

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, AL
CITY COUNCIL BUSINESS MEETING AGENDA
Monday, March 4, 2024 at 6:00 P.M.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
INVOCATION
PLEDGE OF ALLEGIANCE
- 3. APPROVE MINUTES:** February 19, 2024 regular meeting
- 4. REPORTS OF STANDING COMMITTEES**
 - A. FINANCE COMMITTEE – Phillips**
Review the minutes from the February 19th meeting.
Treasurer’s Report for January 2024: Unrestricted Fund Balance - \$28,044,116;
Total Cash Balance - \$53,818,388
Sales Tax for December 2023: \$2,589,208.50; Lodging Tax for December 2023: \$101,628.61
Debt Summary – January 2024: Warrants - \$32,990,442
Capital Leases: General Fund - \$603,726; Enterprise Fund - \$629,169
 - B. BUILDINGS & PROPERTY COMMITTEE – Goodlin**
 - C. PUBLIC SAFETY COMMITTEE – Hughes**
 - D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Scott**
 - E. PUBLIC WORKS COMMITTEE – Conaway**
- 5. REPORTS OF SPECIAL BOARDS & COMMISSIONS**
 - A. BOARD OF ZONING ADJUSTMENTS – Adrienne Jones**
 - B. DAPHNE PUBLIC SCHOOL COMMISSION – Conaway/Olen**
 - C. DOWNTOWN REDEVELOPMENT AUTHORITY – Conaway**
 - D. INDUSTRIAL DEVELOPMENT BOARD – Scott**
 - E. LIBRARY BOARD – Goodlin**
 - F. PLANNING COMMISSION – Olen**
Review the minutes from the January 25 meeting and the report from the February 22nd meeting.
 - G. RECREATION BOARD – Hughes**
 - H. UTILITY BOARD – Coleman**
- 6. PUBLIC PARTICIPATION**
- 7. MAYOR’S REPORT**
- 8. CITY ATTORNEY REPORT**

City Council Agenda – March 4, 2024

9. DEPARTMENT HEAD REPORTS

10. CITY CLERK’S REPORT

MOTION to approve the 040 – Retail Beer (On or Off Premises) to Chipotle Mexican Grill of Colorado LLC located at 914 Van Avenue, Daphne, Alabama.

MOTION to approve the publication and set a public hearing on April 15, 2024 for the Estate of Georgianne Simms Pre-Zoning Amendment located Northeast of County Road 64 and Alabama Highway 181.

MOTION to approve the publication and set a public hearing on April 15, 2024 for the Estate of Georgianne Simms Annexation Petition located Northeast of County Road 64 and Alabama Highway 181.

MOTION to authorize the Mayor to execute the GOMESA Grant Agreement.

11. RESOLUTIONS:

2024 – 07 – Resolution Declaring Certain Personal Property Surplus and Authorizing the Mayor to Dispose of Such Property – Trimble GeoExplorer Kit

2024 – 08 - Resolution Declaring Certain Personal Property Surplus and Authorizing the Mayor to Dispose of Such Property – Tandem Equipment Trailer, Asphalt Hot Patcher, Sweeper, Tailgate Sand Spreader, Paint Striper, Swivel Bucket

2024 – 09 – Appropriation: Resurfacing on CR-64 from SR-42 (US 98) to CR-13 and Intersection Improvements on CR-64 at Pollard Road - \$1,801,175

2024 – 10 – Bid Award: Resurfacing on CR-64 from SR-42 to CR-13 and Intersection Improvements on CR-64 at Pollard Road Grade, Drain, Base, Pave and Signals – H.O. Weaver & Sons, Inc. - \$3,513,897.59

2024 – 11 – Resolution Declaring Certain Property Surplus and Authorizing the Mayor to Dispose of Such Property – Confiscated Computer and Vehicle Equipment

12. 2nd READ ORDINANCES:

2024 – 02 – Floodplain Development Ordinance

2024 – 03 – Ordinance Consenting to the Sale by the Utilities Board of the City of Daphne of Certain Surplus Personal Property

13. 1st READ ORDINANCES:

14. COUNCIL COMMENTS

15. ADJOURN

February 19, 2024
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 Pro-Tem Ron Scott called the meeting to order at 6:00pm.

2. **ROLL CALL:**

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

COUNCIL MEMBERS ABSENT: Steve Olen

Also Present: Jay Ross, City Attorney; Candace Antinarella, City Clerk; Lt. David Smith, Police; Troy Strunk, City Development; Ben Davis, Recreation; Kellie Reid, Finance; Vickie Hinman, Human Resources; Mary Kinney, Library; Ange Baggett, Marketing/Tourism; Kent Ward, Junior Councilmember; Troy Capstraw, Junior Councilmember; Abby English, Junior Councilmember; Daniel Hill, Junior Councilmember; and Jessica Linne, Assistant City Clerk.

INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Dr. Barry Carpenter, Resurrection Church.

3. **APPROVAL OF MINUTES:**

The minutes from the February 5, 2024 regular meeting were approved.

4. **REPORT OF STANDING COMMITTEES:**

A. **FINANCE COMMITTEE**

Councilwoman Phillips said the Committee met earlier.

MOTION by Councilwoman Phillips to renew the City's annual insurance policy with Robertson Insurance Agency, Inc. for the third year discounted term of the three year policy of the amount of \$816,854 including changing the Law Enforcement Liability Deductible from \$5,000 to \$10,000 and a new Cyber Policy with CFC. No second was needed.
MOTION CARRIED UNANIMOUSLY.

B. **BUILDINGS & PROPERTY COMMITTEE**

Councilman Goodlin said the minutes from the January 2024 meeting and the January 2024 new Construction and Building Reports were in the packet. He said out of those reports were 22 certificates of occupancy, 296 permits issued with 64 new residential home permits totaling \$171,783.56. He said the next meeting is March 11th at 5:15pm.

C. **PUBLIC SAFETY COMMITTEE**

Councilman Hughes said the next meeting is March 11th at 4:30pm.

D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE**

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

E. **PUBLIC WORKS COMMITTEE**

Councilwoman Conaway said the next meeting is March 4th at 5:15pm.

February 19, 2024
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

Councilman Scott said the minutes from the January 4th meeting and the summarization from the February 1st meeting are in the packet.

B. Daphne Public School Commission

Councilwoman Conaway said the next meeting will be February 26th at 5:30pm at Daphne Middle School.

C. Downtown Redevelopment Authority

Councilwoman Conaway said the next meeting is March 21st at 5:30pm.

D. Industrial Development Board

Councilman Scott said the next meeting is February 20th at 4:30pm.

E. Library Board

Councilman Goodlin said the next meeting is March 14th at 4:30pm.

F. Planning Commission

Councilman Olen was absent.

G. Recreation Board

Councilman Hughes said the next meeting is February 21st at 6:00pm.

H. Utility Board

Councilman Coleman said the next meeting is February 28th at 5:00pm and the minutes from the November meeting are in the packet.

6. PUBLIC PARTICIPATION:

Public Participation opened at 6:07pm.

No one came forward to speak. Public Participation closed at 6:07pm.

7. MAYOR'S REPORT:

Mayor LeJeune was absent.

8. CITY ATTORNEY REPORT:

City Attorney said there was no report.

9. DEPARTMENT HEAD COMMENTS:

Chief Tacon, Fire, said ISO will be in the City on March 5th. She commended Deputy Fire Marshal, Tommy Bozeman, for his work with citizens.

Mary Kinney, Interim Library Director, gave information for recent library circulation and patrons.

Ben Davis, Recreation, said basketball is ending and baseball season is starting.

Kelli Reid, Finance, reminded everyone that Severe Weather Preparedness Tax Free Holiday is coming up.

10. CITY CLERK'S REPORT:

City Clerk said there was no report.

February 19, 2024
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:00 P.M.

11. **RESOLUTIONS:**

2024 – 05 – 2024-B-Concrete Material – Negotiated – Bid Award: Ready Mix USA

2024 – 06 – Appropriation for Additional Cyber Insurance Coverage - \$15,000

MOTION by Councilwoman Phillips to waive the reading of Resolutions 2024-05 and 2024-06. Seconded by Councilwoman Conaway.

MOTION CARRIED UNANIMOUSLY.

MOTION by Councilwoman Phillips to adopt Resolution 2024-05. Seconded by Councilwoman Conaway.

MOTION CARRIED UNANIMOUSLY.

MOTION by Councilwoman Phillips to adopt Resolution 2024-06. Seconded by Councilwoman Conaway.

MOTION CARRIED UNANIMOUSLY.

12. **2ND READ ORDINANCES:**

13. **1ST READ ORDINANCES:**

2024 – 02 – Floodplain Development Ordinance

2024 – 03 – Ordinance Consenting to the Sale by the Utilities Board of the City of Daphne of Certain Surplus Personal Property

14. **COUNCIL COMMENTS:**

Councilman Hughes thanked City Staff for all they do for the City.

Council Pro-Tem Scott thanked the Junior Council for their work and their leadership on projects.

15. **ADJOURN:**

THERE BEING NO FURTHER BUSINESS TO DISCUSS, COUNCIL ADJOURNED INTO EXECUTIVE SESSION AT 6:19PM.

Respectfully submitted by,

Certification of Presiding Officer,

Candace G. Antinarella, MMC, City Clerk

Ron Scott, Council Pro-Tem

CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
FEBRUARY 19, 2024
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. Angie Phillips

Councilwoman Mrs. Tommie Conaway

Councilman Mr. Joel Coleman

Councilman Mr. Ron Scott

Councilman Mr. Ben Hughes

Councilman Mr. Doug Goodlin

Also Present: Finance Director Mrs. Kelli Reid, Accountant III Mrs. Suzânn Henson, Human Resource Director Mrs. Vickie Hinman, City Clerk Mrs. Candace Antinarella, Executive Director of City Development Mr. Troy Strunk, Fire Chief Mrs. LeAnn Tacon, Director of Events and Marketing Mrs. Ange Baggett, Public Works Director Mr. Ronnie Huskey, Community Development Director Adrienne Jones, and City Attorney Mr. Jay Ross.

Junior City Council – Sunny Blackwood.

II. PUBLIC PARTICIPATION

A. FY2023 Annual Audit – Avizo Group – Ms. Carly Corte Ms. Rachel Young, and Mr. Earl Blackmon
Ms. Corte gave an overview of the audit and noted they received the draft of the financials and they looked over the numbers that Kelli gave the council at the November Finance Committee meeting and they have no changes or issues. Ms. Corte noted they performed a Single Audit for the following two City grant funded projects: GOMESA Grant for purchase of the Gulf Health/Infirmary Building and Economic Development Administrative Grant for the purchase of the synthetic turf for Daphne Sports Complex. Ms. Corte stated they would be giving the City an unmodified opinion which is the best opinion you can receive.

Mr. Scott asked if the City had ever considered requiring an audit of the Boards that the City is contributing to. Ms. Corte discussed some similar audits they have performed and stated they would be glad to assist in whatever the City decides. Mrs. Reid noted that this type of audit would be expensive and that IDB did have a single audit recently. Mrs. Reid recommended that for larger contributions, like to the IDB and DRA, that the City start requiring quarterly or annual financial statements. Mrs. Reid noted that all granting organizations are required to submit annual financial statements. Mr. Hughes noted it would be nice to know how the contributed monies are being used and recommended this item be discussed at the next Ordinance Committee meeting. Discussion continued on the audit and options of requiring financial statements from other organizations.

III. APPROVE MINUTES FOR THE PREVIOUS MEETING

The previous meeting minutes were approved.

IV. HUMAN RESOURCES BUSINESS

A. Update on Human Resources Department Activity

Mrs. Vickie Hinman reviewed the Human Resources Report:

- Posted/Reposted Positions – 4
- Reviewing/Testing/Interviewing/Background check - 13
- Promotion/Internal Transfer - 2
- New Hires – 2

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

V. BUSINESS LICENSE REPORT

A. Report: New Business Licenses – January, 2024

Mrs. Reid reviewed the following reports and information:

- Code enforcement issued 3 warnings resulting in businesses becoming compliant and \$357 in revenue.
- New Businesses with a physical location in Daphne - 24
- Simplified Sellers Use Tax collections - \$215,519.80 and YTD collections - \$726,381.55.
- Total Business Licenses issued were 91 new and 2611 renewals for a total of 2702 in January 2024

Mrs. Reid noted Code Enforcement is visiting businesses on the delinquency list and that the online portal collections went well last month.

VI. SALES & LODGING TAX REPORT

A. Sales and Use Taxes: December, 2023

Mrs. Henson reviewed the Sales & Use Tax Reports: \$2,589,208.50 was collected for December, 2023 which was down (\$58,333.60) from December 2022's collections:

- YTD Variance over Budget - \$605,582.04

B. Lodging Tax Collections, December, 2023

Mrs. Henson reviewed the Lodging Tax Collections Report and noted the collections for December, 2023 were \$101,628.61 which is up \$3,802.96 from December 2022's collections.

- YTD Variance over Budget - \$ 14,124.38

C. Lodging Tax Analysis Report, January, 2024

Mrs. Reid reviewed the Lodging Tax Analysis report:

- Recreation balance for related purchases - \$496,026.60
- Reserved balance for Bayfront related purchases - \$1,581,939.21
- Reserved balance for Occupancy Fee - \$240,410.00

Mrs. Reid noted that this was the first full year of collections for the Occupancy fee.

VII. FINANCIAL SCHEDULES & REPORTS

A. Financial Reports

1. Treasurer's Report: January, 2024

Mrs. Reid reviewed the Treasurer's Report:

TREASURER'S REPORT					
As of January 31, 2024					
Account Type/Title	1/31/2024	12/31/2023	Increase (Decrease) from last Month	1/31/2023	Increase (Decrease) from Last Year
GENERAL FUND & ENTERPRISE FUNDS	\$ 17,496,975	\$ 13,072,530	\$ 4,424,445	\$ 20,028,283	\$ (2,531,308)
INVESTMENT FUND	10,547,141	10,508,971	38,170	10,294,420	252,721
Total Unrestricted Cash Balance	28,044,116	23,581,501	4,462,615	30,322,703	(2,278,587)
SPECIAL REVENUE FUNDS					
4 CENT GAS TAX	292,325	287,022	5,303	228,362	63,963
7 CENT GAS TAX	290,291	265,575	24,715	187,703	102,588
10 CENT GAS TAX	228,885	210,476	18,410	170,610	58,275
TREE & FLOWER	10,287	22,660	(12,373)	22,660	(12,373)
COVID RELIEF FUND	-	-	-	2,518,719	(2,518,719)
ANIMAL SHELTER FUND	2,437,087	2,442,988	(5,901)	801,154	1,635,933
MOBILE INFIRMARY BUILDING	92,989	83,310	9,679	-	92,989
FEDERAL DRUG FORFEITURES	432,688	432,688	-	196,225	236,463
LOCAL DRUG FORFEITURES	95,435	95,435	-	79,175	16,260
LIBRARY	53,960	52,799	1,160	19,818	34,142
COURT TRAINING & EQUIPMENT	41,954	41,357	597	43,385	(1,431)
COURT/CORRECTION	541,593	525,165	16,427	556,126	(14,533)
LODGING TAX	2,318,376	2,612,304	(293,928)	3,244,946	(926,570)
RENAISSANCE	-	34,561	(34,561)	-	-
AGENCY FUNDS					
SELF INSURANCE	224,032	219,541	4,491	229,909	(5,877)
FLEX SPENDING	-	-	-	24,109	(24,109)
OPEB TRUST INVESTMENT FUND	1,526,417	1,529,945	(3,527)	1,207,004	319,413
	8,586,319	8,855,826	(269,507)	9,529,905	(943,586)
CAPITAL PROJECT FUNDS					
CAPITAL RESERVE	7,273,518	7,389,708	(116,190)	6,781,345	492,173
2023 CONSTRUCTION FUND	9,108,856	9,068,334	40,522	-	9,108,856
	16,382,374	16,458,042	(75,668)	6,781,345	9,601,029
DEBT SERVICE FUNDS					
DEBT SERVICE	805,580	1,227,870	(422,290)	630,212	175,368
Total Restricted Cash Balance	25,774,273	26,541,738	(767,465)	16,941,462	8,832,811
Total City Cash Balance	\$ 53,818,388	\$ 50,123,239	\$ 3,695,149	\$ 47,264,165	\$ 6,554,224
Encumbrance Total as of			1/31/2024	\$ 105,973.68	

The Treasurer's Report as of JANUARY, 2024 Total Unrestricted Cash Balance - \$28,044,116 and Total City Cash Balance - \$53,818,388 was presented to be filed for audit.

2. Encumbrance Report

- Encumbrance balance - \$ 105,973.68 as of January, 2024.

Mrs. Reid reviewed the Encumbrance Report and noted the Jail locking system project is almost complete and other projects will have small payouts next month.

3. Outstanding Appropriations

Mrs. Reid reviewed the outstanding appropriations report and the road resurfacing appropriation. Mrs. Reid noted that the CR13 resurfacing project will be going out to bid soon. Discussion continued on the Boy Scouts projects. Mr. Scott discussed that a possible project for the Boy Scouts could be the cleanup behind Jubilee Square businesses.

4. Financial Overview: Debt Summaries & Monthly Financial Statements

Mrs. Reid reviewed the following Financial Statements:

- Debt Summary Schedules (General & Enterprise Funds), January, 2024
 - Outstanding Warrant Balance as of January, 2024: \$32,990,442
 - Outstanding Capital Lease Balance as of January, 2024:
 - General Fund: \$603,726
 - Enterprise Fund: \$629,169
- Monthly Financial Statements, December 2023
 - General Fund YTD Budgetary Net Income: \$409,689 which is less (\$2,839,132) than the prior YTD net income
 - Solid Waste Fund Transfers \$125,621
 - Civic Center Fund Transfers \$100,201

5. Summary of Budgetary Amendments

Mrs. Reid reviewed the General Fund budgetary amendments made to the FY2024 Budget.

- Total Appropriations Year to Date – \$4,144,868
- Adjusted Expenses over Revenue – (\$4,142,687)

6. Unfunded Future Projects Expenditure Summary

Mrs. Reid reviewed the Unfunded Future Projects Expenditure Summary and noted that the Pollard Rad/CR project will be discussed under bids on the agenda.

B. Bills Paid Reports – January, 2024

The Bills Paid Report was previously presented electronically.

VIII. BIDS & APPROPRIATIONS (Resolution)

A. 2023-T-ALDOT Project No: STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64 at Pollard Road Grade, Drain, Base, Pave and Signals – Appropriation - \$1,801,175

Mrs. Reid noted that the low bidder was H. O. Weaver & Sons, Inc. in the amount of \$3,513,897.59 with the total project cost of \$4,213,233.57 which includes other related costs. Mrs. Reid noted that an appropriation of \$1,801,175 is needed for the project.

MOTION BY Mr. Scott to recommend to Council to award the 2023-T-ALDOT Project No: STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64-At Pollard Road Grade, Drain, Base, Pave and Signals bid to H. O. Weaver & Sons, Inc. in the amount of \$3,513,897.59 as bid. Seconded by Mrs. Conaway.
MOTION CARRIED UNANIMOUSLY

MOTION BY Mr. Scott to recommend to Council to adopt a Resolution amending the budget to appropriate \$1,801,175 for the ALDOT Project No: STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64 at Pollard - Road Grade, Drain, Base, Pave and Signals. Seconded by Mrs. Conaway.
MOTION CARRIED UNANIMOUSLY

IX. OTHER APPROPRIATION (Resolutions)

A. Appropriation: Additional Cyber Insurance Coverage - \$15,000

Mrs. Reid reviewed the additional \$15,000 that needs to be appropriated for CFC Cyber Policy that has additional coverage that the available AMIC policy does not provide.

MOTION BY Mr. Scott to recommend to Council to adopt a Resolution amending the budget to appropriate \$15,000 out of the General Fund CFC Cyber Policy that has additional coverage that the available AMIC policy does not provide. Seconded by Mr. Goodlin.
MOTION CARRIED UNANIMOUSLY

X. SURPLUS

A. Surplus Equipment

- Environmental Equipment: Trimble GeoExplorer Kit
- Street Equipment: EQ:1995 Econoline Trlr-EQ#501, 2010 Falcon Asphalt Hot Box-EQ#1423, Sand Spreader Sa-9-EQ#1534, Graco Paint Striper-Cat BP25 Sweeper-EQ#1477, CAT Helac Bucket
- Confiscated Equipment: Computer and Car related Equipment

Mrs. Henson reviewed the surplus equipment presented and noted that included was some confiscated equipment from the Police Department as well as some old street equipment and a Trimble from the Environmental Program Manager.

MOTION BY Mr. Hughes to recommend to Council to declare certain property surplus and authorize the Mayor to dispose of the following surplus property:

- ***Environmental Equipment: Trimble GeoExplorer Kit***
- ***Street Equipment: EQ:1995 Econoline Trlr-EQ#501, 2010 Falcon Asphalt Hot Box-EQ#1423, Sand Spreader Sa-9-EQ#1534, Graco Paint Striper-Cat BP25 Sweeper-EQ#1477, CAT Helac Bucket***
- ***Confiscated Equipment: Car Dual, SBX100 10" Subwoofer, Cruiser, Carbon Fiber II License Plate Cover, Budge: Car Cover, Basic for Midsize Vehicles, Car Dual: DA10004D; Digital Channel Mosfet Amplifier, HP Envy Recline23 TouchSmart Beats SE, HP Pavilion Touchsmart 23" All in One PC, Pilot 15" Wheel Covers.***

Seconded by Mr. Goodlin.

MOTION CARRIED UNANIMOUSLY

XI. NEW BUSINESS

A. Annual Insurance Policy Renewal-update on Law Enforcement Liability – Motion on Council Agenda 2/19/24

Mrs. Reid reviewed the information the City's insurance agent had provided for different options the Law Enforcement Liability policy. The options included increasing the deductible from \$5,000 to \$10,000 or \$25,000

MOTION BY Mr. Scott to renew the City's annual insurance policy with Robertson Insurance Agency, Inc. for the third year discounted term of the three year policy for the amount of \$816,854 including changing the Law Enforcement Liability Deductible from \$5,000 to \$10,000 and a new Cyber Policy with CFC. Seconded by Mr. Coleman.

MOTION CARRIED UNANIMOUSLY

XII. OLD BUSINESS

There was no old business discussed.

XIII. ADJOURN The meeting adjourned at 5:20 p.m.

**COMMUNITY DEVELOPMENT
INTERNAL MEMORANDUM**



DATE: February 26, 2024
TO: Office of the City Clerk
FROM: Adrienne Jones, AICP, Director of Community Development *AD*
SUBJECT: Planning Commission Minutes and Report

Attached please find a copy of the approved minutes for the City of Daphne Planning Commission regular meeting of the January 25, 2024 and the report of the regular meeting of February 22, 2024 for placement on the March 4, 2024 City Council agenda for review.

Should you have any questions or comments in this regard, please do not hesitate to call.

ADJ/jv

**The City of Daphne
Planning Commission Minutes
Regular Meeting of January 25, 2024
Council Chamber, City Hall - 5:00 P.M.**

Call to Order:

The Chairman called the regular meeting of the City of Daphne Planning Commission to order at 5:00 p.m. The number of members present constitutes a quorum.

Call of Roll:

Members Present:

Kevin Spriggs, Secretary
Adam Manning
John Peterson, Vice Chairman
Andrew Prescott, Chairman
Ronnie Huskey
Steve Olen
Nathan Jones

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
Jesi Ward, Environmental Programs Manager

The Chairman asked for input regarding the December 14, 2023 regular meeting minutes presented by staff. There being none, minutes stand approved as submitted.

Chairman announced that Bayside Academy Master Plan and Site Plan and Sirmon Addition to Daphne Preliminary Plat Review have been tabled until the regular meeting of February 22, 2024.

The Chairman called for the next order of business: Wilson Place, Phase Two Subdivision Plat Review.

An introductory presentation was given by the agent, Cathy Barnette. She summarized the final subdivision plat as presented on the meeting agenda and advised that staff comments have been addressed. She stated that a twenty-foot drainage easement for Lot 6 has been added to the final subdivision plat, the sidewalk has been repaired, re-sodded and re-stabilized, and driveways improvements will be constructed in conjunction with residential home construction.

Chairman asked for staff comments. Staff stated that all comments have been addressed.

Hearing no further comments from the commissioners, the Chairman called for a motion.

A motion was made by Mr. Peterson and seconded by Mr. Huskey to approve Wilson Place, Phases Two final subdivision plat. There was no discussion. The motion carried unanimously.

