

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, AL
CITY COUNCIL BUSINESS MEETING AGENDA
FEBRUARY 19, 2018

1. **CALL TO ORDER**
2. **ROLL CALL**
INVOCATION - Neil Beasley – Daphne United Methodist Church
PLEDGE OF ALLEGIANCE
3. **APPROVE MINUTES:** **Council Meeting** – February 5, 2018 3
4. **REPORTS OF STANDING COMMITTEES**
 - A. **FINANCE COMMITTEE** – Rudicell
 - B. **BUILDINGS & PROPERTY COMMITTEE** – LeJeune

MOTION Authorizing Mayor Haygood to extend the terms of the Project Development Agreement between Daphne Strike Soccer Club, Inc. and the City of Daphne for an additional 90 days. 9
 - C. **PUBLIC SAFETY COMMITTEE** – Davis
 - D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE** – Goodlin
 - E. **PUBLIC WORKS COMMITTEE** – Coleman
Review Museum minutes of January 8, 2018 16
5. **REPORTS OF SPECIAL BOARDS & COMMISSIONS**
 - A. **BOARD OF ZONING ADJUSTMENTS** – Adrienne Jones
 - B. **DOWNTOWN REDEVELOPMENT AUTHORITY** – Conaway
 - C. **INDUSTRIAL DEVELOPMENT BOARD** – Davis
 - D. **LIBRARY BOARD** – Rudicell
 - F. **PLANNING COMMISSION** – Scott
 - F. **RECREATION BOARD** – LeJeune
 - G. **UTILITY BOARD** – LeJeune
Review Utility Board minutes of January 8, 2018 18
6. **MAYOR’S REPORT**
7. **CITY ATTORNEY REPORT**
8. **DEPARTMENT HEAD REPORTS**
9. **CITY CLERK’S REPORT**
10. **PUBLIC PARTICIPATION**

City Council Agenda – FEBRUARY 19, 2018

11. RESOLUTIONS & ORDINANCES

A. RESOLUTIONS:

2018-06 - A Resolution Declaring Certain Personal Property Surplus and Authorizing the Mayor to Dispose of Such Property. 22

2018-07 – Authorizing the Mayor to execute an Agreement concerning Transportation Planning Process for the Eastern Shore Urbanized Area between Baldwin County and the Municipalities of Daphne, Fairhope, Spanish Fort, Loxley and the State of Alabama. 23

B. 2ND READ ORDINANCES:

2018-03 – Appropriation: Bayfront Drive Street Scape Improvements: Design Fees – Dewberry Engineers, Inc., \$86,700 24

2018-04 - Re-zone of the Jacob’s Well, LLC & Ruth Metcalfe Rye property 29

2018-05 – Amending Section 4-3 of the Daphne Code of Ordinances and Providing Standards for the Keeping of Domestic Poultry in the City of Daphne. 65

C. 1ST READ ORDINANCES

2018-06 – An Ordinance consenting to the sale by the Utility Board of the City of Daphne of Certain Surplus Personal Property 69

12. COUNCIL COMMENTS

13. ADJOURN

**FEBRUARY 5, 2018
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER:

There being a quorum present Councilwoman Conaway called the meeting to order at 6:30 p.m.

2. ROLL CALL

COUNCIL MEMBERS PRESENT: Tommie Conaway; Pat Rudicell; Doug Goodlin; Ron Scott; Robin LeJeune; Joe Davis.

Also Present: Dane Haygood, Mayor; Candace Antinarella, City Clerk; Patrick Dungan, City Attorney; James White, Fire Chief; David McKelroy, Recreation Director; Adrienne Jones, Planning Director; Richard Merchant, Building Department; Kelli Kichler, Finance Director/Treasurer; David Carpenter, Police Chief; Jeremy Sasser, Public Works; Ronnie Huskey, Facilities Director; Tonja Young, Library Director; Margaret Thigpen, Civic Center Director; Betsy Schneider, Operations Director; Vickie Hinman, Human Resources Director.

INVOCATION/PLEDGE OF ALLEGIANCE:

Invocation was given by Councilman Doug Goodlin.

PRESENTATION: Mayor Haygood and Chief Carpenter presented Glenn Barr, Ric Yelding and Ron Gibney their service weapons as well as a proclamation and congratulated them on their retirement with 25 years of service.

PRESENTATION: Councilman Pat Rudicell along with Mayor Haygood introduced Dr. Barry Booth. Dr. Booth spoke about our veterans, the Honor Flight program, the directional sign project and described the definition of the Purple Heart. Purple Heart recipients were recognized as well as all veterans. The proclamation making Daphne a Purple Heart city was presented. Mayor Haygood thanked Dr. Booth for his tireless efforts and thanks all veterans.

PUBLIC HEARING – Rezone of the Jacob’s Well, LLC & Ruth Metcalfe Rye property.

Craig Dyas, Dyas Development, gave an overview of the proposed development while referencing an aerial map of the property.

Adrienne Jones, Planning Director, recapped the proposed development of 54 units. She indicated the Planning Commission offered an unfavorable recommendation.

Public hearing opened at 7:14pm

Sandy Robinson, 1500 Main St., spoke against the development and noted the Planning Commission has expertise to compare what is proposed to what is best for Daphne. She asked the Council to defer to the Planning Commission.

Faye Earnest, 804 Daphne Ct., spoke against the development and said she is speaking to protect the property because it cannot accommodate 54 residences. She also stated the egress is unacceptable and the street does not meet fire code.

Rick Fine, 310 Bay Hill Dr., spoke against the development. He said no new developments should be constructed while Daphne Utilities is in a lawsuit. He said if the current amount of sewage cannot be treated then more development is not needed.

**FEBRUARY 5, 2018
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

Councilman Ron Scott clarified that the neither City of Daphne nor Daphne Utilities are dumping sewage in the bay. He also clarified that the City of Daphne does not own Daphne Utilities.

Councilman Robin LeJeune said that a valve of sewage is not open to the bay but there have been some spills.

Cheryl Hawkins, 801 Daphne Ct., spoke against the development. She said Daphne is a gift and a place of tranquility and Daphne cannot service any more traffic.

John Mangan, 802 Daphne Ct., spoke against the development. He said this proposal would negatively affect Daphne with unintended consequences. He said it is destructive to Olde Town.

Joe Alberstat, 905 Main St., spoke against the development. He is concerned with traffic and asked if there would be a construction entrance.

Ed Baldwin, 903 Halls Lane, spoke against the development. He is concerned with pedestrian safety and asked where the traffic will go. He said Dyas paints a beautiful picture but this development will only be a problem.

Robert Dyer, Halls Lane, spoke against the development. He asked if the Planning Commission denied it then why is it back. He said there are 34 oak trees on the property. He said he feels that the guidelines have not been met.

Ann Heartwell, 715 Delachase, spoke against the development. She said it is almost impossible to cross the street now and more vehicles would make it worse. She asked the council to consider the children.

Christy Adamski, 717 Oak Bluff, spoke against the development. She said children walk and ride their bikes in the area and she is concerned for their safety. She said there are still so many unanswered questions including with regard to buffers and setbacks. She is also concerned with the children at the preschool and their safety.

Bill Robinson, 1500 Main St., spoke against the development. He said trucks would take up the entire street and we need more safety.

Bill Hawkins, 801 Daphne Ct., spoke against the development. He is for development but not in this area.

David & Amy Nash, 1213 Lovette Ln., spoke against the property. They asked that the council listen to the group speaking tonight.

Ruth Rye, 1213 Lovette Ln., owns the property and is in favor of the development. She is in favor of setbacks to preserve trees.

Daniel Dyas, 1615 Sixth St., spoke for the development and wants to take cars off the road and make it a walking town. He also asked for leniency on the setbacks.

The public hearing closed at 8:04pm with no additional individuals requesting to speak.

**FEBRUARY 5, 2018
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

3. APPROVE MINUTES:

The January 22, 2018 Council Meeting minutes were approved.

4. REPORT OF STANDING COMMITTEES:

A. *FINANCE COMMITTEE* – Rudicell

Councilman Rudicell gave the financial report and indicated the January 22, 2017 minutes are in the packet.

MOTION by Councilman Davis to renew the annual City Insurance Policy 1) with Robertson Insurance Agency, Inc., 2) with all policies through the Alabama Municipal Corporation (AMIC), and 3) to accept the 3 year contract discount rate quoted - \$562,222 Seconded by Councilman Goodlin.

MOTION CARRIED UNANIMOUSLY

MOTION by Councilman Goodlin to recommend to Council to reject the Pollard & Whispering Pines Roads Area Sewer connection CDBG Proj: LR-E-PF-16-08 bid per the Engineers recommendation (HMR) in order to update the bid specifications with requirements and rebid the project. Seconded by Councilman Davis.

MOTION CARRIED UNANIMOUSLY

B. *BUILDINGS & PROPERTY COMMITTEE* - LeJeune

Councilman LeJeune indicated the next meeting will be next week.

C. *PUBLIC SAFETY COMMITTEE* – Davis

Councilman Davis thanked all first responders.

D. *CODE ENFORCEMENT/ORDINANCE COMMITTEE* – Goodlin

The Committee met today and discussed bike lanes.

E. *PUBLIC WORKS COMMITTEE*

The Committee met today.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. *Board of Zoning Adjustments* – Adrienne Jones

No meeting.

B. *Downtown Redevelopment Authority* – Conaway

The DRA meets the fourth Wednesday at 5:30pm.

C. *Industrial Development Board* – Davis

The next meeting will be a work session tomorrow at 11:30am. We will be moving dirt soon.

D. *Library Board* – Rudicell

The Porch Project has entered a contract.

E. *Planning Commission* - Scott

No report.

F. *Recreation Board* - LeJeune

The bids were rejected at the last meeting. They are working to move forward again soon.

**FEBRUARY 5, 2018
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

G. Utility Board - LeJeune

The Utility Board will have a special called meeting this Thursday.

6. MAYOR'S REPORT

Mayor Haygood reported that he received notice from the Corp of Engineers with a report about dredging. He also mentioned the upcoming YMCA golf tournament. He noted we are working on the sidewalks in town and we are working on a Memorandum of Understanding with the school board to construct the sidewalk at WJ Carroll. He thanked all of the employees for completing the recent sexual harassment training. The Mayor encouraged everyone to walk down Daphne Court to see where the proposed development is. He noted that Daphne Utilities met on January 31 and a 59 page report was issued by Mobile Baykeepers. Lastly, he asked everyone to remember the family of John "Mack" McRae who passed away this past weekend.

7. CITY ATTORNEY REPORT:

No report.

8. DEPARTMENT HEAD COMMENTS:

David Carpenter – The first Mardi Gras parade had no problems.

9. CITY CLERK'S REPORT:

**MOTION by Councilman Rudicell to approve to publication and set a public hearing on March 19, 2018 for Dayna Oldham - Vacation of Right-of-Way for a portion of Church Street. Seconded by Councilman LeJeune.
MOTION CARRIED UNANIMOUSLY**

**MOTION by Councilman Rudicell to approve the publication and set a public hearing on March 19, 2018 for the re-zone of the WPNVA, LLC, Jay-E, LLC, John White-Spunner & Chester J. Stephan property located at the southeast corner of US Highway 98 & Johnson Road Seconded by Councilman LeJeune.
MOTION CARRIED UNANIMOUSLY**

**MOTION by Councilman LeJeune to approve to publication and set a public hearing on March 19, 2018 for Olde Towne Daphne Development, LLC – Vacation of Ingress & Egress Easements, Lot 5, Piazza di San Francesco & Tract 2, La Piazza di San Francesco Subdivision. Seconded by Councilman Rudicell.
MOTION CARRIED UNANIMOUSLY**

**MOTION by Councilman LeJeune to approve Daphne High School JROTC Donut Sale on February 17, 2018 at Windsor & Ridgewood. Seconded by Councilman Davis.
MOTION CARRIED UNANIMOUSLY**

**MOTION by Councilman Scott to approve Cub Scout Pack 271 Donut Sale on April 14, 2018 at Windsor & Ridgewood. Seconded by Councilman Davis.
MOTION CARRIED UNANIMOUSLY**

**MOTION by Councilman Davis to approve the Daphmont Community Mardi Gras Parade on February 10, 2018 – no road closures. Seconded by Councilman Lejeune.
MOTION CARRIED UNANIMOUSLY**

**FEBRUARY 5, 2018
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

MOTION by Councilman LeJeune to approve the 2018 Scott Ward Memorial Fit for Duty 5K on November 10, 2018. Seconded by Councilman Davis.

MOTION CARRIED UNANIMOUSLY

MOTION by Councilman Davis to approve the 2018 Jubilee Race for Life 5K & 1 Mile Fun Run on September 15, 2018. Seconded by Councilman LeJeune.

MOTION CARRIED UNANIMOUSLY

10. PUBLIC PARTICIPATION

Don Ouellette asked who will pay the fine for Daphne Utilities. Mayor Haygood responded that Daphne Utilities is an independent business.

Jacob Dyas, 1615 Sixth St., asked for more sidewalks to make it safer to walk to school.

John Lake mentioned the vacation of right-of-way on the agenda and said the person requesting the vacation should pay the city.

Pauline Ouellette is concerned about the consequences of a new development and concerned with trees being taken down.

11. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

2018-04 – Authorizing Resolution for FY2018 Leased Equipment Hancock Bank

2018-05 – Acceptance of Streets & Drainage – Winged Foot Subdivision Phase I

MOTION BY Councilman Rudicell to waive the reading of Resolutions 2018-04 and 2018-05. Seconded by Councilman Scott.

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Rudicell to adopt Resolution 2018-04. Seconded by Councilman Scott.

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Rudicell to adopt Resolution 2018-05. Seconded by Councilman Scott.

MOTION CARRIED UNANIMOUSLY

ORDINANCES:

2nd READ

2018-01– Changes to the Post-Retirement Benefit Plan

MOTION BY Councilman Rudicell to waive the reading of Ordinance 2018-01. Seconded by Councilman Scott.

