

The City of Daphne
Planning Commission Minutes
Regular Meeting of January 28, 2016
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. The number of members present constitutes a quorum.

Call of Roll:

Members Present:

William Scully
Marybeth Bergin, Secretary
Charles Smith, Vice Chairman
Larry Chason, Chairman
Tyrone Fenderson
Ron Scott, Councilman
Hudson Sandefur

Staff Present:

Adrienne Jones, Director of Community Development
Jan Vallecillo, Planning Coordinator
Kevin Boucher, 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 17. Ms. Bergin requested to amend the minutes to reflect Chief White's absence at the meeting; verified by staff. After discussion, the minutes were approved as amended.***

The next order of business is a subdivision exemption review of the Replat for Samuel Dean.

An introductory presentation was given by Mr. Joe Courtney, representing Courtney & Morris, of a subdivision exemption review for a two-lot subdivision consisting of approximately two-point eight five acres located northwest of the intersection of Faircloth Place and Pleasant Road of a relocation of the interior lot line in order to market the largest lot.

Chairman asked for Commission questions or comments.

Chairman stated this is a relocation of an interior lot line, and Mr. Courtney is requesting the exemption that the regulations permit.

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

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A **Motion** was made by Mr. Scott and **Seconded** by Mr. Sandefur **to grant approval of the subdivision exemption of the replat for Samuel Dean. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is subdivision exemption review of the Replat for Stough.

An introductory presentation was given by Mr. Hunter Smith, representing Smith, Kolb & Associates, of a subdivision exemption review for a one-lot subdivision consisting of approximately one-point five acres located southwest of Pine Run of the elimination of an interior lot line for the creation of a larger buildable lot.

Chairman asked for Commission questions or comments and stated this is an exemption.

Mr. Scully commented that an exemption exists if the property is under single ownership; therefore, documentation should be presented of co-ownership or individual ownership and approval of the POA. Mr. Smith stated the replat of lots 68 & 69, TimberCreek Subdivision, Phase Seven was confirmed by the POA.

Chairman stated that ownership cannot be conveyed without a recorded plat; therefore, our function is not to be a part of the transfer, but the approval of the elimination of a common lot line. Mr. Scully stated the ownership issue should be addressed prior to the approval of the exemption.

Mr. Boucher stated the family subdivision aspect of this would come into play which would mean the Planning Commission would not have jurisdiction. Mr. Scully stated this is not a subdivision. Mr. Boucher stated the elimination of the interior lot line is subdividing.

Chairman stated we can acknowledge the exemption and the presentation of legal documentation of co-ownership or individual ownership prior to obtaining signatures and recording the plat.

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

A **Motion** was made by Mr. Scott and **Seconded** by Mr. Smith **to grant approval of a subdivision exemption of the replat for Stough, the replat of lots 68 & 69, TimberCreek Subdivision, Phase Seven, contingent upon the submission of documentation of proof of co-ownership or individual ownership. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is final plat review for Brookhaven Subdivision, Unit Two, Part C.

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An introductory presentation was given by Mr. Jason Estes, representative of Preble-Rish, requesting final plat review of a twelve-lot subdivision consisting of approximately four-point two eight acres located northwest of the intersection of County Road 13 and Whispering Pines Road.

Chairman asked for Commission questions or comments. Ms. Jones commented that the submission of documentation of the approval of Belforest Water Authority is outstanding.

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

A **Motion** was made by Mr. Fenderson and **Seconded** Mr. Smith **to grant final plat approval of Brookhaven Subdivision, Unit Two, Part C, contingent upon the submission of documentation regarding the approval of Belforest Water Authority. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is final plat review for Caroline Woods Subdivision, 3A.

An introductory presentation was given by Mr. Jason Estes, representative of Preble-Rish, requesting final plat review of a sixteen-lot subdivision consisting of approximately five-point zero eight acres located north of Madison Place Subdivision and west of Daphne Commercial Park, Phase Two.

