

The City of Daphne
Planning Commission Minutes
Regular Meeting of January 26, 2017
Council Chamber, City Hall - 5:00 P.M.

Call to Order:

The regular meeting of the City of Daphne Planning Commission was called to order at 5:00 p.m.

Call of Roll:

Members Present:

Ed Kirby
Marybeth Bergin, Vice Chairman
Charles Smith, Secretary
William Scully, Chairman
Ron Scott, Councilman
Philip Hodgson
Hudson Sandefur
Chief White

Staff Present:

Adrienne Jones, Director of Community Development
Jan Vallecillo, Planning Coordinator
Patrick Dungan, Attorney

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

Chairman asked for questions, comments or corrections to the minutes ***of the regular meeting of December 15, 2016. There being none, minutes are approved as submitted.***

The next order of business is preliminary/final plat review for Bertolla Two-Lot Subdivision.

An introductory presentation was given by Jaye Robertson, representative of Hutchinson, Moore & Rauch, requesting preliminary/final plat review of a two-lot subdivision consisting of approximately nineteen point eight acres located northwest of Alabama Highway 181 and Milton Jones Road.

Chairman opened the floor to public participation. No one came forth. He closed public participation and asked for a motion.

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. Scott ***to approve Bertolla Two-Lot Subdivision. There was no discussion on the motion. The Motion carried unanimously.***

The next order of business is site plan review for Malbis Shoppes, Phase II.

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An introductory presentation was given by Tommy Hassell, representative of McCrory & Williams, of site plan review of a retail office building with associated parking located on the south side of Emmanuel Street, east of Alabama Highway 181.

Chairman asked about the deficiencies and revisions outlined by staff. Mr. Hassell responded that staff deficiencies have been reviewed and addressed and commented that the owner has decided not to remove the loading/uploading area from the site plan.

Chairman asked for Commission questions or comments. Mr. Kirby asked for clarification regarding the anticipated size of delivery trucks, whether 18-wheelers or similar. Mr. Spriggs indicated the building would be used for office space, and they expect UPS-type trucks for deliveries.

Chairman asked for a motion.

A Motion was made by Mr. Scott and Seconded by Mr. Kirby to approve Malbis Shoppes, Phase II. There was no discussion on the motion. The Motion carried unanimously.

The next order of business under old business is the preliminary/final plat review for McAdams Subdivision.

An introductory presentation was given by Steve Pumphrey, representative of Dewberry Preble-Rish, requesting preliminary/final plat review of a three-lot subdivision consisting of approximately one point six point nine acres located northwest of Main Street and McAdams Avenue and stated that the owner is donating ten feet right-of-way to the city, because the street is not up to current standards.

Chairman asked for Commission questions or comments and opened the floor to public participation.

Ms. Joan Scott, 1204 Old County Road, requested consideration of the installation of a sidewalk from Potter's Mill Subdivision to Main Street for the safety of pedestrians that walk in that area, stated that should be no parking allowed on the right-of-way of McAdams Avenue during residential construction, to ensure that there is ample parking, and no parking on the street.

Chairman commented that at this point, there is only a requirement for lot size.

Ms. Jones stated each single family residence is required to have two parking spaces. Chairman stated at the time of the issuance of the building permit is when that would be addressed.

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Chairman asked about the requirement of sidewalks.

Mr. Johnson stated by the design of our code, this is considered a minor subdivision with legal lots of record which have frontage on publicly maintained street of which no infrastructure improvements are proposed so our sidewalk requirements do not come into play in this type of subdivision. What the owner has done to assist us in the improvement of the right-of-way is donated an additional ten feet to the city, but there is no infrastructure and/or sidewalk planned.

Chairman commented that the ordinance requires the installation of sidewalks. Ms. Jones stated that would be addressed by the Building Department during residential construction.

Ms. Bergin commented that there are two notes on the subdivision plat that address the installation of sidewalks.

Mr. Sergio Oliveira, 502 McAdams, expressed his concerns about the installation of sidewalks and on-street parking.

Chairman closed public participation, asked for Commission questions or comments, and for a motion.

A Motion was made by Mr. Kirby and **Seconded** by Mr. Hodgson **to approve McAdams Subdivision. There was no discussion on the motion. The Motion carried unanimously.**

Councilman Scott referred concerned citizens to contact Mr. Johnson, Public Works Committee, and Councilman Rudicell, regarding potential sidewalk additions in that area.

The next order of business is master plan review for Diamante Subdivision.

Prior to beginning his presentation, Mr. Pumphrey questioned whether or not the Commission has the intention to make annexation a prerequisite of the approval of the master plan. Chairman indicated that he should decide whether or not he wants to proceed, withdraw, or table the application as such request at a later time in the meeting would be out of order.