Chairman called for the next order of business: 68V Baldwin Land Holdings, LLC, Sharon and John Boni, Sharon, Thomas and John Boni, and Sharon Boni, representative of Thelma Boni Estate Pre-Zoning Amendment and Annexation Request.

An introductory presentation was given by the agent, Chloe Kelly. She summarized the pre-zoning and annexation request as presented on the meeting agenda. She provided a detailed PowerPoint presentation of the proposed PUD. The PUD is one hundred and thirty-four acres, and includes four phases, to include a total of five-hundred and ninety-four lots with a mixture of single-family residential, multi-family, townhomes and commercial uses. Ms. Kelly said that public benefits include the donation of land for a future right-of-way for the construction of a connector road from Milton Jones Road to Friendship Road; the donation of right-of-way for the construction of a roundabout at the intersection of Milton Jones Road and County Road 13 and the capital for surveying and engineering costs; the construction of the improvements at County Road 64 and Friendship Road and the capital for the construction, surveying and engineering costs; the donation of land for a public park; and, the construction of two pickle ball courts and extra guest parking.

Ms. Kelly referenced the PUD documents and advised that they were revised to address comments presented at the Site Preview meeting regarding utilities, parking, and a limitation of the use of vinyl siding to only the soffit and fascia. She addressed comments outlined in correspondence received from an adjacent property owner requesting a fence and/or buffer zone. She noted that there is a forty-foot landscape buffer shown along the adjoining property line of this development.

Mr. Prescott asked about Belforest Water Authority's ability to provide fire flow. Ms. Kelly stated a willingness letter and fire flow test were provided to confirm the current capacity, and that the developer plans to further improve the infrastructure with the installation of a water line along the extension of Milton Jones Road to serve this and future developments in this corridor.

Mr. Prescott asked about the traffic impact study and providing a staff recommendation. Mr. Newman stated the first iteration has been received, reviewed by the consultant and requires updates, but the comments would not affect the substance of this development.

Mr. Olen asked about the revisions to the additional stipulations and limitations as outlined in the staff report. Ms. Kelly stated that the narrative has been updated and provided to staff. Ms. Jones clarified that revisions have been made to the list of permitted uses; and, the side yard setback, as recommended by the fire marshal.

The City of Daphne
Planning Commission Minutes
Regular Meeting of January 25, 2024
Council Chamber, City Hall - 5:00 P.M.

Mr. Olen and Mr. Prescott expressed their concern about the City's obligation to perform the road construction even if the funding is not available. Ms. Kelly stated the narrative does not obligate the City to anything. She questioned how to obtain a construction easement if the connector road construction was delayed. Ms. Jones identified the city and county jurisdictional boundaries of County Road 13 and said a right-of-way permit would be required from the appropriate jurisdiction.

Ms. Jones mentioned Mr. Johnson's query made at the Site Preview meeting to determine who would bear the cost if the bid amount exceeds the budgeted amount for the work cited in the PUD document.

Mr. Olen recommended that the developer pay the difference. Ms. Kelly indicated that the developer would be willing to incur the cost and asked for clarification on what language to add to the PUD documents. Mr. Dungan provided language and indicated that he would provide his recommendation to staff.

Mr. Olen commented on the development of architectural standards and suggested that the developer work with staff on the elevations presented for the smaller lots. Ms. Jones explained the rationale for needing further collaboration regarding design. Ms. Kelly indicated a willingness to work with staff.

Mr. Spriggs stated the City should not have any control over architectural standards and advised there is no language in the PUD that obligates the City to construct the extension of Milton Jones Road.

Mr. Spriggs questioned what happens to the development if the extension is not constructed. Ms. Kelly advised that the developer would have to redesign the layout and resubmit.

Ms. Jones stated in response to Mr. Spriggs question that the City and Baldwin County are under a mutual obligation. Mr. Dungan clarified that there is a contract between the City and Baldwin County of which 68 Ventures is not a party. This would allow the City to back out of the agreement if there is no funding.

Mr. Peterson asked what stage is this in the PUD process finding that many details such as drainage design has not been engineered. Mr. Dungan stated the process tonight is to layout the parameters of the special zoning designation that will apply upon annexation into the city. He stated that there are future opportunities for the Commission to review the plans to ensure that they comply with these parameters and applicable other regulations.

Mr. Spriggs asked about the status of and the importance of the construction of the extension of Milton Jones Road.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of January 25, 2024
Council Chamber, City Hall - 5:00 P.M.**

Mr. Strunk stated the City of Daphne has entered into an intergovernmental agreement with Baldwin County to fund three-point two million dollars to construct the road upon the developer's dedication of the land for the new right-of-way to the City. He further indicated that east-west corridors are essential traffic solutions on the Eastern Shore and that the public benefit in this instance is the developer's payment of the cost of engineering and the dedication of the right-of-way.

The Chairman opened the floor for the public hearing.

Chris Frances, 1214 Captain O'Neal Drive, commented about existing traffic at Glover Lane and County Road 13. He also described the extent of his existing business operations which may be found as disruptive to new homeowners that move into the PUD development.

The Chairman closed the floor to the public hearing.

Hearing no further comments from the commissioners, the Chairman called for a motion.

A motion was made by Mr. Spriggs and seconded by Mr. Manning to set forth a favorable recommendation to the City Council for pre-zoning the subject property as a PUD, Planned Unit Development, and annex it into the Daphne city limits without an obligation to construct the extension of Milton Jones Road. There was no discussion. The motion carried unanimously.

The Chairman called for the next order of business: The Reserve at Daphne Master Plan Revision.

An introductory presentation was given by the agent, Cathy Barnette. She provided a summarization of the revisions to the master plan as presented on the meeting agenda. She advised that the proposed design for Phases Four and Five have reverted back to the previously approved master plan. Phases Six and Seven show forty-two foot wide lots in preparation to submit an application for pre-zoning amendment and annexation as a PUD, Planned Unit Development.

Proposed additions include stop signs and a twenty-five foot wide access to the north for access to the city property and two parking spaces. The residential lots shown for the Reserve of Plantation Hills Subdivision have been removed and now reflects city ownership.

There was discussion regarding the process of approving a master plan prior to pre-zoning and annexing land into the city. Staff advised that the master plan would be null and void if the Council did not approve the pre-zoning application and the annexation appeal.

Hearing no further comments from the commissioners, the Chairman called for a motion.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of January 25, 2024
Council Chamber, City Hall - 5:00 P.M.**

A motion was made by Mr. Spriggs and seconded by Mr. Peterson to approve the master plan revision for the Reserve at Daphne. There was no discussion.

Upon roll call vote,

Mr. Spriggs	Aye
Mr. Manning	Nay
Mr. Peterson	Aye
Mr. Prescott	Nay
Mr. Huskey	Aye
Mr. Olen	Nay
Mr. Jones	Aye

The vote were four in favor and three opposed. The motion carried.

The Chairman called for the next order of business: public participation.

The Chairman opened the floor for public participation.

Several realtors spoke regarding the need for housing at a lower price point.

The Chairman called for the next order of business: attorney's report.

Mr. Dungan had no report.

The Chairman called for the next order of business: commissioner's comments.

None presented.

The Chairman called for the next order of business: director's comments.

Director offered condolences to Richard Johnson regarding the loss of his father. She presented the upcoming meeting dates: Site Preview is February 14th, and the Regular Meeting is February 22, 2024; and, advised of the adoption of Ordinance #2023-43, Land Use Ordinance Revisions, which is applicable to all applications submitted after January 22, 2024. She stated that the Envision Daphne 2042 Comprehensive Plan is tentatively set to be presented at the regular meeting of February 22, 2024.

There being no further business, the meeting was adjourned at 6:25 p.m.

Respectfully submitted by:


Jan Vallecillo, Planning Coordinator

**The City of Daphne
Planning Commission Minutes
Regular Meeting of January 25, 2024
Council Chamber, City Hall - 5:00 P.M.**

Approved: February 22, 2024



Andrew Prescott, Chairman

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF FEBRUARY 22, 2024
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

1. **CALL TO ORDER:** 5:00 p.m.
2. **CALL OF ROLL:** Andrew Prescott, John Peterson, Ronnie Huskey, Kevin Spriggs, Nathan Jones, Richard Johnson and Adam Manning
3. **APPROVAL OF MINUTES:** Review of minutes of the regular meeting of January 25, 2024. (**Approved**)
4. **OLD BUSINESS:**

A. **BAYSIDE ACADEMY MASTER PLAN REVISION AND MIDDLE SCHOOL SITE PLAN REVIEW:**

1. File MPA23-05: (**Approved**)

Presentation to be given by Jay Broughton, Overton Engineering, requesting a master plan revision of Bayside Academy.

2. File SP23-14: (**Approved**)

Site: Bayside Academy Middle School

Zoning: *R-1, Low Density Single Family Residential*

Location: Southwest of the intersection of Belrose Avenue and Old County Road

Area: 20.47 Acres $\pm$

Owner: Bayside Academy, Inc. - Scott Phillips

Engineer: Overton & Associates Consulting - Jay Broughton

5. **NEW BUSINESS:**

A. **JUBILEE FARMS PHASE TWELVE FINAL SUBDIVISION PLAT:**

1. File SDF24-02: (**Approved with the condition that staff will not sign the final plat until the lots are cleared and stabilized as per Environmental staff's approval**)

Subdivision: Jubilee Farms, Phase Twelve

Zoning: *PUD, Planned Unit Development*

Location: Southeast of Alabama Highway 181 and Secretariat Boulevard

Area: 36.97 $\pm$ Acres, (74) lots

Owner: Forestar "USA" Real Estate Group, Inc. - Steve Harbin

Agent: Dewberry - Cathy Barnette

Surveyor: Dewberry - Victor Germain

Engineer: Dewberry - Jason Estes

B. **THE ESTATE OF GEORGIANNE SIMMS PRE-ZONING AMENDMENT AND ANNEXATION PETITION:**

1. File PZA24-02: (**Favorable recommendation to City Council**)

Applicant: The Estate of Georgianne Simms

Present Zoning: *B-3, General Business, Baldwin County District 15*

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

Area: 0.75 Acres $\pm$

Location: Northeast of County Road 64 and Alabama Highway 181

Representative: Carl Johnson, Executor

Agent: S.E. Civil - Aaron Collins

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF FEBRUARY 22, 2024
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

2. ANX24-02: **(Favorable recommendation to City Council)**

A presentation to be given by Aaron Collins, S.E. Civil, requesting annexation of a zero point seven-five acre parcel owned by The Estate of Georgianne Simms located northeast of County Road 64 and Alabama Highway 181. The subject property is currently zoned B-3, General Business, Baldwin County District 15.

C. **LAND USE AND DEVELOPMENT ORDINANCE PROPOSED AMENDMENT:**

1. File AP24-01: **(No action taken)**

Presentation to be given by Troy R. Strunk, Executive Director of City Development, and/or Adrienne Jones, Director of Community Development, regarding proposed amendments to the Daphne Land Use and Development Ordinance, Article 13, District Requirements, Section 7, Performance Standards.

6. **PUBLIC PARTICIPATION:** None presented.
7. **ATTORNEY'S REPORT:** No report.
8. **COMMISSIONER'S COMMENTS:** None presented.
9. **DIRECTOR'S COMMENTS:** Director presented the upcoming meeting dates. Site Preview is March 20, and the Regular Meeting is March 28, 2024.
10. **ADJOURNMENT:** 6:00 p.m.

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF FEBRUARY 22, 2024
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

1. **CALL TO ORDER:** 5:00 p.m.
2. **CALL OF ROLL:** Andrew Prescott, John Peterson, Ronnie Huskey, Kevin Spriggs, Nathan Jones, Richard Johnson and Adam Manning
3. **APPROVAL OF MINUTES:** Review of minutes of the regular meeting of January 25, 2024. (**Approved**)
4. **OLD BUSINESS:**
 - A. **BAYSIDE ACADEMY MASTER PLAN REVISION AND MIDDLE SCHOOL SITE PLAN REVIEW:**
 1. **File MPA23-05:** (**Approved**)

Presentation to be given by Jay Broughton, Overton Engineering, requesting a master plan revision of Bayside Academy.
 2. **File SP23-14:** (**Approved**)

Site: Bayside Academy Middle School

Zoning: *R-1, Low Density Single Family Residential*

Location: Southwest of the intersection of Belrose Avenue and Old County Road
Area: 20.47 Acres $\pm$
Owner: Bayside Academy, Inc. - Scott Phillips
Engineer: Overton & Associates Consulting - Jay Broughton
5. **NEW BUSINESS:**
 - A. **JUBILEE FARMS PHASE TWELVE FINAL SUBDIVISION PLAT:**
 1. **File SDF24-02:** (**Approved with the condition that staff will not sign the final plat until the lots are cleared and stabilized as per Environmental staff's approval**)

Subdivision: Jubilee Farms, Phase Twelve

Zoning: *PUD, Planned Unit Development*

Location: Southeast of Alabama Highway 181 and Secretariat Boulevard
Area: 36.97 $\pm$ Acres, (74) lots
Owner: Forestar "USA" Real Estate Group, Inc. - Steve Harbin
Agent: Dewberry - Cathy Barnette
Surveyor: Dewberry - Victor Germain
Engineer: Dewberry - Jason Estes
 - B. **THE ESTATE OF GEORGIANNE SIMMS PRE-ZONING AMENDMENT AND ANNEXATION PETITION:**
 1. **File PZA24-02:** (**Favorable recommendation to City Council**)

Applicant: The Estate of Georgianne Simms

Present Zoning: *B-3, General Business, Baldwin County District 15*
Proposed Zoning: *B-2(a), General Business Alternate*
Area: 0.75 Acres $\pm$
Location: Northeast of County Road 64 and Alabama Highway 181
Representative: Carl Johnson, Executor
Agent: S.E. Civil - Aaron Collins

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF FEBRUARY 22, 2024
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

2. **ANX24-02: (Favorable recommendation to City Council)**

A presentation to be given by Aaron Collins, S.E. Civil, requesting annexation of a zero point seven-five acre parcel owned by The Estate of Georgianne Simms located northeast of County Road 64 and Alabama Highway 181. The subject property is currently zoned B-3, General Business, Baldwin County District 15.

C. LAND USE AND DEVELOPMENT ORDINANCE PROPOSED AMENDMENT:

1. **File AP24-01: (No action taken)**

Presentation to be given by Troy R. Strunk, Executive Director of City Development, and/or Adrienne Jones, Director of Community Development, regarding proposed amendments to the Daphne Land Use and Development Ordinance, Article 13, District Requirements, Section 7, Performance Standards.

6. **PUBLIC PARTICIPATION:** None presented.
7. **ATTORNEY'S REPORT:** No report.
8. **COMMISSIONER'S COMMENTS:** None presented.
9. **DIRECTOR'S COMMENTS:** Director presented the upcoming meeting dates. Site Preview is March 20, and the Regular Meeting is March 28, 2024.
10. **ADJOURNMENT:** 6:00 p.m.



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20240130162006072

Type License: 040 - RETAIL BEER (ON OR OFF PREMISES) State: \$150.00 County: \$75.00

Type License: State: County:

Trade Name: CHIPOTLE MEXICAN GRILL Filing Fee: \$50.00

Applicant: CHIPOTLE MEXICAN GRILL OF COLORADO LLC Transfer Fee:

Location Address: 914 VAN AVE DAPHNE, AL 36526

Mailing Address: 500 NEIL AVENUE ; SUITE 400 COLUMBUS, OH 43215

County: BALDWIN Tobacco sales: NO Tobacco Vending Machines:

Product Type: Type Ownership: LLC

Book, Page, or Document info: 199910020

Do you sell Draft Beer?:

Date Incorporated: 01/05/1999 State incorporated: CO County Incorporated: DENVER

Date of Authority: 02/12/2007

Federal Tax ID: 84-1485992

Alabama State Sales Tax ID: R000776100

Name:	Title:	Date and Place of Birth:	Residence Address:
HELEN KAMINSKI Y6853509 - CA	LLC MANAGER	12/03/1963 DETROIT	2690 PALA MESA CT COASTA MESA, CA 92627
HELEN KAMINSKI Y6853509 - CA	LLC MANAGER	12/03/1963 DETROIT	2690 PALA MESA CT COASTA MESA, CA 92627

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

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

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

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

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

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

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

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

Contact Person: MARK HOFFMAN

Business Phone: 205-835-1119

Fax:

Home Phone: 205-835-1119

Cell Phone:

E-mail: MHOFFMANATTY@YAHOO.COM

PREVIOUS LICENSE INFORMATION:

Trade Name:

Applicant:

Previous License Number(s)

License 1:

License 2:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20240130162006072

If applicant is leasing the property, is a copy of the lease agreement attached? **YES**
Name of Property owner/lessor and phone number: **AILERON DAPHNE LLC 727-278-5028**
What is lessors primary business? **REAL ESTATE DEVELOPMENT**
Is lessor involved in any way with the alcoholic beverage business? **NO**
Is there any further interest, or connection with, the licensee's business by the lessor? **NO**

Does the premise have a fully equipped kitchen? **YES**
Is the business used to habitually and principally provide food to the public? **YES**
Does the establishment have restroom facilities? **YES**
Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? **YES**

Will the business be operated primarily as a package store? **NO**
Building Dimensions Square Footage: **2325** Display Square Footage:
Building seating capacity: **70** Does Licensed premises include a patio area? **YES**
License Structure: **SINGLE STRUCTURE** License covers: **ENTIRE STRUCTURE**
Number of licenses in the vicinity: **0** Nearest: **0**
Nearest school: Nearest church: Nearest residence: **0 blocks**
Location is within: **CITY LIMITS** Police protection: **COUNTY**

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)? **NO**

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20240130162006072

Initial each

MEH
MEH

MEH

MEH

MEH

MEH

MEH

MEH

MEH

Signature page

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

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

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

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

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

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

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

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

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

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

Applicant Name (print): *MARK E HOFFMAN / POA*

Signature of Applicant: *MEH*

Notary Name (print): *Tamara Harris*

Notary Signature: *Tamara Harris*

Commission expires: *4/25/2027*

Application Taken:

App. Inv. Completed:

Forwarded to District Office:

Submitted to Local Government:

Received from Local Government:

Received in District Office:

Reviewed by Supervisor:

Forwarded to Central Office:

Receipt Confirmation Page

Receipt Confirmation Number: **20240130162006072**
Application Payment Confirmation Number: **98048678**

Payment Summary	
Payment Item	Fee
Application Fee for License 040	\$50.00
Total Amount to be Charged	\$50.00

License Payment Confirmation Number:

Payment Summary			
Payment Item	County Fee	State Fee	Total Fee
040 - RETAIL BEER (ON OR OFF PREMISES)	\$75.00	\$150.00	\$225.00
			\$0.00
Total Amount to be Charged	\$75.00	\$150.00	\$225.00

Application Type

Application Type: APPLICATION

Applicant Information

License Type 1: 040 - RETAIL BEER (ON OR OFF PREMISES)

License Type 2:

License County: BALDWIN

Business Type: LLC

Trade Name: **CHIPOTLE MEXICAN GRILL**

Applicant Name: **CHIPOTLE MEXICAN GRILL OF COLORADO LLC**

Location Address: 914 VAN AVE
DAPHNE, AL 36526

Mailing Address: 500 NEIL AVENUE ; SUITE 400
COLUMBUS, OH 43215

Contact Person: MARK HOFFMAN

Contact Home Phone: 205-835-1119

Contact Business Phone: 205-835-1119

Contact Fax:

Contact Cell Phone:

Contact Email Address:

Contact Web Address:

CASE NO 2024-8

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV.

2/15/24

CAC

DATE FORWARDED TO POLICE DEPT

2/15/24

CAC

DATE RECEIVED BY POLICE DEPT

2/15/24

KRF

DATE:

APPROVED

2/15/24

DISAPPROVED

POLICE DEPT SIGNATURE

DATE RETURNED TO REVENUE DIV.

2/15/24

KRF

DATE FORWARDED TO CITY CLERK

2/15/24

CAC

DATE RECEIVED BY CITY CLERK

2/15/24

JL

SCHEDULED DATE ON AGENDA

March 4, 2024

JL

Council Action:

APPROVED

DISAPPROVED

TABLED

COMMENTS:

Rescheduled for Council Agenda Date:

Council Action:

APPROVED

DISAPPROVED

TABLED

COMMENTS:

DATE RETURNED TO REVENUE DIV.:

DATE RETURNED TO TAXPAYER

OR TO ABC FIELD OFFICE

(per taxpayer request)



**COMMUNITY DEVELOPMENT
INTERNAL MEMORANDUM**

DATE: February 26, 2024
TO: Office of the City Clerk
FROM: Adrienne Jones, AICP, Director of Community Development 
SUBJECT: The Estate of Georgianne Simms Pre-Zoning Amendment

PRESENT ZONING: B-3, General Business, Baldwin County District 15

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

LOCATION: Northeast of County Road 64 and Alabama Highway 181

RECOMMENDATION: At the February 22, 2024 regular meeting of the City of Daphne Planning Commission, seven 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. Zoning Exhibit (Exhibit C)
6. Conceptual Site Layout (Exhibit D)
7. Adjacent Property Owners List



Zoning Classification:

B-3, General Business, Baldwin County District 15 Planning Area

Surrounding Zonings/Uses:

- **North-** B-3, General Business
- **South-** B-3, General Business
- **East-** RSF-E, Residential Single Family Estate
- **West-** B-3, General Business

Existing Utility Service Providers: Daphne Utilities, Riviera Utilities, Belforest Water, Baldwin County Sewer, AT&T

Affected City Service Providers: Fire Station 5, Police Beat 4

Staff Recommendation to PC: Favorable

Proposed Zoning:

B-2(a), General Business
Alternate

Development Concept:

Quick Serve Restaurant

Council District:

4

Existing Conditions:

0.75 acres (1 parcel)

Planning Commission Recommendation

02/22/24 Unanimously
Favorable

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: 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: 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. 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 construct a quick service restaurant. Such would be consistent with the commercial zoning classification and compatible with existing commercial uses on surrounding properties.

Recommendations:

Staff Recommendation to PC: Favorable

Planning Commission Recommendation to City Council: Favorable

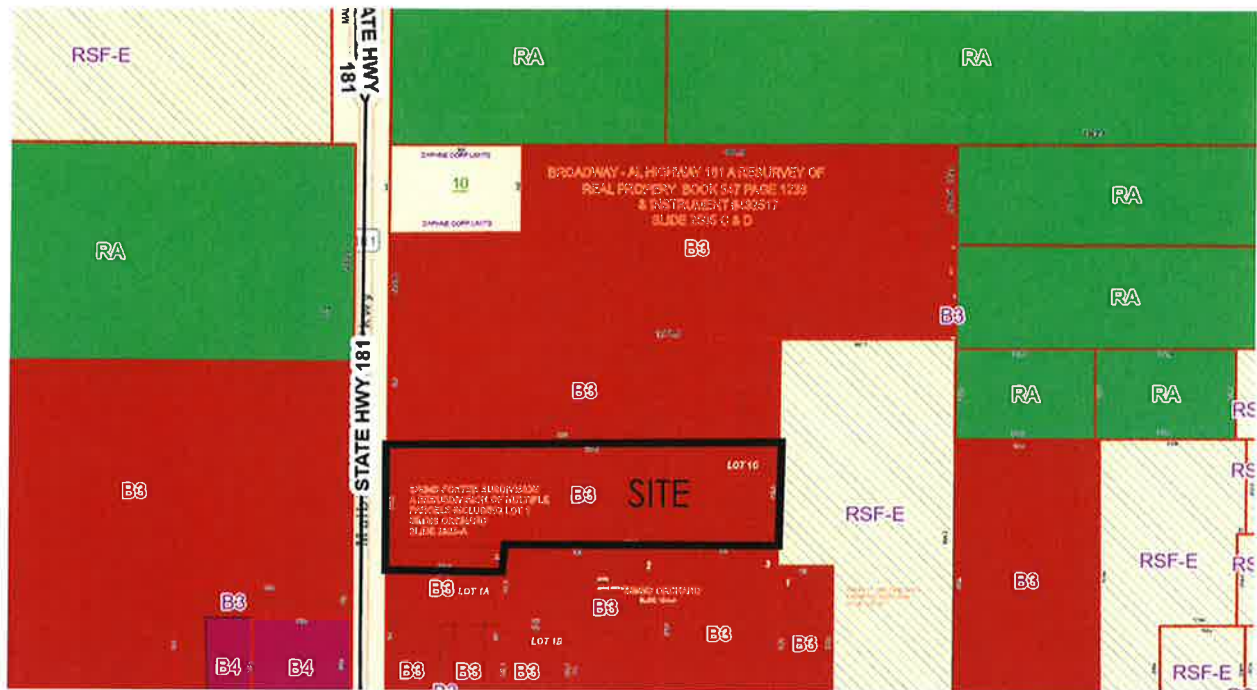
Excerpt from Daphne Zoning Map



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
	C/I COMMERCIAL/INDUSTRIAL
	MU MIXED USE
	PUD PLANNED UNIT DEVELOPMENT
	C-2 OUTDOOR AMUSEMENT
	GC GOLF COURSE
	ET JURISDICTION

Excerpt from County's Online map



☒ County Zoning

- ☒ Rural District (RR)
- ☒ Rural Agricultural District (RA)
- ☒ Conservation Resource District (CR)
- ☒ Residential Single Family Estate District (RSF-E)
- ☒ Residential Single Family District (RSF-1)
- ☒ Residential Single Family District (RSF-2)
- ☒ Residential Single Family District (RSF-3)
- ☒ Residential Single Family District (RSF-4)
- ☒ Residential Two Family District (RTF-4)
- ☒ Residential Single Family District (RSF-6)
- ☒ Residential Two Family District (RTF-6)
- ☒ Residential Multiple Family District (RMF-6)

- ☒ Residential Manufactured Housing Park District (RMH)
- ☒ Marine Recreation District (MR)
- ☒ Outdoor Recreation District (OR)
- ☒ Tourist Resort District (TR)
- ☒ Recreational Vehicle Park District (RV-1)
- ☒ Professional Business District (B-1)
- ☒ Neighborhood Business District (B-2)
- ☒ General Business District (B-3)
- ☒ Major Commercial District (B-4)
- ☒ Light Industrial District (M-1)
- ☒ General Industrial District (M-2)

APPLICATION & SUPPLEMENTAL INFORMATION



APPLICATION FOR REZONING OR PRE-ZONING

Office use only: Rev. 072816

Date Submitted: January 22, 2024

Application Number:

Planning Commission Public

ZA- or PZA- 24-02

Hearing Date: February 22, 2024

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):

PPIN#(s):

NE intersection of Hwy. 181 and CR 64

38746

Gross Site Area (acreage):

0.75 ac.