**FEBRUARY 5, 2018
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

MOTION CARRIED UNANIMOUSLY

**MOTION BY Councilman Scott to adopt Ordinance 2018-01. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY**

1st READ

2018-03 – Appropriation: Bayfront Drive Street Scape Improvements: Design Fees – Dewberry Engineers, Inc., \$86,700

2018-04 - Re-zone of the Jacob's Well, LLC & Ruth Metcalfe Rye property

2018-05 – Amending Section 4-3 of the Daphne Code of Ordinances and Providing Standards for the Keeping of Domestic Poultry in the City of Daphne.

12. COUNCIL COMMENTS

**MOTION BY Councilman Rudicell to cancel the February 12 Work Session and Public Safety Committee Meeting and move the Buildings and property meeting to 4:30pm. Seconded by Councilman Scott.
MOTION CARRIED UNANIMOUSLY**

13. ADJOURN:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:53 P.M.

Respectfully submitted by,

Certification of Presiding Officer

Candace G. Antinarella, City Clerk

Tommie Conaway, Council President

**PROJECT DEVELOPMENT AGREEMENT
BY AND BETWEEN DAPHNE STRIKE SOCCER CLUB, INC.
AND THE CITY OF DAPHNE, ALABAMA**

This **Project Agreement** (this “**Agreement**”), is hereby made and entered into as of the 17th day of January, 2017 (“**Effective Date**”), by and between DAPHNE STRIKE SOCCER CLUB, INC., an Alabama non-profit organization (hereinafter referred to as “**STRIKE**”), and the City of Daphne, Alabama an Alabama Municipal Corporation, (hereinafter referred to as “**City**”). STRIKE and the City may from time to time be referred to individually as a “**Party**” and collectively as the “**Parties**.”

W I T N E S S E T H:

WHEREAS, the City supports and encourages local economic and commercial development and the expansion and retention of recreational facilities and activities within the City; and

WHEREAS, the City obtained an opinion from the Office of the Attorney General, Opinion No: 2017-006 dated November 18th, 2016, which authorizes the City to guarantee a mortgage of a non-profit organization to support construction of soccer fields for the purpose of supporting economic development; and

WHEREAS, the City currently maintains and operates Trione Park, leased from the Baldwin County Board of Education, and roughly one-quarter (1/4) of the current usage is dedicated to four (4) full-sized soccer fields with a concession stand. On those four (4) fields, STRIKE currently administers, at no cost to the City, Daphne’s recreational Fall and Spring soccer leagues, two (2) year-round academy-level soccer clubs (STRIKE (U4-U12) and the Gulf Coast Rangers Soccer Club (U13-U19)); and

WHEREAS, STRIKE has entered a contract to purchase a tract of land on which it intends to construct a state-of-the art community soccer complex that will include construction of buildings to support the complex as well as two (2) or three (3) additional full-sized soccer fields. The real property intended to be purchased is approximately a ten (10) acre site (as described in detail on Exhibit “A” of the Agreement and incorporated herein by reference), contiguous and adjacent to the western boundary of Trione Park, directly west of the current four (4) full-sized soccer fields, and north of Daphne Utilities’ Central Services Building. Once completed, the STRIKE property will have a similar use as Trione Park and the two (2) properties will appear seamless to the casual observer; and

WHEREAS, STRIKE intends to develop the real property to benefit all City residents by providing additional space for the programs it administers, including the youth and adult soccer leagues, the academy leagues, and the recently-added TOPSoccer program (The Outreach Program for Soccer) which is a community-based training and team placement program for young athletes with physical or mental disabilities, and for expansion of additional community programs for which there is no room at present; and

WHEREAS, in calendar year 2016, STRIKE managed approximately 775 City residents in the seasonal youth soccer leagues, 578 academy players, and 100 adults; and

WHEREAS, STRIKE provides a positive economic impact to the City through its programs, which draw many out-of-town teams for games and tournaments, including its annual Eastern Shore Premier Cup soccer tournament. The two-day Eastern Shore Premier Cup tournament is currently held each February and attracts over 90 teams from five (5) surrounding states, and is calculated to generate more than one million dollars in economic impact for the City. However, the size of the tournament is limited by field space. Thus, the proposed addition of fields would result in a significant increase in direct economic impact for the City; and

WHEREAS, the City enthusiastically supports and encourages business development and recreational activities within the City and is desirous of having STRIKE establish referenced soccer and recreational facilities within the City; and

WHEREAS, the City is authorized pursuant to Section 94.01 of the Constitution of Alabama of 1901 to expend funds for economic development, including, without limitation, to lend its credit to or grant public funds to any individual, firm, corporation, or business entity, public or private, for the purpose of promoting the economic and industrial development of the City; and

WHEREAS, the Parties hereto enter into this Agreement to establish a further relationship between the City and STRIKE and to set out the City's respective incentives to induce STRIKE to expand its recreational facilities and programming within the City; and

WHEREAS, as of the Effective Date and upon execution hereof by the Parties, the commitments contained in this Agreement shall become legally binding obligations of the City and STRIKE, which commitments are made in consideration of STRIKE's decision to expand its recreational facilities and programming within the City.

NOW, THEREFORE, upon and in consideration of the respective promises and covenants contained herein and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1 CAPITALIZED TERMS

Section 1.1 Capitalized Terms. Capitalized terms utilized herein shall have the meaning ascribed thereto in this Agreement, unless the meanings of such terms have been otherwise specified in a different context.

ARTICLE 2 DETERMINATION TO LOCATE AND CONDITIONS PRECEDENT

Section 2.1 Decision to Locate. STRIKE has determined that it will expand its recreational facilities and programming within the City, contingent upon the satisfaction by the City of the Parties' respective obligations herein.

ARTICLE 3 INDUCEMENTS

Section 3.1. Amount of City Inducement. The City agrees that it will guarantee a real estate loan in the approximate amount not to exceed TWO HUNDRED TWENTY THOUSAND, FIVE HUNDRED DOLLARS (\$220,500.00) with Community Bank for STRIKE's purchase of the real property which shall be used by STRIKE for the expansion of its existing recreational facilities within the City. Said guaranty shall be for a period not to exceed twelve (12) months or for any extension period thereof. STRIKE shall make monthly payments, as Community Bank determines, for interest and/or principal for the guaranty period or any extension thereof; thereafter, STRIKE shall pay then the entire balance and any accrued interest, which will be due and payable. Should STRIKE default in any monthly payment or default in the balloon payment as required pursuant to the contract terms by Community Bank, which would require the City to make such payment, then and in that event, ownership of the real property shall transfer to the City.

Section 3.2. Payment Default. Should STRIKE default in any monthly payment as required by Community Bank by more than ten (10) calendar days from any monthly due date, which results in the City tendering such payment, or fail to pay the entire principal balance and any accrued interest and costs at the end of the twelve (12) month term or any extension, then in that event, ownership of the real property shall transfer to the City and STRIKE shall execute any conveyance instrument to the City to facilitate the transfer.

Section 3.3. Term of City's Guaranty. During the term of the City's guaranty period and any extension thereof, STRIKE shall agree that the City shall have public access to the real property and that STRIKE further agrees not to commence any development upon the real property without the express prior written consent of the City.

Section 3.4. Vehicular Access. That during the term of the City's guaranty period and any extension thereof, the City shall utilize its best efforts to provide or assist STRIKE in development of a roadway for vehicular traffic for egress and ingress to the real property made the basis of this agreement.

Section 3.5(a) Right of First Refusal. That during the City's guaranty period and any extension thereof, should STRIKE desire to sell or transfer said real property, STRIKE shall provide the City with a forty-five (45) calendar day right of first refusal to purchase the subject real property. Further, if the City decides to exercise its right under this agreement to purchase said property, the purchase price shall be Two-Hundred Fifty Thousand Dollars (\$250,000.00).

Section 3.5(b) Right of First Refusal. That subsequent to the City's guaranty period and any extension thereof, should STRIKE desire to sell or transfer said real property, the City shall have the first right of refusal to purchase the property if STRIKE obtains an unconditional bona fide written offer to purchase from a third party. The City shall have ninety (90) calendar days to purchase the property at the same terms and purchase price of the third party's bona fide offer. It is the intention of the Parties that this provision shall survive and shall be a covenant that shall run with the land for that period of time that STRIKE has title to said property.

ARTICLE 4 MISCELLANEOUS

Section 4.1. Governing Law. The governing law of this Agreement shall be the law of the State of Alabama.

Section 4.2. Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect and for any reason whatsoever, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 4.3. Notices. All notices required by this Agreement or necessary to the furtherance of its purposes shall be sent through the United States Postal Service as registered first class mail, postage prepaid, or by a nationally recognized overnight courier for delivery on the following business day, with a written acknowledgement of receipt available, or by telecopy (with such telecopy to be confirmed promptly in writing sent by mail or overnight courier as aforesaid), as follows:

DAH

The City of Daphne, Alabama:

The Honorable Dane Haygood
Mayor City of Daphne
Daphne City Hall
P.O. Box 400
Daphne, Alabama 36526

With a copy to:

Jay M. Ross, Esquire
Adams and Reese LLP
RSA Battle House Tower
11 North Water Street, Suite 23200
Mobile, Alabama 36602

To Daphne Strike Soccer Club, Inc. (STRIKE):

Jose Mergulhao
As Its: President
24469 Avalon Boulevard
Daphne, AL 36526

and

Steve Perrigin
As Its: Secretary
24469 Avalon Boulevard
Daphne, AL 36526

or to such other address as the receiving Party shall have most recently forwarded to the sending Party pursuant to the provisions of this Section 4.3.

Section 4.4. Cost and Expense. Except as otherwise provided in this Agreement, each Party agrees to pay its own costs incurred in connection with this Agreement, including all costs and expenses incurred in connection with the preparation of any studies, reports, surveys, or approvals associated herewith.

Section 4.5. Amendment and Waivers. This Agreement may not be amended or modified except by a written instrument signed by each Party. The waiver by any Party of such Party's rights under this Agreement in any particular instance or instances, whether intentional or otherwise, shall not be considered as a continuing waiver which would prevent subsequent enforcement of such rights or of any other rights.

DAV

Section 4.6. Assignment. This Agreement is not assignable by either Party except that the City may consent to any assignment by STRIKE, but any consent to assignment shall be at the sole, right, option, and privilege of the City. If so assigned, STRIKE shall remain liable for all obligations under this Agreement to the extent any such obligations are not performed by the assignee.

Section 4.7. Further Assurances. STRIKE and the City agree to do all things and take all actions reasonably necessary to fulfill their respective obligations under this Agreement, including the obtaining, negotiation, execution, and delivery of all necessary or desirable agreements, filings, consents, authorizations, approvals, licenses, or other agreements.

Section 4.8. Section Titles and Headings. The section titles and headings of this Agreement are for convenience only and do not define, modify, or limit any of the terms and provisions hereof.

Section 4.9. Entire Agreement. This Agreement constitutes the entire agreement and understanding among the Parties with regard to the subject matter addressed herein.

Section 4.10. Binding Effect. This Agreement and all terms, provisions, and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. In addition, the Parties agree (a) to take all actions, without exception, which are necessary and appropriate at any time to assure the binding effect, legality, and enforceability of their respective obligations hereunder and (b) not to take any action which would affect in any way whatsoever the binding effect, legality, and enforceability of their respective obligations hereunder.

Section 4.11. Time is of the Essence. Unless otherwise indicated by the wording of a specific provision herein or unless subject to excuse for Force Majeure, time is of the essence as to all terms and conditions of this Agreement.

Section 4.12. No Third Party Beneficiary. This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall create or be construed to create any duty, standard of care, or liability to, nor confer any right of suit or action on, any person or entity other than the Parties hereof, including employees, independent contractors, or affiliates.

Section 4.13. Independent Contractor. For the purposes of this Agreement and all services to be provided hereunder, each Party shall be, and shall be deemed to be, an independent contractor and not an agent or employee or partner of the other Party.

Section 4.14. Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts

DM

shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, STRIKE and the City have executed this Agreement as of the Effective Date first specified herein.

DAPHNE STRIKE SOCCER CLUB, INC.,
an Alabama Non-Profit Organization

By: _____

Jose Mergulhao
President

By: _____

Steve Perrigin
Secretary

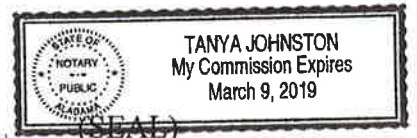
STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned notary public in and for the said County, in the said State, do hereby certify that Jose Mergulhao and Steve Perrigin, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this 12th day of January, 2017.

Tanya Johnston
NOTARY PUBLIC

My Commission Expires: 03/09/2019



THE CITY OF DAPHNE, ALABAMA

By: _____

Dane Haygood
Mayor

ATTEST:

Rebecca A. Hayes
Rebecca A. Hayes, City Clerk

Daphne History Museum

Meeting Minutes

January 8, 2018

I. Call to order

Ken Balme called to order the regular meeting, followed by reciting the Pledge of Allegiance. Attendees: Ken Balme, Rachel Burt, Mickey Boykin, Al Guarisco, Stephanie Middleton, Emily Hammond, Jeanne Nelson, Shannon Burroughs (City Rep) (low turnout due to freezing weather)

II. Approval of minutes from last meeting: December 11, 2017

III. **Treasures Report:** Period 11/30/17-12/31/17 Opening balance \$7,578.20 Deposits: \$212 (4 bricks & \$20 donation & books), Credits: ck#1347 (Rachel Burt Xmas party) Ending balance \$7,735.20 Petty Cash \$16.75

IV. **Volunteer Assignments/Schedules:** reviewed official State & Federal Holiday schedules. The only holidays the year we should be closed would be Easter 4/1. Mother's & Father's Day the person scheduled should try and find a substitute if it conflicts with family plans.

