ/jv

Attachment

cc: file

LAND USE & DEVELOPMENT ORDINANCE PROPOSED AMENDMENTS

ENGINEERING, TRANSPORTATION MANAGEMENT, OPEN SPACE, DESIGN STANDARDS

ARTICLE 11

ARTICLE 13

ARTICLE 19

PUBLIC NOTICE SIGNS

ARTICLE 6

ARTICLE 15

ARTICLE 37

ADVERTISEMENT FEE

ARTICLE 34

ENGINEERING

Section 11-11 Article 11 of LUDO to amend subsection (5) as follows:

- (5) Sidewalks shall be a minimum of 4 inches thick, except that sidewalks shall be 6 inches thick wherever vehicular loads are anticipated or where adjacent to a traversable curb or gutter. A non-traversable curb is a highway curb designed to discourage a motor vehicle from leaving the roadway. Non-traversable curbs are used at locations where roadway speeds do not exceed 40 miles per hour and are at least six inches high.

Section 11-14 Article 11 of LUDO to amend subsection (l) as follows:

(l) Grading Plans:

All new subdivisions shall require an overall grading plan which shall include the finished floor elevation (FFE) plan for each lot. The FFE is defined as the elevation of the top of the concrete slab or the top of the first floor foundation to which flooring finishes and materials are to be applied except that for terrazzo, mortar bed ceramic and quarry tile, and other materials requiring a depressed slab, finished floor elevation means the top surface of the installed materials and the slab shall be depressed as required for the appropriate setting bed. The finished floor elevations for each lot shall be stated on the grading plan and on the subdivision plat.

Each lot's drainage flow pattern shall follow the overall grading plan for the development.

All lots within a subdivision should be graded to drain to the right-of-way or to a drainage easement(s) in a designated common area.

Section 11-14 Article 11 of LUDO to amend subsection (m)(2)(d) as follows:

- d. The minimum grade of swales/ditches in drainage easements shall be a minimum of half a percent (0.5 %). One percent (1%) is preferred.

Section 11-11 Article 11 of LUDO to add subsection (o) as follows:

(o) Traffic Management Plan:

(1) A Traffic Management Plan (TMP) shall be provided as a component of the residential subdivision review process or development plan review for a Planned Unit Development. Upon preliminary plat review or site plan review for the first phase of any multi-phased development, said TMP must be provided to the Planning Commission for review and approval. All traffic control devices must be installed per the requirements shown in Article 11, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments.

(2) Traffic Management Plan (TMP) shall include:

- a. A plan that illustrates the location of traffic control and traffic calming devices distributed within the entire development.
- b. Speed limit and other required traffic control signs.
- c. Traffic control pavement markings.
- d. Traffic calming devices shall be placed at a minimum of every 800 (eight hundred) feet or at a point midblock (one half) $\frac{1}{2}$ the block length, whichever is most practical.
- e. Preferred traffic calming techniques are as follows:
 - i. Speed tables
 - ii. Raised intersections
 - iii. Traffic circles

(3) The installation of Radar signs may be required upon recommendation of the City Engineer and approval of the Planning Commission.

Open Space

Article 11 of LUDO to repeal and replace Sections 11-14 (h) as follows:

A Common Open Space and Recreation Area Plan shall be provided as a component of the subdivision Master Plan and/or Overall Landscape Plan for single family or multi-family residential subdivision development, except where herein exempted. Design details are provided in Article 19, Landscape Standards and Tree Protection, Section 19-11.

(1) Single Family, Townhouse, Residential PUD, or Mixed Use PUD Development

Upon preliminary plat or site plan submission for the first phase of the development, an Agreement shall be established for the implementation of a 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.

Article 19 of LUDO to repeal and replace Sections 19-11 through 19-16 as follows:

19-11 COMMON OPEN SPACE AND RECREATION PLAN

(a) Applicability:

- (1) 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.

(b) Exemptions:

- (1) 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,
- (2) Where the entire subdivision is zoned R-1, Low Density Single Family Residential.

(c) 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.

- (1) 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 walkways, dog parks, picnic areas, general landscaped areas, flower gardens, and other uses typical for passive recreation.
- (2) 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 stormwater facilities, especially low impact development measures, may also be included.

(d) 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 multi-family 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:

- (1) The proposed common open space and recreation area plan;
- (2) 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;
- (3) 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.

(e) Performance Standards:

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

- (1) Where possible and appropriate, common open space and recreation areas shall be readily accessible and useable by property owners.
- (2) To the maximum extent practical, a portion of the common open space and recreation area should provide focal points for the development.
- (3) Common open space and recreation areas shall have at least one direct access to a public right-of-way.
- (4) 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.
- (5) 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.

(f) Streetscapes:

- (1) A streetscape design shall be incorporated into the Common Open Space and Recreation Plan as part of the Overall Master Landscape Plan.
- (2) At a minimum, the plan shall include a design for street trees and for residential lots.
- (3) One overstory tree shall be planted every fifty feet along the right-of-way with the exception of rear alleys. Said trees shall be planted at a distance of six feet or greater from any adjacent sidewalk.
- (4) This plan shall include the theme for street trees, lot trees, and street furniture that complements the proposed development.

19-12 SPECIAL DESIGNS

More stringent design and landscape standards may be required by the Planning Commission in any district if it is determined the design would be more compatible with the development and/or more beneficial to the aesthetics of the City.

19-13 RETENTION OR DETENTION PONDS IN COMMON AREAS

(a) Detention Ponds-General:

Vegetation shall be planted around the circumference of detention areas.

(b) Subdivisions and Planned Unit Developments:

Retention areas shall have embankments planted with a combination of grass (sod) and shrub plantings. Additional requirements for trees may be required as deemed appropriate by the Planning Commission. There shall be a minimum of one shrub for every five (5) feet of circumference around retention or detention areas.

19-14 SUPERVISION

The landscape architect shall be responsible for the supervision of all plantings. Upon completion, the landscape architect shall certify in writing to the Director of Community Development that the submitted, approved landscape plan has been implemented and is in compliance with the provisions of this Article.

19-15 CERTIFICATE OF OCCUPANCY

A certificate of occupancy shall not be issued until the submitted, approved landscape plan has been fully implemented or a financial guarantee for the implementation of the landscape plan is submitted. Said guarantee shall be in an amount equal to one hundred and fifty percent (150%) of the total remaining installation cost. Said cost shall be certified by the landscape architect responsible for the design. In no case shall a certificate of occupancy be approved without the written approval of the design landscape architect.

19-16 MAINTENANCE

Maintenance of new plantings, fencing and/or natural areas is the responsibility of the developer and/or property owner(s). Any vegetation or trees planted or retained to fulfill the requirements of this Article that become damaged or diseased must be replaced by the property owner by the beginning of the optimum planting season of the following year and approved by a professional landscape architect. The landscape architect or the property owner must notify the designee of the Director of Public Works in writing when the replacement tree(s) and vegetation has been planted.

19-17 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. 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.

Performance Standards

Article 13 of LUDO to repeal and replace Section 13-7 as follows:

13-7 PERFORMANCE STANDARDS

Adrienne Jones
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(1) Performance Standards for Nonresidential Districts

In all nonresidential districts (with commercial, institutional and/or industrial uses) where facilities are permitted lots, tracts or parcels 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) Architectural plans shall be signed and stamped by a Licensed Architect. Plans shall include preliminary floor plans and building elevations.
 - 1. Elevation drawings shall be presented in color. Architectural renderings and roofline treatments shall be presented for all sides.

- (i) Streetscape, Landscaping and street furniture complement residential surroundings.

- (j) 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.

1. In all non-residential zoning districts the following are preferred building materials for any wall area facing a public street or any residential land use: brick, textured concrete block, stone, 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, or alternate building material approved by the Planning Commission.

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2. Tilt-up tilt-slab or tilt-wall type building construction must include vertical architectural elements.