Requested Zoning or Pre-Zoning:

B-2(a)

Current Zoning Designation(s):

Amended Request:

B-3 (County Zoning) Baldwin Cty. District 15

Initials:

Date:

Current Land Use:

Anticipated Land Use:

Scooters Coffee

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

See attached.

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

Annexation ☒ Subdivision ☐ Site Plan ☐ Special Exception ☐ Variance ☐ Specify Other

APPLICANT & AGENT INFORMATION

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

Name of Current Owner:

Estate of Georgianne Simms by Carl E. Johnson, Executor

Mailing Address:

P.O. BOX 489 FOLEY AL. 36536

Name of Authorized Agent:

Aaron S. Collins

Mailing Address:

9969 Windmill Road, Fairhope, AL. 36532

Name of Developer*:

Hudson Sandefur

Other:

O = 251-943-6400

F = 251-943-6565

Phone/Fax:

E-mail: **CEJ@JSDNCPA.com**

Phone/Fax: **251-990-6566**

E-mail: **acollins@secivileng.com**

Phone/Fax: **251-654-5466**

E-mail: **hudson@zaxmail.com**

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: Carl E. Johnson

Date 1-17-24

Agent's Signature: Aaron S. Collins

Date 1-19-24

REVERSIONARY CLAUSE ACKNOWLEDGEMENT

SKIP THIS PAGE IF REQUESTING PRE-ZONING OR PLANNED UNIT DEVELOPMENT ZONING

Pursuant to Article 22-2 of the Land Use & Development Ordinance, zoning and rezoning may revert back to prior designation if certain conditions are not met. Said conditions are specified in Article 22 of the Land Use Ordinance. Legibly sign and print/type responses below. Indicate N/A or an "X" where item is not applicable. **Submit with rezoning request where applicable.**

CURRENT OWNER'S ACKNOWLEDGEMENT

I, CARL E. JOHNSON, EXECUTOR, acknowledge that I am aware that this rezoning request is subject to a reversionary clause as noted in Article 22-2 of the Land Use & Development Ordinance. Date: 1-17-24

CARL E. JOHNSON, EXECUTOR ESTATE OF GEORGIANNE SIMMS
PRINTED NAME OF CURRENT OWNER/PETITIONER

Carl E. Johnson

DEVELOPER'S ACKNOWLEDGEMENT

I, John Hudson Sandefur , acknowledge that I am aware that this rezoning request is subject to a reversionary clause as noted in Article 22-2 of the Land Use & Development Ordinance. Date: 1-18-24

PRINTED NAME OF DEVELOPER

John Hudson Sandefur 

PROPERTY ADDRESS OR PPIN#(s): 38746

Legal Description Lot A- Simms Subdivision Pre-Zoning & Annexation

EXHIBIT "A"

Lot A Of Simms Subdivision, By Map Or Plat Thereof Recorded At Slide 2929-E, Probate Records, Baldwin County, Alabama. Being A Resubdivision Of Lot 1C, Simms-Foster Subdivision As Recorded In Slide 2825-A, A Resubdivision of Multiple Parcels, Including Lot 1, Simms Orchard, As Recorded At Slide 1844-A.



DRAINAGE EASEMENTS
STREET: NEAR AND SIDE BOUNDARY LOT LINES: 15 FEET
INTERIOR NEAR AND SIDE LOT LINES: 7.5 FEET

UTILITY EASEMENTS
STREET: NEAR AND SIDE BOUNDARY LOT LINES: 15 FEET
INTERIOR NEAR AND SIDE LOT LINES: 10 FEET

FLOOD STATEMENT
PROPERTY LIES IN FLOOD ZONE "X" AS SCALED FROM FLOOD INSURANCE RATE MAP NUMBER 22038AAL, COUNTY: BALDWIN, PARCEL: 0555, SURF: "X", MAP REVISED DATE: APRIL 19, 2019

2/04/19
SLIDE 000229-E

Planning Dist: 35
Zoning: B-3 (GENERAL BUSINESS)
Total Area: 4.98 AC.
Total Lots: 2
Smallest Lot: 32,770 SF
Largest Lot: 184,473 SF
Street Length: NONE

PARCEL NUMBER:
05-48-06-14-0-000-012.000

BUILDING SETBACKS AS PER B-3 ZONING, BALDWIN COUNTY PLANNING DISTRICT 35:
FRONT: 40 FT.
REAR: 25 FT.
SIDE: 15 FT.

FRONT SETBACKS ALONG ALABAMA HIGHWAY 181 AND COUNTY ROAD 64 ARE BASED ON HIGHWAY CONSTRUCTION SETBACK AND ARE AS SHOWN HEREON.

SITE DATA

OWNER OF RECORD & SUBDIVIDER:
ESTATE OF GEORGIANNE SIMMS
C/O CARL E. JOHNSON
PO BOX 489
FOLEY, AL 36536

UTILITY PROVIDERS
Water: BELFOREST WATER SYSTEM
Sewer: BALDWIN COUNTY SEWER SERVICE
Power: RIVERA UTILITIES
Telephone: AT&T

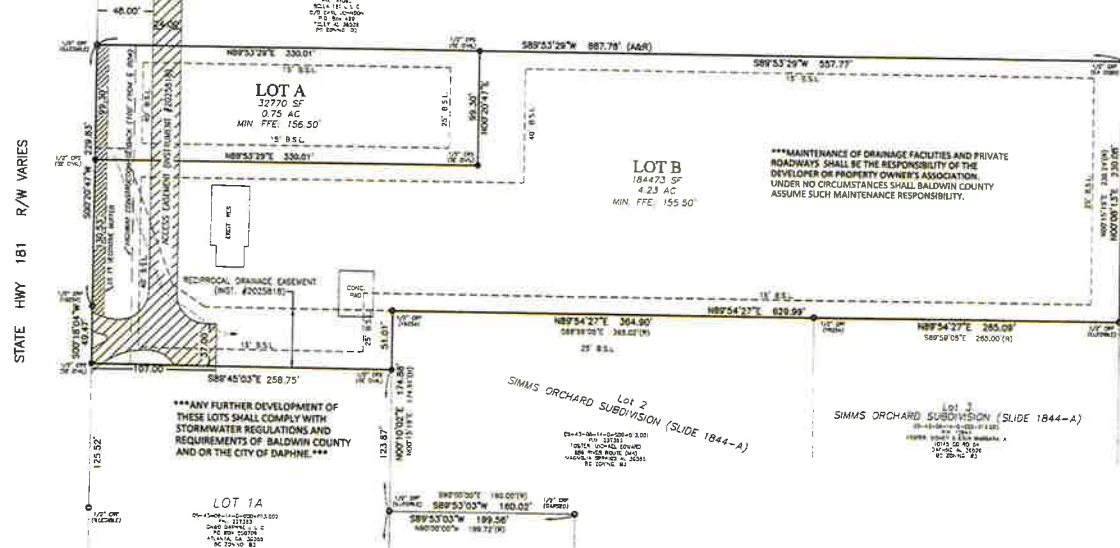
SURVEYOR
S.E. CIVIL ENGINEERING AND SURVEYING, LLC
9969 WINDMILL ROAD
FAIRHOPE, AL 36532
DAVID E. DIEHL, PLS LIC. NO. 26514

- LEGEND:**
- B.S.L. = BUILDING SETBACK LINE
 - (N) = RECORD BEARING/DISTANCE
 - CHS = CAPPED REAR SET (SEE CIV.)
 - CHS = CAPPED REAR ROAD
 - CHS = REAR ROAD (NO CAPS)
 - = 10 FOOT STUMP DEDICATED HERCITY FOR PUBLIC RIGHT-OF-WAY
 - = SECTION LINE
 - = ACCESS EASEMENT (INSTRUMENT #20230818)



Vicinity Map
1 Inch = 1 Mile

Exhibit "B"



SURVEYOR'S NOTES:

1. THERE MAY BE RECORDS OF UNRECORDED DEEDS, EASEMENTS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OF THIS SUBDIVISION.
2. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE EXISTENCE, LOCATION, OR EXTENT OF ANY EASEMENTS OR OTHER INSTRUMENTS AFFECTING THE BOUNDARIES OF THIS SUBDIVISION ARE SHOWN ON THE RECORDS OF THE BALDWIN COUNTY PLANNING DISTRICT 35.
3. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE EXISTENCE, LOCATION, OR EXTENT OF ANY EASEMENTS OR OTHER INSTRUMENTS AFFECTING THE BOUNDARIES OF THIS SUBDIVISION ARE SHOWN ON THE RECORDS OF THE BALDWIN COUNTY PLANNING DISTRICT 35.
4. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE EXISTENCE, LOCATION, OR EXTENT OF ANY EASEMENTS OR OTHER INSTRUMENTS AFFECTING THE BOUNDARIES OF THIS SUBDIVISION ARE SHOWN ON THE RECORDS OF THE BALDWIN COUNTY PLANNING DISTRICT 35.
5. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE EXISTENCE, LOCATION, OR EXTENT OF ANY EASEMENTS OR OTHER INSTRUMENTS AFFECTING THE BOUNDARIES OF THIS SUBDIVISION ARE SHOWN ON THE RECORDS OF THE BALDWIN COUNTY PLANNING DISTRICT 35.
6. THE SURVEYOR HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE EXISTENCE, LOCATION, OR EXTENT OF ANY EASEMENTS OR OTHER INSTRUMENTS AFFECTING THE BOUNDARIES OF THIS SUBDIVISION ARE SHOWN ON THE RECORDS OF THE BALDWIN COUNTY PLANNING DISTRICT 35.

GENERAL NOTES:

1. ACCESS EASEMENT AS SHOWN HEREON SHALL BE MAINTAINED BY PROPERTY OWNER AS DEFINED IN INSTRUMENT 20230818 AND SHALL NOT BE THE RESPONSIBILITY OF BALDWIN COUNTY.
2. THERE IS A DEDICATED HERCITY 10 FOOT STUMP DEDICATED ON EACH SIDE OF LOT AND CROWN AREA LINES UNLESS OTHERWISE NOTED.
3. USE NEAR LANDSCAPE BUFFER ALONG STREET HIGHWAY 181 SHALL COMPLY WITH THE BALDWIN COUNTY ZONING ORDINANCE.
4. ALL UTILITIES SHALL BE CONSTRUCTED UNDERGROUND.
5. DRAINAGE/UTILITY EASEMENTS - EXISTING NEAR AND SIDE BOUNDARY LOT LINES IS FEET WIDE NEAR AND SIDE LOT LINES.
6. ALL UTILITIES SHALL BE CONSTRUCTED UNDERGROUND.
7. DRAINAGE/UTILITY EASEMENTS - EXISTING NEAR AND SIDE BOUNDARY LOT LINES IS FEET WIDE NEAR AND SIDE LOT LINES.
8. ALL UTILITIES SHALL BE CONSTRUCTED UNDERGROUND.
9. ALL UTILITIES SHALL BE CONSTRUCTED UNDERGROUND.
10. ALL UTILITIES SHALL BE CONSTRUCTED UNDERGROUND.

SURVEYOR'S CERTIFICATE

I, DAVID E. DIEHL, A LICENSED SURVEYOR OF BALDWIN COUNTY, ALABAMA, HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY OF THE ESTATE OF GEORGIANNE SIMMS, A PROPRIETOR, SITUATED IN BALDWIN COUNTY, ALABAMA, AND DESCRIBED AS FOLLOWS:

LOT 1C SIMMS-FOSTER SUBDIVISION AS RECORDED IN SLIDE 2825-A, A RESUBDIVISION OF MULTIPLE PARCELS, INCLUDING LOT 1, SIMMS ORCHARD, AS RECORDED AT SLIDE 1844-A.

TRACT CONTAINS 4.98 ACRES MORE OR LESS

AND THAT THE PLAT OR MAP CONTAINED HEREON IS A TRUE AND CORRECT MAP SHOWING THE SUBDIVISION INTO WHICH THE PROPERTY DESCRIBED IS DIVIDED, SHOWING THE LENGTH AND BEARING OF THE BOUNDARIES OF EACH LOT AND EASEMENT, AND ITS NUMBER AND SHOWING THE STREETS, ALLEYS AND PUBLIC GROUNDS AND DIVING THE BEARING, LENGTH, WIDTH AND HANDS OF THE STREETS, ALLEYS AND PUBLIC GROUNDS HAVE BEEN PLACED AT POINTS MARKED THIS (10) AS HEREON SHOWN. I FURTHER CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ALABAMA TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

DAVID E. DIEHL, PLS. NO. 26514
01-02-2024
SURVEY NOT VALID WITHOUT ORIGINAL SIGNATURE AND SEAL



CERTIFICATE OF THE BALDWIN COUNTY PLANNING DIRECTOR:
THE UNDERSIGNED, AS AUTHORIZED BY BALDWIN COUNTY PLANNING AND ZONING DEPARTMENT, HEREBY APPROVES THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATE OF APPROVAL BY AT&T
THE UNDERSIGNED, AS AUTHORIZED BY AT&T, HEREBY APPROVES THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATE OF APPROVAL BY BELFOREST WATER SYSTEM
THE UNDERSIGNED, AS AUTHORIZED BY BELFOREST WATER SYSTEM, HEREBY APPROVES THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER SERVICE
THE UNDERSIGNED, AS AUTHORIZED BY BALDWIN COUNTY SEWER SERVICE, HEREBY APPROVES THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATE OF APPROVAL BY THE COUNTY ENGINEER
THE UNDERSIGNED, AS COUNTY ENGINEER OF BALDWIN COUNTY, ALABAMA, HEREBY APPROVES THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATE OF APPROVAL BY E-911 ADDRESSING
THE UNDERSIGNED, AS AUTHORIZED BY BALDWIN COUNTY E-911 ADDRESSING, HEREBY APPROVES THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATE OF APPROVAL BY BALDWIN COUNTY SEWER SERVICE
THE UNDERSIGNED, AS AUTHORIZED BY BALDWIN COUNTY SEWER SERVICE, HEREBY APPROVES THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATION OF OWNERSHIP AND DEDICATION
I, CARL E. JOHNSON, AS OWNER OF THE ESTATE OF GEORGIANNE SIMMS, HEREBY CERTIFY THAT I HAVE SURVEYED THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATION BY NOTARY PUBLIC
I, CARL E. JOHNSON, AS OWNER OF THE ESTATE OF GEORGIANNE SIMMS, HEREBY CERTIFY THAT I HAVE SURVEYED THE WITHIN PLAT FOR RECORDING AT THE BALDWIN COUNTY PLANNING DISTRICT 35, BALDWIN COUNTY, ALABAMA, THIS 24th DAY OF JANUARY, 2024.

CERTIFICATE OF APPROVAL FOR RECORDING
STATE OF ALABAMA
COUNTY OF BALDWIN

I, DAVID E. DIEHL, A LICENSED SURVEYOR OF BALDWIN COUNTY, ALABAMA, HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY OF THE ESTATE OF GEORGIANNE SIMMS, A PROPRIETOR, SITUATED IN BALDWIN COUNTY, ALABAMA, AND DESCRIBED AS FOLLOWS:

LOT 1C SIMMS-FOSTER SUBDIVISION AS RECORDED IN SLIDE 2825-A, A RESUBDIVISION OF MULTIPLE PARCELS, INCLUDING LOT 1, SIMMS ORCHARD, AS RECORDED AT SLIDE 1844-A.

TRACT CONTAINS 4.98 ACRES MORE OR LESS

AND THAT THE PLAT OR MAP CONTAINED HEREON IS A TRUE AND CORRECT MAP SHOWING THE SUBDIVISION INTO WHICH THE PROPERTY DESCRIBED IS DIVIDED, SHOWING THE LENGTH AND BEARING OF THE BOUNDARIES OF EACH LOT AND EASEMENT, AND ITS NUMBER AND SHOWING THE STREETS, ALLEYS AND PUBLIC GROUNDS AND DIVING THE BEARING, LENGTH, WIDTH AND HANDS OF THE STREETS, ALLEYS AND PUBLIC GROUNDS HAVE BEEN PLACED AT POINTS MARKED THIS (10) AS HEREON SHOWN. I FURTHER CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE REQUIREMENTS OF THE ALABAMA TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

DAVID E. DIEHL, PLS. NO. 26514
01-02-2024
SURVEY NOT VALID WITHOUT ORIGINAL SIGNATURE AND SEAL

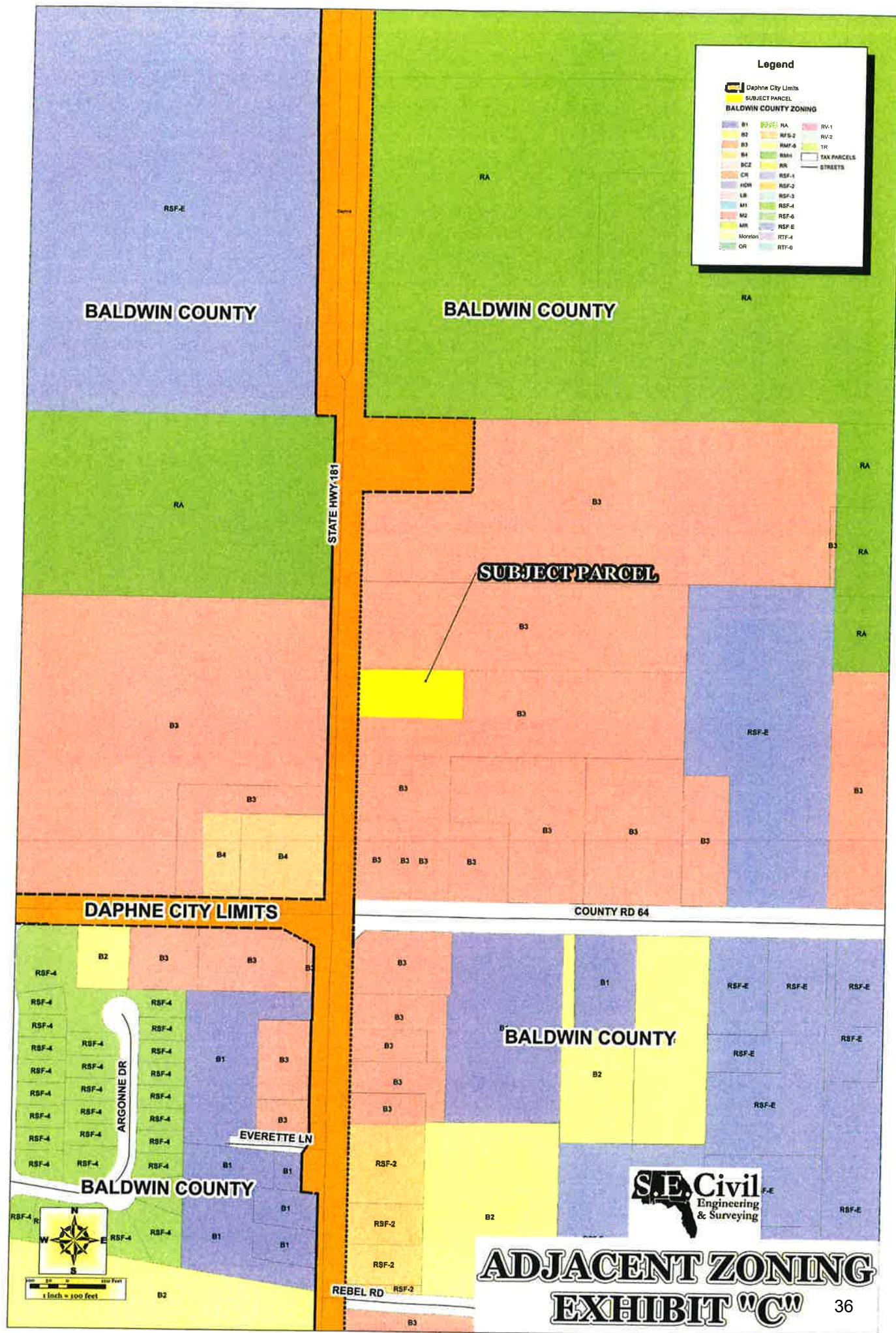
SIMMS SUBDIVISION

A RESUBDIVISION OF LOT 1C
SIMMS-FOSTER SUBDIVISION
AS RECORDED IN SLIDE 2825-A
A RESUBDIVISION OF MULTIPLE PARCELS, INCLUDING LOT 1,
SIMMS ORCHARD, AS RECORDED AT SLIDE 1844-A



PRELIM- FINAL PLAT
GEORGIANNE SIMMS

DATE:	01-02-2024
SCALE:	1"=40'
PROJECT:	2825-2024
FILE:	2825-2024
SHEET:	1 of 1

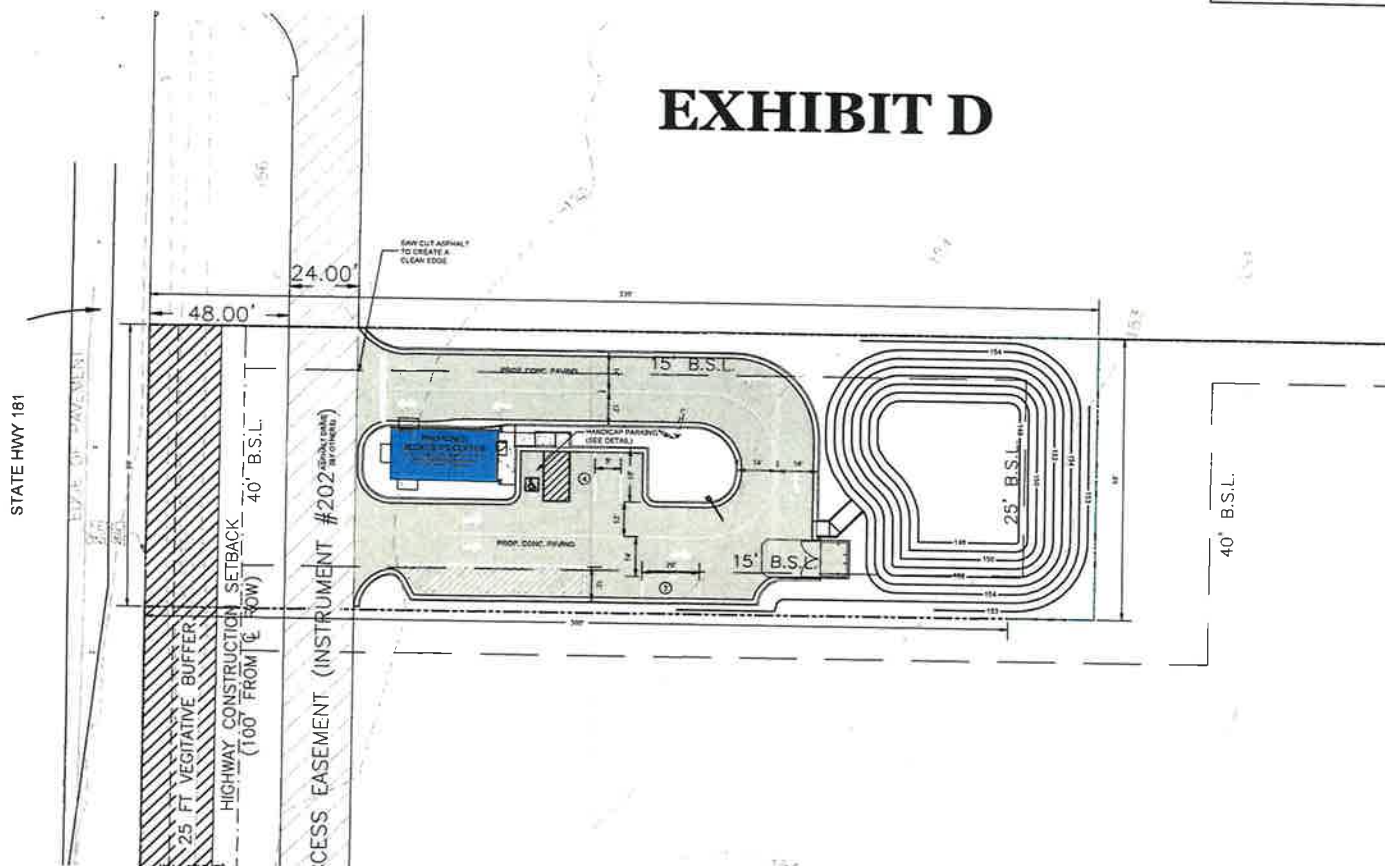


PARKING DATA	
PARKING REQUIREMENT	SPACES
TOTAL REQUIRED (1.25 SPACES FOR EACH SEAT) =	XX
TOTAL PROVIDED =	7

SITE ANALYSIS	
SITE AREA (PROPOSED)	BUILDING HEIGHT
49.75 AC (23,778 SF)	16 FT
REQUIRED PARKING	BUILDING UNDER ROOF
8 SPACES (SEE PARKING DATA)	584 SF
PROVIDED PARKING	
7 SPACES	
JURISDICTION	ZONING
CITY OF DAPHNE	B-3
PERVIOUS AREA	PERVIOUS AREA
8.25 AC (35,376)	8.38 AC (36,476)
BUILDING SETBACKS	REQUIRED
FRONT YARD	40 FT
SIDE YARD	15 FT
REAR YARD	25 FT
MAXIMUM BUILDING HEIGHT	50
MAX. DENSITY	1.33 UNITS/AC

SITE PLAN LEGEND	
EXISTING	PROPOSED
TRAFFIC CONTROL ARROW	
CURB & GUTTER	
HEADER CURB	
WEDON CURB	
PARKING QUANTITY	
ACCESSIBLE PARKING SPACE	
PERVIOUS CONCRETE PAVING	
CONCRETE PAVING	
MEDIUM DUTY ASPHALT PAVING	

EXHIBIT D



S.E. Civil
Engineering & Surveying
P.L.L.C.