Chairman commented that it has been mentioned that a portion of the ordinance may require that the development is annexed. Mr. Kirby asked which development in the city did the Commission require annexation at the time of the presentation of the master plan.

Chairman asked Mr. Johnson to address that section of the ordinance. Mr. Johnson paraphrased that section of the ordinance states that when a certain portion of a subdivision is contiguous to the city limits and is served by the Utilities Board of the City of Daphne, it shall annex into the city.

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Mr. Scott stated that our legal team has some serious doubts if this section of the ordinance is enforceable.

Mr. Johnson read, Article 11, Section 14 (g), Special Provisions, Annexation, Provisions for Extraterritorial Planning Jurisdiction Subdivisions, the applicable section of the ordinance, "Proposed residential and/or commercial subdivisions located in the extraterritorial planning jurisdiction which are contiguous to the corporate limits and are served by a public community water and sanitary sewer system of the Utilities Board of the City of Daphne, shall be required to annex into the City of Daphne prior to approval of said subdivision, if it is deemed by the Planning Commission to be in the best interest of the City". The subdivision is contiguous and that portion of the subdivision to the west of the power line will be served by water and sewer by the Utilities Board of the City of Daphne. At the time of submission of a preliminary plat application, the argument is that it is in the best interest of the city to require annexation. This is not a subdivision application, but rather a master plan.

Chairman commented it is necessary to establish the legal basis first. Mr. Scott stated this has been addressed by legal staff previously, and the City Attorney questioned whether or not this article would be defensible.

Mr. Dungan stated at this point, there has been no formal request for or has a legal opinion provided.

Chairman commented that it appears we are unable to resolve this issue tonight, and that this provision does give discretion to the Commission to require annexation as a part of the approval process. Mr. Pumphrey stated it was my understanding that decision would not be made tonight as this application is for master plan, not subdivision review.

Mr. Scott stated that is correct because that article says that the decision to require annexation shall be made prior to approval of said subdivision; however, the Chair views it as the decision should be made by the Commission tonight.

Mr. Pumphrey stated that he would like to move forward with his presentation, but if there is a motion to require annexation, that he will request that the application for master plan is tabled.

Ms. Jones asked the Chair to allow Mr. Pumphrey to introduce the proposal for the benefit of the audience, and Chair denied the request.

Mr. Davis, Davis & Fields, stated in the event that this application is tabled, it is important that the Commission hear the proposal.

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Mr. Davis commented that the officials of the city have expressed doubts of the enforceability of the article that you have cited.

Chairman expressed that it may be addressed tonight. Mr. Davis stated this issue will be addressed on February 23rd, when the applicant comes before you for preliminary plat review.

Mr. Davis stated if the Commission requires annexation because the subdivision is served by the Utilities Board of the City of Daphne, the developer has the option of remaining in the county and to utilize Belforest Water Authority and Baldwin County Sewer Service.

Mr. Davis asked Ms. Jones the waiting period of a master plan review, and Ms. Jones stated you could submit for the next cycle. Mr. Davis stated we wish to continue based on the fact that the applicant can submit for the next regular meeting.

An introductory presentation was given by Steve Pumphrey, representative of Dewberry Preble-Rish, requesting master plan review of for Diamante Subdivision located on the east side of County Road 13, north of Sehoy Subdivision. The development is located in the extraterritorial planning jurisdiction and was rezoned Baldwin County for one hundred and fifty lots with a minimum square footage of twelve thousand square feet with a width of eighty feet. The developer met with the residents of Sehoy Subdivision and incorporated the suggestions into the development: the connection to Red Eagle Drive will not be open to the public; the developer will work with the city, fire department, emergency groups, and county for an emergency-only gated roadway with a Knox box provided per the Fire Marshal's specifications; a ten-foot wide tree buffer along south property line; the detention proposed will be capture storm water and direct it to the north rather than onto their subdivision. Again, this is a standard subdivision of which meets the minimum standards with regard to lot size and is not a PUD.

Chairman asked for Commission questions or comments and opened the floor to public participation.

Mr. Richard Keller, 27795 Oakachoy Loop, inquired about the access/gate between Sehoy and Diamante Subdivision, lots 122 and 125 being removed as residential lots to remain open space, and expressed concerns about storm water runoff and drainage.

Mr. Chuck Matchett, 27660 Red Eagle Drive, expressed concerns regarding flooding and wetlands on the Diamante site. He referred to pictures displayed on the power point presentation which were submitted by Ms. Anderson to demonstrate examples of flooding he has experienced in the past and anticipates being made worse as a result of Diamante's development.

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Ms. Laurel Anderson, 27799 Moniac Cove, also expressed concerns regarding flooding, storm water run-off, and referred to pictures that demonstrated flooding on her property in the past and anticipates being made worse by the development of Diamante Subdivision.