- (k) Certain construction materials are discouraged as they are considered aesthetically incompatible. These material include metal-finished buildings and highly-reflective glass.

- (l) Metal buildings may be permitted as follows:

1. In a C/I zone district only, except where said C/I district is located along County Road 13, Highway 98, Highway 90, Highway 181, Olde Towne Daphne, the Village Overlay District, Eastern Shore Overlay District or the Jubilee Retail Overlay District.

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(2) Performance Standards for Residential Districts

- (a) Design standards for neighborhoods or individual lots shall consider functional and aesthetic features that contribute to residential livability and community sustainability and the overall quality of life. As such, design standards should address compatibility at the neighborhood, block and individual lot level.

1. Architectural Themes:

- i. Building materials including brick, stone, textured traditional cement stucco (i.e., real stucco) and cement siding are required as the primary veneer on new dwellings.
- ii. Roofs must be varied in roofline treatments.

- iii. Front porches or deeply-shaded eaves are encouraged.
- iv. Garage fronts should not predominate; they should be recessed and/or constitute less than forty (40) percent of the residential facade.

(b) Variety:

- 1. Colored elevations shall illustrate that a minimum of three (3) different elevations are provided in each block face.
- 2. Developments of thirty-five (35) dwelling units or more should offer a minimum of five (5) different elevations.

(c) Streetscape:

- 1. Landscape plans shall establish street/lot themes. See Article 19 for further details.

(d) Residential Streets:

- 1. Traffic Calming is required within all residential developments. See Article 11 for details regarding Traffic Management Plan.
- 2. Street designs should discourage through traffic; reduced street paving widths may be considered where off-street guest parking bays are installed.

Public Notice Signs

Article 6 of LUDO to repeal Section 6-11 as follows:

Deleted: 6-11 PUBLIC NOTICE SIGNS¶

¶

This section intends to promote adequate public awareness of proposed changes to the use of real property in Daphne city limits. Pursuant to this purpose, applicants requesting site plan review, master plan review, preliminary/final, and/or preliminary subdivision plat, shall be responsible for posting a sign as provided by Community Development or in accordance with specifications provided thereby. Requests for plan review, master plan review, preliminary/final and/or preliminary subdivision plat shall not be placed upon the Planning Commission Regular Meeting Agenda if the public notice sign is not properly sited on the property subject to such application. Signs shall be placed no later than fifteen (15) calendar days prior to Planning Commission review. Any application not placed on the Planning Commission regular meeting agenda for the above cause, shall be withheld until the next review cycle. Upon compliance with this and all other applicable requirements, the application will be placed upon the agenda. Failure to comply within forty-five days of the original application submittal shall result in forfeiture of applicable application fees and rejection of the application by Community Development Director. ¶

¶

The Public Notice 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 Appendix G, Supplemental Information.¶

¶

No preliminary subdivision plat or preliminary/final subdivision plat application shall be considered "formally submitted" until such time that the public notice sign is properly placed and all other applicable provisions provided within the Land Use & Development Ordinance are met. ¶

Article 15 of LUDO to repeal Section 15-5(a)(2)(b) as follows:

Deleted: (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.¶

Article 37 of LUDO to repeal Section 37-10(d) as follows:

Deleted: ¶

(d)→ 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.¶

Public Advertisement Fee

Article 34 of LUDO to repeal and replace Section 34-1 as follows:

34-1 FEES

With the exception of sign permits, the following is a schedule of fees assessed by the Department of Community Development in the administration of the Land Use and Development Ordinance. Sign permit requests shall be reviewed by the Code Enforcement Officer as provided in *Article 33, Sign Provisions*.

Description	Fee
Administrative Review Request-BZA	\$300.00
Annexation with R-1 zoning	n/a
Annexation with Zoning Petition ¹	\$500.00
Final Plat Application	\$250.00
Grand Opening Sign Permit	\$25.00
Master Plan Review or Master Plan Amendment Review	\$50.00
Mobile Home Park Annual License	Contact Revenue Department
Mobile Home Park Application	See Site Plan
Notice to Public by Certified Mail	The greater of \$5.75 per letter or Standard Rate of USPS
Per adjoining property owner plus one	
Plat Amendment	\$100.00
Preliminary or Preliminary/Final Plat Application ²	\$300.00
Public Hearing Advertisement Fee	\$125.00
Request for the Extension (Site Plan or Preliminary Subdivision Plat approval)	\$100.00 per request
Request for the Extension of Reversionary Period	\$500.00
Sign Permit	\$2.50 per square foot (minimum \$25.00)
Site Disturbance Permit	
Said fee is based upon site costs, not to include cost of building construction. Application shall be accompanied by a cost estimate of incomplete work certified by the project engineer.	\$20.00 application fee plus \$5.00 per \$1,000 or fraction thereof
Site Plan Application	\$500.00
Site Plan Renewal/Extension Fee	\$100.00
Special Exception Application ² -BZA	\$300.00
Subdivision Per Lot Fee	\$20.00
Subdivision Plat Exemption and/or Modification	\$50.00
Vacation of Easement and/or Right-of-Way ²	\$200.00
Variance Application ² -BZA	\$300.00
Zoning Amendment Application ²	\$500.00

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NOTES:

- Any application which requires a public hearing shall be assessed a fee determined as follows:
[application fee + ((public notice fee) x (number of adjacent properties, plus one)) + **\$125.00**].
- Subdivisions requiring a public hearing shall be calculated as above plus an additional fee for each lot (number of lots) x (per lot fee).
- Sign permit applications shall be submitted to the City of Daphne Revenue Department.
- Mobile Home Park Annual License shall be submitted to the City of Daphne Revenue Department.

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**CITY OF DAPHNE, ALABAMA
RESOLUTION 2022-55**

2022-FF-DRAINAGE REPAIR AT MAY DAY PARK

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

WHEREAS, the City of Daphne acknowledges that the Drainage Repair at May Day Park project will exceed \$50,000; and

WHEREAS, the City of Daphne did receive and review bids for the project and has determined that the low bid as presented is reasonable; and

WHEREAS, staff recommends the bid for the 2022-FF-Drainage Repair at May Day Park bid be awarded to James Brothers Excavating, Inc.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that the City hereby accept the bid from James Brothers Excavating, Inc. in the amount of **\$651,166** as specified in BID SPECIFICATION NO. **2022-FF-Drainage Repair at May Day** 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 2022-62**

**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**

**ARTICLE XI, MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS FOR
SUBDIVISIONS AND COMMERCIAL SITE DEVELOPMENTS**

**ARTICLE XVIII, DRAINAGE, STORM WATER MANAGEMENT FACILITIES AND
EROSION/SEDIMENT CONTROL**

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 August 25, 2022, the Commission considered certain proposed amendments to the City of Daphne Land Use & Development Ordinance, Ordinance 2011-54 (as previously amended), and set forth a favorable recommendation to the City Council of the City of Daphne; 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, and a public hearing was held before the City Council on October 17, 2022.

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

SECTION 1. AMENDMENTS TO ARTICLE XI, MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS FOR SUBDIVISIONS AND COMMERCIAL SITE DEVELOPMENTS

(A) Section 11-2 of Article XI of the Land Use and Development Ordinance is hereby amended by inserting the following after the second paragraph thereof:

All developments, whether commercial, residential, institutional, public, or semi-public, shall comply with the provisions of Ordinance 2019-10, Flood Prevention Ordinance, as the same may be amended from time to time, and all development plans shall denote the flood zone on the construction plan cover/title sheet.

All proposed developments located within a Special Flood Hazard Area (SFHA) shall obtain written approval from the Flood Plain Administrator before issuance of a Site Disturbance permit.

(B) Section 11-8 of Article XI of the Land Use and Development Ordinance is hereby amended by repealing and replacing subsections (a), (b) and (c) thereof with the following:

(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 two 4-inch lifts (8-inch total) 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, Cul-De-Sac, 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 two 4-inch lifts (8-inch total) 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, two hundred twenty pounds per square yard (220 lb/sy).
 - (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 two 4-inch lifts (8-inch total) 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.