CONCEPTUAL
SITE PLAN

SCOOTERS

PRELIMINARY

JOB NO.
PROJECT
DATE
SCALE

SHEET
C01

ADJACENT PROPERTY OWNERS LOT A SIMMS SUBDIVISION

Owner Name	Address	City	State	Zip
SIMMS GEORGIANNE S AND SIMMS GEORGIANNE	PO BOX 489	FOLEY	AL	36536
BELLA 181 L L C	P O BOX 489	FOLEY	AL	36536
ALLEGRI, JOSEPH A JR PROPERTIES II L L C	10139 VOLVECKY DR	DAPHNE	AL	36526
SE Civil	9969 Windmill Road	Fairhope	AL	36532

COMMUNITY DEVELOPMENT



February 9, 2024

Dear Sir/Ma'am,

NOTICE OF PUBLIC HEARING

A petition for PRE-ZONING will be considered by the Daphne Planning Commission for The Estate of Georgianne Simms containing 0.75 acres +/- located northeast of the intersection of County Road 64 and Alabama Highway 181 zoned B-3, General Business, Baldwin County District 15, 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, February 14, 2024 at 8:30 a.m. in the Council Chambers of City Hall. The public is invited to attend: limited participation may be allowed by the chairman.

The public hearing will be held by the Daphne Planning Commission on Thursday, February 22, 2024 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

The Estate of Georgianne Simms Pre-Zoning Amendment

Legal Description Lot A- Simms Subdivision Pre-Zoning & Annexation

EXHIBIT “A”

Lot A Of Simms Subdivision, By Map Or Plat Thereof Recorded At Slide 2929-E, Probate Records, Baldwin County, Alabama. Being A Resubdivision Of Lot 1C, Simms-Foster Subdivision As Recorded In Slide 2825-A, A Resubdivision of Multiple Parcels, Including Lot 1, Simms Orchard, As Recorded At Slide 1844-A.

COMMUNITY DEVELOPMENT



February 23, 2024

Estate of Georgianne Simms by Carl Johnson, Executor
P.O. Box 489
Foley, AL 36536

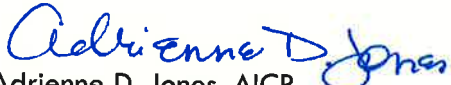
Subject: Estate of Georgianne Simms Pre-zoning Project Status #PZA24-02
Estate of Georgianne Simms Annexation Project Status #ANX24-02

Dear Estate of Georgianne Simms by Carl Johnson, Executor,

On February 22, 2024, the Daphne Planning Commission set forth a favorable recommendation to the City Council to annex and pre-zone the 0.75-acre subject property to B-2(a), General Business Alternate within the city limits of the City of Daphne.

Documentation will be forwarded for further processing. If you have any questions, feel free to contact me.

Sincerely,


Adrienne D. Jones, AICP
Community Development Director

cc: Aaron Collins – Email
City Clerk - Email
File

**COMMUNITY DEVELOPMENT
INTERNAL MEMORANDUM**



DATE: February 26, 2024
TO: Office of the City Clerk
FROM: Adrienne Jones, AICP, Director of Community Development 
SUBJECT: The Estate of Georgianne Simms Annexation Petition

PRESENT ZONING: B-3, General Business, Baldwin County District 15

LOCATION: Northeast of County Road 64 and Alabama Highway 181

RECOMMENDATION: At the February 22, 2024 regular meeting of the City of Daphne Planning Commission, seven members were present and the motion carried unanimously for a favorable recommendation 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)
5. Zoning Exhibit (Exhibit C)
6. Conceptual Site Layout (Exhibit D)

THE ESTATE OF GEORGIANNE SIMMS ANNEXATION PETITION



THE ESTATE OF GEORIANNA SIMMS ANNEXATION REQUEST

The applicant proposes to annex the subject property into the corporate limits. The site meets the contiguity requirement because it abuts Alabama State Route 181 (Highway 181) a road right-of-way which is inside the Daphne corporate limits.

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 property. On February 22, 2024, the Planning Commission set forth a favorable recommendation for annexation 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

STATE OF ALABAMA

COUNTY OF BALDWIN

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

(_____)

ESTATE OF GEORGIANNE SIMMS BY

The undersigned, CARL E. JOHNSON, EXECUTOR, files this petition with the Clerk of the City of Daphne requesting the property hereafter described, commonly referred to as, Lot A Simms Subdivision, 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 its 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.

ESTATE OF GEORGIANNE SIMMS

3. **Owner:** The petitioner, BY CARL E. JOHNSON, EXECUTOR, 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 specifically include the conditions requested below upon annexing the property into the corporate limits of the City of Daphne.

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

Any other conditions which may apply upon annexation:

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 17 day of JANUARY, 2024

Respectfully submitted by,

ESTATE OF GEORGIANNE SIMMS

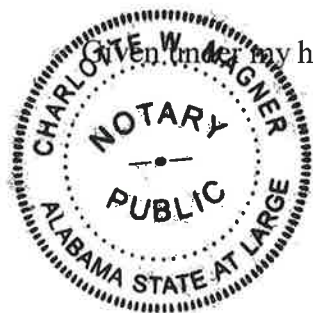
Name of Owner (Print)

Carl E Johnson, EXECUTOR

Name of Owner (Signature)

STATE OF ALABAMA
COUNTY OF BALDWIN

I, Charlotte W MAGNER, the undersigned Notary Public in and for said county and state, hereby certify that Carl E Johnson has 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 executed the same voluntarily on the day the same bears date.



Given under my hand and official seal this the 17 day of JANUARY, 2024

Charlotte W Magner
NOTARY PUBLIC

My commission expires: Notary Public - Alabama State At Large
My Commission Expires - April 24, 2024

Owner's Address

PO Box 489
Foley, AL 36536

ADDITIONAL INFORMATION

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

Initials: CEG

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: CEG

We certify that the property is a single or multiple parcels under single or multiple ownership.

Initials: _____

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: CEG

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

Initials: CEG

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 17 day of JANUARY 2024.

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 0.75 AC.

Subdivision Name SIMMS SUBDIVISION A RESUBDIVISION OF LOT 1C SIMMS- FOSTER Lot Number(s) LOT- A

SUBDIVISION AS RECORDED IN SLIDE 2825-A A RESUBDIVISION OF MULTIPLE PARCELS INCLUDING LOT 1, SIMMS ORCHARD, AS RECORDED AT SLIDE 1844-A

Names and Signature of ALL property owners:

Signature: _____

Signature: Carl E. Johnson, Executor

Printed Name: _____

Printed Name: CARL E. JOHNSON,

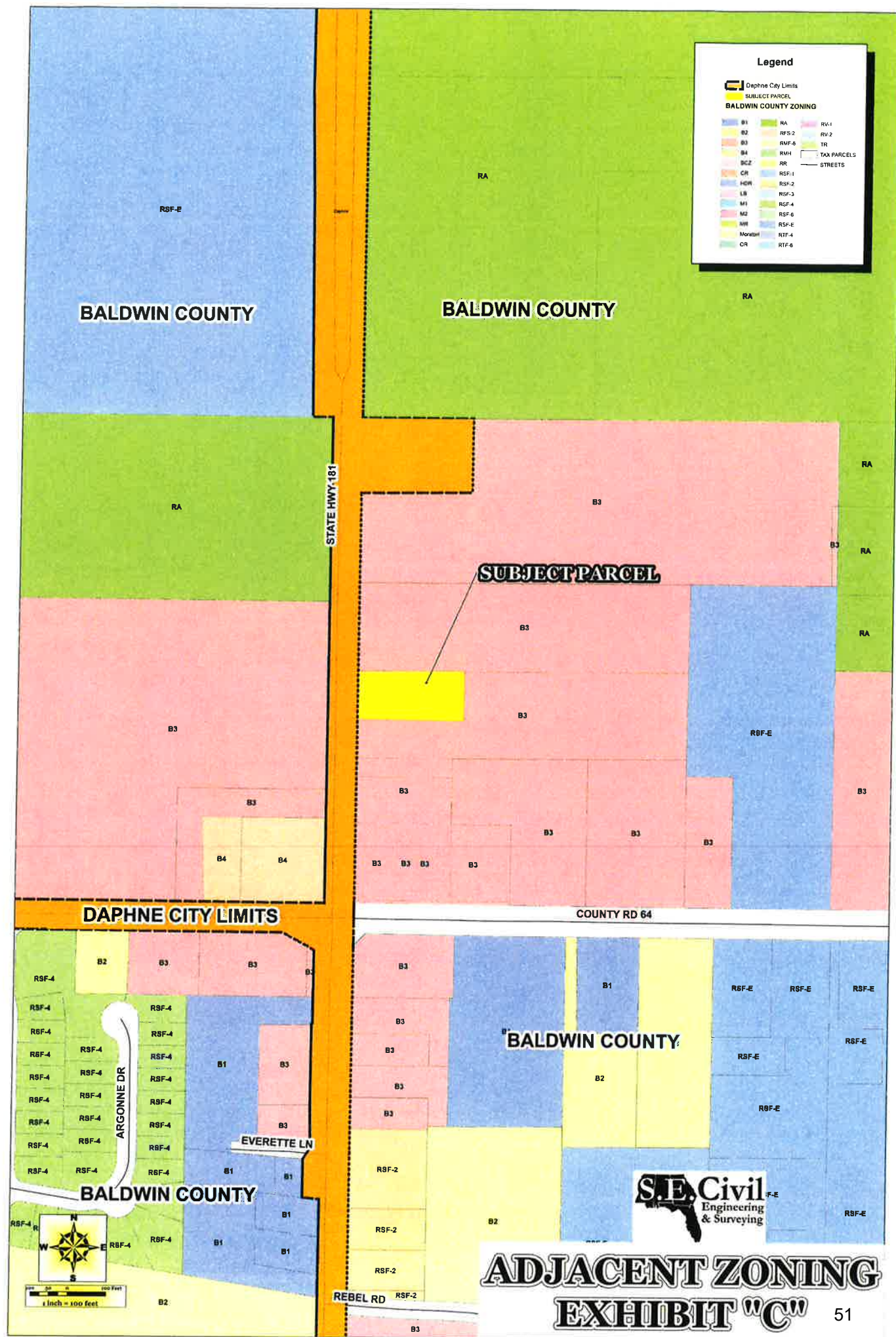
Mailing Address: _____

Mailing Address: P.O. Box 489; Foley, AL 36536

Legal Description Lot A- Simms Subdivision Pre-Zoning & Annexation

EXHIBIT "A"

Lot A Of Simms Subdivision, By Map Or Plat Thereof Recorded At Slide 2929-E, Probate Records, Baldwin County, Alabama. Being A Resubdivision Of Lot 1C, Simms-Foster Subdivision As Recorded In Slide 2825-A, A Resubdivision of Multiple Parcels, Including Lot 1, Simms Orchard, As Recorded At Slide 1844-A.



STATE OF ALABAMA)

ADCNR GRANT#: G-CDBP/23/CD

BALDWIN COUNTY)

GOMESA GRANT AGREEMENT

THIS GOMESA GRANT AGREEMENT, (“Agreement”) is made and entered by and between the State of Alabama Department of Conservation and Natural Resources hereinafter, referred to as “ADCNR”, and City of Daphne, hereinafter referred to as “Grantee” (ADCNR and Grantee collectively hereinafter “Parties”) to provide funding made available to the State of Alabama under the Gulf of Mexico Energy Security Act of 2006 (“GOMESA”).

In consideration of the mutual covenants herein contained, Grantee hereby agrees to perform, in proper sequence and in the time specified, all tasks necessary for successful completion of the project as hereinafter set forth.

1. **PROJECT PURPOSE AND IDENTITY:** The purpose of the Agreement is to provide funding under the Gulf of Mexico Energy Security Act of 2006 (GOMESA) to Grantee, in accordance with the authorized uses and purposes set forth in GOMESA, to construct an outdoor event space/amphitheater, waterfront boardwalk, public parking and restrooms, and a 12-15 foot wide boardwalk and trail that will connect the public to Bayfront Park via pedestrian access, as described in the Disbursement Justification attached as Exhibit A (“Project”).
2. **CERTIFICATION OF AUTHORIZED USES FOR PROJECT SERVICES:** Grantee warrants and represents that it will only use the GOMESA funds provided under this Agreement in accordance with approved GOMESA uses and consistent with all applicable state and federal laws. Specifically, Grantee will use these funds for projects that satisfy one or more of the following authorized uses:
 - a. Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses;
 - b. Mitigation of damage to fish, wildlife, or natural resources;
 - c. Implementation of a federally approved marine, coastal, or comprehensive conservation management plan;
 - d. Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects; and
 - e. Planning assistance and the administrative costs of complying with GOMESA.
3. **PROJECT SERVICES:** Grantee warrants and represents that it will use the GOMESA funds provided under this Agreement in accordance with approved GOMESA uses and

G-CDBP/23/CD
 Page 1 of 17
 Rev. 11/1/2023

consistent with all applicable state and federal laws. Furthermore, Grantee shall provide, in accordance with all applicable laws, executive orders, codes, regulations, etc., all the necessary labor, materials, services, and facilities to successfully complete the Project and fulfill all requirements of this Agreement including, but not limited to, requirements as set forth in Paragraphs 9 and 14.

4. **PROJECT PERFORMANCE PERIOD:** The Project Performance Period shall begin on the date of the Commissioner's signature ("Project Commencement Date") and end thirty-six (36) months after the Project Commencement Date
5. **AGREEMENT TERM:** The Agreement Term for the fulfillment of all Project Services shall begin on the date of the Commissioner's signature ("Effective Date") and end ninety (90) days after the end of the Project Performance Period, unless extended in writing by ADCNR by amendment as provided herein.
6. **NOTICE TO PROCEED:** Grantee shall proceed with performing Project Services upon receipt of a fully executed Agreement which has been approved by the appropriate State of Alabama officials.
7. **FUNDING AMOUNT/PAYMENT:** ADCNR agrees to provide advance disbursement of GOMESA funds to Grantee for payment of Allowable Costs pursuant to a single payment, for a total Agreement amount not to exceed Seven Million Two Hundred Thousand Dollars and 00/100 (\$7,200,000.00), to allow satisfactory completion of all Project Services following full execution of this Agreement and submission by Grantee of an invoice for payment which shall include a reference to the Grant Number identified above. In the event these funds are not fully expended before the end of the Project Performance Period, the Grantee shall return the remaining funds to the ADCNR prior to the end of the Agreement Term in such manner as specified by ADCNR.
8. **CONTINGENCY/ FUNDING AVAILABILITY:** Grantee acknowledges and agrees that the commencement and continuation of funding pursuant to this Agreement shall be specifically contingent upon the receipt and availability of GOMESA funding for this Project.
9. **ALLOWABLE COSTS:** Allowable Costs allowed under this Agreement shall be determined in accordance with Exhibit A, subject to all requirements of GOMESA, local, state, and federal laws, as well as other applicable requirements, including the following:
 - a. Grantee agrees that any expenditure related to any type of lower tier contract or subaward support prior to execution of a written agreement for such purpose may not qualify as an Allowable Cost.

- b. Grantee shall immediately notify ADCNR in writing in the event, subsequent to execution of this Agreement, it receives other financial assistance to support or fund any activity related to Project Services. Grantee further agrees that no costs funded by such other sources constitute Allowable Costs to be funded pursuant to this Agreement.
 - c. Grantee acknowledges that no pre-award costs or other costs incurred prior to the Effective Date of this Agreement shall constitute Allowable Costs, unless it receives express written approval from ADCNR.
 - d. Grantee agrees that all disbursed funds shall be expended solely for Allowable Costs and that the amount of any expenditure determined by ADCNR not to constitute an Allowable Cost shall be immediately returned to ADCNR in such manner as specified by ADCNR.
10. **REPORTS:** Grantee agrees to submit semi-annual financial and performance reports no later than April 30 and October 30 of each year following execution of this Agreement. The semi-annual reports shall provide supporting documentation detailing Allowable Cost expenditures and Project activities during the reporting period. The Grantee further agrees to submit a Completion Report no later than ninety (90) days after the end of the Project Performance Period. The Completion Report must include a summary financial report detailing Project expenditures and a certification confirming both that Grantee has completed all Project Services and that all expenditures by Grantee of funds received pursuant to this Agreement constituted Allowable Costs. The Completion Report shall include supporting documentation establishing the Allowable Costs as to all expenditures, documents necessary to evidence successful Project completion, and any other documents to be maintained by ADCNR for purposes of recordkeeping and audit compliance. Additionally, if requested by ADCNR, data and reports generated or compiled within the scope of this Agreement shall be provided in digital format as may be specified by ADCNR. Grantee agrees that failure to submit such reports in a timely manner may result in the termination of this Agreement. All reports and correspondence submitted to ADCNR in connection with this Agreement shall be identified by the Grant Number identified above and shall be sent to the following:

Alabama Department of Conservation and Natural Resources
 Attention: GOMESA Coordinator
 31115 Five Rivers Blvd.
 Spanish Fort, AL 36527

11. INDEMNIFICATION AND HOLD HARMLESS:

- a. Grantee agrees to protect, defend, indemnify, save and hold harmless the State of Alabama and ADCNR, and any and all of their officers, agents, and employees, from and against any and all claims, demands, expense and liability arising out of injury or death to any person, or the damage, loss or destruction of any property, which may occur or in any way grow out of, any act or omission of ADCNR, its officers, agents, and employees, the Grantee, and the Grantee's agents, servants, employees, and subcontractors. Grantee's obligation and duty to protect, defend, indemnify, save and hold harmless ADCNR and its agents and employees shall include and extend to any and all costs, expenses, attorney fees, judgements, awards, and settlements incurred by the parties or their agents or employees as a result of any claims, demands, and/or causes of action arising out of the performance of the obligations or objectives set forth herein. Grantee agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims are groundless, false or fraudulent.
- b. Grantee further agrees it releases from liability and waives its right to sue the State of Alabama and ADCNR, and their officers, agents, and employees, regarding any and all claims resulting in any physical injury, economic loss, or other damage or loss as a result of or related in any way to the Agreement.
- c. The provisions of this Paragraph shall survive the Agreement Term and remain a continuing obligation of Grantee.

12. CLAIMS FOR LIENS: Grantee shall be solely liable for and shall hold the State of Alabama, all State Agencies, Boards and Commissions, along with the respective officers, agents, servants, employees, and volunteers of each, harmless from any and all claims or liens for labor, services or material furnished to Grantee in connection with the performance of its obligations under this Agreement.

13. ASSIGNMENT / AMENDMENT: Grantee shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of ADCNR. ADCNR may from time to time, request amendments to various provisions of this Agreement. Such amendments, which are mutually agreed upon between ADCNR and Grantee, must be in writing and approved by all signatory/authorities prior to becoming effective.

14. CLOSEOUT PROCESS: The closeout process is the final reconciliation and reporting of program expenses and activities. This involves reviewing program expenditures and completion of deliverables, resolving any open commitments, collecting subrecipient

documents, and submitting the required final reports, while adhering to the schedule developed by ADCNR. Grantee shall promptly finalize the closeout process upon the conclusion of the Project Performance Period. Any remaining payments or amounts otherwise due to Grantee may be withheld until all closeout documents and deliverables have been received by ADCNR.

15. **TITLE VI AND EQUAL EMPLOYMENT OPPORTUNITY:** The Grantee will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements issued pursuant to that title. In accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Agreement.
16. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon the successors and assigns of the respective Parties hereto.
17. **COMPLIANCE WITH LAWS:** The Grantee shall comply with all applicable laws, ordinances, regulations, and codes of the federal, state, and local governments in the performance of this Agreement. Grantee shall procure all applicable federal, state, and local permits and shall pay all said fees. Grantee further agrees and acknowledges that the ADCNR is relying upon the Grantee to maintain compliance with all provisions of GOMESA in connection with Project Services and related activities and expenditures.
18. **TAX / ASSESSMENT RESPONSIBILITY:** Grantee hereby agrees that the responsibility for payment of any taxes or assessments associated with the Project shall be the Grantee's obligation and shall be identified under the appropriate Tax Identification Number.
19. **ACCESS TO RECORDS:** The State of Alabama, through ADCNR auditors and/or Alabama Examiners of Public Accounts, and the Federal Government, through any of their duly authorized representatives, shall be entitled to audit the books, documents, papers, records of the Grantee, and any lower tier recipients which are reasonably related to this Agreement. Grantee agrees to assist with any such audit as requested by ADCNR and further agrees to the following:
 - a. Grantee shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such materials available at their respective offices at all reasonable times during the Agreement period and for six (6) years after date of final payment under this Agreement or as otherwise required pursuant the Department of Conservation and Natural Resources Records Disposition Authority (requirements current as of date of this Agreement available

at: https://archives.alabama.gov/officials/rdas/conservation_rda.pdf), whichever period expires later, for inspection by any of the above entities, and copies thereof shall be furnished, if requested.