- a) **Exhibits/Events:** No Reports
- b) **Publicity/Social Media:** No Report
- c) **Cemetery:** No reports.
- d) **Fund Raising & Volunteer Recruitment:** See brick sale
- e) **Special Tours :** No Reports
- f) **Archives, Curation:** No reports

V. Unfinished/Ongoing business

- g) **Brick Sale:** Emily & Dooley will get together, review and order. Due to holidays this hasn't been done yet. It should be about a six week turnaround from placing the order. Upon order, we'll notify Shannon Burroughs with the City to schedule installation. Discussion of holding a "MayDay" themed dedication, tentatively scheduled for May 5, 2018. Stephanie will be head coordinator of this event.
- h) **Grant Alabama Historical Society:** \$5,000 granted, but no additional info yet.
- i) **Talking Points:** Ken handed out directions for his Talking Point idea. We are put in groups to handle different projects that need to be addressed at the museum. Eg: Professional signage for the different display cases explaining the contents. The 'Welcome Wall', this is a new design and lighting for just inside the entrance. Docent duties, do we need to revise/update book and responsibilities. Ken would be glad to work with any/all of the groups. Jeanne also suggested we contact USA to see if there are students available to help with layout and displays. Ken also knows an artist- interior designer that may possible help. If we have plans made for each area of concern, we can address each according to importance and as monies are available. Al also brought up, after we get the new fence, we need a sign outside to list important and interesting This list was also sent in an email from Ken 12/14/17.

VI. New Business & Announcements

- Mickey presented a check of \$439 we received from The Campaign of Randy Davis. He decided not to run for this position and distributed the funds to different organizations.
- Stephanie presented a \$200 Visa Card we won. She had registered us with Nichols Real Estate give away. We can use this to purchase the display stand we approved a few meeting ago.

Ken Balme adjourned the meeting.

Minutes submitted by: Rachel Burt

Next regular meeting: Monday February 12 @ 10AM!

Accepted by:

Chairman, Daphne Utilities



APPROVED MINUTES

Utilities Board Meeting

Council Chambers, Daphne City Hall ♦ November 27, 2017 ♦ 5:00 p.m.

I. Call to Order

The regular November 2017 Board meeting for the Utilities Board of the City of Daphne was held on November 29, 2017 at 5:00 p.m. in the Council Chambers at Daphne City Hall and called to order by Chairman Randy Fry, proceeded by the Roll Call:

II. Roll Call

Members Present: Randy Fry, Chairman
Billy Mayhand, Vice Chairman
Selena Vaughn, Secretary/Treasurer
Mayor Dane Haygood, Board Member
Robin LeJeune, Board Member

Members Absent:

Others Present: Jerry Speegle – Board Attorney
Danny Lyndall – General Manager
Bobby Purvis – Operations Manager
Drew Klumpp – Administrative Services Manager
Teresa Logiotatos – Finance Manager
Lori May-Wilson – Executive Assistant
Melinda Immel – Volkert & Associates
Joe Asarisi – Asarisi & Associates
Ray Moore – HMR

Others Absent:

III. Pledge of Allegiance

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

IV. Approval of Minutes

A. Utilities Board Minutes from September 27, 2017:

The Chairman requested any additions, corrections, or deletions for the submitted Minutes from the September 27, 2017 Utilities Board Meeting.

B. Utilities Board Meeting Minutes October 25, 2017: There was no quorum for this meeting

Since there were no additions deletions or corrections, the Chairman announced that the submitted Minutes would stand approve.

V. OLD BUSINESS – None

VI. NEW BUSINESS –

A. Utility Board Meeting schedule and Daphne Utilities holiday schedule for 2018

For this item of New Business, Danny Lyndall pointed out the schedule for upcoming board meetings and possible conflicts with holidays. He requested the Board's preference.

Mayor Dane Haygood commented that people have contacted City Hall and City employees in regard to recent media attention that the Utility has garnered and noted that it highlights an ongoing issue that citizens do not really understand the distinction between the City and the Utility. Furthermore, he stated that the Utility Board meetings being held at City Hall and the Utility's name adds to the confusion. He questioned if there had been any consideration to hosting the Utility Board meetings at the Well Road facility or another facility in an effort to educate the public and minimize confusion. He noted that input from the City Council has been requested as well on the matter.

Mr. Lyndall advised that for his 12 years at Daphne Utilities, all of the normally-scheduled Board meetings have been held at City Hall, with the exception of a few budget work sessions which are held at our Central Services Facility, for the purpose of making it more accessible for the public to attend. He noted that management serves at the pleasure of the Board and if the Board desires to move the meeting to another location, he is agreeable. Mayor Haygood requested input from Councilman LeJeune. Councilman LeJeune stated that he had not received any feedback except phone calls from the public connecting the two as far as Daphne Utilities being the same as the City of Daphne. He mentioned legal documents mistakenly served to the City Clerk and stated that while some council representatives are receiving calls about Daphne Utilities, he had not specifically asked them if the meetings should be moved to the Daphne Utilities Central Services location. Councilman LeJeune noted that it would be beneficial for the public to see such a great facility and to see what the Utilities has going on while lending some separation of the two entities. Selena Vaughn pointed out that we are partners with the City and she enjoys opportunities for the public to come to City Hall for various meetings and events. She further stated that the Utilities will be connected with the City because we collect the garbage fee on the utility bills and that changing a meeting place would not separate the association. Chairman Fry stated that there are pros and cons to moving the meeting location and is an issue that does not have to be decided at this time.

Mayor Haygood pointed out that the purpose for bringing up changing the meeting venue was because the meeting location was included in the wording of the meeting schedule and that a consensus from the City Council could determine a change to the meeting location. He also noted that the City does pay Daphne Utilities for the collection of the garbage fees. He stated that while there is a great relationship between the City and the Utilities, there seems to be public confusion between the two entities and, of the ways we can educate the public to that distinction, is the meeting location one of those things that become a factor. Chairman Fry stated that while this is not a new issue, changing the meeting venue would likely not eliminate the public confusion and that the topic could be further discussed.

Councilman LeJeune referred to the December 2018 meeting date being a schedule issue.

MOTION by Robin LeJeune to approve the submitted 2018 Daphne Utilities Board Meeting Schedule without a December 2018 meeting; Seconded by Billy Mayhand.

AYE: Fry, Haygood, LeJeune, Mayhand, Vaughn

NAY:

ABSENT:

ABSTAIN:

MOTION CARRIED

MOTION by Billy Mayhand to remove the December 2017 Daphne Utilities Board Meeting from the schedule, to cover that business at the January 2018 meeting with the possibility of a special meeting being called if needed; Seconded by Robin LeJeune.

AYE: Fry, Haygood, LeJeune, Mayhand, Vaughn

NAY:

ABSENT:

ABSTAIN:

MOTION CARRIED

VII. BOARD ATTORNEY'S REPORT

Mr. Speegle had no further information to include in his report but welcomed any questions.

VIII. FINANCIAL REPORT

Teresa Logiotatos advised that the submitted financials represent October 2017, the first month of the new fiscal year and reviewed the financial summary page and graphs, the balance sheet, combined income statement and the check register.

IX. GENERAL MANAGER'S REPORT

A. GM Report

Danny Lyndall updated the Board and specifically the Mayor regarding a call from Firestone and advised that he had spoken the manager to discover that they had been calling Riviera Utilities about the issue, but nonetheless the issue was being investigated and addressed. He then pointed out the recent award Daphne Utilities had been bestowed from the Associated Builders and Contractors of Alabama for first place in the public works category for the Olde Towne Daphne Water Treatment plant. He concluded his report summarizing the conclusion of the lead testing in Baldwin County public schools that had taken place earlier in the summer. He answered questions regarding the mixing issues affecting the Olde Towne Daphne well.

B. Operations Report

Mr. Bobby Purvis updated the Board on the various operations taking place at Daphne Utilities, including gravity sewer lines inspections and final inspections on two residential subdivisions.

C. Engineering & Consulting Reports

Drew Klumpp had nothing to add to his report.

Melinda Immel with Volkert updated the Board on forthcoming work on the Eastern Shore water tank maintenance and coating various manholes then answered questions.

Ray Moore with HMR had nothing to add to his report.

Joe Asarisi with Asarisi & Associates gave an update to the Board on the start-up of the Spanish Fort pump station project.

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

XI. **PUBLIC PARTICIPATION** – None.

XII. **BOARD COMMENTS** –

Councilman LeJeune and Mr. Mayhand wished everyone a Merry Christmas and a safe and happy New Year. Mayor Haygood also thanked all the employees and Mr. Lyndall for being available and dependable to address issues that arise, and that despite recent media attention feels Daphne Utilities has a positive image and is appreciative of what we do.

XIII. **ADJOURNMENT** – The meeting adjourned at 5:36 pm.

MOTION by Billy Mayhand to adjourn; Seconded by Robin LeJeune.

AYE: *Fry, Mayhand, Vaughn, Haygood, LeJeune*

NAY:

ABSENT:

ABSTAIN:

MOTION CARRIED

Preceding minutes submitted to the Daphne Utilities Board by:

Lori Wilson

Lori Wilson, Executive Assistant, Daphne Utilities

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2018 - 06**

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

WHEREAS, the Department Heads of the City of Daphne have 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, AND IT IS HEREBY RESOLVED, BY
THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** that

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

DEPT	EQ/VEH/#	DESCRIPTION	VIN/SN
CC	302	2002 CHEVROLET MALIBU	1G1ND52J52M667678
FS#2		Desk-L-Shape-light woodgrain laminate	n/a
FS#2		white storage cabinet	n/a
FS#2		Book Shelf-light woodgrain laminate	n/a
FS#2		Electric Stove	n/a
FS#2		Folding-Rolling Tables (6)	n/a

2. The Mayor is authorized to advertise and accept bids through Govdeals.com 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.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA, THIS _____ day of _____, 2018**

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2018-07**

**An Agreement Concerning a Transportation Planning Process for the Eastern Shore
Urbanized Area between the County of Baldwin and the Municipalities of Daphne, Fairhope,
Spanish Fort, Loxley and the State of Alabama**

BE IT RESOLVED, AND IT IS HEREBY RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that the Mayor of the City is hereby authorized, requested and directed to execute for and on behalf of the City, an agreement by and between the Municipalities of Daphne, Fairhope, Spanish Fort and Loxley and the County of Baldwin and the State of Alabama, which said agreement entitled “An Agreement Concerning a Transportation Planning Process for the Eastern Shore Urbanized Area between the County of Baldwin and the Municipalities of Daphne, Fairhope, Spanish Fort, Loxley and the State of Alabama” is attached and made a part hereof.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of FEBRUARY, 2018

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

CITY OF DAPHNE, ALABAMA
ORDINANCE 2018-03
APPROPRIATIONS: BAYFRONT STREET SCAPE AND PARKING
IMPROVEMENT: ENGINEERING SERVICES & LETTING OF BID

WHEREAS, Ordinance 2017-77 approved and adopted the Fiscal Year 2018 Budget on October 2, 2017; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2018 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2018 budget; and

WHEREAS, Ordinance 2012-48 sets forth an allocation of Lodging Tax proceeds that may be used for Bayfront grounds/property improvements; and

WHEREAS, the Bayfront Street Scape and Parking Improvement project meets such criteria; and

WHEREAS, monies were appropriated (Ordinance 2017-31) for the wetland delineation, Right-of-Way mapping, and topographical surveying which has been completed as the initial stage of the Bayfront Master Plan project; and

WHEREAS, the engineers Dewberry/Preble-Rish were selected by Council to provide services, and oversee the bidding and construction of the project and they have provided the cost proposal for the engineering services required for the project.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that the Fiscal Year 2017 Budget is hereby amended to include

1. Funds in the amount of **\$86,700** from the **Lodging Tax Fund** are appropriated and made a part of the Fiscal Year 2018 budget for the Engineering fees and letting of bid for the Bayfront Street Scape and Parking Improvement project.
2. The Mayor is hereby authorized to execute any and all documents required in order for the City of Daphne to participate in such project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE ALABAMA this ____ day of _____, 2018.

Attest:

Dane Haygood, Mayor

Candace G. Antinarella, City Clerk

November 6, 2017

Mr. William Eringman
City of Daphne
Deputy Public Works Director
PO Box 400
Daphne, AL 36526

Ms. Ashley Campbell
City of Daphne
Environmental Programs Manager
PO Box 400
Daphne, AL 36526

RE: Bayfront Street Scape and Parking Improvement

Mr. Eringman / Ms. Campbell,

Dewberry | Preble-Rish is pleased to offer the following services for the Bay Front Drive and Off Street Parking Improvements. Surveying and wetland delineation has been completed for the above mentioned project. Below represents the scope of

SECTION 1 - PROJECT UNDERSTANDING

It has been decided that we want to utilize as much as possible the existing road bed and pavement along Bay Front Drive. This will incorporate the saw cutting of the existing edge of pavement placing curb and gutter and closed system drainage system to the respective low points along the right of way. This will require upgrading and or modification of the existing drainage system along with the existing utilities. The street scape will set proposed points of access to each of the undeveloped lot to help minimize damage to the proposed infrastructure in the future. The jurisdiction is to receive a major face lift through the use of improved infrastructure, landscaping and utilities. The hope is to create/revise the overlay district within the City to help steer the development into walking friendly commercial district that will become a destination location for the City.

TASK 1: PLANNING

- A. It has been expressed that there the City will want to see a high, medium and low finish for all aspects of the proposed development with the pro and con for each feature and the costs associated with those features. This will result in the production of 3 different renderings of the overall site with representation of all three finishes listed above.
- B. The selection process of the proposed finish and look associated with the street scape may potentially lead to a public meeting with the adjacent property owners as the proposed modifications will affect their property and may be necessary to

gain access to each site for means of easement for sidewalk or other infrastructure. These meetings will require the preparation of exhibits and presentation materials.