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.

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. A grading plan shall be required as provided in Section 11-14(j).

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.

(C) Section 11-11 of Article XI of the Land Use and Development Ordinance is hereby amended by repealing and replacing subsections (a) and (b) with 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 developments 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 or other type of development.

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

- (1) All sidewalks shall be in accordance with current ADA (Americans with Disabilities Act) requirements.
- (2) 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.
- (3) All organic material shall be removed from the sidewalk subgrade before installation of said sidewalk.

<u>(4) Type of Subdivision or Development</u>	<u>Sidewalk Width</u>
Low Density Residential	4 feet
High Density Residential	5 feet
Commercial or Industrial	6 feet
Mixed Use Development	6 feet

- (5) Sidewalks shall be a minimum of 4 inches thick, except that sidewalks shall be 6 inches thick wherever vehicular loads are anticipated or where adjacent to a traversable curb or gutter.

(D) Section 11-14 of Article XI of the Land Use and Development Ordinance is hereby amended by repealing subsection (b) therefrom in its entirety and, in order to maintain subsequent numbering and cross-references to other subsections therein, replacing subsection (b) with the following designation:

- (b) [Repealed]

(E) Section 11-14 of Article XI of the Land Use and Development Ordinance is hereby further amended by repealing and replacing subsection (d) with the following:

- (d) Location of Street Lighting:

Lighting shall be installed at all intersections, curves, hammerheads, 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.

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.

(F) Section 11-14 of Article XI of the Land Use and Development Ordinance is hereby further amended by adding new subsections (k), (l), (m) and (n) as follows:

(k) Retaining Wall Design:

Any retaining wall over 4 feet in height, measured from the top of the wall to the adjacent ground surface shall be designed and sealed by a professional engineer with prior experience designing retaining walls.

(l) Grading Plans:

All new subdivisions shall require an overall grading plan which shall include the finished floor elevation (FFE) plan for each lot. The FFE is defined as the elevation of the top of the concrete slab or the top of the first floor foundation to which flooring finishes and materials are to be applied except that for terrazzo, mortar bed ceramic and quarry tile, and other materials requiring a depressed slab, finished floor elevation means the top surface of the installed materials and the slab shall be depressed as required for the appropriate setting bed. The finished floor elevations for each lot shall be stated on the grading plan and on the subdivision plat.

All lots within a subdivision should be graded to drain to the right-of-way or to a drainage easement(s) in a designated common area.

(m) Drainage Easements and Utility Easements:

(1) 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, a drainage way, a channel or a stream, there shall be provided a stormwater or drainage right-of-way of adequate width, no less than twenty (20) feet, to accommodate normal runoff. Said right-of-way shall be at a location one (1) foot above the established high water or flood elevation.

(2) Rear lot drainage easements shall be placed in common areas and shall not be located on residential lots.

- a. Rear lot common areas must not be obstructed by development such as structures and fences.
- b. All rear lot common areas shall be maintained by the land owner.
- c. The City of Daphne shall not be responsible for the maintenance of common areas and it reserves the right to require the maintenance of all

private drainage facilities to prevent potential flooding and/or eliminate public health and safety threats or nuisance caused by said drainage facilities.

- d. The minimum grade of swales/ditches in drainage easements shall be a minimum of one percent (1%).

- (3) Common areas that contain drainage easements or drainage conveyance facilities shall be at least 20-feet wide.

(n) Parking Lots:^{1,2}

- (1) 429-A Improved Bituminous concrete wearing surface layer, (3/4), three-quarter inch maximum aggregate size mix, ESAL Range B, two hundred twenty pounds per square yard (220 lb/sy).
 - a. A lesser asphalt wearing surface thickness may be utilized if designed and approved by a professionally licensed geotechnical engineer based on the expected traffic loading over the life of the pavement.
- (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 two 4-inch lifts (8-inch total) 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.

² Other pavement designs shall be contingent upon the recommendation of the City Engineer; however, gravel parking lots shall not be permitted where the general public is intended to park and required by the City of Daphne Land Use and Development Ordinance.

SECTION 2. AMENDMENT TO ARTICLE XVIII, DRAINAGE, STORM WATER MANAGEMENT FACILITIES AND EROSION/SEDIMENT CONTROL

(A) Section 18-4 of Article XVIII of the Land Use and Development Ordinance is hereby amended by repealing and replacing subsections (A)(1)(viii) and (A)(1)(ix) with the following:

- viii. All roadway cross drain pipes or side 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 and be silt tight with either a mastic joint material or a rubber gasket. 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. Any pipe constructed within the City right-of-way or drainage easement shall be inspected by City staff prior to burial below grade.

(B) Section 18-4 of Article XVIII of the Land Use and Development Ordinance is hereby further amended by adding new subsections (A)(1)(x) and (A)(1)(xi) as follows:

- x. Any pipe within City right-of-way or drainage easement shall have a minimum grade of 0.3% and is 0.5% preferred. Minimum cover for pipe shall be 1-foot below grade or 1-foot below pavement structure (including base material).

- xi. No pipe or drainage structure within the City right-of-way or drainage easement shall be designed to be permanently surcharged unless approved in writing by the City Engineer.

(C) Section 18-4 of Article XVIII of the Land Use and Development Ordinance is hereby further amended by repealing and replacing subsection (B)(3)(iii) with the following:

- 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 (20) feet from the property line.

(D) Section 18-4 of Article XVIII of the Land Use and Development Ordinance is hereby further amended by repealing and replacing subsection (B)(4)(iii)(a) with the following:

- a. Twenty (20) feet from property line to outward toe of berm;

(E) Section 18-4 of Article XVIII of the Land Use and Development Ordinance is hereby further amended by repealing and replacing subsection (B)(4)(xiii) with the following:

- 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 twenty (20) 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.

(F) Section 18-5 of Article XVIII of the Land Use and Development Ordinance is hereby amended by repealing and replacing subsection (B)(1)(ii) with the following:

- ii. When a stormwater management facility is adjacent to a public right-of-way, the limits of the easement shall extend twenty (20) feet beyond the elevation of the reservoir on the public right-of-way side.

(G) Section 18-5 of Article XVIII of the Land Use and Development Ordinance is hereby further amended by repealing and replacing subsection (B)(2) with the following:

(2) Drainage Easement:

A minimum twenty (20) 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.

SECTION 3. CONFLICT WITH OTHER ORDINANCES

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

SECTION 4. 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 5. 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

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-63**

**AN ORDINANCE AMENDING THE CITY OF DAPHNE'S
MARDI GRAS PARADE ORDINANCE 2003-17, AS ADOPTED BY THE
CITY COUNCIL ON AUGUST 4, 2003**

SECTION SIX, THROWS

WHEREAS, the City of Daphne, after due consideration, believes that certain revisions to the City of Daphne Mardi Gras Parade Ordinance are necessary to ensure that parades are conducted in a manner that is safe to all persons involved in the parade and to the public; and

WHEREAS, the City of Daphne desires to amend said ordinance to further promote the health, safety and welfare of the citizens of the City of Daphne and their guests by ensuring that all parade activities occur in a safe and orderly manner;

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

SECTION 1: AMENDMENT TO SECTION SIX, THROWS

Section 6 of Ordinance 2003-17 is hereby repealed and replaced in its entirety with the following:

A. Throws shall be limited to the following:

1. Trinkets
 - a. Doubloons (plastic, wood, or aluminum)
 - b. Beads (no glass beads allowed)
 - c. Plastic air-inflated items such as frogs, hand grenades, billy clubs, cigars, toothbrushes, etc.
 - d. Soft stuffed toys
 - e. Frisbees, coasters, and skimmer rings (8" or less)
 - f. Empty plastic cups
 - g. Stemmed roses.
 - h. Clothing items approved by the Mardi Gras organization such as caps, garters, sun visors, etc.
 - i. Serpentine
2. Candies / Foodstuffs
 - a. Any type of soft candy wrapped in plastic or twist wrapper
 - b. Bubble gum must be twist wrapped
 - c. Peanut butter and taffy kisses
 - d. Peanuts, popcorn, crackers and crackerjacks must be in bags
3. Moon Pies
 - a. All moon pies made in the United States and single wrapped.
This includes Party Pies, Oatmeal, Doughnuts, and other similar type cakes.