Ms. Lauren Norris, 27768 Oakachoy Loop, expressed concerns regarding the cost, home size and value of homes to be constructed in Diamante Subdivision and how such would compare to the existing homes in Sehay Subdivision; questioned whether the master plan approval equates to approval of the subdivision; questioned the impact of the proposed development on County Road 13, and expressed desire for the site to be annexed into the city.

Mr. John Lake, 110 Paige Circle, disputed the fact that the city can require a development to annex if Daphne Utilities serves the site; indicated that a consent decree with Belforest Water Authority established the water territory boundaries in the area which can't be altered; and expressed concern regarding traffic impacts to County Road 13.

Mr. Larry Faison, 27787 Moniac Cove, dittoed other concerns expressed by other residents, questioned the lot and home size of Diamante Subdivision, and how the addition of lower economic and demographic classes would cause degradation to his and neighboring properties.

Ms. Ruth Priest, 27846 Oakachoy Loop, requested that the buffer area and entrance remain as green space to create a noise and site barrier for the residents.

Mr. Johnson provided information regarding the storm water and drainage plan for Diamante Subdivision, indicated that it will be discharged somewhere else in the future, and further provided that turn lanes are required along County Road 13.

Mr. Pumphrey informed the Commission that access to the east has been redirected to the north because the apartments to the east blocks direct access to Alabama Highway 181; easements will be shown on the subdivision plat; and that the common areas are currently unplanned.

Chairman closed public participation, asked for Commission questions or comments, and for a motion.

A Motion was made by Mr. Scott and **Seconded** by Ms. Bergin **to approve Diamante Subdivision Master Plan.**

During discussion of the motion, Ms. Bergin asked Ms. Jones if the annexation will be discussed later.

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Ms. Jones stated it will be discussed at the time of the presentation of the preliminary plat.

Mr. Scott gave closing comments regarding the City Council's interest in having this site annexed into the city in a manner that wouldn't impede the development of the site. Chairman gave closing statement regarding the orderly operation of the meeting and the expectation that audience comments would not be addressed outside of the public participation period.

The Motion carried unanimously.

The next order of business is final plat review for Bellaton Subdivision, Phase Four.

An introductory presentation was given by Steve Pumphrey, representative of Dewberry Preble-Rish, requesting final plat review of a fifty-four lot subdivision consisting of approximately twenty-one point three six acres located southwest of Alabama Highway 181 and Corte Road.

Chairman asked about deficiencies outlined by staff. Mr. Pumphrey responded that deficiencies have been addressed.

Mr. Hodgson pointed out that the staff report indicated that the landscape bond was outstanding. Ms. Jones indicated that said bond has not been submitted; however, the Commission can approve the plat as she will withhold the signature on the plat until the landscape bond is provided to Community Development.

Chairman asked for Commission questions or comments and opened the floor to public participation.

Mr. Richard Jaehne, 9499 Bella Drive, is opposed to the development, but commented that east/west street sign are Hartford rather than Volterra Drive; requested the developer to ensue maintenance of the grass on the lots; and after his discussion with the Mayor, it was his understanding that a road could be cut in Bellaton Subdivision, Phase Four for to Corte Road. Councilman Scott agreed that a connection would be a good idea as there are ALDOT and MPO plans to make other traffic improvements in this area.

Chairman closed public participation, asked for Commission questions or comments, and for a motion.

A Motion was made by Mr. Kirby and Seconded by Mr. Scott to approve Bellaton Subdivision, Phase Four. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is site plan review for Malbis Station II.

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An introductory presentation was given by Robert Cummings, representative of Hutchinson, Moore & Rauch, requesting site plan review of a retail commercial facility with associated access, parking, and landscaping located northwest of the intersection of U.S. Highway 90 and Renaissance Boulevard, Lot 16 of the Resubdivision of Lots 8, 11-17, of Renaissance Center Subdivision, Phase Three.

Chairman asked for Commission questions and comments and commented on the legal interpretation of the proposed access to Renaissance Boulevard and encroachment of the second building onto the utility and landscape easement. Ms. Jones commented that a site disturbance permit for building two will not be issued until such time the issue is resolved.

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

A Motion was made by Mr. Hodgson and **Seconded** by Mr. Scott **to approve Malbis Station II, with the condition that future building #2 shall not encroach into the utility and landscape easements along the east side of Lot 16; and, that Community Development shall not issue a site disturbance permit for future building #2 until such time as the encroachment is resolved. No discussion on the motion. The Motion carried unanimously.**

The next order of business is site plan review for Belforest Apartments.

An introductory presentation was given by Doug Bailey, representative of Hutchinson, Moore & Rauch, requesting site plan review for an apartment complex, recently rezoned from B-2 to R-7(A), with associated access, parking, and landscaping located at the southwest intersection of County Road 13 and Rand Avenue with exclusive access from Rand Avenue.