- C. Assistance with the preparation of the ordinance for the overlay district upon request.

TASK 2: ENGINEERING

Dewberry | Preble-Rish will produce the grading, drainage and landscaping plans for the proposed finish and features selected by the board for the project. Dewberry will also coordinate with the utility companies to expedite any utility relocation necessary for the street scape improvement. The plans will insure the improvements are compliant with City of Daphne Regulations and also other state and local agencies. Dewberry will provide necessary permitting with ADEM, Corps of Engineers, and ALDOT. **Engineering fees are to fluctuate with the currently prescribed rates per the On-Call contract.**

TASK 3: LANDSCAPING

WAS Design was requested to work on the renderings and the landscape and irrigation plans for the project. Their work will help steer the street scape in the direction the City chooses to take it. There plans will incorporate the overall appearance of the site from finishes on the parking, benches, street lighting, signage, plantings and trash receptacles.

TASK 4: PROJECT LETTING

Dewberry will prepare contract documents, and bid advertisement in compliance with the title 39 bid law. We will in conjunction with the City of Daphne staff insure the project is properly advertised, conduct a pre-bid conference to narrow the field to only serious prospective bidders, and open bids. Upon opening bids Dewberry will provide a bid tabulation of all the responsive bids and make recommendations to the City of a lowest responsible and responsive bidder.

TASK 5: CONSTRUCTION ENGINEERING AND INSPECTION

Should the project move into construction and CE&I services are needed Dewberry would be please to provide the services for the already established percentage of construction rates as established by our on call contract.

SECTION 2 – FEES

Task 1A: Renderings of proposed finishes and alignments 3x\$4000.00	\$12,000.00
Task 1B: Public Meetings/Presentations/Easements Exhibits	Hourly Rates
Task 1C: Assistance with Ordinance/Regulations for Overlay District	Hourly Rates

Task 2: Engineering, GDBP, Utility Coordination, Permitting , & Letting (Based on On-Call Contract Sliding Scale)	\$49,700.00
Task 3: Landscape and irrigation plans	\$25,000.00
Task 4: Letting: Included in Task 2	
Task 5: As-Needed sliding scale percentage: \$750K-\$1M	9.25%
 Estimated SUB-TOTAL	 \$ 86,700.00

TERMS AND CONDITIONS

In consideration of the engineering services provided by Dewberry Engineers Inc. d/b/a Dewberry | Preble-Rish, Client agrees to pay in addition to the invoice amount, interest at the rate of 1.5% per month (18% APR) for all balances outstanding for more than thirty (30) days from the invoice date, said interest to be calculated retroactively to the invoice date. In the event that Dewberry Engineers Inc. d/b/a Dewberry | Preble-Rish prevails in any litigation brought with respect to any dispute that may arise out of or in connection with this Contract, Client agrees to pay reasonable attorney's fees and expenses of Dewberry Engineers Inc. d/b/a Dewberry | Preble-Rish associated with said litigation. In the event the Client prevails in any such litigation, Dewberry Engineers Inc. d/b/a Dewberry | Preble-Rish agrees to pay reasonable attorney's fees and expenses of the Client associated with said litigation.

RESTRICTION OF USE

This proposal includes information that shall not be disclosed outside of the CLIENT and shall not be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offer, or as a result of, or in connection with, the submission of this information, CLIENT shall have the right to duplicate, use, or disclose the information to the extent provided in the resulting contract. This restriction does not limit, CLIENT's right to use information contained in this proposal if it is obtained from another source without restriction. The information subject to this restriction is contained on all pages of this proposal.

AUTHORIZATION

If this proposal meets with your approval, please return one (1) executed original to this office. Receipt of the executed proposal will serve as our authorization to proceed. If you have questions, please do not hesitate to contact us.

Sincerely,

Dewberry Engineers Inc. d/b/a Dewberry | Preble-Rish

Andrew Bobe, P.E.
Associate | Project Manager

Attachments:

Attachment A: Standard Hourly Billing Rate Schedule (8/16)

The foregoing contract with Dewberry Engineers Inc. d/b/a Dewberry | Preble- Rish is accepted:

Print Individual Firm or Corporation Name

Signature of Authorized Representative Date

Print Name of Authorized Representative and Title

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2018-04**

**Ordinance to Re-Zone Property Located
Northeast corner of US Highway 98 and Halls Lane
Jacob's Well, LLC and Ruth Metcalfe Rye**

WHEREAS, Jacob's Well, LLC and Ruth Metcalfe Rye as the owners of certain real property located within the City of Daphne, have requested that said property that is currently under zoning as R-7(T), Townhome District, B-2, General Business, R-3, High Density Single Family Residential District, to be Re-Zoned as PUD, Planned Unit Development; and

WHEREAS, said real property is located at the Northeast corner of US Highway 98 and Halls Lane, and more particularly described as follows:

Legal Description for Re-Zone:

4.36 ac (mol) Jacob's Well, LLC Parcel (PPIN# 44972) - Lot 2, Shore Oaks Subdivision, a Resubdivision of Lot 2B of the Resubdivision of Lot 2 of Webb FLP Subdivision, according to the plat thereof recorded in Slide 2540-C, of the records in the Office of the Judge of Probate, Baldwin County, Alabama, plus...

0.06ac (mol) Jacob's Well, LLC Parcel (PPIN# 360806) – Commence at the record location of the Northwest corner of Section 20, Township 5 South, Range 2 East, St. Stephens Meridian, and run thence South, a distance of 990.00 feet; thence run East, a distance of 660.00 feet to the Northwest corner of Lot 2B of the Resubdivision of Lot 2 of the Webb FLP Subdivision, as recorded on Slide 2484-A, Baldwin County Probate Records; thence run South 00 Degrees 06 Minutes 19 Seconds West, along the West margin of said Lot 2B, a distance of 324.93 feet to the Point of Beginning; thence continue South 00 Degrees 06 Minutes 19 Seconds West, along the West margin of said Lot 2B, a distance of 175.61 feet; thence run South 89 Degrees 35 Minutes 37 Seconds East, along the South margin of Lot 2B, a distance of 13.82 feet; thence run North 00 Degrees 07 Minutes 44 Seconds East, a distance of 175.85 feet; thence run South 89 Degrees 23 Minutes 53 Seconds West, a distance of 13.90 feet to the Point of Beginning. Tract contains 0.06 acres, more or less, and lies in Section 20, Township 5 South, Range 2 East, Baldwin County, Alabama, plus...

1.8 ac (mol) Rye Lot – (PPIN# 38108) – Lot No. 3 of the subdivision of the lands of S.W. Pickens as per plat of same recorded in Map Book 4, Page 99 of the records in the Probate Court of Baldwin County, Alabama, said lands lying in the Southwest Quarter of the Northwest Quarter of Section 20, Township 5 South, Range 2 East and containing 1.8 acres, more or less and more specifically being that piece of property conveyed by Pickens to Fulford and recorded in the Office of the Judge of Probate, Baldwin County, Alabama, in Deed Book 488, Page 222.

WHEREAS, at the regular Planning Commission meeting on November 16, 2017, the Commission considered said request and set forth an unfavorable recommendation; and,

WHEREAS, due notice of said proposed re-zoning has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on February 5, 2018; and,

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

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

SECTION I: ZONING

That above described real property is hereby rezoned from R-7(T), Townhome District, B-2, General Business, R-3, High Density Single Family Residential District to PUD, Planned Unit Development, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

SECTION II: REPEALER.

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

SECTION III: SEVERABILITY.

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

SECTION IV: EFFECTIVE AND EXPIRATION DATE.

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

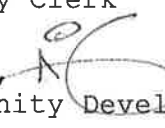
ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 20_____.

Dane Haygood,
Mayor

ATTEST:

Candace G. Antinarella,
City Clerk

To: Office of the City Clerk

From: Adrienne D. Jones, 
Director of Community Development

Subject: Jacob's Well, L.L.C. and Ruth Metcalfe
Rye Zoning Amendment

Date: December 22, 2017

MEMORANDUM

PRESENT ZONING: R-7(T), Townhome District, B-2,
General Business, R-3, High Density
Single Family Residential

PROPOSED REZONING: PUD, Planned Unit Development

LOCATION: Northeast corner of U. S. Highway 98
and Halls Lane

RECOMMENDATION: At the Thursday, November 16, 2017,
regular meeting of the Daphne Planning
Commission, seven members were
present, and the motion carried for a
unfavorable recommendation for the
above mentioned 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 of Monday,
January 2, 2018.

Thank you,
ADJ/jv

Attachment(s)

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



APPLICATION FOR REZONING OR PRE-ZONING

Office use only: Rev. 072816

Date Submitted October 16, 2017

Application Number:

ZA-17-02 or PZA-

Planning Commission Public

Hearing Date: November 16, 2017

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):

North of Highway 98 & West of US-98

44972; 360806; 38108

Gross Site Area (acreage):

± 6.22 AC

Requested Zoning or Pre-Zoning:

PUD

Current Zoning Designation(s):

R7(T); B2; R-3

Amended Request:

Initials:

Date:

Current Land Use:

Vacant

Anticipated Land Use:

Townhomes - 57A-57D + LU/WD

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:

Jacob Swell, LLC / Ruth M. Rye

Mailing Address:

23210 US Hwy 98, Fairhope, AL 36532

Phone/Fax: 251 990 6006

E-mail: cf@dyasllc.com

Name of Authorized Agent:

Craig F. Dyas; DYAS, LLC

Mailing Address:

Phone/Fax:

E-mail:

Name of Developer*:

DYAS, LLC

Phone/Fax:

E-mail:

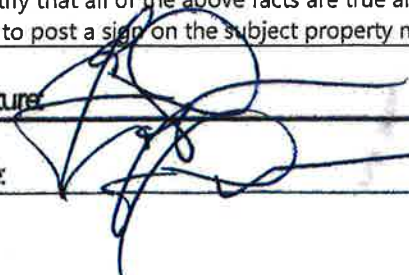
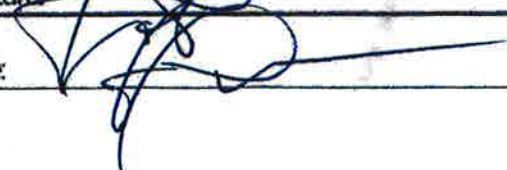
Other:

Ruth M. Rye 301 Delwood, Mobile AL 36606

Phone/Fax: 251 610 0055

E-mail: rrye@bellaterra.com

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

Applicant's Signature: 	Date: <u>10/16/17</u>
Agent's Signature: 	Date: <u>10/16/17</u>

OLDE TOWNE DAPHNE TOWNHOMES PUD STANDARDS

Olde Towne Daphne Townhomes, a proposed *Planned Unit Development* (PUD) for *Olde Towne Daphne*, is proposed on an assemblage of approximately 6.2 acres keenly situated between U.S. Highway 98 and Main Street, adjacent to the south and east of the new Christ the King Catholic School ball fields. The site is made up a combination of parcels, a 4.36 acre parcel immediately west of the new Shore Oaks Commercial Development, a .06 acre sliver and lastly, a 1.75 acre (+) parcel which adjoins the 4.36 acre parcel at its' west line commencing at the SW corner. In late 2016, the 4.36 acre parcel which, site in late 2016, was rezoned from B2 to R7(T), allowing 10 townhomes per acre. The .06 acre sliver was omitted in previous re-zonings and has slipped through the cracks and remains B-2. The 1.75 acre +/- parcel ties the R7(T) parcel to Main Street by way of Daphne Court and allows for the design of a residential community walking distance to both Olde Towne Daphne as well as the newly developed shops, restaurants and coffee venues in the new Shores Oaks Commercial Development. Access to *Old Towne Daphne Townhomes* from from Highway 98 is via a common *Access and Parking Easement* across the Shore Oaks development provided by Eastern Shore Associates, L.L.C. to Jacob's Well, L.L.C. recorded in Baldwin County Probate Court as Instrument # 1627300 and recorded in the records of the Probate Office, Baldwin County, Alabama.

The development proposes up to 54 residential units and up to 8 commercial units. The residential units will consist of up to 38 single family attached (SFA) townhomes, up to 10 single family detached (SFD) townhomes, and up to six units on the second floor of three live up/work down ("LU/WD") structures.

Each of the 38 *single family attached* (SFA) townhomes will be two story units of approximately 1920 square feet, heated and cooled, with a rear-loaded one car garage. In addition, on-street parking will minimize clutter and provide as much common 'comfort'/open area as possible. The SFA units will be constructed in groups of no more than six and possibly as few as two.

Up to 10 single family detached (SFD) townhomes are proposed to *soften* the entrance to the higher density product and ultimately the corridor 98 commercial product. This component of the development will provide access to *Olde Towne Daphne*, primarily through Daphne Court. The proposed site plan lays out structures approximately 25 feet wide, 80 feet deep with rear loaded car shelters and a minimum of 12' between structures.

Up to six (6) live up/work down ('LU/WD') units are proposed to be constructed on the eastern most portion of the Jacob's Well tract fronting the rear parking of Shore Oaks directly across the parking lot from the two most recently opened retail units of the Shore Oaks development. These units would have 'transitional use' within the overall

development. Parking for the commercial component of LU/WD will be in accordance with the common access and parking easement described above.

Up to 3,000 square feet of commercial space will be constructed on a 50' x 300' B-2 equivalent site consisting of the east end of the "dog leg" of this development which is between Serda's Coffee to the south and Daphne Antique Gallery to the north. The standards for this commercial portion of the development will mirror the City of Daphne B-2 zoning ordinance..

The setbacks shall be 30 feet along all sides of the 'mother' parcel with the exception the common line with Lot 1, Shore Oaks Subdivision (PPIN # 362668), the common line with Lot 2, Marino Family Subdivision (PPIN # 344878), and the common line with the eastern 60 ft of the south line of Christ the King Catholic School ball field (PPIN 41969), none of which will have any setback or buffer. Alleys will be allowed in the setbacks. In addition, there will be a 5' setback adjacent to all public roads.