B. The following throws are strictly prohibited:

1. Trinkets
 - a. Rubber balls or other hard type balls

- b. Hard or heavy bean bags
 - c. Glass products of any type
 - d. Sharp objects
 - e. Wooden objects (except doubloons)
- 2. Candies / Foodstuffs
 - a. Candies or foodstuffs in pasteboard boxes of any type
 - b. Kool pops
 - c. Candy apples
 - d. Bubble gum that is not twist wrapped
 - e. Frozen candy bars or any of the above listed allowable foodstuffs frozen
 - f. Fruits or vegetables
 - g. Alcoholic beverages
- 3. Any single item weighing over two pounds (2 lbs.).

SECTION 2. CONFLICT WITH OTHER ORDINANCES

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

SECTION 3. 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 4. 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 L. LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-64**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE 2017-34 OF THE CITY OF
DAPHNE, ALABAMA
REGARDING THE RULES AND REGULATIONS FOR DAPHNE CITY PARKS**

WHEREAS, the City of Daphne has undertaken a comprehensive review of the rules and regulations governing City parks with the intent to modify any provisions necessary to improve the health, safety, and enjoyment of park patrons; and

WHEREAS, the City of Daphne has determined that it is in the best interests of its citizens to revise and update certain provisions relating to the use of park areas or facilities as such relates to motorized vehicles, pets and commercial watercraft; and

WHEREAS, Ordinance 2017-34 is repealed in its entirety and replaced with the following:

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

SECTION I: DAPHNE CITY PARK RULES AND REGULATIONS

General Park Rules

1. City parks will open at sunrise and close at sunset, with the exception of parks which have lighting specifically designed for night activities and not merely parking.
2. No alcoholic beverages are allowed in any parks.
3. No person shall possess a weapon or discharge any weapon or explosive in a park or into a park from beyond the park boundaries to the maximum extent allowable by law.
4. No person shall deposit, drop or abandon garbage, rubbish, waste or any other kind of litter in or upon any waters or land within a park.
5. It shall be unlawful for any person to bring into, use or discard any glass beverage container, including any soft drink, beer, water bottles, drinking glasses or drinking cups made of glass and any and all similar beverage containers in any park.
6. Fires are allowed in cooking grills in designated areas only. Open “camp” fires, outside grills and personal grills are prohibited.
7. No person shall distribute or disseminate leaflets, pamphlets or other printed material or promotional materials, through the use of any mechanical device in a park for soliciting or advertising, except upon prior written consent of the City. No person shall carry on or conduct any business or service within a park without the prior written approval of the City.
8. All camping activities shall be confined to designated areas in a park with prior City approval.
9. Small tents are permitted, but must be secured to the ground. The use of stakes to secure a tent is prohibited.
10. Hitting golf balls at any City park is strictly prohibited.

11. No person shall launch, land or leave unattended any boat, canoe, raft or other watercraft upon any water, bay, lagoon, lake or pond within a park except at locations and times designated for that purpose. No person shall operate any watercraft in a designated swimming area or other prohibited area or in violation of Alabama State Law.
12. No person shall use any marine areas or marine facilities, including, but not limited to, boat launches, docks, piers, wharfs, landings, moorings, floats, or shorelines within the limits of a park for commercial purposes or for commercial watercraft. For purposes of this section, "commercial watercraft" shall mean and include any and all boats, houseboats, motorboats, yachts, cruisers, inflatables, barges, vessels, canoes, rafts, jet skis, wet bikes and/or any other watercraft that is self-propelled or designed to be propelled by the use of internal combustion engines or electric motors.
13. No person shall wade or swim within a park except at beaches designated for that purpose and then only between sunrise and sunset or at such hours as may be designated by the City.
14. No person shall be allowed to add bubbles to any splash pad. Balloons and animals are strictly prohibited at all splash pads.
15. No person shall fish in a park in violation of Alabama State Law or in any area designated as "no fishing".
16. No person shall operate a bicycle except on designated bikeways and roadways in a park.
17. No person shall operate any motorized vehicle within a park except on roadways, parking areas, or other designated locations. The speed limit shall be 15 MPH within the parks. For purposes of this rule, "motorized vehicle" shall mean and include any and all automobiles, motorcycles, all-terrain vehicles, whether two, three or four wheel; mobile trailers; trucks; truck tractors; semitrailers; trailers; and/or any other device that is self-propelled or drawn in, upon, or by which any person or property is or may be transported or drawn upon any trail, path, road, or highway.
18. No person shall launch, operate, or land within or upon any City park any remote control airplane, unmanned aircraft system (i.e. "drone" or "quad-copter"), or other unmanned aerial device (excluding kites) unless authorized by prior written consent of the City, except that certain areas may be designated appropriate landing places for law enforcement or official government aviation equipment. Exempted from the restrictions of this provision are:
 - a. any sports field located at Al Trione Sports Complex that is not otherwise occupied or in use; and
 - b. any other fields (and the airspace immediately above such fields) approved for such purposes by the Daphne City Council.
19. Any person who obtains a special event permit may use a drone to photograph their special event in the park during the course of the event. For hobby or recreational use, unmanned aircraft, including but not limited to drones, quad-copters, and remote control planes, may only occur on fields located at Al Trione Sports Complex that are not otherwise occupied or in use and any other fields approved for such purposes by the Daphne City Council. Operation of any unmanned aircraft must be done so as to not be flown within 100 feet of people, power lines, buildings, or light fixtures.
20. No person shall intentionally kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed any species of wildlife within a park, except that fishing will be permitted in designated areas.

21. No person shall remove, leave or deposit any animal, living or dead, in a park, and any animal so taken or left will be considered contraband and subject to seizure and confiscation.
22. No person shall intentionally feed any species of wildlife within a park.
23. No person shall bring a dog, cat or other pet into a park unless caged or kept on a leash not more than six feet in length. All dogs must be under the control and within sight of owners/custodians at all times. All owners/custodians are legally and financially responsible for their dog's behavior. All users of the Park do so at their own risk and assume all liability.
24. It shall be unlawful for any person to allow any dog, cat or other pet under his or her ownership, care, custody, or control to defecate in a park without removing the defecation to a proper trash receptacle.
25. No person shall allow any dog, cat or other pet under his or her ownership, care, custody, or control to disturb, annoy or harass any patrons of the park, wildlife, or other pets.
26. No person shall tether any animal to a tree or other plant. No person shall bring a dog, cat, or other pet into a park designated as an unauthorized area (playgrounds, athletic event parks).
27. Any person operating a food truck at any City park must do so in compliance with City Ordinance 2022-17, as it may be amended from time to time.
28. The following items are strictly prohibited at all City parks:
 - a. Any inflatable devices, including but not limited to bounce houses and water slides.
 - b. Metal detectors.
 - c. Any glass bottle or glass container.

SECTION II: DOG PARK RULES

In addition to the General Park Rules, the following rules shall also apply within the confines of all public dog parks within the City.

1. There is a limit of three (3) dogs per person. Owners/custodians must carry a leash for each dog and dogs may not be left unattended.
2. All dogs must be on a leash until inside the Park and upon leaving the Park.
3. There will absolutely be no female dogs in heat allowed inside the Park.
4. Each owner/custodian is responsible for cleaning up and properly disposing of dog excrement.
5. A dog must be removed from the Park at the first sign of aggression.
6. All dogs must wear a collar displaying current vaccination tags and current registration.
7. No collars that are visibly studded are permitted.
8. All children must be supervised and accompanied by an adult at all times. Children must not play in the Dog Park. The Daphne Dog Park is designed expressly for the recreation of dogs and the City of Daphne is not responsible for injuries to children.
9. No dogs under the age of four (4) months are allowed in the Park.
10. No food - human or pet - shall be allowed inside the Park.