- b. Pursuant to Alabama Act No. 94-414, Grantee must forward a copy of every audit report issued in connection with funding provided under this Agreement where public funds are received and/or disbursed to: Department of Examiners of Public Accounts, P. O. Box 302251, Montgomery, Alabama 36130-2251, ATTN: Audit Report Repository; or to Central.Records@Examiners.Alabama.gov. Grantee shall also simultaneously therewith forward a copy of same to ADCNR.
 - c. The provisions of this Paragraph shall survive the Agreement Term and remain a continuing obligation of Grantee.
20. **INSURANCE:** In addition, Grantee shall maintain in force, at its sole expense, liability insurance for injury or death or damage to property, in the amount of FIVE MILLION DOLLARS (\$5,000,000), and shall include ADCNR, its officers, employees, and agents, as additional insureds in said insurance policy. Grantee shall provide to ADCNR a current certificate of insurance and said insurance carrier or carriers shall be required to provide unto ADCNR at least thirty (30) days' written notice of any cancellation or modification of coverage under any such policies. Any notices required to be provided by ADCNR hereunder shall be made to General Counsel, State of Alabama Department of Conservation and Natural Resources, 64 North Union Street, Suite 474, Montgomery, Alabama, 36130.
21. **TERMINATION:** In addition to terms of Paragraphs 8, 25, and 37, this Agreement may be terminated as follows:
- a. If, in the determination of ADCNR, Grantee fails to fulfill in timely and proper manner its obligations under this Agreement or violates any of the covenants, agreements or stipulations of this Agreement, ADCNR, in addition to all other available remedies, shall thereupon have the right to terminate this Agreement by giving written notice to Grantee, pursuant to Paragraph 32, of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date. In that event, at the option of ADCNR, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by Grantee under this Agreement shall become the property of ADCNR.
 - b. ADCNR may terminate this Agreement at any time without cause by giving written notice to Grantee, pursuant to Paragraph 32, of such termination and specifying the

effective date thereof, at least thirty (30) days before the effective date. In that event, at the option of ADCNR, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by Grantee under this Agreement shall become the property of ADCNR.

- c. If the Agreement is terminated by ADCNR, as provided herein, Grantee shall promptly submit a statement detailing the actual services performed and associated Allowable Costs to date of termination. The Grantee shall immediately return any remaining funds to ADCNR in such manner as specified by ADCNR.

22. **PRESS / EVENTS:** Grantee shall notify the ADCNR of the location, date, and time of any press conferences, press releases, etc. related to this Project at least five (5) working days prior to the scheduled event or release.
23. **CONFLICT OF INTEREST CERTIFICATION:** The Grantee by his/her/its signature, certifies to the best of his/her/its knowledge and belief, no conflicts of interest existed or now exist which have, may have or have had any effect on this Agreement or any expenditure of funds associated with this Agreement. In addition, in the event Grantee cannot maintain this certification at any point during the Agreement Term, Grantee shall immediately notify ADCNR in writing at the address set forth in Paragraph 32 and suspend performance of services under this Agreement as well as any expenditure of funds under this Agreement until the potential conflict of interest is resolved to ADCNR's satisfaction.
24. **NONDISCRIMINATION:** Grantee agrees to comply with all federal and state laws which prohibit discrimination, including on the basis of race, color, religion, age, sex, pregnancy, national origin, genetic information, veteran status or disability.
25. **PRORATION:** In the event of the proration of the fund from which payment under this Agreement is to be made, the Agreement will be subject to termination.
26. **NOT A DEBT OF THE STATE:** It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Agreement shall contravene any statute or constitutional provision or amendment, either now in effect or which may, during the course of this Agreement, be enacted, then that conflicting provision in the Agreement shall be deemed null and void.
27. **ALTERNATIVE DISPUTE RESOLUTION:** In the event of any dispute between the Parties, senior officials of both Parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money,

a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this Agreement which are not resolved by negotiation, the Parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center For Dispute Resolution of the Alabama State Bar.

28. **IMMIGRATION:** By signing this Agreement, the Grantee affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, if found to be in violation of this provision, Grantee shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.
29. **NOT ENTITLED TO MERIT SYSTEM:** Grantee understands and agrees that nothing in this Agreement entitles Grantee to any benefits of the Alabama State Merit System.
30. **BOYCOTT:** In compliance with Alabama Act No. 2016-312, Grantee hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which the State can enjoy open trade.
31. **ECONOMIC BOYCOTT:** In compliance with Ala. Act No. 2023-409, by signing this Agreement, Grantee provides written verification that Grantee, without violating controlling law or regulation, does not and will not, during the term of the Agreement engage in economic boycotts as the term "economic boycott" is defined in Section 1 of the Act.
32. **NOTICE:** Contact information of Parties for purposes of providing notice pursuant to the terms of this Agreement will be as set forth below, unless and until updated information is provided:

All notices required to be given to ADCNR shall be sufficient if sent by certified mail or overnight courier to the following address:

To ADCNR:
 Attention: Christopher M. Blankenship, Commissioner
 Alabama Department of Conservation and Natural Resources
 64 N. Union St., Suite 468
 Montgomery, AL 36130

All notices required to be given to the Grantee shall be sufficient if sent by certified mail or overnight courier to the following address:

To Grantee:
City of Daphne
Attention: Robin LeJeune, Mayor
P.O. Box 400
Daphne, AL 36526

33. **SEVERABILITY:** In the event any terms or provisions of this Agreement are deemed to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms or provisions hereof.
34. **GOVERNING LAW / SOVEREIGN IMMUNITY:** This Agreement and related matters shall be construed in accordance with and governed by the substantive and adjective laws of the State of Alabama, including but not limited to the State's right of immunity from suit as provided by Article 1 Section 14 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, without regard to its conflicts of law provisions.
35. **CHOICE OF LAW / VENUE:** Grantee agrees that the laws of the State of Alabama shall govern and be controlling and binding over the provisions of the rights herein granted, and that, notwithstanding any provision to the contrary, the venue of any legal action brought in connection herewith shall be the Circuit Court of Montgomery County, Alabama.
36. **ENFORCEMENT OF RIGHTS AND OBLIGATIONS:** Failure of ADCNR to strictly or promptly enforce the rights and obligations herein shall not operate as a waiver thereof.
37. **FORCE MAJEURE:** In the case of a Force Majeure Event as defined herein, ADCNR reserves the right to immediately terminate the Agreement without prior notice to Grantee. Should this occur, neither party shall be liable for or be considered in breach of this Agreement due to any failure to perform its obligations as a result of a cause beyond its control, including, without limitation: (i) acts of God; (ii) flood, fire or explosion; (iii) actions, embargoes, quarantines, or blockades in effect on or after the date of this Agreement; (iv) national, state, or regional emergency whether ongoing or occurring on or after the date of this Agreement; (v) public health emergencies, outbreak, epidemic, or pandemic, whether ongoing or occurring on or after the date of this Agreement, including, without limitation, COVID-19; or (vi) any other event which is beyond the reasonable control of such party (each of the foregoing, a "Force Majeure Event").
38. **NO AGENCY:** By entering into this Agreement, Grantee understands and agrees it is not an agent of the State, its officers, employees, agents or assigns. The Grantee is an

independent entity from the State and nothing in this Agreement creates an agency relationship between the Parties.

39. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
40. **SUPERSEDES:** ADCNR and grantee represent that this Agreement supersedes all proposals, oral and written, all previous contracts, agreements, negotiations, and all other communications between the parties with respect to the subject matter hereof.
41. **REVIEW AND EXECUTION:** Grantee acknowledges and agrees that it has had the opportunity to seek legal counsel in connection with reviewing and executing this Agreement. Accordingly, any rule of law or legal decision potentially requiring interpretation of any claimed ambiguity in this Agreement against the drafting party shall have no application and is expressly waived by Grantee.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized.

ADCNR:

GRANTEE:

Christopher M. Blankenship
Commissioner

Signature

Date: _____

Printed Name

Title

EXHIBIT A

State of Alabama Gulf of Mexico Energy Security Act of 2006 Disbursement Justification

Background:

The Gulf of Mexico Energy Security Act (GOMESA) was enacted by Congress in 2006 and significantly enhances outer Continental Shelf (OCS) oil and gas leasing activities and revenue sharing in the Gulf of Mexico. Among other things, GOMESA provides for enhanced sharing of leasing revenues with Gulf producing states and the Land & Water Conservation Fund for Coastal Restoration projects. The GOMESA authorizes uses of the proceeds for the following purposes:

- a. Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses;
- b. Mitigation of damage to fish, wildlife, or natural resources;
- c. **Implementation of a federally approved marine, coastal, or comprehensive conservation management plan;**
- d. **Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects; and**
- e. Planning assistance and the administrative costs of complying with GOMESA.

Project Description:

Daphne Bayfront Park Amphitheater and Park Improvements

Located along the Eastern Shore of Mobile Bay, the City of Daphne is a vibrant and bustling community that has grown to over 28,000 residents as of the latest 2020 Census Data (Figure 1). The current City leadership has established conservation practices and enhanced public access to the water and City waterfront parks as top priorities.

The centerpiece of Daphne's waterfront parks is Bayfront Park, which provides direct access to a public beach, hiking through beautiful Village Point Park Preserve and the Al Guarisco Boardwalk and Trail, paddle-boarding, birdwatching, kayaking, and stunning sunset views. Bayfront Park was significantly expanded in February of 2023 through the acquisition of approximately 8.5 acres using \$4 million of 2021 GOMESA funding along with \$2 million of City of Daphne funds. This significant acquisition adjacent to Bayfront Park included a 90,000 square foot former medical center which is being converted into a City Recreation Center and a large parking lot supporting public access to the various nearby outdoor recreation opportunities (Figure 2).

Through the development of the Comprehensive Bayfront Park Master Plan completed in 2021, City of Daphne leaders have envisioned a future Bayfront Park with an outdoor event space/amphitheater, waterfront boardwalk, public restrooms, and a 12- to 15-foot-wide boardwalk and trail that will connect residents to Bayfront Park via pedestrian access. In addition, Daphne plans to link the Eastern Shore Trail at Interstate 10 and Gator Boardwalk to Bayfront Park and Village Point Park Preserve to allow everyone to enjoy beautiful Mobile Bay.

Implementation of the Bayfront Park Master Plan will provide numerous long-term benefits for the City of Daphne, Baldwin County, Mobile County, and the state of Alabama by conserving the natural beauty of Mobile Bay and providing increased access to all types of park users. The project also will serve as an economic driver, creating tourism opportunities for events, and attracting travelers passing through Baldwin County on Interstate 10. It will also serve as a gateway to Olde Towne Daphne, highlighting the combination of local eateries and residential areas in a vibrant, walkable community that offers a unique variety of outdoor recreation opportunities.

The objective of this GOMESA project is to further a portion of the Master Plan through construction of the outdoor event space/amphitheater and public restrooms at the terminus of Bayfront Drive in Daphne. The event space will include a stage area, a gently sloped grassed area for up to 2,500 attendees, as well as public parking and restrooms that will remain available to the public even when there are no events taking place (Figure 3). The open area will also serve as a public plaza, providing residents and visitors a waterfront space along Mobile Bay to enjoy public concerts, performances, municipal events, festivals, and other meetings in coastal Alabama. See Figure 4 for a conceptual illustration of the amphitheater stage.

Project activities also further implementation of existing federally approved plans. The Alabama Coastal Area Management Plan (ACAMP) – Coastal Development Policy 10 notes “it is the policy of the ACAMP to promote and support, as financial means allow continued development of public access areas to coastal lands and waters for recreational purposes and to encourage the acquisition, development, and/or improvement of properties within the Alabama Coastal Area for public access in a manner consistent with the ACAMP.” Coastal Development Policy 11 states “it is the policy of the ACAMP to encourage a sustainable coastal tourism industry that ensures long-term economic and environmental benefits for coastal communities and the state.”

The Mobile Bay National Estuary Program (MBNEP) developed an approved plan entitled “Comprehensive Conservation & Management Plan for Alabama’s Estuaries & Coast 2019-2023” (CCMP). The CCMP includes Ecosystem and Restoration Planning Strategies such as item ERP 5 – “Restore and expand human connections to nature as a mechanism for improving environmental protection.” Item b seeks to “increase waterfront access through development of Greenways and Blueways across coastal Alabama.”

Project Duration:

This project is expected to take approximately thirty-six (36) months from the execution of the Agreement.

Project Costs:

Funding will be provided to the Grantee in one (1) installment.

The first and final installment will be disbursed following execution of the Grant Agreement for this project and submission of an invoice for payment of Allowable Costs which includes satisfactory verification that construction completion of project components can be achieved through available funding.

Anticipated Costs:

Installment	Category	Estimated Cost
1	Construction Costs of Project Improvements (Outdoor Event Space, Amphitheater, Public Restrooms – see Figure 3 items A, B, D, E, F, J, K, M, N, and P)	\$7,200,000
Total GOMESA Funding Not to Exceed		\$7,200,000
Grantee Project Completion Funding Contribution		\$2,000,000
Estimated Total Project Cost		\$9,200,000

Category line items above are general descriptions of the type of activities anticipated to be necessary in order to achieve project completion. These categories may include itemized personnel time and/or contract services associated with project activities. In addition, the final costs of project activities may vary from the individual line-item estimates set forth above. However, funding shall in no event exceed the total amount of approved funding for Allowable Costs as set forth pursuant to the Grant Agreement.

Nexus to Authorized Use:

This project meets GOMESA authorized uses (c) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan (ACAMP Coastal Development Policies 10 & 11 and MBNEP CCMP ERP 5) and (d) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects with the development of a public event space in coastal Alabama.

Submitted and Approved By: _____
 Robin LeJeune, Mayor
 City of Daphne

Figure 1: Vicinity Map



Figure 2: Bayfront Park & Adjacent Properties Plan

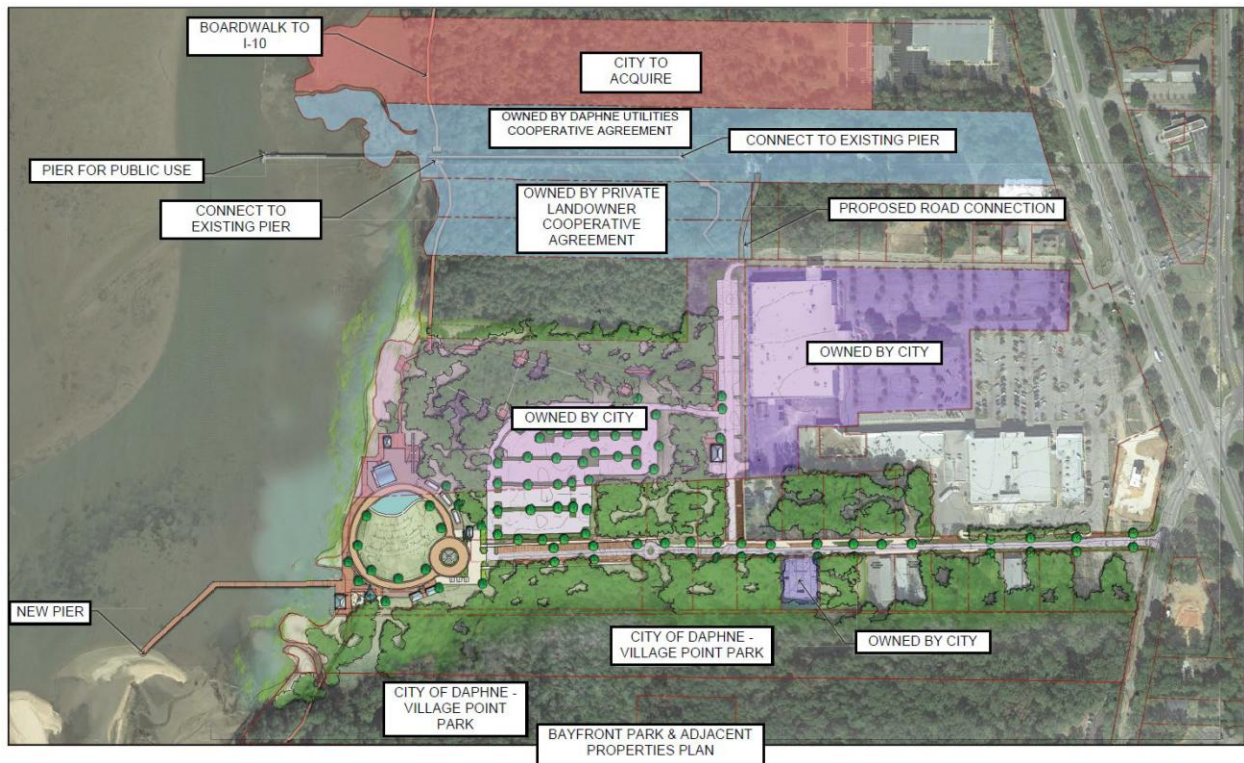


Figure 3: Bayfront Park Master Plan

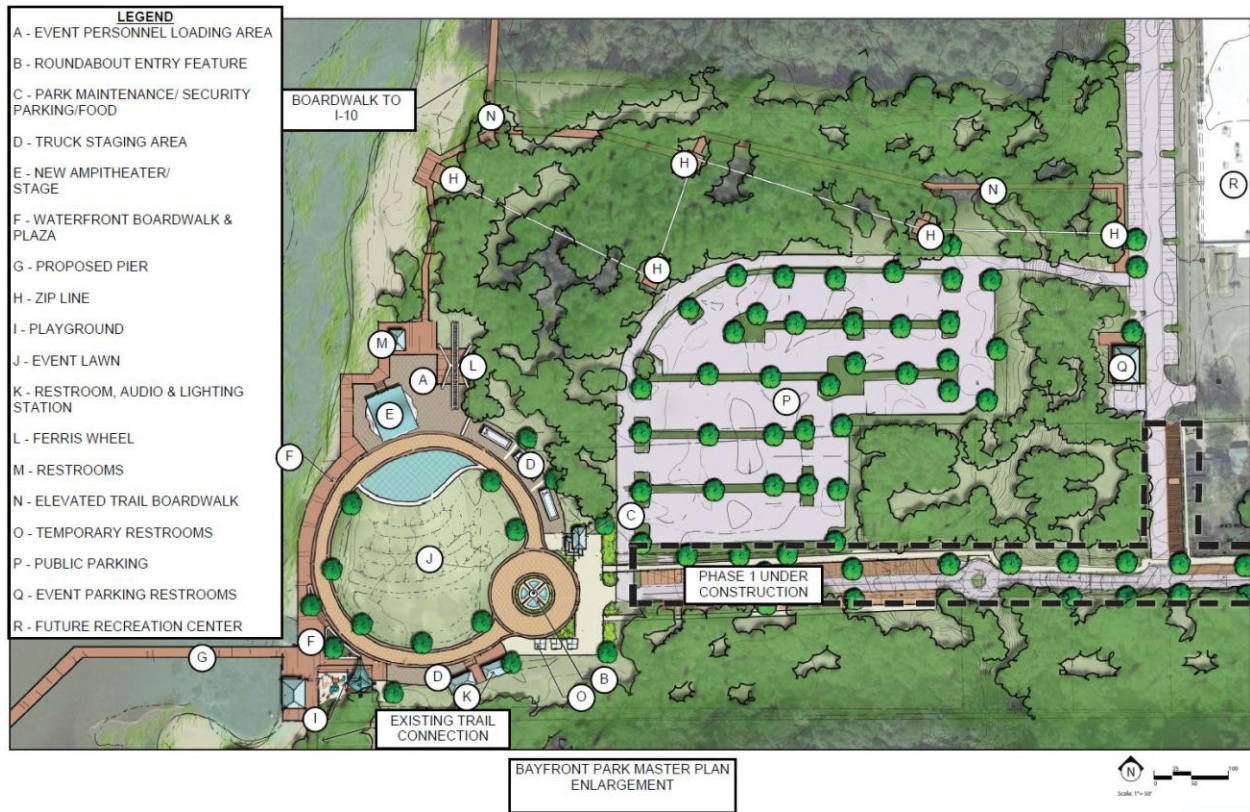
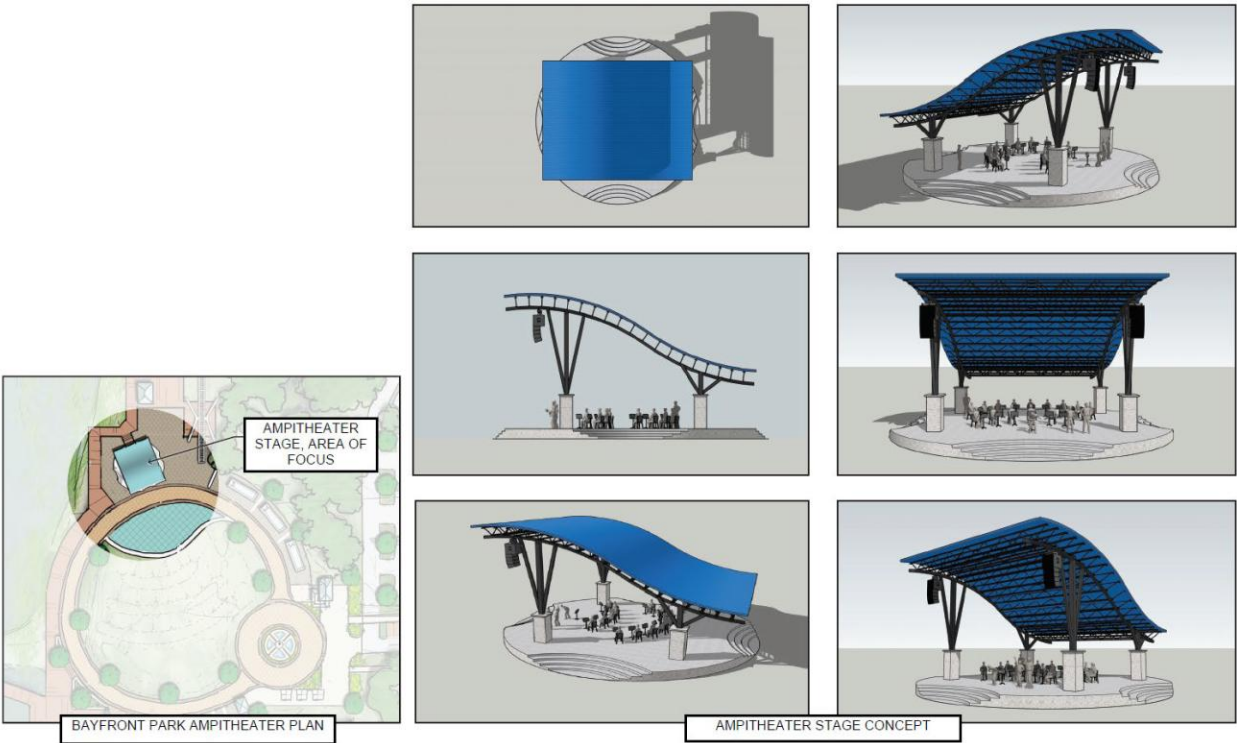


Figure 4: Amphitheater Stage Concept



**CITY OF DAPHNE, ALABAMA
RESOLUTION 2024 - 07**

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

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

WHEREAS, the item listed below is recommended for disposal.

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

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

DEPT	DESCRIPTION
ENVIRONMENTAL	TRIMBLE GEOEXPLORER KIT

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2024.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, MMC, City Clerk

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2024 - 08**

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

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

WHEREAS, the items listed below are recommended for disposal.

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

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

DEPT	EQ/VEH/#	DESCRIPTION	VIN/SN
STREET	501	1995 ECONOLINE TANDEM AXLE EQUIP TRAILER	42EDPLW27T1001188
STREET	1423	2010 FALCON P4D2RID 4-TON ASPHALT RECYC HOT PATCHER	1F9P41523AM339139
STREET	1477	2013 CAT BP25 SWEEPER	0AEH00918
STREET	1534	2014 HI-WAY TAILGATE SAND SPREADER SA-9	316987
STREET	1227	2011 GRACO LINE LAZER 3900 PAINT STRIPER 233-688	BA3928
STREET		HELAC SWIVEL BUCKET FOR 2013 CAT 316	3387620-Z1D03568

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2024.