Along the south property line, there will be a 12 foot landscape buffer in the setback. Along all other property lines that have setback requirements, there will be a 4 foot landscape buffer within the setback.

Structure height shall not exceed 35 feet measured to midway between eave and ridge from finished first floor. *NOTE: While the site plan calls for 10 structures and defines the typical footprint, the developer reserves the right to combine units or expand units for 'custom' construction yet the coverage will remain within standard as proposed.*

The overall residential density of *Olde Towne Daphne Townhomes* will not exceed nine (9) units per acre, and the maximum lot coverage of building/structures shall not exceed 30 percent (30%). A legend of various other standards will be located on the face of the approved site plan.

All utilities are available to the site and will be installed underground. A minimum 5' wide sidewalk will be constructed in front of all units on an 'as built' basis as the units are constructed.

Storm water management will be designed in conjunction with the SFA component thus additional space in ponds previously identified on the 4.36 acre parcel will be afforded or additional ponds designed.

Roads will be constructed to municipal standards yet it has not been determined at this point whether they will be dedicated to the city or not.

A landscape plan shall be incorporated into the common area components of the overall development which shall have coverage of at least five percent (5%) of the development. The landscaping required of builders as a requirement of the developer for the right to build in this development, shall be applicable to this PUD requirement. This landscape covenant as well as the buffer covenant heretofore specified shall fulfil the greenbelt requirement of this ordinance.

As *Olde Towne Daphne Townhomes* is an effort to contribute to the further development, viability, and sustainability of *Olde Town Daphne* as a town center, recreational space requirements shall be satisfied by walkable access to various recreational facilities in and about *Olde Towne Daphne*, such as existing municipal parks, various school sporting facilities and *Town Center* itself.

Restrictive Covenants shall be incorporated into the development and ultimately managed by the Property Owners Association ('POA') which will govern the rights of the ultimate unit owners post completion. The developer will maintain control until the last unit is complete and sold. Additionally, the POA will manage/maintain the common area landscape and the storm water management ponds.

Modifications to the site plan shall be approved administratively within the proposed standards or equivalent City of Daphne ordinances.



EXHIBIT 'A'

LEGAL DESCRIPTION(s) for OLDE TOWNE DAPHNE TOWNEHOMES,

A proposed PLANNED UNIT DEVELOPMENT

...a 'DYAS' Development

4.36 ac (mol) Jacob's Well, L.L.C. Parcel – PPIN # 44972 – Lot 2, Shore Oaks Subdivision, a Resubdivision of Lot 2B of the Resubdivision of Lot 2 of Webb FLP Subdivision, according to the plat thereof recorded in Slide 2540-C, of the records in the Office of the Judge of Probate, Baldwin County, Alabama, PLUS. . .

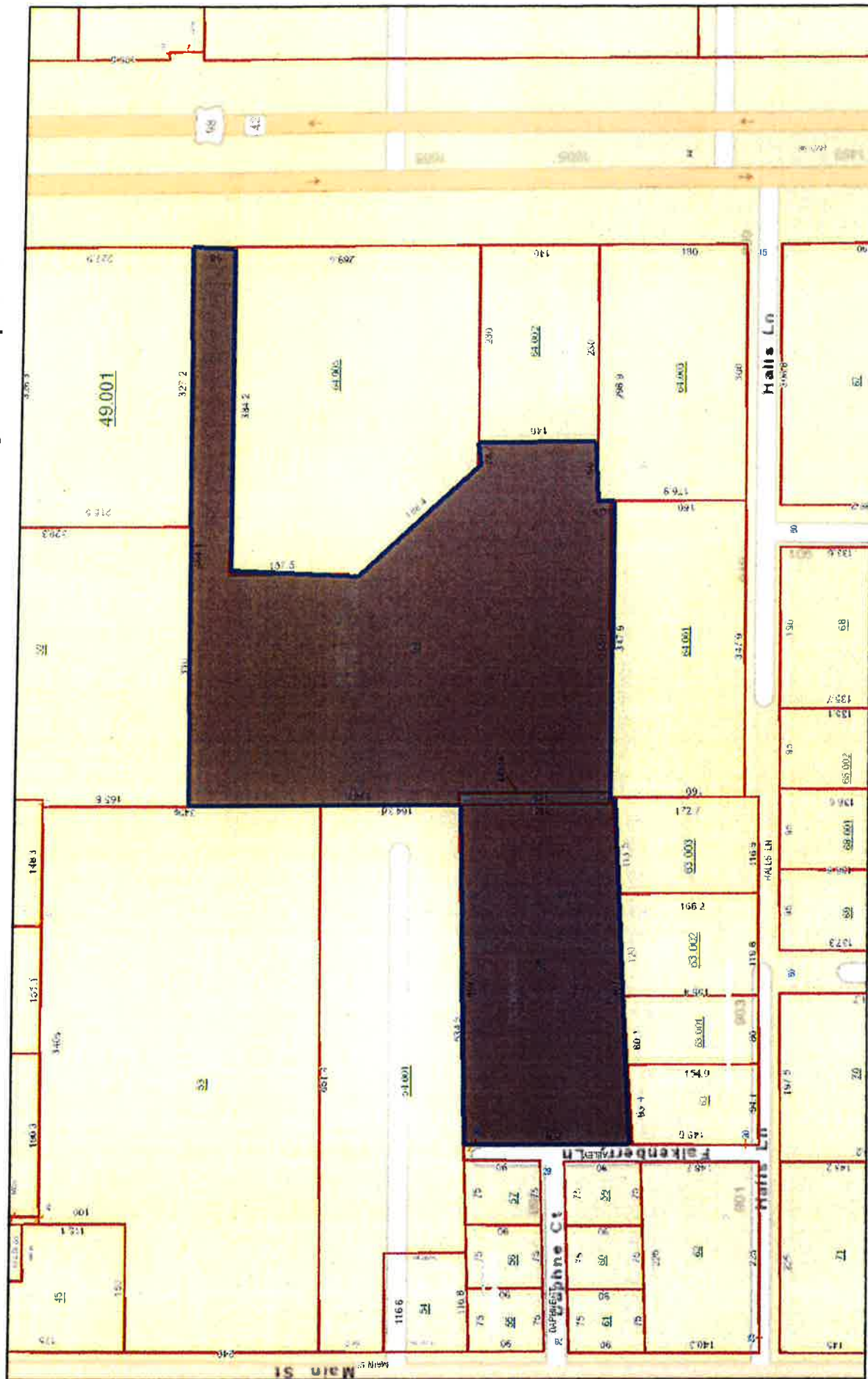
0.06 ac., (mol) Jacob's Well, L.L.C. Parcel – PPIN # 360806 – Commence at the record location of the NORTHWEST corner of Section 20, Township 5 South, Range 2 East, St. Stephens Meridian, and run thence South, a distance of 990.00 feet; thence run East, a distance of 660.00 feet to the Northwest Corner of Lot 2B of the Resubdivision of Lot 2 of the Webb FLP Subdivision, as recorded on Slide 2484-A, Baldwin County Probate Records; thence run South 00 Degrees 06 Minutes 19 Seconds West, along the West margin of said Lot 2B, a distance of 324.93 feet to the POINT OF BEGINNING; thence continue South 00 Degrees 06 Minutes 19 Seconds West, along the West margin of said Lot 2B, a distance of 175.61 feet; thence run South 89 Degrees 35 Minutes 37 Seconds East, along the South margin of Lot 2B, a distance of 13.82 feet; thence run North 00 Degrees 07 Minutes 44 Seconds East, a distance of 175.85 feet; thence run South 89 Degrees 23 Minutes 53 Seconds West, a distance of 13.90 feet to the POINT OF BEGINNING. Tract contains 0.06 acres, more or less, and lies in Section 20, Township 5 South, Range 2 East, Baldwin County, Alabama, PLUS. . .

1.8 ac. (mol) Rye Lot – PPIN # 38108 – Lot No. 3 of the Subdivision of the lands of S.W. Pickens as per plat of same recorded in Map Book 4, Page 99 of the records in the Probate Court of Baldwin County, Alabama, said lands lying in the Southwest Quarter of the Northwest Quarter of Section 20, Township 5 South, Range 2 East and containing 1.8 acres, more or less and more specifically being that piece of property conveyed by Pickens to Fulford and recorded in the Office of the Judge of Probate, Baldwin County, Alabama, in Deed Book 488, Page 222.



EXHIBIT 17 B

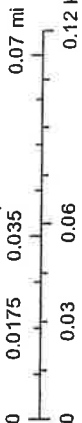
Olde Towne Daphne Townhomes, a 'proposed' City of Daphne PUD



October 11, 2017

- Misc
- County Boundary
- Parcels
- Lot Lines

1:2,257



KCS

Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan,

Copyright 2017

DYAS, L.L.C.

COMMERCIAL REAL ESTATE & DEVELOPMENT

ADJACENT PROPERTY OWNERS

Jacob's Well, L.L.C. – PPIN# 44972 & 360806

R. Rye- - PPIN# 38108

OLDE TOWNE DAPHNE TOWNHOMES, A *proposed* PUD

- | | |
|---|-------------------------------|
| 43-04-20-2-000-054.001 Christ the King Parish | -064.000 Jacob's Well, L.L.C. |
| -057.000 711 College Ave | 23210 U.S. Highway 98 |
| -053.000 Daphne, AL 36526 | Suite A3 |
| -052.000 | Fairhope, AL 36532 |
| -049.000 Vintage Inspirations, L.L.C. | -058.000 Ruth M. Rye |
| c/o Vilai Marino | 301 E. Delwood Dr. |
| P.O. Box 2509 | Mobile, AL 36606 |
| Daphne, AL 36526 | |
| -064.005 Eastern Shore Associates, L.L.C. | |
| c/o Kleban Properties, L.L.C. | |
| 1189 Post Rd. | |
| Fairfield, CT 06824 | |
| -064.002 Daphne Properties Highway 98, L.L.C. | |
| 132 Rosa Ave | |
| Metairie, LA 70005 | |
| -064.003 Daphne Southern Gate, L.L.C. | |
| 23937 U.S. Highway 98, Suite 1 | |
| Fairhope, AL 36532 | |
| -064.001 Olds Enterprises, L.L.C. | |
| P.O. Box 970 | |
| Daphne, AL 36526 | |
| -063.000 Baldwin, Edward M. & Melodie | |
| -063.001 903 Halls Ln | |
| -063.003 Daphne, AL 36526 | |
| -063.002 Dyer, Robert Allen & Haley | |
| 905 Halls Lane | |
| Daphne, AL 36526 | |
| -059.000 Earnest, Dorothy A. | |
| 804 Daphne Ct. | |
| Daphne, AL 36526 | |

23210 U. S. HIGHWAY 98, SUITE A-3, FAIRHOPE, ALABAMA 36532

TELEPHONE (251) 990-6000 FACSIMILE (251) 990-8807

WEB: [HTTP://WWW.DYASLLC.COM](http://www.dyasllc.com)

PLANNING COMMISSION
REZONING REQUEST FOR
RUTH METCALFE RYE & JACOB'S WELL, LLC



December 2017 PC Report was tabled at the November 2017 meeting

COMMUNITY DEVELOPMENT

Rezoning Request Ruth Rye & Jacob's Well, LLC 6.2 acres

Owner: Ruth Rye & Jacob's Well, LLC

Existing Conditions: wooded/undeveloped

Existing Zoning for the Rye property:

R-3, High Density Single Family Residential

Existing Zoning for Jacob's Well properties:

B-2, General Business District and R-7(T), Townhouse District

Proposed Zoning: Planned Unit Development District

Surrounding Zonings/Uses for Rye property:

North – B-1, Local Business/Christ the King Athletic Complex and Day Care

South – R-3, High Density Single-family Residential District (4 houses)

East – B-2, General Business District (undeveloped strip owned by Jacob's Well, LLC)

West – R-3, High Density Single-family Residential District (Daphne Court Subdivision, 6 houses)

Surrounding Zonings/Uses for Jacob's Well portion:

North – B-2, General Business District/Rama Imports and Teak House restaurant

South – B-2, General Business District/commercial use

East – B-2, General Business District/Popeye's fast food restaurant

West – R-3, High Density Single-family Residential District/undeveloped (Rye property)

West – B-1, Local Business/Christ the King Athletic Complex and Day Care

Existing Utility Service Providers:

Water, Sewer & Gas – Daphne Utilities

Electric – Riviera Utilities

Public Safety Service Providers:

Fire Protection-Station 1

Police Protection-Police Beat 1

Public Works

The Comprehensive Plan

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

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

Objective: Encourage development of sound and cohesive residential areas which meet the housing needs of current and potential residents.

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

At this time, the Future Land Use map does not reflect recent zoning and use changes that have taken place since the Plan's adoption, nor does it account for consequential changes that should have been made.

Staff Comments

U.S. Highway 98 is a major traffic arterial and the city's primary commercial corridor. Instances of townhouse development with access to U.S. Highway 98 include: Summer Oaks Town Houses, north of Wal-Mart. Instances where apartments have a direct access U.S. Highway 98: Colonnade at Eastern Shore (southeast of the intersection of Johnson Road); Windscape and Arbors by the Bay Apartments, north of Wal-Mart), East Bay Apartments and Sea Cliff Condos. At the request of Eastern Shore Associates, LLC, the Daphne City Council rezoned Shore Oaks Lot 2 (*Jacob's Well, LLC 4.36 acre property*) from B-2 to R-7(T) in Ordinance 2016-43.

The Rye property abuts Falkenberry Lane, a 20-ft wide public right of way, and the Daphne Court subdivision to the west. Daphne Court subdivision is a six lot subdivision recorded in 1955. Christ the King property (child development center and sports complex) abuts the northern

boundary of the Rye property. There are 4 single family lots to the south zoned R-3, as is the current zoning of the Rye property.