11. All owners/custodians must stop their dog(s) from digging and shall fill any holes made by their dog(s).
12. The small dog area is reserved for dogs up to twenty-five (25) pounds. Small dogs are allowed in the large dog area, but no large dogs shall be allowed in the small dog area.

SECTION III: PENALTIES

Any person found guilty of violating any provision of this Ordinance shall be punished for a first offense by a fine of \$25, for a second offense \$50 and for a third offense \$100. For offenses greater than three, punishment may include a fine of not over \$500, by imprisonment for a period not exceeding six (6) months, or both, in the discretion of the municipal judge.

SECTION IV: SEVERABILITY

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held to be unconstitutional or invalid, such decision shall not affect or impair the remainder of this 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 V: REPEALER

Ordinances 2017-34 and 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 VI: EFFECTIVE DATE

This Ordinance shall become effective immediately and be in full force after final passage and publication as required by law.

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

Robin L. LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-65**

**AN ORDINANCE AUTHORIZING THE OPERATION OF MEDICAL CANNABIS
DISPENSING SITES WITHIN THE CITY OF DAPHNE**

WHEREAS, on May 17, 2021, Alabama Governor Kay Ivey signed the Darren Wesley “Ato” Hall Compassion Act (the “Act”) into law, legalizing and creating a regulatory framework for medical cannabis, and such Act has been codified as Code of Alabama, §§ 20-2A-1, *et seq.*; and

WHEREAS, the Act provides for the medical use of medical grade products that contain a derivative of cannabis by patients with a qualifying medical condition and a valid medical cannabis card; and

WHEREAS, the Act authorizes and requires the Medical Cannabis Commission to heavily regulate dispensary operations, thus addressing any health, safety, or welfare concerns of the citizen of the City of Daphne; and

WHEREAS, the location of a dispensary within the corporate limits of Daphne will bring the potential of new employment opportunities for Daphne’s citizens; and

WHEREAS, a dispensary would be required to obtain a business license and remit sales taxes to the City of Daphne, thus creating new revenue; and

WHEREAS, the City Council of the City of Daphne previously adopted Resolution 2022-49 on September 19, 2022, to authorize medical cannabis dispensaries within the City of Daphne, but upon further review it has been determined that the Act requires that the governing body of a municipality must adopt an ordinance authorizing the operation of such dispensaries before any such business can operate in the municipality; and

WHEREAS, the City of Daphne wishes to ratify its prior action by adopting this Ordinance authorizing the operation of medical cannabis dispensing sites within the corporate limits of the City of Daphne, subject to zoning, business license, and other revenue and police power requirements.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that, in accordance with the Act, a holder of a license granted by the State of Alabama pursuant to the Act is hereby authorized to operate a medical cannabis dispensing site within the corporate limits of the City of Daphne, subject to the provisions of the Act and other applicable state law, and further subject to any applicable ordinance of the City of Daphne, including, without limitation, applicable zoning regulations and business license requirements as the same are applied to other businesses operating as a pharmacy.

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

Robin L. LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-66**

APPROPRIATION: MAY DAY PARK DRAINAGE REPAIRS

WHEREAS, Ordinance 2022-59 approved and adopted the Fiscal Year 2023 Budget on September 19, 2022; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2023 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2023 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 May Day Park; and

WHEREAS, a previous appropriation (Ordinance 2022-07) in the amount of \$61,280 was approved for engineering costs in excess of the grant award amount of which \$16,802 remains; and

WHEREAS, the May Day Park Drainage Repairs project has been bid with a total project cost of \$756,283 (Construction - \$651,166; Additional Engineering - \$40,000; Contingency - \$65,117); and

WHEREAS, the City wishes to use a portion of the Coronavirus State and Local Recovery Funds (SLFRF) received pursuant to the American Rescue Plan Act (ARPA) for funding this project; and

WHEREAS, the City has elected to take a standard allowance of up to \$10 million in revenue loss as allowed by the U.S. Department of Treasury and deemed its SLFRF funds to be used to provide government services under this allowance; and

WHEREAS, the City has determined this project qualifies as government services.

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

1. Funds in the amount of **\$739,481** from the **COVID-19 Relief Fund** are appropriated and made a part of the Fiscal Year 2023 budget for the City's portion of the project herein described.
2. The Mayor is hereby authorized to execute 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 2022-67**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A REAL ESTATE
SALES AGREEMENT WITH GULF HEALTH HOSPITALS, INC. TO PURCHASE
CERTAIN REAL PROPERTY FRONTING U.S. HWY 98 AND OVERLOOKING
MOBILE BAY**

WHEREAS, the City of Daphne (the “City”) intends to acquire from Gulf Health Hospitals, Inc. (the “Owner”), subject to the terms and conditions of that certain Real Estate Sales Agreement (the “Agreement”), to be dated the date of delivery, a certain parcel of real property described on Exhibit A hereto and incorporated herein by reference (the “Property”); and

WHEREAS, the Agreement is attached hereto as Exhibit B; and

WHEREAS, the Property contains approximately 10.5 acres fronting U.S. Hwy 98 and overlooking Mobile Bay & adjacent to other City of Daphne properties, and includes building space of approximately 83,000 sq. ft; and

WHEREAS, the City Council has determined that the acquisition of the Property will serve a valid and sufficient public purpose and is in the best interest of the City; and

WHEREAS, the City Council, pursuant to Ordinance 2022-59, approved and adopted the Fiscal Year 2023 Budget on September 19, 2022; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2023 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2023 budget; and

WHEREAS, the Agreement requires that the City deposit the sum of \$30,000 as earnest money to be held in escrow and applied to the purchase price due to the Owner at closing.

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

1. The Council does hereby approve, adopt, authorize, direct, ratify, and confirm the representations, warranties, agreements, and covenants of the City set forth in, and the actions to be undertaken by the City pursuant to, the Agreement.

2. The Agreement is approved in substantially the form and of substantially the content as presented to and considered by the City on Exhibit B.

3. The Mayor of the City is hereby authorized and directed to execute, acknowledge, and deliver the Agreement for and on behalf of and in the name of the City. The City Clerk of the City is hereby authorized and directed to attest the same.

4. The officers of the City, or any one or more of them, are hereby authorized and directed to do and perform or cause to be done or performed in the name and on behalf of the City such other acts, and execute, deliver, file, and record such other instruments, documents,

certificates, notifications, and related documents, all as shall be required by law or necessary or desirable to carry out the provisions and purposes of this Ordinance and the Agreement.

5. Any prior actions taken or agreements made or documents executed by any officers of the City in connection with the Agreement and the transactions authorized and approved are hereby ratified and confirmed.

6. Funds from the General Fund are hereby appropriated and made a part of the Fiscal Year 2023 budget in the amount of \$30,000.00 for payment of the earnest money due under the Agreement.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 7th DAY OF NOVEMBER, 2022.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, CMC, City Clerk

EXHIBIT A
DESCRIPTION OF THE PROPERTY
(attached)

EXHIBIT B
FORM OF REAL ESTATE SALES AGREEMENT

(attached)

EXHIBIT A

Legal Description

PARCEL A:

Commencing at a point on the West right of way line of U.S. Highway 98 where it is intersected by the North line of Lot 3 of the D'Olive Estates Division of the Louis D'Olive Trace in D'Olive Grant Section 7 and parts of Section 5 and 8 in Township 5 South, Range 2 East, Baldwin County, Alabama, said point being marked by a concrete monument; thence along said North line of Lot 3 run North 89°12'49" West, 318.32 feet to a point; thence continuing along said North line of Lot 3 North 89°29'20" West, 686.76 feet to a point; thence run South 01°29'27" East, 30.02 feet to a point 30 feet South of said North line of Lot 3, as measured at right angles; said point being the point of beginning of the property herein described; thence 30 feet South of and parallel with said North line of Lot 3 run South 89°29'20" East, 685.64 feet to a point; thence continuing 30 feet South of and parallel with said North line of Lot 3 run South 89°12'49" East 271.36 feet to a point; thence run South 01°29'27" East, 176.58 feet to a point; thence run South 88°30'33" West, 292.69 feet to a point; thence run South 01°29'27" East 236 feet to a point; thence run South 88°30'33" West, 335 feet to a point; thence run South 01°29'27" East 39.32 feet to a point; thence run South 88°30'33" West 178.67 feet to a point; thence run South 01°29'27" East, 141.01 feet to a point on the North line of Edgewater Heights Subdivision, as recorded in Map Book 5, Page 31 of the Probate Court Records, Baldwin County, Alabama; thence along said North line of Edgewater Heights Subdivision run South 88°34'46" West, 150 feet to a point; thence run North 01°29'27" West, 627.46 feet to the point of beginning.