Chairman asked about deficiencies outlined by staff. Mr. Bailey responded that Mr. Johnson recommended that the developer conduct another traffic study of this area with a recommendation of the addition of a left turn lane on County Road 13 at Rand Avenue; Belforest Water Authority will install a twelve-inch water line to serve the complex; in lieu of the construction of a sidewalk along County Road 64, the developer proposes to construct the sidewalk at Rand Avenue and County Road 13 north to connect to the existing one, and will relocate the landscape island to the southeast corner of Building #1.

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

A Motion was made by Mr. Scott and **Seconded** by Ms. Bergin **to approve Belforest Apartments, with the following conditions:**

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The developer shall build a left-hand turn lane on County Road 13 for the turning movement onto Rand Avenue; said improvements shall meet minimum city standards. The cost of improvement shall be the sole burden of the developer and engineering plans shall be submitted with the right-of-way permit application; the developer shall connect the sidewalks on the frontage of Rand Avenue and County Road 13 in lieu of County Road 64 by constructing a sidewalk to connect to the existing sidewalk along County Road 13 for approximately four hundred and twenty-five feet to the north; the City (thru the Public Works Department) shall participate materially in any drainage improvements north of Rand Avenue to facilitate the installation of the installation of the new sidewalk link on County Road 13 north of Rand Avenue; and, the developer shall shift the landscape island south of Building #1 to the west.

There was no discussion on the motion. The Motion carried unanimously.

The next order of business is site plan review for Termac Construction Office.

An introductory presentation was given by Mr. David Shumer, representative of Barton & Shumer Engineering, requesting site plan review of a four thousand four hundred square foot office building with associated access, parking, and landscaping located southeast of Wilson Avenue and Dolphin Street. Staff deficiencies have been reviewed and addressed.

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

A Motion was made by Mr. Scott and Seconded by Mr. Hodgson to approve Termac Construction Office. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is an administrative presentation for street acceptance for Brookhaven Subdivision, Unit Three.

An introductory presentation was given by Ms. Adrienne Jones, Director of Community Development, of a recommendation for acceptance of the right-of-ways contained within Brookhaven Subdivision, Unit Three.

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

A Motion was made by Mr. Scott and Seconded by Ms. Bergin of a favorable recommendation to the City Council to accept the right-of-ways within Brookhaven Subdivision, Unit Three. There was no discussion on the motion. The Motion carried unanimously.

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

Ms. Jones presented the proposed amendment to the Land Use Ordinance, Article 17, Section 17-4, of final plat application, requirement of a sidewalk bond, and discussed the key points: requirement shall be incorporated into the current regulations; a sidewalk plan shall be presented at the time of master plan review; the sidewalk bond shall be one hundred and fifty percent of the total cost of the planned sidewalk; surety shall be presented prior to final plat approval; the amount of the surety may be renegotiated with the city once at least fifty percent of the planned sidewalk network has been constructed.

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

A **Motion** was made by Mr. Scott and **Seconded** by Mr. Smith **of a favorable recommendation to amend Article 17, Procedures for Subdivision Review, to provide for installation of and bond policy for sidewalks.**

Chairman commented that the amount of the bond should be amended to two hundred percent to be consistent with guidelines for performance bonds in Article 17. Mr. Scott was in agreement.

The **Motion** was amended by Mr. Scott and **Seconded** by Mr. Smith **of a favorable recommendation to amend Article 17, Procedures for Subdivision Review, to provide for installation of and bond policy for sidewalks, as amended to (two hundred percent of installation cost in lieu of one hundred and fifty percent).**

The Motion carried unanimously.

The next order of business is public participation.

Chairman asked for public participation. No one came forward. He closed public participation.

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

Mr. Dungan stated no report.

The next order of business is commissioner's comments.

None presented.

The next order of business is director's comments.

Ms. Jones presented the following:

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- a. Report on recent actions of the City Council: annexation for John White-Spunner et al, Bertolla Properties, L.L.C., and Land Use Amendment re: menu signs, Olde Towne Daphne District, January 3, 2017, all approved;
- b. Upcoming community events - Mardi Gras parades, February 17, 25 and 26, 6:45 p.m.; Arbor Da, February 18th;
- c. The upcoming meeting dates are site preview, February 15, & regular meeting, February 23, 2017.

There being no further business, the meeting was adjourned at 7:09 p.m.

Respectfully submitted by:



Jan Vallecillo, Planning Coordinator

Approved: February 23, 2017



Mary Beth Bergin, Vice Chairman

(2) Street Name Sign:

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

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

Minimum 0.080 inch thick.

(4) Post for Street Signs:

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

(5) Post for all Other Signs:

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

(f) Location of Concrete Monuments and Pins:

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

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

(g) Annexation Provision for Extraterritorial Planning Jurisdiction Subdivisions:

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