Robin Le Jeune, Mayor

ATTEST:

Candace G. Antinarella, MMC, City Clerk

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2024- 09**

**APPROPRIATION: RESURFACING ON CR-64 FROM SR-42 (US 98) TO CR-13 AND
INTERSECTION IMPROVEMENTS ON CR-64 AT POLLARD ROAD**

WHEREAS, Ordinance 2023-35 approved and adopted the Fiscal Year 2024 Budget on September 18, 2023; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2024 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2024 budget; and

WHEREAS, the City was awarded a pass-through grant for Project #STPSU-0220(255) from the Alabama Department of Transportation in the amount of \$1,022,059 and additional funds in the amount of \$700,000 from the Eastern Shore MPO for the construction costs related to Resurfacing on CR-64 from SR-42 (US 98) to CR-13 and Intersection Improvements on CR-64 at Pollard Road; and

WHEREAS, the City has an additional \$690,000 in funds available for the aforementioned project from the FY 2021 Capital Budget (\$150,000), the FY 2023 Capital Budget (\$450,000), and a planned unit development contribution (\$90,000); and

WHEREAS, the Resurfacing on CR-64 from SR-42 (US 98) to CR-13 and Intersection Improvements on CR-64 at Pollard Road project has been bid with a total project cost of \$4,213,234 (Construction Bid - \$3,513,898; Engineering - \$403,312; Miscellaneous - \$32,481; Contingency - \$263,543); and

WHEREAS, an additional appropriation of \$1,801,175 is needed to complete this project for costs in excess of available funds; and

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

1. Funds in the amount of **\$1,801,175** from the **General Fund and transferred to the Capital Reserve Fund** are appropriated and made a part of the Fiscal Year 2024 budget for the City's portion of the project herein described.
2. The Mayor is hereby authorized and directed to do or perform or cause to be done or performed in the name of and behalf of the City such other acts, and to 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 resolution.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA this ____ day of _____, 2024.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, MMC, City Clerk

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2024-10**

**PROJECT NO: 2023-T-ALDOT PROJECT NO: STPSU-0220 (255) RESURFACING
ON CR-64 FROM SR-42 (US98) TO CR-13 AND INTERSECTION IMPROVEMENTS
ON CR64-AT POLLARD ROAD GRADE, DRAIN, BASE, PAVE AND SIGNALS**

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 \$100,000; and

WHEREAS, the City of Daphne acknowledges that the STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64-At Pollard Road Grade, Drain, Base, Pave and Signals project will exceed \$100,000; and

WHEREAS, the City of Daphne did receive and review bids for the STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64-At Pollard Road Grade, Drain, Base, Pave and Signals and has determined that the bid for construction and materials (\$3,513,897.59) as presented is reasonable; and

WHEREAS, the City was awarded a pass-through grant for Project #STPSU-0220 (255) from the Alabama Department of Transportation in the amount of \$1,722,059 for construction cost related to the STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64-At Pollard Road Grade, Drain, Base, Pave and Signals; and

WHEREAS, staff recommends the bid for the STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64-At Pollard Road Grade, Drain, Base, Pave and Signals project be awarded to H. O. Weaver & Sons, Inc.

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that the City hereby accept the bid from **H. O. Weaver & Sons, Inc.** in the amount of \$3,513,897.59 as specified in **BID SPECIFICATION NO. 2023-T-ALDOT Project No: STPSU-0220 (255) Resurfacing on CR-64 from SR-42 (US98) to CR-13 and Intersection Improvements on CR64-At Pollard Road Grade, Drain, Base, Pave and Signals.**

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2024.

Robin Le Jeune, Mayor

ATTEST:

Candace G. Antinarella, MMC, City Clerk

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2024 - 11**

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

WHEREAS, the Court has ruled that items scheduled on the attached list are Forfeited and/or Condemned and awarded to the property of the City of Daphne Police Department; and

WHEREAS, the Police Department of the City of Daphne has determined that the items scheduled on the attached list are not required for public or municipal purposes; and;

WHEREAS, the items listed below are recommended for disposal.

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

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

DEPARTMENT	DESCRIPTION	VIN# / SN #
Police		
	Car Dual, SBX100 10" Subwoofer	
	Cruiser, Carbon Fiber II License Plate Cover	
	Budge: Car Cover, Basic for Midsize Vehicles	
	Car Dual: DA10004D; Digital Channel Mosfet Amplifier	NSD0034568
	HP Envy Recline23 TouchSmart Beats SE	4CS33900CK
	HP Pavilion Touchsmart 23" All in One PC	3CR3190P93
	Pilot 15" Wheel Covers	

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,
THIS _____ day of _____, 2024.

Robin Le Jeune, Mayor

ATTEST:

Candace G. Antinarella, MMC, City Clerk



CITY OF DAPHNE

FLOODPLAIN DEVELOPMENT ORDINANCE

{ADOPTION DATE}

Prepared by:

Josh Newman, PE, CFM

City Engineer

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1	STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE & OBJECTIVES3
	<u>SECTION A</u> : FINDINGS OF FACT.....3
	<u>SECTION B</u> : STATEMENT OF PURPOSE.....4
	<u>SECTION C</u> : OBJECTIVES.....4
ARTICLE 2	GENERAL PROVISIONS5
	<u>SECTION A</u> : LANDS TO WHICH THIS ORDINANCE APPLIES.....5
	<u>SECTION B</u> : BASIS FOR SPECIAL FLOOD HAZARD AREAS.....5
	<u>SECTION C</u> : ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT6
	<u>SECTION D</u> : COMPLIANCE6
	<u>SECTION E</u> : ABROGATION AND GREATER RESTRICTIONS.....6
	<u>SECTION F</u> : INTERPRETATION6
	<u>SECTION G</u> : WARNING AND DISCLAIMER OF LIABILITY6
	<u>SECTION H</u> : PENALTIES FOR VIOLATION6
	<u>SECTION I</u> : SAVINGS CLAUSE.....8
ARTICLE 3	ADMINISTRATION9
	<u>SECTION A</u> : DESIGNATION OF FLOODPLAIN ADMINISTRATOR9
	<u>SECTION B</u> : PERMIT PROCEDURES.....9
	<u>SECTION C</u> : DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR11
ARTICLE 4	PROVISIONS FOR FLOOD HAZARD REDUCTION.....15
	<u>SECTION A</u> : GENERAL STANDARDS15
	<u>SECTION B</u> : SPECIFIC TECHNICAL STANDARDS.....17
	<u>SECTION C</u> : FLOODWAYS22
	<u>SECTION D</u> : BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.....23
	<u>SECTION E</u> : STANDARDS FOR AREAS OF SHALLOW FLOODING24
	<u>SECTION F</u> : STANDARDS FOR SUBDIVISIONS AND OTHER DEVELOPMENT24
	<u>SECTION G</u> : STANDARDS FOR SUBDIVISIONS AND OTHER DEVELOPMENT27
	<u>SECTION H</u> : CRITICAL FACILITIES.....28
ARTICLE 5	VARIANCE PROCEDURES29
	<u>SECTION A</u> : DESIGNATION OF VARIANCE AND APPEALS BOARD29
	<u>SECTION B</u> : DUTIES OF BOARD29
	<u>SECTION C</u> : CONDITIONS FOR VARIANCES.....29
	<u>SECTION D</u> : VARIANCE PROCEDURES30
	<u>SECTION E</u> : VARIANCES FOR HISTORIC STRUCTURES31
	<u>SECTION F</u> : VARIANCE NOTIFICATION AND RECORDS31
ARTICLE 6	DEFINITIONS.....32

ARTICLE 7	LEGAL STATUS PROVISIONS	45
	<u>SECTION A</u> : SEVERABILITY	45
	<u>SECTION B</u> : ENFORCABILITY OF ORDINANCE AND FUTURE REVISIONS.....	46
	<u>SECTION C</u> : EFFECTIVE DATE.....	46

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2024-02**

**FLOODPLAIN DEVELOPMENT ORDINANCE
Repealing and Replacing Ordinance 2019-10**

ARTICLE 1

**STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND
OBJECTIVES**

WHEREAS, the National Flood Insurance Program (“NFIP”) is managed by the Federal Emergency Management Agency (“FEMA”); and

WHEREAS, communities are not required to participate in the program by any law or regulation, but instead participate voluntarily in order to obtain access to NFIP flood insurance; and

WHEREAS, communities that choose to participate in the NFIP are required to adopt and enforce a floodplain development ordinance with land use and control measures that include effective enforcement provisions to regulate development in the floodplain resulting in reduced future flood losses; and

WHEREAS, FEMA has set forth in federal regulations the minimum standards required for participation in the NFIP; however, these standards have the force of law only because they are adopted and enforced by a state or local government, referred to as a NFIP community; and

WHEREAS, legal enforcement of the floodplain management standards is the responsibility of the participating NFIP community, which can elect to adopt higher standards as a means of mitigating flood risk; and

WHEREAS, the City of Daphne, Alabama (the “City”) desires to adopt and enforce this Ordinance, which meets or exceeds the minimum standards of the Code of Federal Regulations Title 44 §60.3 in order to participate in the NFIP and have access to federal flood insurance and other federal assistance; and

WHEREAS, the Legislature of the State of Alabama has, in Title 11, Chapter 19, Sections 1-24; Chapter 45, Sections 1-11; Chapter 52, Sections 1-84; and Title 41, Chapter 9, Section 166 of the Code of Alabama (1975), authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

NOW, THEREFORE, BE IT ORDAINED by the CITY COUNCIL of the CITY OF DAPHNE, ALABAMA, as follows:

SECTION A **FINDINGS OF FACT**

- (1) The flood hazard areas of the City (FEMA’s designated Special Flood Hazard Areas (“SFHAs”) or other areas designated by the City as flood-prone areas) are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and

governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect public health, safety, and general welfare.

- (2) These flood losses are caused most often by development, as defined in this Ordinance, in areas designated as FEMA SFHAs or other areas designated by the City as vulnerable to flooding, including structures which are inadequately elevated or floodproofed (only non-residential structures) or are otherwise unprotected from flood damages, or by the cumulative effect of development in areas subject to flooding that cause increases in flood heights and velocities.

SECTION B **STATEMENT OF PURPOSE**

It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (2) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion.
- (3) Control development (including filling, grading, paving, dredging, and all other development as defined in this Ordinance).
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers which may influence the flow of water.

SECTION C **OBJECTIVES**

The objectives of this Ordinance are to:

- (1) Protect human life and health;
- (2) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas;
- (4) Minimize expenditure of public money for costly flood control projects;
- (5) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) Minimize prolonged business interruptions; and

- (7) When asked for assistance regarding flood risk, ensure that potential home buyers are aware that a property is in an area subject to flooding.

ARTICLE 2

GENERAL PROVISIONS

SECTION A LANDS TO WHICH THIS ORDINANCE APPLIES

This Ordinance shall apply to all FEMA SFHAs and any additional areas designated by the City as floodplains or areas subject to flooding within the jurisdiction of the City.

SECTION B BASIS FOR SPECIAL FLOOD HAZARD AREAS

The SFHAs identified by FEMA in Baldwin County's Flood Insurance Study ("FIS"), dated April 19, 2019, with accompanying Flood Insurance Rate Maps ("FIRMs") and other supporting data, as may be revised or amended from time to time, are hereby adopted by reference and incorporated herein. For those lands hereafter acquired by the City through annexation, the current effective FIS and data for Baldwin County are hereby adopted by reference and incorporated herein. Community Flood Hazard Areas may also be regulated as SFHAs. FEMA encourages communities to adopt areas prone to flooding to be added to the FIRMs. They may include those areas known to have flooded historically or that have been defined through standard engineering analysis by a professional engineer, licensed to practice in the State of Alabama; or by governmental agencies or private organizations that are not yet incorporated into the FIS or otherwise designated by the City.

When Preliminary Flood Insurance Studies and Flood Insurance Rate Maps have been provided by FEMA to the City:

- (1) Prior to the issuance of a Letter of Final Determination by FEMA, the use of the preliminary flood hazard data shall only be required where no BFEs and/or floodway areas exist or where the preliminary BFEs or floodway area exceed the BFEs and/or floodway widths in the effective flood hazard data provided by FEMA. Such preliminary data may be subject to revision through valid appeals.
- (2) Upon the issuance of a Letter of Final Determination ("LFD") by FEMA, the revised flood hazard data shall be used and replace all previously effective flood hazard data provided by FEMA for the purposes of administering these regulations.

Where adopted regulatory standards conflict, the more stringent BFE shall prevail. Preliminary FIS data may be subject to change by a valid appeal.

SECTION C: ESTABLISHMENT OF A FLOODPLAIN DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provisions of this Ordinance *prior to* the commencement of any development, as defined in this Ordinance, in identified SFHAs and any additional identified Community Flood Hazard Areas within the City.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this Ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This Ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this Ordinance all provisions shall be: (1) considered as minimum requirements, (2) liberally construed in favor of the City, and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the SFHAs or other identified areas subject to flooding or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATION

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. The Code of Alabama (1975), Title 11, Chapters 19 and 45 grant local governments in Alabama the authority to administer the enforcement provisions stated within this section of the Ordinance.

- (1) Stop Work Order. The City may issue a stop work order, which shall be served on the applicant or other responsible person.
 - (a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being performed contrary to the provisions of this Ordinance shall immediately cease.
 - (b) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order must include a provision that it may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

- (2) Notice of Violation. If the City determines that an applicant or other responsible party for the development has failed to comply with the terms and conditions of a permit, or otherwise not in accordance with the provisions of this Ordinance, it shall issue a written Notice of Violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by this Ordinance without having first secured a permit, the notice shall be served on the owner or the party in charge of the activity being conducted on the site. Therefore, any work undertaken prior to submission and approval of an official permit by the City or otherwise not in accordance with this Ordinance shall constitute a violation of this Ordinance and be at the permit holder's risk. The notice of violation shall contain:
- (a) The name and address of the owner or the applicant or the responsible party;
 - (b) The address or other description of the site upon which the violation is occurring;
 - (c) A statement specifying the nature of the violation (including failure to obtain a permit);
 - (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this Ordinance and the date for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
 - (f) A statement in the Notice of Violation shall be included that the determination of violation may be appealed to the City by filing a written Notice of Appeal within ten (10) working days after the Notice of Violation. Exceptions for the deadline for this Notice include: 1) in the event the violation constitutes a danger to public health or public safety, then a 24-hour notice shall be given; 2) if there's an imminent or immediate threat to life or property, then immediate action is required.
- (3) Civil penalties. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than thirty (30) days, or both, and in addition, shall pay all costs and expenses involved in the case: Each day such violation continues following receipt of the Notice of Violation shall be considered a separate offense. Nothing contained herein shall prevent the City from taking such other lawful actions as is necessary to prevent or remedy any violation.
- (4) Administrative appeal; judicial review. Any person receiving a Notice of Violation may appeal the determination of the City, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the City upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the City's rules and regulations, or the issuance of a notice of bond forfeiture.

The Notice of Appeal must be in writing to the Floodplain Administrator and must be received within ten (10) days from the date of the Notice of Violation. A hearing on the appeal shall take place within thirty (30) days from the date of receipt of the Notice of Appeal.

- (5) All appeals shall be heard and decided by the City's designated appeals board, which shall be the Daphne Board of Zoning Adjustments, or its designees. The appeals board shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the City's floodplain development ordinance, and

any other applicable local, state, or federal requirements. Appeals cannot be in opposition to the provisions of this Ordinance. The decision of the Daphne Board of Zoning Adjustments shall be final.

- (6) A judicial review can be requested by any person aggrieved by a decision or order of the City, after exhausting his/her administrative remedies. They shall have the right to appeal *de novo* to the Baldwin County Circuit Court.

SECTION I. SAVINGS CLAUSE

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, as it may be amended from time to time, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 3
ADMINISTRATION

SECTION A DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator is hereby appointed to administer and implement the provisions of this Ordinance. The City Engineer shall hereafter be referred to as the Floodplain Administrator in this Ordinance.

SECTION B PERMIT PROCEDURES

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the City *prior to* any development (any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials) in the SFHAs of the City, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the elevations of the area of development and the nature, location, and dimensions of existing or proposed development.

Specifically, the following procedures and information are required for all projects in the SFHA or other designated floodplains within the jurisdiction of the City:

- (1) Application Stage. Plot plans are to include:
 - (a) The BFEs where provided as set forth in Article 4, Sections B and C;
 - (b) Boundary of the Special Flood Hazard Area and floodway(s) as delineated on the FIRM or other flood map as determined in Article 2, Section B;
 - (c) Flood zone designation of the proposed development area as determined on the FIRM or other flood map as set forth in Article 2, Section B;
 - (d) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor elevation, including basement, of all proposed structures;
 - (e) Within Zones V1-30, VE, and V obtain the elevation in relation to mean sea level of the bottom of the lowest structural member of the lowest floor, including basement, of all proposed structures;
 - (f) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
 - (g) Design certification from a professional engineer, who is licensed to practice in the State of Alabama, or a licensed architect, who is registered to practice in the State of Alabama, that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections B(2) and E(2);
 - (h) A Foundation Plan, drawn to scale, that shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include, but are not limited to, the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls) and description of any flood openings required in accordance with Article 4, Sections B(1) and B(3) when solid foundation perimeter walls are used.
 - (i) Usage details of any enclosed areas below the lowest floor shall be described.

- (j) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - (k) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development including current and proposed locations of the watercourse. An engineering report shall be prepared by a professional engineer, who is licensed to practice in the State of Alabama, on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream. The affected properties shall be depicted on a map or on the plot plan.
 - (l) Certification of the plot plan by a professional engineer or surveyor, who is licensed to practice in the State of Alabama, is required.
- (2) Construction Stage. For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the regulatory floor elevation or flood-proofing level, using an appropriate FEMA elevation or floodproofing certificate, immediately after the lowest floor or flood-proofing is completed. In addition:
- (a) When flood-proofing is utilized for non-residential structures, said certification shall be prepared by professional engineer, who is licensed to practice in the State of Alabama, or architect, who is registered to practice in the State of Alabama.
 - (b) Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
 - (c) The Floodplain Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed. Failure to submit certification or failure to make the required corrections shall be cause to issue a Notice of Violation and/or Stop-Work Order for the project.
 - (d) The Floodplain Administrator shall make periodic inspections of projects during construction throughout the SFHAs within the jurisdiction of the City to ensure that the work is being done according to the provisions of this Ordinance and the terms of the permit. Members of the inspections/engineering department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the City during normal business hours of the City for the purposes of inspection or other enforcement action.
 - (e) The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (3) Finished Construction. Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31 or equivalent), which depicts all finished construction elevations, must be submitted to the Floodplain Administrator prior to issuance of a Certificate of Occupancy.
- (a) If the project includes a floodproofing measure, a FEMA floodproofing certificate must be submitted by the permit holder to the Floodplain Administrator.

- (b) The Floodplain Administrator shall review the certificate(s) and the data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance.
- (c) In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (d) Documentation regarding completion of and compliance with the requirements stated in the permit application and with Article 3, Section B(1) of this Ordinance shall be provided to the local Floodplain Administrator at the completion of construction or records shall be maintained throughout the Construction Stage by inspectors for the Floodplain Administrator. Failure to provide the required documentation shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (e) All records that pertain to the administration of this Ordinance shall be maintained in perpetuity and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

SECTION C DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator and his/her designated staff is hereby authorized and directed to enforce the provisions of this Ordinance. The Floodplain Administrator is further authorized to render interpretations of this Ordinance which are consistent with its spirit and purpose. Duties of the Floodplain Administrator shall include, but shall not be limited to:

- (1) Require permits for all proposed construction or other development in the City, including the placement of manufactured homes, so that it may be determined whether such construction or other development is proposed within flood-prone areas. Ensure the public is aware that floodplain development permits are required for development in SFHAs.
- (2) Conduct regular inspections of the City's SFHAs for any unpermitted development and issue Stop Work Orders and Notice of Violations for any such development. Any unpermitted structure or non-structural development in the SFHA will be considered a violation until such time that the violation has been remedied.
- (3) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits permanently with floodplain development permit file.
- (4) Review all permit applications of proposed development, to determine whether the proposed construction or other development will be reasonably safe from flooding and to assure compliance with this Ordinance.
 - (a) If the provisions of this Ordinance have been met, approve the permit.
 - (b) If the provisions of this Ordinance have not been met, request that either corrections and accurate completion of the application be made or disapprove the permit.
- (5) When BFE data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review and reasonably utilize any BFE and

floodway data available from a Federal, State, or other sources in order to administer the provisions of Article 4.

- (6) Verify and record that all new construction within Zones V1-30, VE, and V on the City's FIRM is located landward of the reach of mean high tide.
- (7) Verify and record the actual elevation of the lowest floor, in relation to mean sea level (or highest adjacent grade), including basement, of all new construction or substantially improved residential structures in accordance with Article 3, Section B(2).
 - (a) Review elevation certificates and require incomplete or incorrect certificates to be corrected and resubmitted for approval.
 - (b) A post-construction elevation certificate is required to be kept with the permit and certificate of occupancy in perpetuity; a pre-construction elevation certificate can be used to ensure the correct elevation for the lowest floor and machinery along with the correct number of vents that will be used.
- (8) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved non-residential structures have been elevated or floodproofed, in accordance with Article 3, Section B, or Article 4, Sections B(2) and E(2).
- (9) Verify and record that all new construction and substantial improvements within Zones V1-30, VE, and V comply with all applicable provisions contained in Article 4, Section F that address location, foundations, fill, space below the lowest supporting structural member, enclosures, certifications, sand dunes, mangrove stands, manufactured homes, and recreational vehicles.
- (10) When floodproofing is utilized for a non-residential structure, the Floodplain Administrator shall obtain certification of design criteria from a professional engineer, licensed to practice in the State of Alabama, or licensed architect, registered to practice in the State of Alabama, in accordance with Article 3, Section B(1) and Article 4, Section B(2) or E(2).
- (11) Notify adjacent communities and the Alabama Department of Environmental Management and the appropriate district office of the U.S. Army Corps of Engineers prior to any alteration or relocation of a watercourse. Submit evidence of such notification to FEMA and the NFIP State Coordinator's Office (Alabama Department of Economic and Community Affairs, Office of Water Resources).
- (12) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months after completion of the project to FEMA and State to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained following completion of the project.
- (13) Where interpretation is needed as to the exact location of boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (14) All records pertaining to the provisions of this Ordinance shall be maintained, in perpetuity, at the office of the Floodplain Administrator and shall be available for public inspection when requested.

- (15) For any improvements made to existing construction located in the SFHA (as established in Article 2, Section B) ensure that a permit is obtained. Also, conduct Substantial Improvement (SI) (as defined in Article 6 of this Ordinance) reviews and analysis of all structural development permit applications. Maintain a record of the SI calculations and comments within the permit files in accordance with Section C(11) of this Article.
- (16) For any residential and nonresidential structures located in the SFHAs that are damaged from any source, natural hazard or man-made, conduct Substantial Damage (SD) (as defined in Article 6 of this Ordinance) assessments.
- (a) The Floodplain Administrator shall ensure that permits are obtained, in accordance with this Ordinance, prior to any repairs commencing.
 - (b) Make SD determinations whenever structures within the SFHA are damaged by any cause or origin. SD determinations shall not be waived to expedite the rebuilding process during a post-disaster recovery or for any other reason.
 - (c) If the City has a large number of buildings in their SFHAs that have been damaged, they should decide in advance how best to handle permitting and inspecting damaged buildings for substantial damage determinations.
 - (d) If required, a moratorium may be placed on all non-disaster related construction permits until the City has sufficiently completed its SD determinations.
 - (e) The SD determinations should be performed immediately after the damage-causing event or other cause of damage.
 - (f) The City shall utilize methods and tools for collecting building data and performing analyses that will provide reasonable and defensible SD determinations. Those tools shall be capable of generating reports for record-keeping purposes and to provide to the applicable property owners if requested.
 - (g) Maintain a record of the SD calculations within permit files in accordance with Section C(11) of this Article.
 - (h) If the SD determination finds that the extent that the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred, the Floodplain Administrator shall:
 - i. Coordinate with the property owner and issue a letter to convey the SD determination.
 - ii. Determine if the damage was caused by flooding and include the cause in the letter to the property owner. Also, include whether or not the structure qualifies as a repetitive loss structure per the definitions in Article 6 of this Ordinance. The information can be used to determine if the claim is eligible for an Increased Cost of Compliance claim.
 - iii. Coordinate with property owners and insurance companies for any NFIP claims.
 - iv. If the repairs are to proceed, coordinate with the permit applicant to ensure a permit is obtained and inspections are conducted to ensure that all applicable provisions of this Ordinance are adhered to without exception or waiver.
 - (i) Ensure that phased improvements and incremental repairs do not circumvent the SI/SD requirements.
 - (j) Ensure that any combinations of elective improvements being made in addition to the necessary repairs to damages are included in making the SI/SD determination.
 - (k) An applicant for a permit may appeal a decision, order, or determination that was made by the local official for the following:

- i. The local official's finding or determination that the proposed work constituting a SI/SD were based on insufficient information, errors, or repair/improvement costs that should be included and/or excluded;
 - ii. The local official's finding or determination that the proposed work constituting a SI/SD were based on inappropriate valuations of costs for the proposed work, or an inappropriate method to determine the market value of the building.
 - (l) It is not appropriate for a permit applicant to seek an appeal who wishes to build in a manner that is contrary to the regulations and codes included in this ordinance. In those cases, the applicant should seek a variance.
 - (m) Ensure that any building located in a floodway that constitutes a SI/SD has an engineering analysis performed in accordance with Article 4, Section C(2). If that analysis indicates any increase in the BFE, the local official must not allow the proposed work unless the structure is brought into full compliance with this Ordinance.
- (17) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance to ensure eligibility for ICC funds.
- (18) Right of Entry
- (a) Whenever it becomes necessary to make an inspection to enforce any of the provisions of this Ordinance, the Floodplain Administrator may enter such building, structure or premises at all reasonable times (normal business hours for the City) to inspect the same or perform any duty imposed upon the Floodplain Administrator by this Ordinance.
 - (b) If such building or premises are occupied, the Floodplain Administrator shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of such building or premises prior to entry.
 - (c) If entry is refused or owner cannot be located, the Floodplain Administrator shall have recourse to every remedy provided by law to secure the right of entry of the building, structure, or premises.
 - (d) When the Floodplain Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Floodplain Administrator for the purpose of inspection and examination pursuant to this Ordinance.