ALONG WITH an appurtenant easement for ingress and egress as set forth in instrument dated September 4, 1986, and recorded in Miscellaneous Book 55, Page 560.

PARCEL B:

From the Northeast corner of Section 8, Township 5 South, Range 2 East, run South 52.8 feet to the Southeast corner of Lot 2, D'Olive Estates, division of Louis D'Olive Grant of Section 7; thence run West 8224.26 feet to the West right-of-way of U.S. Highway 98; thence run North 89 degrees 40 minutes West 664.61 feet to the point of beginning. From said point of beginning, continue 89 degrees 40 minutes West, 240 feet to a point; thence run North 228 feet to a point; thence run South 89 degrees 40 minutes East 240 feet to a point; thence run South 228 feet to the point of beginning.

AND

From the Northeast corner of Section 8, Township 5 South, Range 2 East, run South 52.80 feet to the Southeast corner of Lot Two (2) of D'Olive Estate Division of Louis D'Olive Grant Section 7,

Township 5 South, Range 2 East; then run West along the south line of said Lot Two (2), 8224.26 feet to a concrete monument of the West right-of-way of U.S. Highway 98 (4-lane); thence run North 89 degrees 40 minutes West 584.61 fee to an iron pipe in a dirt road for the point of beginning; thence continue North 89 degrees 40 minutes West, 80 feet to an iron pipe; thence run North 228 feet to an iron pipe; thence run South 89 degrees 40 minutes East, 80 feet to an iron pipe; thence run South 228 fee to the point of beginning.



Imagery Date: 12/9/2016 30°37'54.52" N 87°54'49.04" W elev 33 ft

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REAL ESTATE SALES AGREEMENT

THIS REAL ESTATE SALES AGREEMENT (this “Agreement”) is entered into as of the _____ day of _____, 2022 (the “Effective Date”), by and between **GULF HEALTH HOSPITALS, INC.**, an Alabama corporation (“Seller”), and **THE CITY OF DAPHNE, ALABAMA** (“Buyer”).

For and in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1

PURCHASE AND SALE

SECTION 1.1 Sale and Purchase of the Property. Seller will sell to Buyer the subject land and buildings, per the specifics listed below, but retain for Seller’s use of some space (see below) rent free for three (3) years, with two 1-year options to renew. Seller shall pay rent during option periods of \$20/sq ft. for the space. The gross purchase price will be reduced by the value of free rent provided the first three years. In addition to the two option terms set forth above, provided that Seller has submitted all documentation related to the issuance of a Certificate of Need enabling Seller to relocate the ambulatory surgery center located on the property to a different location suitable to Seller by the end of the initial three year term of the lease and that Seller has not received all necessary approvals for same by the end of such initial three year term, Seller shall have an additional option to renew the lease for a one year period following the expiration of the second option term.

(a) **Land and Improvements.** Land – Approximately 10.5 acres fronting U.S. Hwy 98 and overlooking Mobile Bay & adjacent to other City of Daphne properties and more particularly described on Exhibit A attached hereto (the “Property”).

Building – Approximately 83,000 sq. ft occupied by various tenants, together with all rights, benefits, privileges, easements, licenses or other agreements for the benefit of, belonging to or appurtenant to the Land.

(b) **Seller Space.** Seller, as part of the consideration for the purchase price as more specifically referenced in Section 1.2 hereinafter, shall have the right to occupy rent free during the first three (3) years the space shown on Exhibit B attached hereto and generally described as:

- Surgery Center Space of 13,860 sq. ft.
- Imaging Center & TH Pre-Admit Space of 20,494 sq. ft.

(c) Seller will continue to pay the utility costs for the space Seller occupies after Closing but no other charges for use of the space during the initial 3 year period related to the common areas, building property maintenance, etc. except as outlined below. Any new lease

following the initial three (3) years will be a standard, arms-length agreement and shall include all utility costs, pro-rata share of common area, maintenance based on the pro-rata square footage use, and the proportionate share of common area charges to be expensed for the remainder of the lease term.

(d) Seller will continue to maintain and manage the Property on behalf of Buyer and shall provide labor, but not any materials or supplies for such maintenance, the cost of which shall be the responsibility of Buyer; provided, however, that if Seller utilizes contractors to perform any such service or repair work, Buyer shall be responsible for all cost associated with such contractors. Seller shall also continue to collect all rent from third-party tenants during the initial three (3) year period following closing and will remit all such rent payments to Buyer on a quarterly, or other mutually agreeable periodic basis, to Buyer. In the event any legal action is required to collect any such rent payments, Seller shall not be responsible for pursuing such remedy and Buyer shall be responsible for all legal actions and costs associated therewith. Seller shall receive from Buyer a management fee of 5% of all gross rents received from third parties, on a monthly basis for providing such services, but no management fee shall be charged for the Seller's space as referred to in Exhibit B for all terms of this agreement.

SECTION 1.2 Purchase Price. The net purchase price shall be Six Million (\$6,000,000) (gross price of Eight Million One Hundred Sixty Thousand Dollars - \$8,160,000.00 less the value of the free rent and discounts to Buyer for a cash closing within the time parameters set forth herein). Seller shall deliver title to the Property to Buyer pursuant to a statutory warranty deed free of all liens and encumbrances but subject to all existing leases and the terms of Section 9.3 hereinbelow. Buyer shall deposit the sum of \$30,000 as earnest money with Surety Land Title to be held in escrow and applied to the purchase price due to Seller at Closing.

ARTICLE 2

FEASIBILITY PERIOD / CLOSING

SECTION 2.1 Feasibility Period / Closing. Buyer shall have the period prior to closing to further determine the feasibility and suitability of the Property in Buyer's discretion. Buyer shall have the right to conduct tests and investigations of the Property and shall be permitted to submit on behalf of Seller to the necessary governing bodies any plans for entitlements needed for commercial development, including but not limited to zoning amendments, subdivision and planned unit development.

SECTION 2.2 Title and Survey Matters. During the Feasibility Period, Buyer shall conduct a review of title and survey to determine the Property's suitability for Buyer's use.

(a) **Title Commitment:** Within ten (10) days of the Effective Date, Seller shall have delivered to Buyer, at Seller's sole cost and expense, a title commitment in the amount of the gross Purchase Price, committing to insure Buyer against loss on account of any defects or encumbrances in title, excepting only current ad valorem taxes which are a lien not yet due and payable and other title or survey matters which Buyer, in writing, agrees to accept (the "Permitted Exceptions").

(b) Expenses. Each party shall bear its own expenses in connection with the implementation, negotiation and consummation of the transaction contemplated under this sales agreement. Seller will pay for preparation of a Statutory Warranty Deed, Title Policy (Surety Land Title, Inc.), and real estate fee to Roberts Brothers CPM, Inc. No other brokers or real estate fees shall be paid by either party. Buyer shall pay for all due diligence work and for any new survey or appraisal desired by Buyer.