In 2017, Ms. Rye quit claimed a strip of land located along the southeastern boundary to Jacob's Well, said parcel is zoned B-2.

The applicants request the rezoning of three lots to PUD for a Planned Unit Development which proposes commercial, attached and detached townhouses, and live/work units. Typically such developments would require B-2, General Business, R-7(T), Townhouse and MU, Mixed Use zoning.

Olde Towne Daphne Townhomes PUD Review

According to Article 30-1, Planned Unit Development District General provision, "Overall, the City desires PUD zoning to produce development that is *superior* to development designed under conventional zoning and subdivision regulations." According to Section 30-7 (d), General Requirements, "The PUD shall provide, through desirable arrangement and design, *benefits which justify deviations from conventional development standards* which would otherwise apply.

According to the narrative of the Olde Towne Daphne Townhomes, the proposed development is to consist of 54 residential units (10 detached townhouses, 6 buildings containing six attached townhomes, 1 building containing 2 townhomes and 6 loft apartments (upper floor of live/work mixed use buildings). The proposed overall residential density is 8.6 units/acre. This density is slightly less than that of a townhouse district (10 units per acre). No lots or subdivision of land is proposed. According to Craig Dyas, the agent, this will probably be a condominium-type development. The "staff" portion of the flag lot (northern boundary) is proposed to be developed for business use.

The narrative also indicates that sidewalks will be provided and that common areas and stormwater management will be provided and landscaped. The PUD General Plan proposes to provide a new a connection from Main Street to Highway 98. There are notes on the General Plan showing potential future rights of ways as well as a potential future fire department access location west of Jacob's Way to the Christ the King site.

Rezoning the property for a Planned Unit Development with townhome and live/work units as shown on the General Plan is appropriate. The overall concept is one that transitions from Highway 98 stepping down from east to west from one intense use to a relatively less intense use. One may also consider the reverse as well going from west to east; the uses would step up from a less intense use to a more intense use from Main Street to Highway 98.

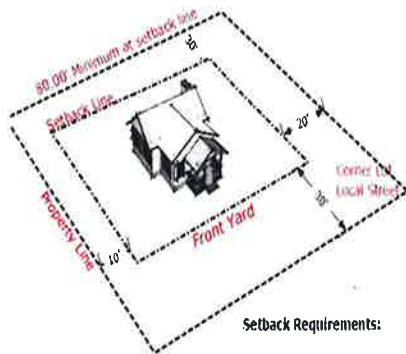
According to the provisions for PUD zoning, the outside perimeter building line setback is recommended to be no less than 40-ft, but provides an exception that the setback may be decreased or increased by Council. The narrative provides a 30-ft building setback along the

perimeter of the Rye and Jacob's Well properties (except no buffer where abutting Shore Oak Lot 1.) **Additional consideration regarding the southern perimeter of the Rye property may be appropriate. Mitigation efforts such as a privacy fence or other specific buffer provisions could be a means to mitigate the impact of the construction of 10 new residential units to abut 4 residential properties. It may be appropriate to mandate the developer to construct a certain size privacy fence and to require the fence design to be approved by the Planning Commission. Other options may be available for consideration but any mitigation option should be duly added to the PUD narrative.**

The greatest anticipated impact of the design is the connection to Daphne Court, a 28-ft wide two-way public street that was approved in 1955. Upfront discussions regarding traffic calming measure(s) within the development and particularly at the connection point between the Rye property and the Daphne Court subdivision are imperative. For the sake of public health, safety, convenience and general welfare of the existing and future residents, traffic calming should be vetted and mandated to be incorporated into the Official Olde Towne Daphne PUD standards and installed by the developer as a means to mitigate the impact of new vehicular and pedestrian traffic on the residents.

Adjoining property owner notices have been distributed, a zoning notification sign has been posted, and the notice for a public hearing for this petition has been properly advertised in the Courier in accordance with applicable sections of the Code of Alabama.

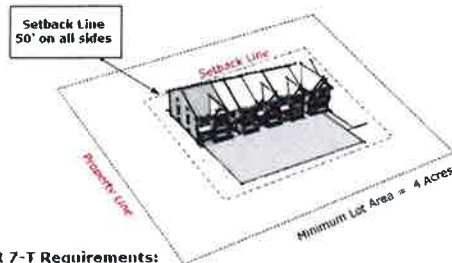
R-3 High Density Single Family Residential



Setback Requirements:

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

R-7 Townhouse District



R 7-T Requirements:

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

Maximum Height - 35 feet
Maximum Stories - 2 stories

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

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

11-6 MINIMUM STREET REQUIREMENTS

	Major Street	Collector Street	Local Street	Cul-de-Sac ¹ (Turn around)	Cul-de-Sac ¹ (Turn around w/ 20-ft island)	Hammer Head Turnaround	Alley
Minimum Right-of-Way:	100'	60'	50'	60' (120' diam.)	70' (140' diam.)	120'	30'
Minimum Asphalt Width (ft) ² :	12' per lane	12' per lane	22'	48' (93' diam.)	56.5' (113' diam.)	20'	20'

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

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

³ May vary with topography subject to Planning Commission approval based on recommendation of Public Works Director and Director of Community Development.

OLDE TOWNE DAPHNE TOWNHOMES PUD STANDARDS

Olde Towne Daphne Townhomes, a proposed *Planned Unit Development* (PUD) for *Olde Towne Daphne*, is proposed on an assemblage of approximately 6.2 acres keenly situated between U.S. Highway 98 and Main Street, adjacent to the south and east of the new Christ the King Catholic School ball fields. The site is made up a combination of parcels, one, 4.36 ac. immediately west of the new Shore Oaks Commercial Development which, site in late 2016, was rezoned from B2 to R7(T), allowing 10 townhomes per acre; one, a .06 ac sliver which was omitted in previous re-zonings and has slipped through the cracks and remains B-2 and lastly, a 1.75 ac (+) parcel which adjoins the 4.36 acre parcel at its' west line commencing at the SW corner; this parcel ties the R7(T) parcel to Main Street and allows for the design of a residential community walking distance to both Olde Towne Daphne as well as the newly developed shops, restaurants and coffee venues accessed by U.S. 98 and the site is accessible from Highway 98 via the recorded common parking and access easement granted Jacob's Well by Eastern Shore Associates across and on Shore Oaks development.

The development proposes a up to 54 residential units.

38 *single family attached* (SFA) townhomes with rear-loaded garages rear loaded garages and on-street parking in an effort to minimize clutter and provide as much common 'comfort'/open area as possible. Further, the plan calls for two story units of approximately 1920 square feet, heated and cooled, with a one car garage. These units will be constructed in groups of no more than six and possibly as few as two. The setbacks shall be 30 feet along all sides of the 'mother' parcel with the exception of the east side on which there is proposed no setback.

Up to six (6) live up/work down ('LU/WD') units are proposed to be constructed on the eastern most portion of the Jacob's Well tract. The primary U.S. Highway 98 access will enter the SFA portion of the development vis the aforementioned perpetual easement and the east end of the 'dog leg', adjacent to the north of Serda's Coffee and adjacent to the south of Daphne Antique Gallery, is proposed a 50' by 300' B-2 equivalent site; the standards for this site will mirror the City of Daphne B-2 zoning ordinance.

The LU/WD units will front the rear parking of Shore Oaks directly across the parking lot from the two most recently opened retail units of the Shore Oaks development and would have 'transitional use' within the overall development.

Up to 10 single family detached (SFD) townhomes are proposed, which provide the access to Olde Towne Daphne to *soften* the entrance to the higher density product and ultimately the corridor 98 commercial product. This component of the development will provide access to Olde Towne Daphne, primarily through Daphne Court. The proposed site plan lays out structures approximately 25 feet wide, 80 feet deep, a minimum of 12 feet between structures, will have a minimum front setback of 20 feet, rear setback of 30 feet, in which will be allowed

** Original Submission
for PC consideration 11/16/17
See Revised Standards.*

an alley, access to rear loaded car covers, and, within the setback, a four feet (4') of landscape buffer, and corner side setback adjacent to a public road of 15 feet. Additionally, the height shall not exceed 35 feet measured to midway between eave and ridge from finished first floor. *NOTE: While the site plan calls for 10 structures and defines the typical footprint, the developer reserves the right to combine units or expand units for 'custom' construction yet the coverage will remain within standard as proposed.*

The overall density of Olde Towne Daphne Townhomes will not exceed nine (9) units per acre. The maximum lot coverage of building/structures shall not exceed 30 percent (30%). A legend of various other standards will be located on the face of the approved site plan.

All utilities are available to the site and will be installed underground. With the proposed SFD component being 'one-sided', a sidewalk will be constructed on an 'as built' basis as the units are constructed.

Storm water management will be designed in conjunction with the SFA component thus additional space in previously approved ponds will be afforded or additional ponds designed.

Roads will be constructed to municipal standards yet it has not been determined at this point whether they will be dedicated to the city or not.

A landscape plan shall be incorporated into this the common areas of this component of the overall development which meets or exceed municipal standards. Additional landscaping will be required of builders as a requirement of the developer for the right to build in this development.

Restrictive Covenants shall be incorporated into the development and ultimately managed by the Property Owners Association ('POA') which will govern the rights of the ultimate unit owners post completion; the developer will maintain control until the last unit is complete and sold. Additionally, the POA will manage/maintain the common area landscape and the storm water management ponds.

Modifications to the site plan shall be approved administratively within the proposed standards or equivalent City of Daphne ordinances.



Part III—Building and Equipment Design Features

CHAPTER 5

FIRE SERVICE FEATURES

SECTION 501 GENERAL

501.1 Scope. Fire service features for buildings, structures and premises shall comply with this chapter.

501.2 Permits. A permit shall be required as set forth in Sections 105.6 and 105.7.

501.3 Construction documents. *Construction documents* for proposed fire apparatus access, location of *fire lanes*, security gates across fire apparatus access and *construction documents* and hydraulic calculations for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

501.4 Timing of installation. When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when *approved* alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2.

SECTION 502 DEFINITIONS

502.1 Definitions. The following terms are defined in Chapter 2:

- AGENCY.
- FIRE APPARATUS ACCESS ROAD.
- FIRE COMMAND CENTER.
- FIRE DEPARTMENT MASTER KEY.
- FIRE LANE.
- KEY BOX.
- TRAFFIC CALMING DEVICES.

SECTION 503 FIRE APPARATUS ACCESS ROADS

503.1 Where required. Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3.

503.1.1 Buildings and facilities. *Approved* fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section

and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an *approved* route around the exterior of the building or facility.

Exception: The *fire code official* is authorized to increase the dimension of 150 feet (45 720 mm) where:

1. The building is equipped throughout with an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an *approved* alternative means of fire protection is provided.
3. There are not more than two Group R-3 or Group U occupancies.

503.1.2 Additional access. The *fire code official* is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

503.1.3 High-piled storage. Fire department vehicle access to buildings used for *high-piled combustible storage* shall comply with the applicable provisions of Chapter 32.

503.2 Specifications. Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.8.

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for *approved* security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

503.2.2 Authority. The *fire code official* shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.

503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be *surfaced* so as to provide all-weather driving capabilities.

503.2.4 Turning radius. The required turning radius of a fire apparatus access road shall be determined by the *fire code official*.

* Fire Marshal
Submitted for PC
consideration on 12/21/17.

30-8 - Other applicable regulations.



In addition to applicable local, state and federal regulations, all PUD development shall be in compliance with the following Articles of the Land Use and Development Ordinance unless excepted herein.

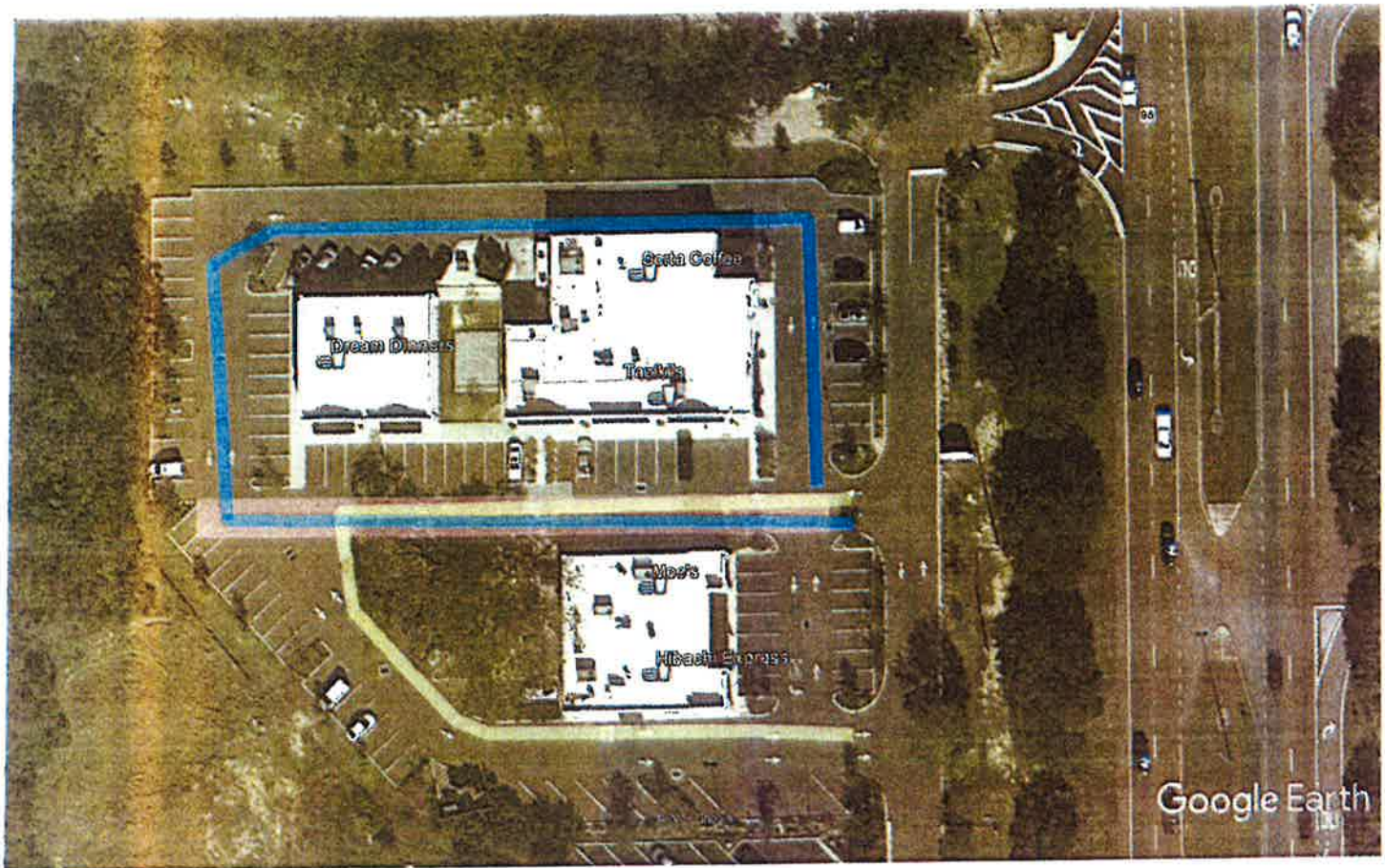
- (a) Article 10, General Provisions
- (b) Article XI, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments, except that sections 11-6 and 11-11(b) may be modified by approved PUD documents.
- (c) Article XV, Procedures for Site Plan Review
- (d) Article XVII, Procedures for Subdivision Review
- (e) Article XVIII, Drainage and Storm Water Management Facilities and Erosion/Sediment Control
- (f) Article XXXIV, Schedule of Fees
- (g) Article XIX, Landscape Standards and Tree Protection and Article XXXIII, Sign Provisions, except, upon request of the developer, the city may consider modifications to Article XIX, Landscape Standards and Tree Protection and Article XXXIII, Sign Provisions. Request for said modifications to Article XIX and/or Article XXXIII shall be submitted with the proposed project PUD zoning application.