ARTICLE 4

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A GENERAL STANDARDS

In *all* SFHAs and flood-prone areas regulated by the City, the following provisions are required for all proposed development including new construction and substantial improvements:

- (1) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including but,

not limited to Section 404 of the Federal Water Pollution Control Act Amendments (1972, 33 U.S.C. 1334) and the Endangered Species Act (1973, 16 U.S.C. 1531-1544). Maintain such permits permanently with floodplain development permit file.

- (2) New construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (3) New construction and substantial improvements shall be constructed with materials resistant to flood damage below the BFE.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (5) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) Review subdivision proposals and other proposed development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed development is in a SFHA, any such proposals shall be reviewed to assure that:
 - (a) They are consistent with the need to minimize flood damage within the SFHA,
 - (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage,
 - (c) All new and replacement water supply systems are to be designed to minimize or eliminate infiltration of flood waters into the systems,
 - (d) All new and replacement sanitary sewage systems are to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters,
 - (e) Onsite waste disposal systems are to be located to avoid impairment to them or contamination from them during flooding, and
 - (f) Adequate drainage provided to reduce exposure to flood hazards.
- (7) Manufactured homes shall be installed using methods and practices which minimize flood damage. They must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local requirements for resisting wind forces.
- (8) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (9) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

- (10) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (11) Any alteration, repair, reconstruction or improvement to new construction and substantial improvements which is not compliant with the provisions of this Ordinance, shall be undertaken only if the non-conformity is not furthered, extended or replaced.
- (12) Proposed new construction and substantial improvements that are partially located in a SFHA shall have the entire structure meet the standards of this Ordinance for new construction.
- (13) Where new construction and substantial improvements located in multiple SFHAs or in a SFHA with multiple BFEs, the entire structure shall meet the standards for the most hazardous SFHA and the highest BFE.

SECTION B SPECIFIC TECHNICAL STANDARDS

In ALL Special Flood Hazard Areas designated as A, AE, AH (with engineered or estimated BFE), the following provisions are required:

- (1) Residential and Non-Residential Structures - Where BFE data is available, new construction and substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation (also referred to as the design flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B(3).
- (2) Non-Residential Structures - New construction and substantial improvement of any non-residential structure located in AE or AH zones, may be floodproofed (dry) in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to at least one (1) foot above the base flood elevation (herein after referred to as the design flood elevation), with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
 - (a) A professional engineer, who is licensed to practice in the State of Alabama, or licensed architect, who is registered to practice in the State of Alabama, shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with the standards in ASCE-24 (for dry floodproofing) or other compatible standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C(6).
 - (b) A record of such certificates, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained with the official permitting records for the structure and kept in-perpetuity.
 - (c) Any non-residential functionally dependent structure (as defined in Article 6) that cannot meet the standards stated in Section B(2)(a) shall require a variance to be issued in accordance with Article 5, Section C(3) and D(1).

- (3) Enclosures for Elevated Buildings - All new construction and substantial improvements of existing structures (residential and non-residential) that include *any* fully enclosed area below the BFE, located below the lowest floor formed by the foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters.
- (a) Designs for complying with this requirement must either be certified by a professional engineer, who is licensed to practice in the State of Alabama, or a licensed architect, registered to practice in the State of Alabama, or meet the following minimum criteria:
 - (i) Provide a minimum of two openings for each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding (if a structure has more than one enclosed area below the BFE, each shall have openings on exterior walls);
 - (ii) Openings shall be in at least two walls of each enclosed area (includes areas separated by interior walls);
 - (iii) The bottom of all openings shall be no higher than one foot above grade;
 - (iv) Openings may be equipped with screens, louvers, valves and other coverings or devices provided that they permit the automatic entry and exit of floodwaters in both directions without impeding or blocking flow and shall be accounted for in determination of the net open area; and
 - (v) Openings meeting the requirements of (3)(a)(i) – (iv) that are installed in doors are permitted.
 - (b) So as not to violate the “Lowest Floor” criteria of this Ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage, or access to the elevated area.
 - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - (d) All interior walls, ceilings and floors below the BFE shall be unfinished and/or constructed of flood damage-resistant materials. This practice is also referred to as “wet floodproofing”. The definitions for “flood damage-resistant materials” and “wet floodproofing” are included in Article 6.
 - (e) Mechanical, electrical, or plumbing devices shall be installed not less than one foot above the BFE. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power, as required, that are watertight or have otherwise been floodproofed.
- (4) Standards for Manufactured Homes and Recreational Vehicles Where Base Flood Elevation Data is Available.
- (a) Require that all manufactured homes placed or substantially improved:
 - (i) Outside of a manufactured home park or subdivision,
 - (ii) In a new or substantially improved manufactured home park or subdivision,
 - (iii) In an expansion to an existing manufactured home park or subdivision, or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood,be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the BFE and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

- (b) Require that all manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are *not* subject to the provisions of Subsection (4)(a) be elevated so that either:
 - (i) The lowest floor of the manufactured home is one foot or more above the BFE; OR
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above the highest adjacent grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
 - (iii) Concrete block piers (and other foundation systems) are to be designed in accordance with the Code of Federal Regulations Title 24, Part 3285 and with the specifications in *FEMA P-85: Protecting Manufactured Homes from Floods and Other Hazards – A Multi-Hazard Foundation and Installation Guide*. The §3285.306 *Design procedures for concrete block piers* and FEMA P-85 (Table SP-1.1), specify that the maximum allowable pier height (measured from top of grade) for concrete piers to be five (5) feet.
 - (iv) The chassis and its supporting equipment are to be above the pier or other foundation. The areas below the chassis must be constructed with flood-resistant materials. All utilities and mechanical equipment must be elevated to a minimum of three (3) feet above the highest adjacent grade. Any utility and mechanical components that must be below the BFE must be made watertight to that same elevation to meet the standards in Article 4, Section A(5).
- (c) Require that all recreational vehicles placed on sites must either:
 - (i) Be on the site for fewer than one hundred eighty (180) consecutive days,
 - (ii) Be fully licensed and ready for highway use on its wheels or jacking system,
 - (iii) Be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or additions; *or*
 - (iv) Must meet all the requirements for “New Construction”, including the anchoring and elevation requirements of Article 4, Section B, provisions (4)(a) and (4)(b).
- (5) Standards for Manufactured Homes Where No Base Flood Elevation Exists.
 - (a) Require that all manufactured homes to be placed within a Zone A area on the FIRM shall be installed using methods and practices which minimize flood damage.
 - (b) Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.
 - (c) The manufactured home chassis must be supported by reinforced piers or other foundation elements of at least equivalent strength such that the bottom of the chassis and its supporting equipment be no less than thirty-six (36) inches and up to a maximum sixty (60) inches (five (5) feet) above the highest adjacent grade and be securely anchored to an adequately anchored foundation system.
 - (d) The areas below the chassis must be constructed with flood-resistant materials. All utilities and mechanical equipment must be elevated to a minimum of three (3) feet above the highest adjacent grade. Any utility and mechanical components that must be below the BFE must be made watertight to that same elevation to meet the standards in Article 4, Section A(5).
- (6) Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE

on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City.

- (7) Accessory and Agricultural Structures – When an accessory structure meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated to one foot above the BFE as required in Article 4, Section B(1).

A permit shall be required prior to construction or installation of any accessory structures and any agricultural structures built below the DFE and the following provisions apply:

- (a) Must be adequately anchored to prevent flotation, collapse, or lateral movement;
- (b) Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the DFE as described in Article 4, Section B(3);
- (c) Must have adequate flood openings as described in Article 4, Section B(3);
- (d) Must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Must comply with the requirements for development in floodways in accordance with Article 4, Section C;
- (f) Must elevate any mechanical and other utility equipment in or servicing the structure to or above the DFE or must be floodproofed in accordance with Article 4, Section A;
- (g) Prohibit storage of any hazardous or toxic materials below the DFE.
- (h) Permits for small accessory structures may be issued to provide wet floodproofing measures in accordance with the standards described in subsections (i) through (iv) below without requiring a variance. Before issuing permits for small accessory structures, the Floodplain Administrator must verify:
 - (i) Use is limited to parking of vehicles or storage;
 - (ii) Size is less than or equal to a one-story, two-car garage for all A zones;
 - (iii) Structures are a minimal investment and have a low damage potential with respect to the structure and contents;
 - (iv) Structures will not be used for human habitation;
 - (v) Structures comply with the wet floodproofing requirements in Article 4, Section B(3).
- (i) Permits for accessory structures larger than the size allowed for in subsection (7)(h) of this Article, shall require a variance to be granted on a case-by-case basis in accordance with Article 7, Section D(3). Variances shall not be granted for entire subdivisions for accessory structures.
- (j) Permits for new construction of all agricultural structures shall require a variance to be granted on a case-by-case basis in accordance with Article 7, Section D(4).

- (8) Underground and Aboveground Storage (Liquid and Gas) Tanks - Tanks and tank inlets, fill openings, outlets, and vents that are located below the DFE shall be designed, constructed, installed, and anchored to resist all flood-related loads (flotation, collapse, or lateral movement resulting from hydrostatic and hydrodynamic forces) and any other loads, including the effects of buoyancy, during flooding up to and including the 100-year flood and without release of contents into floodwaters or infiltration of floodwaters into the tanks.

- (a) A permit that includes floodplain development shall be required prior to construction or installation of any underground and aboveground tanks (including their foundation and support systems) located within a special flood hazard area.
 - (b) Loads on underground tanks and aboveground tanks exposed to flooding shall be determined assuming at least 1.3 times the potential buoyant and other flood forces acting on the empty tank.
 - (c) Tanks and associated piping shall be installed to resist local scour and erosion during the 100-year flood.
 - (d) Aboveground tanks located in Zone A/AE flood hazard areas shall be either:
 - (i) Elevated to or above the DFE on platforms or structural fill,
 - (ii) Elevated to or above the DFE where attached to structures and the foundation system supporting the structures shall be designed to accommodate any increased loads resulting from the attached tanks,
 - (iii) Permitted below the DFE where the tank and its foundation are designed to resist all flood-related loads including floating debris, or
 - (iv) Permitted below the DFE where the tank and its foundation are designed to resist flood loads and are located inside a barrier designed to protect the tank from floating debris.
 - (e) Aboveground tanks located in areas designated as Zone V/VE, Coastal A-Zones, and other high-risk flood hazard areas (see ASCE 24-14) shall be elevated to or above the DFE on platforms that conform to the foundation requirements of ASCE 24-14, Section 4.5. Aboveground tanks shall not be permitted to be located under elevated structures or attached to structures at elevations below one foot above the DFE in these areas.
 - (f) Underground tanks located in areas designated as Zone V/VE, Coastal A-Zones, and other high-risk flood hazard areas (see ASCE 24-14) shall have the determination of flood-related loads take into consideration the eroded ground elevation.
 - (g) Tank inlets, fill openings, outlets, and vents shall be:
 - (i) At or above the DFE or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the 100-year flood.
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the 100-year flood.
- (9) Structures and Sites for the Storage or Production of Hazardous Substances – Require that all outdoor storage sites, new construction and substantial improvements to be used for the production or storage of hazard substances (as defined in Article 7) which are located in the special flood hazard area shall be built in accordance with all applicable standards in this Ordinance in addition to the following requirements:
- (a) No structures containing hazardous substances shall be permitted for construction in a floodway;
 - (b) Residential structures shall have the area in which the hazard substances are to be stored elevated or dry floodproofed a minimum of two (2) feet above the BFE;
 - (c) Non-residential structures shall be permitted to be built below the BFE in accordance with Article 4, Section B(2) such that the area where the hazard substance production or storage is located will be:
 - (i) elevated or designed and constructed to remain completely dry to at least two (2) feet above the BFE, and

- (ii) designed to prevent pollution from the storage containers, structure, or activity during the course of the base flood.
 - (d) Any solid, liquid, or gas storage containers of hazardous substances and any associated mechanical, electrical, and conveyance equipment shall be watertight and shall be properly anchored and protected from the hydrostatic and hydrodynamic forces of flood waters and debris carried by the base flood.
- (10) Construction of Fences - New and replacement fences may be allowed in flood hazard areas if they do not act as a flow boundary and redirect the direction of flow, collect flood debris and cause blockages, cause localized increases in flood levels, or if damaged, become debris that may cause damage to other structures.

SECTION C FLOODWAYS

Located within Special Flood Hazard Areas established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- (1) The City shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;
- (2) Encroachments, including fill, new construction, substantial improvements or other development are prohibited within the adopted regulatory floodway unless it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in BFEs during the occurrence of the base flood discharge. A registered professional engineer must provide supporting technical data and certification (“No-Rise Certificate”) to FEMA for the proposed floodway encroachment. The No-Rise Certificate must be submitted to the Floodplain Administrator with the development permit (including a Site Plan showing the current and proposed floodway alignment) for approval.
- (3) Only if Article 4, Section C, provisions (1) and (2) are satisfied, then any new construction or substantial improvement in a floodway shall comply with all other applicable flood hazard reduction provisions of Article 4. After satisfying the required provisions stated in this section, encroachments in floodways should be limited to the following types of projects:
 - (a) flood control and stormwater management structures;
 - (b) road improvements and repairs;
 - (c) utility easements/rights-of-way; and
 - (d) public improvements or public structures for bridging over the floodway.
- (4) Fencing shall be prohibited in floodways unless it is demonstrated that such development will not cause any increase in the BFE. Appropriate analysis and documentation shall be submitted along with the development permit for review and approval. Fences that have the potential to block or restrict the passage of floodwaters (by trapping debris or with openings too small to allow unhindered passage of water), such as stockade and wire mesh fences, shall meet the requirements of Article 4, Section C(2).

SECTION D

BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (APPROXIMATE A-ZONES)

Located within the SFHAs established in Article 2, Section B, where streams exist but no base flood data have been provided (Approximate A-Zones), the following provisions apply:

- (1) BFE data shall be provided for new subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser.
- (2) When BFE data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review, and reasonably utilize any scientific or historic BFE and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. Only if data are not available from these sources, then Article 4, Section D, provisions (4) and (5) shall apply.
- (3) All development in Zone A must meet the requirements of Article 4, Section A and Sections B(1), B(2), B(3), B(5), B(6), B(7), B(8), B(9), and B(10).
- (4) In SFHAs without BFE data, new construction and substantial improvements of existing structures shall have the lowest floor (for the lowest enclosed area; including basement) elevated no less than three (3) feet above the highest adjacent grade. As the requirements set forth in Article 4, Section B(1) and B(2) stipulate the lowest floor to be elevated no less than one foot about the BFE, then the structure for this condition shall be elevated no less than four (4) feet about the highest adjacent grade.
- (5) In the absence of a BFE, a manufactured home must also meet the elevation requirements of Article 4, Section B(4)(b)(ii) – B(4)(b)(iv) in that the structure cannot be elevated above a maximum of sixty (60) inches (five (5) feet) and all utilities and mechanical equipment must be elevated a minimum of three (3) feet above the highest adjacent grade.
- (6) Enclosures for elevated buildings in Zone A areas shall comply with the standards of Article 4, Section B(3)(a). The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

SECTION E

STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Special flood hazard areas established in Article 2, Section B may include designated “AO” shallow flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM) plus one foot of freeboard. If no depth number is specified, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B(3).

The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

- (2) New construction and the substantial improvement of a non-residential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood level in Article 4, Section E(1) or three (3) feet (if no depth number is specified), above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. As the requirements set forth in Article 4, Section B(1) and B(2) stipulate the lowest floor to be elevated no less than one foot about the BFE, then the structure for this condition shall be elevated no less than four (4) feet about the highest adjacent grade.

A professional engineer, who is licensed to practice in the State of Alabama, or licensed architect, who is registered in the State of Alabama, shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above and shall provide such certification to the official as set forth above and as required in Article 3, Section B(1) and (2).

- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

SECTION F. STANDARDS FOR COASTAL HIGH HAZARD AREAS (V-ZONES)

Located within the areas of special flood hazard established in Article 2, Section B, are areas designated as Coastal High Hazard areas (V-Zones). These areas have special flood hazards associated with wave action and storm surge; therefore, the following provisions shall apply, in addition to the standards of Article 4:

- (1) All new construction and substantial improvements of existing structures shall be located landward of the reach of the mean high tide.
- (2) All new construction and substantial improvements of existing structures shall be elevated on piles, columns, or shear walls parallel to the flow of water so that:
 - (a) The bottom of the lowest supporting horizontal structural member (excluding pilings or columns) is located no lower than one (1) foot above the base flood elevation or to the design flood elevation; whichever is higher. All space below the lowest supporting member shall remain free of obstruction.
 - (b) Open lattice work, non-supporting breakaway walls, or decorative screening may be permitted for aesthetic purposes only and built in accordance with Article 4, Section F(5) below.
 - (c) All pile and column foundations and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the combined effects of wind and water loads acting simultaneously on *all* building components, both (non-structural and structural). Water and wind loading values shall be in accordance with the most current edition of the State Building Code and any applicable local building standards.
- (3) All new construction and substantial improvements of existing structures shall be securely anchored on pilings, columns, or shear walls.

- (4) A professional engineer, who is licensed to practice in the State of Alabama, or licensed architect, who is registered in the State of Alabama shall develop or review the structural design, specifications and plans for construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions contained in Article 4, Section F(2), (3), and (4) herein.
- (5) For all new construction and substantial improvements in Zones V1-30, VE, and V the space below the lowest horizontal-supporting member must be free of obstruction or constructed with non-supporting breakaway walls, open wood or vinyl latticework, or insect screening which must be designed to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The following design specifications are required:
- (a) No solid or supporting walls shall be allowed, and
 - (b) Material shall consist of lattice or mesh screening only.
 - (c) If aesthetic lattice work, non-supporting breakaway walls, or screening is utilized, any enclosed space shall not be used for human habitation but, shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.
 - (d) For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Breakaway wall enclosures shall not exceed two hundred ninety-nine (299) square feet. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local codes) may be permitted only if a professional engineer, who is licensed to practice in the State of Alabama, or licensed architect, who is registered in the State of Alabama certifies that the designs proposed meet the following conditions:
 - (i) Breakaway wall collapse shall result from water load less than that which would occur during the base flood, and
 - (ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those requirements by applicable state or local building codes.
 - (iii) The lowest horizontal structural member shall be oriented perpendicular, where possible, to the expected wave crest in order to reduce the impact load from the waves.
- (6) Enclosures below elevated buildings shall be useable solely for storage, parking of vehicles, or building access. Such space will not be used for human habitation and not finished or partitioned into separate rooms.
- (7) Above grade (hanging) enclosures shall have flood openings in accordance with Article 4, Section B(3) and be constructed with flood damage-resistant material below the design flood elevation. One (1) or more floor grates or drains shall be installed in the enclosure floor to allow water to have unimpeded ingress into and egress from the enclosure to reduce damages from buoyancy loads and from added weight.
- (8) Prior to construction, plans for any structure using lattice, breakaway walls, or decorative screening must be submitted to the Floodplain Administrator for approval.

- (9) Any alteration, repair, reconstruction or improvement to any structure shall not enclose the space below the lowest floor except with latticework, breakaway walls, or decorative screening, as provided in this Section.
- (10) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural *member* of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V and Coastal AE Zones. The Floodplain Administrator shall maintain a record of all such information.
- (11) Prohibit the use of fill for structural support of buildings or structures and from being placed or used under the buildings or structures except for minor site grading for drainage purposes. Nonstructural fill may be used on coastal building sites for minor landscaping and site grading for drainage purposes to the extent that the fill does not interfere with the free passage of floodwaters and debris underneath buildings or cause changes in flow direction during coastal storms. Changes to site grades, other than those prescribed above, must be avoided as they can cause damage to buildings on the site or to adjacent buildings.

The Floodplain Administrator shall approve design plans for landscaping/ aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

- (a) Particle composition of fill material does not have a tendency for excessive natural compaction;
 - (b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and
 - (c) Slope of fill will not cause wave run-up or ramping.
- (12) Fill placed in coastal zones should be similar (compatible) to the natural soils in the area and not contain large rocks or debris, organic materials, or clay. Minor site grading is to be limited to the addition of one to two feet of coastal zone compatible soils. If additional fill (greater than two (2) feet) or non-compatible soils are to be added to the site, certification by a professional engineer or architect shall be submitted along with design calculations demonstrating that no adverse impacts will result to the building. (For guidance, see FEMA Technical Bulletin #5 “Free of Obstruction Requirements”).
 - (13) Prohibit man-made alteration of sand dunes and mangrove stands which would increase potential flood damage.
 - (14) Require that manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the City’s FIRM on sites:
 - (a) Outside of a manufactured home park or subdivision,
 - (b) In a new manufactured home park or subdivision,
 - (c) In an expansion to an existing manufactured home park or subdivision, or
 - (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood; meet the standards of Article 4, Sections F(1) through F(13) of this section.
 - (15) A recreational vehicle placed on a site in a VE Zone must meet all the applicable requirements for “new construction” in Article 4, Sections A and B including the elevation and anchoring requirements for manufactured homes, unless it is either:
 - (a) On the site for fewer than one hundred eighty (180) consecutive days, or
 - (b) Fully licensed and ready for highway use. “Ready for highway use” means that it is on its wheels or jacking system, has a valid state license tag, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.

If a recreational vehicle does not meet the criteria of Article 4, Section E(17)(a) and (b), then it must meet the requirements in Sections D(2) through D(15) along with all other provisions for development in this Ordinance.

SECTION G STANDARDS FOR SUBDIVISIONS AND OTHER DEVELOPMENT

All subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall include within the drawings, plans, and permits for such proposals the following:

- (1) BFE data;
- (2) Provisions to minimize flood damage;
- (3) Public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (4) Adequate drainage provided to reduce exposure to flood hazards without negatively impacting adjacent properties;
- (5) Preliminary plans for review and approval of the platted subdivision which identifies the Special Flood Hazard Area, floodway boundaries, the BFE, and other areas regulated by the City;
- (6) Final subdivision plats that identify the boundary of the special flood hazard area, the floodway boundary, the BFEs, and any drainage easements to reduce the risk for flash flooding;

SECTION H. CRITICAL FACILITIES

Construction of new and substantially improved critical facilities, which are those for which the effects of even a slight chance of flooding would be too great, shall be located outside the limits of the SFHA or other flood hazard area regulated by the City. These types of facilities (hospitals, fire stations, police stations, storage of critical records, etc.) are given special consideration when formulating regulatory alternatives and floodplain management plans. Construction of new critical facilities (including the modification of an existing structure not previously classified as a critical facility) shall be permissible within the SFHA or other area regulated by the City only if no feasible alternative site is available and access to the facilities remains available during a 0.2 percent chance flood (a.k.a., 500-year flood).

- (1) Critical facilities constructed within the SFHAs shall have the lowest floor elevated three feet above the BFE at the site (or to the 0.2 percent chance flood elevation, whichever is greater).
- (2) Floodproofing and sealing measures must be implemented to ensure that any and all on-site toxic substances will not be displaced by or released into floodwaters.
- (3) Multiple access routes, elevated to or above the 0.2 percent chance flood elevation, shall be provided to all critical facilities to the maximum extent possible.
- (4) Critical facilities must be protected to or above the 0.2 percent chance flood and must remain operable during such an event.

- (a) The City's flood response plan must list critical facilities.
 - (b) Other facilities in low-risk flood zones that may also be needed to support flood response efforts must be included on the critical facility list.
- (5) The "use" classification of any structure shall not be changed to that of a critical facility, where such a change in use will render the new critical facility out of conformance with this section.