SECTION 2.3 **License to Enter.** Seller hereby grants to Buyer and Buyer's agents a license to enter onto the Property and agrees to cooperate in allowing access to the Property for the purposes of conducting Buyer's Feasibility Review. Seller represents and warrants that Seller has the right and authority to grant Buyer such license. Buyer hereby agrees to indemnify Seller against and hold Seller harmless from any injury to persons or damage to property arising out of Buyer's exercise of the license to enter Seller's property granted herein. Buyer shall not interfere with the operation of the business of Seller or any tenant or occupant of any portion of the Property in conducting its due diligence review of the Property.

ARTICLE 3

CLOSING

SECTION 3.1 **Closing Date, Time and Location:** The closing of the transaction set forth herein (the "Closing") shall take place on or before January 10, 2023 (the "Closing Date"), at a time and place mutually agreeable to Buyer and Seller.

SECTION 3.2 **Seller's Closing Deliveries:** At Closing, Seller shall execute and deliver to the Title Company the following items (collectively, the "Seller's Closing Deliveries"):

(a) A statutory warranty deed dated as of the Closing Date transferring and conveying to Buyer the Property free and clear of all liens, charges and encumbrances except for the Permitted Exceptions and subject to 9.3 hereinbelow, which deed shall be duly executed by Seller and acknowledged in form for recording.

(b) A standard owner's affidavit and lien waiver executed by Seller and dated as of the Closing Date in a form reasonably acceptable to the Title Company.

(c) A certificate and affidavit of non-foreign status in a form satisfying the requirements of the foreign investor real property tax act ("FIRPTA").

(d) An instrument or instruments in form and substance reasonably satisfactory to Buyer terminating (a) all existing agreements with any party with respect to management or leasing of the Property or any part thereof, and (b) any service contracts which Buyer elects not to assume, all of such terminations to be without proration or contribution from Buyer.

(e) Such originals of the permits, warranties and service contracts Buyer has elected to assume that are in Seller's possession.

(f) A settlement statement setting further all amounts paid and to be paid at Closing (“Settlement Statement”).

(g) Such other documents or items as may be reasonably required by Buyer or the Title Company.

(h) An executed counterpart of the lease agreement whereby Seller shall lease the portion of the Property it wishes to retain from Buyer (the “Lease”).

SECTION 3.3 Buyer’s Closing Deliveries. At closing, Buyer shall execute and deliver to the Title Company the following (“Buyer’s Closing Deliveries”):

(a) The Settlement Statement.

(b) An executed counterpart of the Lease.

(c) Such other documents as may be reasonably requested by Seller or the Title Company.

SECTION 3.4 Legal Description. For purposes of the statutory warranty deed and other documents to be delivered to Buyer by Seller at Closing, the legal description of the Property shall be as set forth in the Title Commitment.

SECTION 3.5 Prorations and Adjustments. The following items will be adjusted and prorated between Seller and Buyer as of the Closing Date and shall be set forth on the Settlement Statement:

(a) Ad Valorem Taxes: At or prior to Closing, Seller shall pay in full all real estate taxes and assessments, if any, due and payable as of the Closing Date. Real estate taxes and installments of assessments due and payable for the year of Closing shall be prorated as of the Closing Date, computed on the basis of the last available tax rate and valuation as shown on the tax assessor’s records, and Buyer shall pay the same when due. All taxes shall be presumed paid in arrears except municipal taxes, which are presumed paid in advance. The provisions of this Section shall survive Closing and shall not be deemed to merge into any deed delivered and accepted upon Closing.

(b) Assessments: At or prior to Closing, Seller shall pay in full all assessments, either general or special, for improvements completed prior to the Closing Date, whether matured or unmatured. All other assessments shall be paid by Buyer.

(c) Utilities: Utilities shall not be prorated at Closing. Buyer shall be responsible for establishing its own utility accounts as of the Closing Date with respect to all parts of the Property that are not subject to the Lease. Seller shall remain responsible for all utility bills received post-closing that relate to the period prior to the Closing Date and Buyer shall be responsible for all utility bills relating to the Closing Date and thereafter with respect to all parts of the Property that are not subject to the Lease.

SECTION 3.6 Closing. The Closing shall consist of:

- (a) The execution and/or delivery by the Seller or Seller's Closing Deliveries.
- (b) The execution and/or delivery by Buyer of Buyer's Closing Deliveries
- (c) The delivery by Buyer to Seller of the balance of the Purchase Price.
- (d) The delivery by Seller to Buyer of possession of the Property.

SECTION 3.7 Other Conditions Precedent to Closing. Notwithstanding any of the provisions contained herein, Buyer must receive an unconditional agreement in writing from the Alabama Department of Conservation Natural Resources (hereafter "ADCNR"), that the proposed Real Estate Sales Agreement between the parties herein is approved by the ADCNR, and that the proposed Real Estate Sales Agreement does not change or affect the ADCNR grant to Buyer in any way whatsoever. Should the Buyer not receive the ADCNR's written approval, the sufficiency of which shall be determined by the Buyer in its sole discretion, such shall not constitute a default of the Buyer, as more specifically referenced in Section 8.2 entitled "Buyer's Default" herein.

ARTICLE 4

LEASE AGREEMENT

Prior to the Closing, Seller and Buyer will prepare the Lease for the space identified in Section 1.2 with specifics contained herein.

ARTICLE 5

COMMISSIONS

Buyer and Seller each represent to the other that, except for that real estate commission to be paid by Seller to Roberts Brothers Commercial & Property Management, Inc. ("Seller's Broker"), pursuant to a separate agreement, no third party is entitled to a sales commission or fee in connection with the Closing. Seller agrees to indemnify and hold harmless Buyer harmless from all claims, damages, costs or expenses of or for any such fee paid by Seller to Roberts Brothers. It is understood that the Seller's Broker "represents" and is being compensated by Seller and that Buyer has performed its own due diligence. Buyer is not relying on any statements, materials, or representations of Seller's Broker in any way, in its determination to purchase the said Property. Seller's indemnity shall survive the rescission, cancellation, termination or consumption of this agreement.

ARTICLE 6

RISK OF LOSS FROM CASUALTY OR CONDEMNATION

SECTION 6.1 **Risk of Loss.** The risk of loss or damage to the Property by fire, other casualty or condemnation prior to the Closing, is Seller's. Seller shall maintain in full force and effect to the Closing Date property insurance in the full replacement value of the Property, general liability insurance and worker's compensation insurance covering all claims and losses prior to the Closing Date.

SECTION 6.2 **Casualty and Condemnation.** If any loss or damage occurs prior to Closing, then Buyer shall have the option of (a) canceling this Agreement and having the Earnest Money refunded in full, or (b) accepting the Property with abatement of the Purchase Price in the amount of any condemnation award, the cost of replacement or repair, or (c) accepting any condemnation award, insurance proceeds or settlement amount and proceeding with closing as to the remainder of the Property.

ARTICLE 7

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 7.1 **Representations, Warranties of Seller:** Seller hereby makes the representations, warranties and covenants set forth below as of the Effective Date. All of the following representations and warranties shall be deemed to have been made again at and as of the time of the Closing.

(a) Seller has the right, power and authority to enter into this Agreement and to consummate the transactions contemplated herein. Seller is a non-profit corporation duly organized and validly existing under the laws of the State of Alabama.

(b) The execution and delivery of this Agreement by Seller, and the performance and observance by Seller of Seller's duties and obligations under this Agreement and of all other acts by Seller necessary and appropriate for the consummation of the transactions contemplated herein, are consistent with and not in violation of, and will not create any material default under (i) any instrument (including, without limitation, any contract, agreement, lease, license, covenant, commitment or understanding) affecting the Property, (ii) any law, rule, regulation, notice, order, decree or judgment of any nature to which the Property is bound, or (iii) the governing agreement(s) of Seller.

(c) No prior options, rights of first refusal or other rights have been granted by Seller to any third parties to purchase all or any portion of the Property or any interest therein that are currently in effect or outstanding.