(Ord. No. 2015-17, § III, 4-6-15)

15-4 - Special provisions.

The following shall apply:

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



The blue line is the drive through for Serta Coffee.

The Yellow line is the drive through for Hibachi Express.

The pink line is the access to the proposed complex.

503.1.2 Additional access. *"The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, conditions of terrain, climatic conditions or other factors that could limit access."*

This site is between two buildings with 4 restaurants between them and parking on each side of the access road, which also serves as a drive through lane for two of the restaurants. Therefore with the limited access and congestion I am requiring two access roads.

Supplemental Document

Jacob's Well, L.L.C. & Ruth
Metcalf Rye Zoning Amendment

Citizen Comments

Planning Commission
Regular Meeting
November 16, 2017

&

December 21, 2017

Mayor Haygood and Council Members:

My wife and I live at 905 Halls Lane. Since we built our home approximately 7 (seven) years ago, we have been blessed with 2 beautiful children. Robby is 7 years old and Ruby is 3 weeks old. We love Daphne and plan on raising our children here.

We have great concerns about the proposed re-zoning of the property located just north of our home. We realize that areas grow and we are not the only family that wants their children to grow up in Daphne. But this appears as a Commercial venture where realtors and developers are trying to take advantage of the small town feel that Daphne has to offer. I'm confident that the owners of these properties, one that lives in Fairhope and the other that lives in Mobile, have no concern about the disruption this re-zoning would cause but only the profits that can be maximized by this being approved. If my memory is correct, Mayor Haygood was interested in purchasing the 1.80 acre tract to build a home for his family, however once the asking price was revealed there was no interest. It is our opinion that due to current zoning restrictions, Ms., Rye is partnering with Jacobs' Well to maximize their profits by joining the 2 (two) properties.

The current infrastructure cannot handle additional traffic or rain water run-off. As I stated previously we live on Halls Lane, which is a drainage ditch. It is not a flat road, cannot be maintained by the city because of the configuration. Daphne Court is also utilized as a run-off point from Main Street. The closest street drain is at the Citrin Law firm, all other storm water is diverted to these 2 streets. The east side of the 1.80 acres should be deemed unsuitable for building. This is a very wet area because of the run-off. This should also impact the west side of the 4+ acre tract proposed. If the property is disturbed it is my understanding that for every square foot of ground disturbed there is a fine. This fine is not from the City of Daphne, but from the EPA.

Another point we would like for you to consider is that with the current influx of traffic on new 98, there are many people using Van Ave. to Main Street avoiding the heavy traffic on 98. Main Street was not designed to handle this amount of traffic. With the proposed re-zoning this will only get worse. When voting for this re-zoning, please think about the current residents of Daphne and not the promised tax dollars this will create.

Thanks

The Dyer Family



Mayor Haygood and Council Members:

My wife and I have resided at 903 Halls Lane for the past 41 years. The property that is proposed for re-zoning is just north of our residence. To be clear we are not opposed with growth or development; however we are opposed to the property being re-zoned for a high volume of homes on such a small parcel of land. As I stated previously this has been my home for the last 41 years and with that we are very familiar with the lay-out of this property and the fact that the property drops off dramatically at the rear (east side of the 1.80 acres).

As I'm sure you all are aware, the infrastructure (road system) is not in place to accommodate this growth. If the traffic created by this subdivision were to be connected west, there are only 2 (two) possibilities for traffic flow. The first being Daphne Court which is a 1 (one) lane street .The 2nd is Faulkenberry Lane, which is a small shell road beside my home.

The street at Daphne Ct. intersects with Scenic 98, which brings up another problem due to the heavy traffic created by parents bringing their children to school in the morning and picking them up in the afternoon at Christ the King School. This area is already maximized with vehicles. There are also a number of pedestrians in this area walking down Main Street.

With the proposed access for this development having entrance from new 98 to the proposed subdivision, this will become a cut thru street. Therefore you will be diverting more traffic onto Main Street. If this were proposed we are 100% opposed to this access path.

We hope as a committee and elected officials of the current residents of Daphne, that you will take close observation from a respectful, logical, and Safety standpoint that you will reject this proposed re-zoning.

Sincerely

Edward and Melodie Baldwin

A handwritten signature in blue ink that reads "Edward & Melodie Baldwin". The signature is written in a cursive, flowing style.

To the Members of the Daphne Planning Commission
November 7, 2017

The residents of Daphne Court were given notice just this past Friday that a major real estate project, termed a Planned Urban Development, is proposed adjoining our neighborhood. The developers expect to use Daphne Court, our residential street, as one of its entrances, but I hope that you will not permit this change in our neighborhood and lives.

I have several objections to the project as it was explained to me:

The benefit is all to the developer, none to the present homeowners and, I think, less to the City of Daphne than you might hope.

Project looks much too ambitious for the land available since, to make it a success, the developers have to reach into Old Daphne in a way that would reduce the livability of surrounding neighborhoods, ours in particular.

The most serious fault with the proposed P.U.D. is the taking of Daphne Court for one of its required entrances. Daphne Court is too narrow to serve as a through-street for the new development and for emergency access. The size of the street defeats the developer's intended use. It is almost too narrow for those of us living here (but don't get me wrong; we like it).

There are actually two Daphnes. There is Old Daphne, spoken of in promotional materials and announcements benefitting the City's reputation, and there is the newer, busier Daphne grown up from the farms and forest surrounding the original.

When people speak of Old Daphne, they notably are not talking about Highway 98, with all its noise and rush-hour traffic. Highway 98 is a river of vehicular traffic every day. Many drivers seek to dodge the traffic lights by traveling Scenic 98 (Main Street). They would use the development as a cut-through.

During the week, parents picking up their kids also would use Daphne court - and the development - as a shortcut to and from 98. The planning commission would see a major exit right between two school crosswalks. Twice a day there would be a dangerous traffic hazard where children are located.

Taking Daphne Court into this development would make worse the traffic hazard already existing on Main Street between Van and Belrose Avenues. Every weekday, rush-hour traffic backs up for blocks -- from Belrose (at the light) past Dryer, often to College Lane.

Adding traffic from 98 and the development would be a serious headache for residents, parents, schoolchildren and drivers. Neither Daphne Court nor Main Street could stand it, and the City would be forced to find an expensive solution.

We homeowners have assumed that we are by ourselves on this, but Daphne Court is not the only part of Daphne impacted by this proposed development. This project does involve residents away from Daphne Court. All the neighborhoods of Old Daphne would take a hit from this development, which would further fragment and reduce the small-town character of Old Daphne - the comfortable quality of its neighborhoods, shops, restaurants and homes.

Other homeowners have mentioned issues about soil drainage, pollution, sewerage, and noise.

Conclusion: The existing Planned Urban Development attempts to put too much on too little land. The developer should scale back the planned construction or build it on land of adequate size. And they should abandon the idea of Daphne Court as an entrance.

There is zero benefit to the homeowners of Daphne Court and considerable risk to the city of Daphne if these plans are not properly amended. Creating thru-access via Daphne Court is an especially dangerous fault in this plan. It would be a mistake for the Planning Commission to support it.

John P. Mangan
802 Daphne Court

November 6, 2017

City of Daphne
Planning Commission

We request that no access be given from Daphne Court to the 6.22 Acres+-AKA Jacob's Well LLC and Ruth Metcalfe Rye as Daphne Court is too narrow for heavy traffic which will be a result of this planned development. Thanking you in advance for your consideration in this matter.

David & Aimee Nash
PO Box 1031
803 Daphne Ct
Daphne, AL 36526
251-348-7901

A handwritten signature in black ink, appearing to read "Aimee P. Nash". The signature is written in a cursive style with a horizontal line above the name.

5 November 2017

Daphne Planning Commission
City of Daphne, Alabama

Dear Commission Members,

On Friday, November 3, 2017, a sign was placed at the end of Daphne Court regarding zoning change from a single family area to a planned unit development. This area is a quiet, well established neighborhood with a diverse age population from newborn babies to 90+ year olds. Some of the people have been living in this area 60+ years. It was a sad, disappointing day to discover that a developer wants to construct over 50 residences, with 10 detached homes in the 2+ acres at the end of Daphne Court that would connect to Highway 98. Residents in Daphne Court were originally told there would be one single family home in the 2+ acres at the end of the street.

First, I would request that no zoning change be made to the 2+ acres at the end of Daphne Court: it should remain a single family residential area. Ten homes, connected to 44 other residential units, would cause multiple problems.

*Daphne Court is a small road: one car can exit or enter, but it is difficult for two cars to pass on the road. Most of the time, one car must stop or go up onto someone's lawn in order to pass another car.

*Emergency vehicles, whether firetrucks or ambulances, would be extremely difficult with more traffic. Currently if someone living on Daphne Court has visitors, they park on the road causing difficulty entering or exiting.

*Christ the King and Bayside Schools morning and afternoon traffic currently causes excess congestion on Main Street in Daphne and makes it difficult entering or exiting Daphne Court. With more residences, the congestion would increase tremendously.

*At peak traffic times, there are cars lined up from the red light at Mancini's past Daphne Court. Not only at school time, but also work times in the mornings and around 5:00PM the traffic is dense and at a standstill.

*Water drainage is a problem on Daphne Court. With a heavy rain, the water backs up from the 2+ acres at the end of the street to the middle of the court. At least half of the street looks like a river until the water subsides. I have concerns about the drainage problem in the 2+ acres at the end of the street.

*If this development plan becomes reality, it would be advantageous for everyone on Daphne Court, Falkenberry Lane, and Halls Lane if there is no road connection to Daphne Court. A cul-de-sac inside the 2+ acres at the end of Daphne Court would allow residents of the development to enter from Highway 98 and exit from Highway 98. A green space would keep the Daphne Court area more family oriented, plus environmentally friendly. There is no way the small street in Daphne Court can be used for an entrance/exit for any mass development.

As stated in the first paragraph, it would be much more positive to leave the 2+ acres at the end of Daphne Court as a single family area. I hope the Planning Commission will visit the site and recognize the concerns stated.

Sincerely,

Dorothy and Faye Earnest
804 Daphne Court
Daphne, Alabama 36526

To the City of Daphne Planning Commission:

As a property owner on Daphne Court, I want to address the extension of the street. Presently there are 6 houses on this narrow street. The volume of traffic that will come with additional housing will make the exit onto Main St. even more dangerous.

The wooded area they are considering is home to much wildlife. The recent rampant destruction of natural wooded areas in Daphne is changing the city's personality and it will affect the quality of life that we, as residents of this beautiful city, cherish and protect.

Sincerely,

A handwritten signature in black ink that reads "Bill & Cheryl Hawkins". The signature is written in a cursive, flowing style.

Bill and Cheryl Hawkins

Ms. Marybeth Bergin
President
City of Daphne Planning Commission

15 November 2017

Dear Ms. Bergin,

Please consider this letter as my formal protest against the proposed project by the Dyas Firm that exits through Daphne Court onto Main Street. There is enough congestion in that area with school traffic at Christ the King, W.J. Carroll, and Bayside Academy that extra traffic would not provide safe travel to and from school for children walking or being driven by parents or school bus.

I would hope that this would not be considered without a detailed traffic study by a qualified engineering firm, and a complete safety study by the City of Daphne Police Department. The children of this city deserve no less.

Thank You.



E. Harry Brown

603 Church Avenue
Daphne, Al

**ROBINSON
1500 MAIN STREET
DAPHNE, ALABAMA 36526**

December 19, 2017

VIA EMAIL: ajones@daphneal.com

Ms. Adrienne Jones
Planning Director
City of Daphne
1705 Main Street
Daphne, Alabama 36526

RE: Proposed PUD for Jacob's Well and Ruth Rye property

Dear Ms. Jones:

My husband and I live at 1500 Main Street, at the corner of Main Street and Hall's Lane. I am writing to express our concerns regarding the requested rezoning of the 1.8 acres referred to as the "Rye Property" that is included in the referenced rezoning request that is presently pending before the Planning Commission, and the associated request to permit access from the Jacob's Well development to Main Street via Daphne Court.