ARTICLE 5
VARIANCE PROCEDURES

SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD

The Board of Zoning Adjustments, as established by the City Council of the City of Daphne, shall hear and decide requests for appeals or variance from the requirements of this Ordinance.

SECTION B. DUTIES OF BOARD

The Board of Zoning Adjustments shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this Ordinance. Any person aggrieved by the decision of the Board of Zoning Adjustments may appeal such decision to the Baldwin County Circuit Court, as provided in State statute.

SECTION C. CONDITIONS FOR VARIANCES

The provisions of this Ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (1) A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half (0.5) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of Sections C(3), C(4), F(1) and F(2) of this Article.
- (2) In the instance of a Historic Structure, a determination is required that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (3) A variance shall be issued *only* when there is:
 - (a) A finding of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship (cannot be personal physical or financial hardship); and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (4) A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall not be issued “after the fact.”

SECTION D. VARIANCE PROCEDURES

In reviewing requests for variance, the Board of Zoning Adjustments shall consider all technical evaluations, relevant factors, and standards specified in other sections of this Ordinance, and:

- (1) Certain facilities and structures must be located on or adjacent to water in order to perform their intended purpose which may result in practical and operational difficulties due to the physical

characteristics of the property. Variances may be issued for development necessary for conducting of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, the development is protected by methods that minimize flood damage during the base flood, and it creates no additional threats to public safety.

- (2) Variances shall not be issued within any designated floodway if *any* increase in flood levels during the base flood discharge would result.
- (3) Variances may be issued for the construction or substantial improvement of accessory structures provided it has been determined that the proposed structure:
 - (a) Represents minimal investment and has low damage potential (amount of physical damage, contents damage, and loss of function).
 - (b) Is larger than the size limits specified in Article 4, Section B(7)(i).
 - (c) Complies with the wet floodproofing construction requirements of Article 4, Section (B)(3).
- (4) Variances may be issued for the construction or substantial improvement of agricultural structures provided it has been determined that the proposed structure:
 - (a) Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
 - (b) Has low damage potential (amount of physical damage, contents damage, and loss of function).
 - (c) Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.
 - (d) Is an aquaculture structure that is dependent on proximity to water if located in a coastal high-hazard area (Zones V, VE, V1 30, and VO).
 - (e) Complies with the wet floodproofing construction requirements of Article 4, Section (B)(3).
- (5) The evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners.
- (6) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.
- (7) Careful consideration and evaluation should be given to the following factors:
 - (a) The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others.
 - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the City.
 - (c) The safety of access to the property during flood conditions for daily traffic and emergency vehicles.
 - (d) The importance of the services provided by the proposed facility to the City.
 - (e) The necessity of the facility to be at a waterfront location, where applicable.
 - (f) The compatibility of the proposed use with existing and anticipated development based on the City's comprehensive plan for that area.

- (g) If applicable, the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action expected at the site.
- (h) The costs associated with providing governmental services to the development during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and City infrastructure such as streets, bridges, and culverts.

Upon consideration of factors listed above, and the purpose of this Ordinance, the Board of Zoning Adjustments may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

SECTION E. VARIANCES FOR HISTORIC STRUCTURES

Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.

SECTION F. VARIANCE NOTIFICATION AND RECORDS

- (1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that specifies the difference between the BFE and the elevation of the proposed lowest floor and stating that the issuance of such a variance could:
 - (a) result in flood insurance rate increases in the hundreds and possibly thousands of dollars annually depending on structure and site-specific conditions; and
 - (b) increase the risk to life and property resulting from construction below the base flood level.
- (2) The Floodplain Administrator shall maintain a record of all variance actions and appeal actions, including justification for their issuance. Report any variances to the Federal Emergency Management Agency Region 4 and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.
- (3) A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the City Clerk and shall be recorded in a manner so that it appears in the chain of title (i.e., deed) of the affected parcel of land.

ARTICLE 6

DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

A Zone means the special flood hazard areas on a FIRM without base flood elevations determined.

Accessory Structure (also referred to as Appurtenant Structures) means a structure which is located on the same parcel of property as a principal structure and the use of which is incidental to the use

of the principal structure. Detached garages and small sheds used for limited storage are considered accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings. An accessory structure specifically excludes structures used for human habitation.

Addition (to an Existing Building) means any improvement that increases the square footage of a structure. These include lateral additions added to the front, side, or rear of a structure, vertical additions added on top of a structure, and enclosures added underneath a structure. NFIP regulations for new construction apply to any addition that is considered a substantial improvement to a structure.

AE Zone means the special flood hazard areas on a FIRM with base flood elevations determined.

Agricultural Structure means a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Aquaculture structures are included within this definition. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

AH Zone means area of special flood hazards on a FIRM having shallow water depths and/or unpredictable flow paths between one (1) and three (3) feet, and with water surface elevations determined.

AO Zone means an area of special flood hazards on a FIRM having shallow water depths and /or unpredictable flow paths between one (1) and three (3) feet.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this Ordinance.

Appurtenant Structure (see definition for "Accessory Structure")

AR/AE, AR/AH, AR/AO, and AR/A Zones means an area of special flood hazard on a FIRM that results from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

A99 Zone means an area of special flood hazard on a FIRM where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes.

Area of Future-conditions Flood Hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Area of Shallow Flooding means a designated AO, AH, AR/AO, AR/AH or VO zone on a community's FIRM with a 1 percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard (see definition for "Special Flood Hazard Area")

Base Flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year (also referred to as the "one percent (1%) chance flood").

Base Flood Elevation (BFE) means the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. The BFE is shown on the FIRM for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO, V1–V30 and VE. It is the regulatory requirement for the elevation of flood proofing of structures. The relationship between the BFE and a structure’s elevation determines the flood insurance premium.

Basement means any portion of a building having its floor sub grade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building (also see “**Structure**”) means a structure with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site; a manufactured home or a mobile home without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the City’s floodplain management and building ordinances or laws. “Building” does not mean a gas or liquid storage tank or a recreational vehicle, park trailer or other similar vehicle.

Coastal A Zone means the area landward of a V Zone, or landward of an open coast without mapped V Zones. In a Coastal A Zone, the principal source of flooding will be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding. During base flood conditions, the potential for breaking wave heights between 1.5 feet and 3.0 feet will exist.

Coastal Barrier Resources System means the system of protected coastal areas that includes ocean-front land, the Great Lakes and Other Protected Areas (OPAs). Coastal barriers serve as important buffers between coastal storms and inland areas, often protecting properties on land from serious flood damage. Also, coastal barriers provide a protective habitat for aquatic plants and animals. The Coastal Barrier Resources Act (CBRA) of 1982 restricted development on the CBRS, in an effort to protect the barrier system and prevent future flood damage. If you live in a CBRS area, you are eligible for federally regulated flood insurance only if your property was built before 1982 and your community participates in the NFIP.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Community means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Community Rating System (CRS) means a voluntary program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Condominium Building means a type of building in the form of ownership in which each unit owner has an undivided interest in common elements of the building.

Critical Facility (aka, critical action) means facilities or activities for which even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, storage of critical records, and similar facilities. These facilities should be given special consideration when formulating regulatory alternatives and floodplain management plans. A critical facility should not be located in a floodplain if at all possible.

Critical Feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

D Zone means an area in which the flood hazard is undetermined.

Dam means an artificial barrier, that has the ability to impound water, wastewater, or any liquid-borne material, for the purpose of storage or control of water.

Design Flood Elevation (DFE) means the locally adopted regulatory flood elevation. It is the minimum elevation to which a structure must be elevated or floodproofed. DFE is the sum of the base flood elevation and freeboard, based a building's structural category. In areas designated as Zone AO on a community's flood map, the DFE is the elevation of the highest existing grade of a building's perimeter plus the depth number specified on the flood hazard map. In areas designated as Zone AO where a depth is not specified on the map, the depth is two feet. In all cases, the DFE must be at least as high as the base flood elevation.

Developed Area means an area of a community that is:

- a. A primarily urbanized, built-up area that is a minimum of twenty (20) contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and
 - i. Within which seventy-five percent (75%) or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or
 - ii. Is a single parcel, tract, or lot in which seventy-five percent (75%) of the area contains existing commercial or industrial structures or uses; or
 - iii. Is a subdivision developed at a density of at least two residential structures per acre within which seventy-five percent (75%) or more of the lots contain existing residential structures at the time the designation is adopted.
- b. Undeveloped parcels, tracts, or lots, the combination of which is less than twenty (20) acres and contiguous on at least three (3) sides to areas meeting the criteria of paragraph "a" at the time the designation is adopted.
- c. A subdivision that is a minimum of twenty (20) contiguous acres that has obtained all necessary government approvals, provided that the actual "start of construction" of structures has occurred on at least ten percent (10%) of the lots or remaining lots of a subdivision or ten percent (10%) of the maximum building coverage or remaining building coverage allowed for a single lot subdivision at the time the designation is adopted and construction of structures is underway. Residential subdivisions must meet the density criteria in paragraph (a)(iii).

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

Elevated Building means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, pilings, posts, columns, piers, or shear walls.

Elevation Certificate means a FEMA form used as an administrative tool of the NFIP to provide building elevation information necessary to ensure compliance with community floodplain management ordinances, to inform the proper insurance premium, and to support a request for a LOMA, CLOMA, LOMR-F, or CLOMR-F.

Encroachment means activities or construction within the floodway including fill, new construction, substantial improvements, and other development.

Existing Construction means, for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.” For floodplain management purposes, existing construction means structures for which the start of construction commenced before the effective date of the first floodplain management regulation adopted by the City (December 5, 1984).

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before the effective date of the original floodplain management regulations adopted by the City (December 5, 1984).

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

FEMA Administrator means the Administrator of the Federal Emergency Management Agency (FEMA).

Fair Market Value means the price that the seller is willing to accept and the buyer is to pay on the open market and in an arm’s length transaction.

Flood or Flooding means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - i. The overflow of inland or tidal waters.
 - ii. The unusual and rapid accumulation or runoff of surface waters from any source.
 - iii. Mudslides which are proximately caused by flooding as described in part “b.” of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually highwater level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an

abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph “a” of this definition.

Flood Damage-Resistant Material means any building product capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Prolonged contact is defined as at least seventy-two (72) hours. Significant damage is any damage requiring more than low-cost cosmetic repair (such as painting).

Flood Elevation Determination means a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

Flood Elevation Study means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of special flood hazard areas have been designated as Zones A, M, and/or E.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the City. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (see “**Flood Elevation Study**”)

Floodplain (or Flood-Prone Area) means any land area susceptible to being inundated by water from any source (see definition of “**Flooding**”).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations means this Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as those for floodplain management, stormwater management, watershed management, grading/ earthwork, and erosion control), and other applications of police power. This term describes state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Floodway (see definition for “**Regulatory Floodway**”)

Floodway Fringe (or Flood Fringe) means the portion of the Special Flood Hazard Area outside of the floodway, which experiences shallower, lower-velocity floodwater than in the floodway. It serves as a temporary floodwater storage area during a flood.

Floodway Encroachment Lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Future-conditions Flood Hazard Area, or Future-conditions Floodplain (see “Area of Future-conditions Flood Hazard”)

Future-conditions Hydrology means the flood discharges associated with projected land-use conditions based on a community’s zoning maps and/or comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

Hazardous Substance (or Material) means any substance or material that, when involved in an accident and released in sufficient quantities, poses a risk to people’s health, safety, and/or property. These substances and materials include explosives, radioactive materials, flammable liquids or solids, combustible liquids or solids, poisons, oxidizers, toxins, and corrosive materials. It includes any substance defined as a hazardous substance pursuant to 42 U.S.C. §9601(14) or listed as a hazardous waste pursuant to the Hazardous Wastes Management Act, Section 22-30-1 et seq. and the regulations promulgated thereunder.

Highest Adjacent Grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

Increased Cost of Compliance (ICC) means a claim under a standard NFIP flood insurance policy, available to flood insurance policyholders who need additional funding to rebuild after a flood. It provides up to \$30,000 to help cover the increased cost of mitigation measures to bring a building into compliance with the latest state or local floodplain management ordinances. Acceptable mitigation measures are elevation, floodproofing, relocation, and demolition, or any combination of these measures.

Letter of Map Change (LOMC) is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

- a. **Letter of Map Amendment (LOMA)**
An amendment based on technical data showing that a property was incorrectly included in a designated SFHA, was not elevated by fill (only by a natural grade elevation), and will not be inundated by the one percent (1%) chance flood. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.
- b. **Letter of Map Revision (LOMR)**
A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from the SFHA.
- c. **Conditional Letter of Map Revision (CLOMR)**
A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Adjacent Grade means the lowest elevation of the natural or regraded ground surface, or structural fill (or concrete slab or pavement), at the location of a structure.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Ordinance. This definition applies even when the floor below ground level is not enclosed by full-height walls.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value (see definition for “**Fair Market Value**”)

Mean Sea Level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

Mixed Use Building means a building that has both residential and non-residential uses.

National Flood Insurance Program (NFIP) is a federal program created by the United States Congress in 1968 to identify flood-prone areas nationwide and make flood insurance available for properties in participating communities. Communities must enact and enforce floodplain management regulations that meet or exceed the criteria established by FEMA in order to participate in the program. This program requires properties within the floodplain with a federally backed or regulated mortgage, or those that receive federal housing subsidies, to buy flood insurance.

National Geodetic Vertical Datum (NGVD) of 1929 means a national standard reference datum for elevations, formerly referred to as Mean Sea Level (MSL) of 1929. NGVD 1929 may be used as the reference datum on some Flood Insurance Rate Maps (FIRMs).

New Construction means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the original floodplain management regulation adopted by the City (December 5, 1984) and includes any subsequent improvements to such structures. An existing building is considered to be new construction if it is substantially improved or once it has been repaired after being substantially damaged/improved.

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the City (December 5, 1984).

Non-Residential Building means, a commercial or mixed-use building where the primary use is commercial or non-habitational.

Non-residential Property means either a non-residential building, the contents within a non-residential building, or both.

North American Vertical Datum (NAVD) of 1988 means the vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the

North American Datum of 1988. It replaces the National Geodetic Vertical Datum (NGVD) of 1929. Used by FEMA in many recent Flood Insurance Studies as the basis for measuring flood, ground, and structural elevations.

Obstruction means, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channel construction, bridge, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Post-FIRM means, for floodplain management purposes, a post-FIRM building is one for which construction began after the effective date of a community's NFIP-compliant floodplain management ordinance (February 21, 1975). For the purpose of determining flood insurance rates under the NFIP, a post-FIRM building is a building for which construction began on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, including any subsequent improvements to such structures.

Pre-FIRM means, for floodplain management purposes, a building for which the start of construction occurred before the effective date of the City's NFIP-compliant floodplain management ordinance. For the purpose of determining flood insurance rates under the NFIP, a pre-FIRM building is a building for which construction began prior to the effective date of an initial Flood Insurance Rate Map or on or before December 31, 1974, whichever is later.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Recreational Vehicle means a vehicle which is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program means the Program authorized by the Act under which risk premium rates are required for the first half of available coverage (also known as "first layer" coverage) for all new construction and substantial improvements started on or after the effective date of the FIRM, or after December 31, 1974, for FIRM's effective on or before that date. All buildings, the construction of which started before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date, are eligible for first layer coverage at either subsidized rates or risk premium rates, whichever are lower. Regardless of date of construction, risk premium rates are always required for the second layer coverage and such coverage is offered only after the FEMA Administrator has completed a risk study for the City.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Remedy a Violation means to bring the structures or other development into full or partial compliance with State or local regulations or, if this is not possible, to reduce the impacts of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provision of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive Loss Agricultural Structure means an agricultural structure covered by a NFIP contract for flood insurance that has incurred flood-related damage on two (2) separate occasions in which the cost of repair, on the average, equaled or exceeded twenty-five percent (25%) of the value of the structure at the time of each such flood event.

Repetitive Loss Property means any NFIP-insured single family or multi-family residential building for which two or more claims of more than \$1,000 were paid by the NFIP within any rolling 10-year period, since 1978. A repetitive loss property may or may not be currently insured by the NFIP.

Residential Building means a non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, two-to-four family, or other residential building.

Residential Property means either a residential building or the contents within a residential building, or both.

Riverine means floodplain relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. Riverine floodplains have readily identifiable channels.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Section 1316 means Section 1316 of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property which the FEMA Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Once a duly constituted State or local authority declares a structure as being in violation, the FEMA Administrator must deny flood insurance coverage provided that the individual or office making the declaration has the authority to do so and that the law or regulations violated was, in fact, intended to discourage or otherwise restrict land development or occupancy in the flood-prone area. Section 1316 was intended for use primarily as a backup for local enforcement actions (i.e., if a community could not force compliance through the enforcement mechanisms in its regulations, it could use Section 1316 as additional leverage) and was not intended merely as a mechanism to remove bad risks from the policy base. Section 1316 will only be implemented in instances where States or communities submit declarations specifically for that purpose.

Severe Repetitive Loss Structure means a single family property (consisting of 1 to 4 residences) that is covered under flood insurance by the NFIP and has incurred flood-related damage for which 4 or more separate claims payments have been paid under flood insurance coverage, with the amount of each

claim payment exceeding \$5,000 and with cumulative amount of such claims payments exceeding \$20,000; or for which at least two (2) separate claims payments have been made with the cumulative amount of such claims exceeding the reported value of the property.

Sheet Flow Area (see definition for “**Area of Shallow Flooding**”)

Single-family Dwelling means either (a) a residential single-family building in which the total floor area devoted to non-residential uses is less than fifty percent (50%) of the building’s total floor area, or (b) a single-family residential unit within a two-to-four family building, other-residential building, business, or non-residential building, in which commercial uses within the unit are limited to less than fifty percent (50%) of the unit’s total floor area.

Special Flood Hazard Area (SFHA) means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year as shown on a FHBM or FIRM as Zones A, AE, AH, AO, AR, AR/AE, AR/AO, AR/AH, AR/A, A99, or VE. The SFHA is the area where the National Flood Insurance Program’s (NFIP’s) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) means the date the development or building permit was issued (includes substantial improvement), provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation.

“Permanent construction” does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a liquid or gas storage tank, that is principally above ground, as well as a manufactured home. The terms “structure” and “building” are interchangeable in the NFIP. For insurance purposes, “Structure” means:

- (1) A building with two (2) or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
- (2) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the City’s floodplain management and building ordinances or laws.

For the latter purpose, “Structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “repetitive loss” or “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners); or
- b. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Variance means a grant of relief by the City’s Board of Zoning Adjustment from the terms of a floodplain management regulation.

V Zone see Coastal High Hazard Area.

Violation means the failure of a structure or other development to be fully compliant with this Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) §44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), (e)(5) is presumed to be in violation until such time as that documentation is provided.

Watercourse means only the channel and banks of an identifiable watercourse and not the adjoining floodplain areas. The flood carrying capacity of a watercourse refers to the flood carrying capacity of the channel.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wet floodproofing means a method of construction that involves modifying a building to allow floodwaters to enter it in order to minimize damage to the building, using flood damage-resistant materials below the DFE throughout the building, raising utilities and important contents to or above the DFE, installing and configuring electrical and mechanical systems to minimize disruptions and facilitate repairs, installing flood openings or other methods to equalize the hydrostatic pressure exerted by floodwaters, and, where required, installing pumps to gradually remove floodwater from basement areas after the flood. Wet floodproofing shall not be utilized as a method to satisfy the requirements of this Ordinance for bringing substantially damaged or improved structures into compliance. Wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings.

X Zones (shaded) means the areas on a FIRM subject to inundation by the flood that has a 0.2-percent chance of being equaled or exceeded during any given year, often referred to as the 500-year flood.

X Zones (unshaded) designates areas on a FIRM where the annual probability of flooding is less than 0.2 percent.

Zone of Imminent Collapse means an area subject to erosion adjacent to the shoreline of an ocean, bay, or lake and within a distance equal to ten (10) feet plus five (5) times the average annual long-term erosion rate for the site, measured from the reference feature.

ARTICLE 7

LEGAL STATUS PROVISIONS

SECTION A. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION B. ENFORCEABILITY OF ORDINANCE AND FUTURE REVISIONS

The provisions within this Ordinance must be legally enforceable; applied uniformly throughout the City to all privately and publicly owned land within any regulated flood hazard areas; meet the minimum standards set forth in §60.3 of the Code of Federal Regulations Title 44; and the City must provide that the provisions of this Ordinance take precedence over any less restrictive conflicting local laws, ordinances, or codes.

If the City repeals its floodplain management regulations, allows its regulations to lapse, or amends its regulations so that they no longer meet the minimum requirements set forth in §60.3 of the Code of Federal Regulations Title 44, it shall be suspended from the National Flood Insurance Program (NFIP). The City's eligibility shall remain terminated after suspension until copies of adequate floodplain management regulations have been received and approved by the Federal Insurance Administrator. To avoid such occurrences, the City will coordinate with the Alabama NFIP State Coordinator and FEMA Regional Office prior to any revisions to this Ordinance. Without prior approval of the Federal Insurance Administrator, the City shall not adopt and enforce revised floodplain management regulations.

From time-to-time, Part 60 of the Code of Federal Regulations Title 44 may be revised to advance flood risk reduction measures as experience is acquired under the NFIP and new information becomes available. The City agrees to revise its floodplain management Ordinance to comply with any such changes within six (6) months from the effective date of any new federal regulation.

SECTION C. REPEALER

Ordinance 2019-10 is hereby repealed and replaced with this Ordinance. Any other ordinance or parts of ordinances conflicting with the provisions of this Ordinance is hereby repealed insofar as they conflict. This Repealer shall not, however, affect, terminate, or preclude any rights, duties, requirements, or terms which arose or existed while said ordinance was in effect, all of which are specifically preserved.

SECTION D. 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, with an effective date of January 1, 2024.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2024.

Robin LeJeune, Mayor

ATTEST:

Candace G. Antinarella, MMC, City Clerk

I hereby certify that this is a true and correct copy of the Floodplain Development Ordinance as adopted by the City Council of the City of Daphne, Alabama, on the _____ day of _____, _____.

WITNESS my hand and the official seal of the City of Daphne, Alabama, by CANDACE G. ANTINARELLA, its City Clerk, this the _____ day of _____, 20____

(signature)

{seal}

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2024-03**

**AN ORDINANCE CONSENTING TO THE SALE BY THE UTILITIES BOARD OF THE
CITY OF DAPHNE OF CERTAIN SURPLUS PERSONAL PROPERTY**

WHEREAS, the Utilities Board of the City of Daphne (“Daphne Utilities”) is required to receive the consent of the City of Daphne before it sells property under the provisions of Ala. Code §11-50-314(a)(10); and

WHEREAS, the management of Daphne Utilities has determined that it is in the best interest of Daphne Utilities to sell the personal property described in Exhibit “2024A-C”; and

WHEREAS, the Board of Directors of Daphne Utilities has approved the sale of the personal property described in Exhibit “2024-A-C”.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Daphne does hereby consent to the sale by Daphne Utilities of the personal property described in Exhibit “2024-A-C”.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this _____ day of _____, 2024.

Robin Le Jeune, Mayor

ATTEST:

Candace G. Antinarella, MMC, City Clerk

EXHIBIT A

MEMO

TO: Daphne Utilities Board
FROM: Kimberly Nicholson
DATE: January 31, 2024
RE: Surplus Property - Exhibit A – Chairs

Desk and office chairs previously used at various offices and locations have reached the point of surplus. These chairs are no longer needed at any location and have been replaced as applicable. Request these chairs to be declared surplus property and subsequently sold through GovDeals.



EXHIBIT B

MEMO

TO: Daphne Utilities Board

FROM: Kimberly Nicholson

DATE: January 31, 2024

RE: Surplus Property - Exhibit B – Miscellaneous Electronic Hardware

Miscellaneous Electronic Hardware to include monitors, keyboards, surge protectors, towers, etc. used at various offices and locations, have each reached the point of surplus. These items are no longer needed at any location and have been replaced as applicable. Request for all this electronic hardware to be declared surplus property and subsequently sold through GovDeals.



EXHIBIT C

MEMO

TO: Daphne Utilities Board
FROM: Kimberly Nicholson
DATE: January 31, 2024
RE: Surplus Property - Exhibit C – Utility Sinks

Three utility sinks have each reached the point of surplus. These items are no longer needed at any location and have been replaced as applicable. Request for these sinks to be declared surplus property and subsequently sold through GovDeals.