(d) There is no action, suit or proceeding pending or, to the best knowledge of Seller, threatened, against or by Seller and affecting Seller's right to transfer the Property or the title of the property.

(e) Neither Seller nor any of its officers are involved in any bankruptcy, reorganization or insolvency proceeding as a debtor.

(f) There is no pending or, to the best of Seller's knowledge, threatened, action by any governmental authority or agency having the power of condemnation or eminent domain that would reasonably be expected to result in all or any portion of the Property or any interest therein being taken by eminent domain, condemnation or conveyed in lieu thereof.

(g) Seller has paid all taxes, permits, fees and licenses due which relate to the Property for periods prior to Closing and has received no notice of increase, assessment, levy or penalty with respect to any of the foregoing.

(h) Seller has not received any notices that Seller has failed to comply with any law, regulation or ordinance affecting the Property and has not received any notice indicating a violation of any regulation or ordinance which would adversely affect the use of the Property for the purposes for which it is currently being used.

SECTION 7.2 DISCLAIMER: BUYER ACKNOWLEDGES AND AGREES THAT SELLER (OR ITS AGENTS) HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES (OTHER THAN AS SET OUT IN SECTION 7.1 ABOVE OR THE WARRANTY OF TITLE AS SET OUT IN THE DEED), PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANYKIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSES OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (H) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, HAZARDOUS MATERIALS, POLLUTION OR LAND USE, ZONING OR DEVELOPMENT OF REGIONAL IMPACT LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE

PROVIDED BY SELLER OR ITS AGENTS. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PROPERTY OR THE OPERATION THEREOF FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, BUYER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY IS MADE ON AN "AS IS", "WHERE IS" CONDITION AND BASIS WITH ALL FAULTS. THE PROVISIONS OF THIS SECTION 7.2 SHALL SURVIVE THE CLOSING.

SECTION 7.3 Covenants of Seller: So long as this Agreement is in effect, Seller covenants the following as of the Effective Date:

(a) Seller will not significantly alter the Property from its present condition without Buyers written approval.

(b) Seller will advise Buyer promptly of any claim, litigation, arbitration or administrative hearing concerning or affecting title to the Property of which Seller obtains knowledge.

(c) Seller will not subject the Property to any liens or encumbrances and will not enter into any new leases with respect to the Property.

(d) Prior to closing, risk of loss with regard to damage to or loss of use of the Property shall remain with and be borne by Seller.

ARTICLE 8

DEFAULT

SECTION 8.1 Seller's Default: If the sale and purchase of the Property contemplated by this Agreement is not consummated on account of Seller's breach or default hereunder, Buyer shall have the following options: (i) to terminate this Agreement, whereupon the Earnest Money, together with all interest earned thereon, if any, shall be remitted to Buyer on demand in accordance with the provisions hereof; or (ii) the right to sue for specific performance of this Agreement (with a credit for the Earnest Money paid).

SECTION 8.2 Buyer's Default: If the sale and purchase of the Property contemplated by this Agreement is not consummated because of Buyer's default, failure or refusal to perform hereunder, Seller may terminate this Agreement and shall be entitled, as its sole and exclusive remedy hereunder or otherwise, to payment of the Earnest Money, with interest thereon, if any, as full and complete liquidated damages for such default of Buyer, the parties hereto acknowledging that it is difficult or impossible to estimate more precisely or accurately the damages which might be suffered by Seller upon Buyer's default. Seller's receipt of the Earnest

Money, with interest thereon, is intended not as a penalty, but as full liquidated damages. The parties acknowledge and agree that the liquidated damages provided herein is a reasonable pre-estimate of Seller's probable loss resulting from Buyer's default.

ARTICLE 9

MISCELLANEOUS

SECTION 9.1 **Notices:** All notices, requests, demands, and other communications (collectively, "Notices") hereunder shall be in writing and delivered to the parties hereto by (a) hand-delivery, (b) established express delivery service that maintains delivery records, (c) certified or registered U.S. mail, postage prepaid, return receipt requested, or (d) facsimile or other electronic means with confirmation of delivery and follow up delivery by a method set forth in subsections (a) – (c) at the following addresses, or at such other address as the parties hereto may designate pursuant to this Section.

- (a) To Buyer: Mayor Robin LeJeune
 City of Daphne
 Post Office Box 400
 Daphne, AL 36526
- cc: Jay M. Ross
 Attorney for the City of Daphne
 Adams and Reese LLP
 Post Office Box 1348
 Mobile, AL 36633
- (b) To Seller: Gulf Health Hospitals, Inc.
 Attn: D. Mark Nix, President & CEO
 5 Mobile Infirmary Circle
 Mobile, AL 36607

Each such notice or other communication shall be deemed given upon receipt or refusal to accept receipt. Notices by way of facsimile or other electronic means are deemed received upon confirmed delivery.

SECTION 9.2 **Exclusively:** Seller agrees that Seller will not market the Property and will remove the Property and all marketing information related thereto from all website listings and any other national or local real estate listings from the Effective Date until the first to occur or termination or Closing. Seller further agrees that Seller will not directly or indirectly make, accept, negotiate, entertain or otherwise pursue any other offers to purchase the Property until the first to occur of termination or Closing.

SECTION 9.3 Approval Rights. The Statutory Warranty Deed, pursuant to which Seller shall convey and transfer the property to Buyer, shall contain a restrictive covenant running with the land which prohibits the use of the property by Buyer or any assignee of Buyer, or any tenant or occupant of the property for any medical, health care or related purpose without first obtaining the Seller's prior written consent, except that it is expressly agreed that the Buyer shall have the right to operate a wellness clinic operated or contracted by the City for the benefit of City employees and its beneficiaries.

SECTION 9.4 Survival / No Merger. Except as otherwise expressly provided herein, the provisions of this Agreement, the representations, warranties, and the indemnity agreements set forth herein shall survive any termination of this Agreement or Closing and shall not merge into any deed delivered and accepted upon Closing.

SECTION 9.5 Severability. If any term or provision of this Agreement or the application of it to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

SECTION 9.6 Waiver. The failure of a party hereto to insist upon strict performance of any of the terms set forth herein shall not be deemed a waiver of any rights or remedies that the party may have and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the terms contained herein by the same or any other party.

SECTION 9.7 Attorneys' Fees. If a party hereto commences a legal proceeding to enforce any of the terms of this Agreement, the prevailing party in such action shall have the right to recover reasonable attorneys' fees and costs from the other party to be fixed by the court in the same action.

SECTION 9.8 Captions. The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

SECTION 9.9 Dates of Performance. Whenever a date for an action required to be performed or any other period of time set forth in this Agreement falls on a Saturday, Sunday, or federal holiday, then such date shall be extended to the following business day.

SECTION 9.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or other electronic means shall be equally as effective as delivery of a manually executed original counterpart of this Agreement.

SECTION 9.11 Entire Agreement; Modification. This written Agreement constitutes the entire and complete agreement between the parties hereto and supersedes any prior

oral or written agreements between the parties with respect to the Property. It is expressly agreed that there are no oral understandings or agreements which in any way change the terms, covenants and conditions herein set forth, and that no modification of this Agreement and no waiver of any of its terms and conditions shall be effective unless made in writing and duly executed by the parties hereto.

SECTION 9.12 Binding Effect; Time of Essence. All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns. Time is of the essence of this Agreement.

SECTION 9.13 Governing Law. The Agreement shall be governed by and interpreted under the laws of the State of Alabama, without regard to its principles of conflicts or law.

SECTION 9.14 Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

SECTION 9.15 Assignment. Buyer may not assign or transfer its rights under this Agreement without the prior written consent of Seller.

BUYER:

THE CITY OF DAPHNE, ALABAMA

By: _____
ROBIN LEJEUNE, MAYOR

ATTEST:

CANDACE G. ANTINARELLA, CITY CLERK

SELLER:

GULF HEALTH HOSPITALS, INC.

By: _____