It is my understanding that the Rye Property is currently zoned R-3, which requires an 80 foot setback, with a maximum density of 3.5 units per acre, with a requested change that would permit a density of 5.5 units per acre and a setback of only 20 feet.

The City's standard for a Planned Unit Development (PUD) requires that the PUD be beneficial to residents, take advantage of properties that otherwise would not be developed, and enhance the community spirit. These requirements are not

met here because the Rye Property can be fully utilized and built on within current zoning, and the increased density and decreased setbacks would not be beneficial to the residents or benefit the community in any way, so we believe the PUD should be denied.

A second and very serious concern is the developer's attempt to secure access to Main Street via Daphne court not only for the Rye Property, but also for the entire Jacob's Well development, under which 54 residential units have apparently been approved with a density of 8.6 units per acre. It is my understanding that when the Jacob's Well development was approved, it was not disclosed that access would be sought for the development through Daphne Court to Main Street, in addition to the 2 available accesses from the property to Highway 98.

Daphne Court is a narrow (less than 20 feet), substandard road, with no sidewalks. Use of this road to provide a connection to Highway 98 would violate the fire code, and would impose a huge burden on the current residents of Daphne Court, most of whom have lived in their property for many years. Daphne Court is simply not adequate for the burden the developer seeks to place on it for the apparent purpose of increasing the value of the proposed development. It would constitute a public safety hazard because of lack of access for emergency vehicles, and also the increased traffic in an area already congested by vehicle and pedestrian traffic, including school zones.

The developer already has 2 potential accesses for the Jacob's Well development onto Highway 98. There is no showing of necessity, or showing of any benefit to the community, that would justify the imposition of the heavy burden of the vastly increased traffic on the residents of Daphne Court and surrounding area. Main Street is already overburdened, and funneling a large amount of additional traffic to Main Street, via Daphne Court, in the middle of a school zone, is simply unjustifiable where other available options are already in place for access to the development.

Ms. Adrienne Jones
December 19, 2017
Page 3

For these reasons, we urge the commission to deny the PUD request for the Rye Property, and to deny (or recommend against) the request to use Daphne Court as a means of access from Jacob's Well to Main Street. Please circulate this letter to the members of the Commission.

Respectfully,


Sandy G. Robinson

cc: Councilman Pat Rudicell (via email)
Neighbors on Hall's Lane and Daphne Court

December 20, 2017

Planning Director, City of Daphne
Ms. Adrienne Jones
Daphne, Alabama

Dear Ms. Jones,

There has been little concern for the residents of Daphne Court by the developer of Jacob's Well and the Rye Property. Currently pending approval by the Daphne Planning Commission, this development has no positive impact on families living in this area. Some residents have been living here for 40+years. My Mother, Mrs. Dorothy Earnest, lives at 804 Daphne Court and is directly effected by this rezoning proposal.

Daphne Court is too narrow to accommodate additional vehicles. Two cars have difficulty passing on the road currently. If any resident has guests, they must park on the street. With six homes on the street, at any given time, especially holidays and events, there can be multiple cars on the road. Using Daphne Court to provide an egress to Main Street would create additional problems.

In case of an emergency, a fire truck or ambulance could not get through with increased traffic flow. This is a major public safety issue that could become a life or death situation. It is of utmost importance to me since my Mother is 92, and she has had health problems this year. In addition, there are often children playing in the neighborhood, and their safety is an issue.

Traffic is currently congested on Main Street, especially at 8AM, 3PM, and 5PM. Every weekday it is blocked from the red light at Mancini's past Van Avenue. Christ the King School, Bayside, and WJ Carroll Intermediate School traffic is extremely dense. To increase the vehicles would be a hazard to all who travel the road.

With the above points in mind, I hope the Planning Commission rejects the request for rezoning the Rye Property and the use of Daphne Court as an egress. It is not favorable to the current residents or the immediate neighborhood. There are other entrances on Highway 98 that are acceptable for the traffic flow of 54 residences. Highway 98 should be sufficient departures for the new development. Please share this letter to the members of the Daphne Planning Commission.

Thank you for your consideration,

Faye Earnest

**CITY OF DAPHNE, ALABAMA
ORDINANCE NUMBER 2018-05**

**AN ORDINANCE AMENDING SECTION 4-3 OF THE DAPHNE CODE OF ORDINANCES
AND PROVIDING STANDARDS FOR THE KEEPING OF DOMESTIC POULTRY IN THE
CITY OF DAPHNE**

WHEREAS, Section 4-3 of the Daphne Code of Ordinances provides that it is unlawful for any person to keep any fowl, including domestic poultry, within the city limits of the City of Daphne; and

WHEREAS, a Public Hearing was held during the City Council's regularly scheduled meeting of November 20, 2017, to discuss the possibility of allowing domestic poultry within the city limits of the City of Daphne; and

WHEREAS, the City Council has determined that a complete prohibition on the keeping of domestic poultry within the City is not in the best interests of the residents of the City; and

WHEREAS, the City Council desires to allow the keeping of domestic poultry in the City, subject to standards deemed necessary by the Council to protect the health, safety, and welfare of the residents of the City.

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

SECTION I: Section 4-2 of the Daphne Code of Ordinances is hereby amended to add the following definitions:

Crowing Hen. A hen that crows like a rooster.

Domestic poultry. A common gallinaceous farm bird (*gallus domesticus*) raised for its edible eggs.

Hen. Female domestic poultry.

Henhouse. An enclosed structure designed for the purpose of keeping and securing hens.

Rooster. Male domestic poultry.

Run. A fenced enclosure that is connected to and/or surrounding a henhouse for the purpose of allowing hens to leave the coop while remaining in an enclosed environment.

SECTION II: Section 4-3(a)(1) of the Daphne Code of Ordinances, which currently reads as follows:

Sec. 4-3 – Livestock and fowl.

(a) *General Provisions.*

(1) *General prohibition.* It shall be unlawful for any person to keep any livestock or fowl within the city limits of the city.

is hereby amended to read as follows:

Sec. 4-3 – Livestock and fowl.

(a) *General Provisions.*

- (1) *General prohibition.* It shall be unlawful for any person to keep any livestock or fowl, except for hens as defined in Section 4.2 of this Chapter, within the city limits of the city.

SECTION III: Section 4-25 is hereby added to the Daphne Code of Ordinances to read as follows:

Sec. 4-25 – Keeping of hens.

(a) *Purpose.* The purpose of this section is to provide standards for the keeping of hens in single-family residential zones and limited institutional settings in the City of Daphne. It is intended to enable residents to keep a limited number of hens for non-commercial purposes, while establishing standards to limit the adverse impacts on neighboring properties, and ensuring the health and sanitation of the domestic poultry and related structures. It is also intended to enable educators to keep a limited number of hens on the premises of an institution of education for educational purposes.

(b) *General Requirements.* Domestic poultry may be kept in single-family residential zones and single family residential PUD (Planned Unit Development) districts in accordance with the following regulations:

- (1) It shall be unlawful for any resident to keep roosters, crowing hens, peafowl, or waterfowl within the city limits of the city.
- (2) Hens may be kept on all parcels in single-family residential zones having a minimum lot area of five thousand (5,000) square feet.
- (3) For parcels with a lot area of between five thousand (5,000) square feet and seven thousand seven hundred ninety-nine (7,799) square feet, residents may keep up to two (2) hens.
- (4) For parcels with a lot area of between seven thousand eight hundred (7,800) square feet and three (3) acres, residents may keep up to four (4) hens.
- (5) For parcels with a lot area in excess of three (3) acres, residents may keep up to eight (8) hens.
- (6) Residents shall not be eligible to keep hens on parcels in single-family residential zones that contain more than two (2) residential dwelling units or a non-conforming multifamily structure.
- (7) Hens shall be kept for personal use only. The selling of eggs or fertilizer or the breeding of hens is prohibited.
- (8) All hens shall be kept in a henhouse or run. Henhouses and runs shall be fenced and maintained in accordance with the design standards set forth in subsection (c) of this section. Hens may be allowed to roam freely in enclosed rear yards during daylight hours only.
- (9) It shall be unlawful for any domestic poultry to be at large within city limits.
- (10) It shall be unlawful for the owner, keeper, or custodian of any domestic poultry to allow the animal(s) to be a nuisance to any neighbor(s), including but not limited to noxious odors from the animals or related structure, associated rodent or pest infestation, particulate matter runoff, and noise of a loud and persistent and habitual nature. An officer of the City of Daphne

Animal Control Service, City of Daphne Code Enforcement, City of Daphne Police Department, or the Baldwin County Health Department shall determine whether or not a nuisance exists.

- (11) The slaughtering of hens in residential zones is prohibited.
- (12) The provisions of this section shall not be interpreted to supersede any covenant or deed restriction prohibiting the keeping of domestic poultry on a particular parcel that is subject to such covenant or deed restriction.
- (13) Up to eight (8) hens may be kept on the premises of any public or private school for educational purposes, subject to the requirements of this section.

The penalty for violation of any provision of this section shall be as specified in Section 4-21 of this Chapter for “Keeping prohibited fowl in city.”

(c) *Requirements for Henhouses and Runs.*

(1) *Location.*

- a. The henhouse and run shall not be visible from any public right-of-way. On double frontage lots or corner lots, henhouses and runs shall not be allowed within thirty (30) feet of any public right-of-way.
- b. The henhouse and run shall be a minimum of ten (10) feet from any property line.
- c. The henhouse and run shall be a minimum of twenty-five (25) feet from the residence.
- d. For purposes of this section, an officer of the City of Daphne Code Enforcement shall determine whether or not a setback violation exists, and shall not be required to prove such a violation by a land survey. Any resident charged with a right-of-way setback violation under this section shall be entitled to rebut the officer’s determination with a land survey or other suitable evidence.

(2) *Design Requirements.*

- a. The henhouse shall be enclosed on all sides and have a roof and access door that are able to be shut and secured. The henhouse shall be ventilated and impermeable to rodents, wild birds, and predators including raccoons, skunks, dogs, and cats. Any openings on the henhouse or the entire henhouse shall be elevated at least eighteen (18) inches above ground. Except for access doors, all other openings shall be sealed with rodent and predator-proof wire mesh with openings of one-quarter (¼) inch or smaller.
- b. The henhouse shall be free-standing and accessible on all sides for cleaning and maintenance.
- c. The run shall be fully enclosed, including a roof, by a secured fence at all times. The fence must be at least (5) feet in height and no more than (6) feet in height. The fence shall be made of one-quarter (¼) inch metal mesh hardware cloth and buried. Chicken wire shall not be permitted.
- d. The total area of the henhouse and run shall be at least of six (6) square feet per hen and the total area of the henhouse shall be at least of two (2)

square feet per hen. The total area of the run shall not exceed eighty (80) square feet and the total area of the henhouse shall not exceed thirty-six (36) square feet.

- e. Materials used for henhouses and runs shall be suitable for use in single-family residential zones. Prefabricated henhouses are allowed, provided they meet the specification for excluding rodents.
- f. The henhouse shall not exceed eight (8) feet in height at its tallest point.

(3) *Sanitation Requirements.*

- a. All henhouses and runs shall be kept and maintained in a clean and sanitary condition. All droppings shall be cleaned out at least once every week. Chicken pens shall be thoroughly cleaned with a standard disinfectant at least three (3) times yearly, once in each of the months of March, July and October. At all times, all hens shall have access to feed and clean liquid water.

SECTION IV: SEVERABILITY

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

SECTION V: EFFECTIVE DATE

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA ON THE ____ DAY OF _____, 2018.**

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2018 – 06**

**AN ORDINANCE CONSENTING TO THE SALE BY THE UTILITES 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 “2018-A”; and

WHEREAS, the Board of Directors of Daphne Utilities has approved the sale of the personal property described in Exhibit “2018-A”.

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 “2018-A”.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this _____ day of _____, 2018.

Dane Haygood
Mayor

ATTEST:

Candace G. Antinarella
City Clerk

EXHIBIT 2018-A

Daphne Utilities Surplus Equipment Disposal Listing
December 2017

Description	Make / MFG	Model	Serial No. / Vin No.	License No.	Year Acquired / Age	Equip. I. D. Number	Dept.	Dept. No.	Employee Requesting Disposal	Comments
Pick-up Truck	Ford	F250	1FTSX20516ED35131	A971	2006	0-1054	Water Distribution	20	Martin Dale	Truck #1169
Pick-up Truck-with Three PSI-Honda Engine	Ford	F150 XL Triton	1FTRX12WX5FA36891	A332	2005	0-1073	Water Quality	21	Larry English	Truck #1106
	Excell	XR 2500	S/N Unavailable	N/A	Unknown		Water Quality	21	Larry English	Inoperable, no I. D. Tag Assigned
Lawn Mower	Toro	Recycler	21038 20017	N/A	Unknown		Water Quality	21	Larry English	Inoperable, no I. D. Tag Assigned
Lawn Tractor	John Deere	BG20252	GXL120A049897	N/A	Unknown		Water Quality	21	Larry English	Inoperable, no I. D. Tag Assigned
Lawn Mower Cover Attachment				N/A	Unknown		Water Quality	21	Larry English	Accessory to John Deere Lawn Tractor
Dehumidifier	Neptune	10199gr	210000979	N/A	Unknown		Water Quality	21	Larry English	Inoperable, no I. D. Tag Assigned
Blowers, Motors, and Accessories	Unknown	Various	Unknown	N/A	Unknown	N/A	Water Reclamation Plant	40	Darren Slaughter	Inoperable
Pick-up Truck	Ford	F150	1FTRF12W54NC59394	A219	2004	0-1284	Facility Maintenance	60	Antonio Winston	Truck #1050