Chairman asked for Commission questions or comments and if the common area meets the requirements. Ms. Jones confirmed compliance.

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

A **Motion** was made by Ms. Bergin and **Seconded** Mr. Sandefur **to grant final plat approval of Caroline Woods Subdivision, 3A. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is preliminary/final plat review for Crowley Subdivision.

An introductory presentation was given by Mr. Hunter Smith, representative of Smith, Kolb & Associates, requesting preliminary/final plat review of a two-lot subdivision consisting of approximately zero-point nine acres located on County Road 54 East. The subdivision is a family exemption located in the planning jurisdiction.

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Chairman asked if the subdivision has received the approval of Baldwin County. Mr. Smith confirmed approval.

Chairman asked for Commission questions or comments and opened the floor to public participation. No one came forth. He closed public participation and asked for a motion for approval.

A Motion was made by Mr. Sandefur and Seconded by Mr. Smith to grant approval of the preliminary/final plat for Crowley Subdivision. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is preliminary/final plat review for the Resubdivision of Lot 2, Trott Subdivision.

An introductory presentation was given by Mr. David Shumer, representative of Barton & Shumer Engineering, requesting preliminary/final plat review of a two-lot subdivision consisting of approximately three-point one three acres located northeast of the intersection of County Road 54 East and Trott Lane.

Chairman asked for Commission questions or comments and stated Mr. Shumer has submitted a plat with revisions as discussed at site preview.

Mr. Shumer commented that Baldwin County has given the approval of a family exemption.

Chairman asked for Commission questions or comments and opened the floor to public participation. No one came forth. He closed public participation and asked for a motion for approval.

A Motion was made by Mr. Fenderson and Seconded by Mr. Smith to grant approval of the preliminary/final plat for the Resubdivision of Lot 2, Trott Subdivision. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is preliminary/final plat review for Ionian Place Subdivision.

An introductory presentation was given by Mr. Andy Bobe and Jared Landry, representatives of Preble-Rish, and Mr. Richard Davis, Davis & Fields, requesting preliminary/final plat review of a two-lot subdivision consisting of approximately thirty-six point one eight acres located southwest of the intersection of U.S. Highway 90 and Alabama Highway 181 for the purpose of the construction of a stand-alone emergency center of which Baldwin County has approved rezoning of a portion of the property to B-2, Neighborhood Business District.

Chairman asked for Commission questions or comments.

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Mr. Scully recused himself from discussion or action on this agenda item.

Mr. Scott commented on the enormous cost expended by the city for the installation of sanitary sewer on U.S. Highway 90, and asked if the plat reflects that the facility may utilize another utility company or if that has changed. Mr. Bobe stated the plat has been revised to reflect that services shall be provided by the Utilities Board of the City of Daphne.

Mr. Smith stated this is a staged development and asked for confirmation that the free standing emergency facility is stage one, and what is the height of the building. Mr. Bobe confirmed that the facility is the first stage of the development and is single story.

Chairman asked for discussion of the conveyance of ALDOT on access to the site. Mr. Bobe discussed preliminary accesses and signalization.

Chairman commented we do not review a site plan and it has no bearing on the subdivision, the discussion is strictly for information; however, our safety concerns are alleviated by the installation of the traffic signal.

Ms. Bergin asked if there is a requirement that the other lot have a shared access easement. Mr. Bobe stated that may be addressed in the covenants.

Mr. Davis stated the discussions with ALDOT have been favorable regarding an access and traffic signalization located approximately eight hundred feet south of the intersection of U.S. Highway 90 and Alabama Highway 181. If the traffic signal is built, the owner of the property will convey an easement for shared access which is addressed in the restrictive private covenants so everything we have done is independent of government supervision. I would say that a note to that effect is unnecessary and something you would not want to regulate, but at the time of the installation of traffic signalization ALDOT will require cross easements.

Chairman stated for clarification, the exact location of driveways is not known so we are creating the boundary between the lots, and once the location is known the cross easements will be conveyed.

Ms. Jones stated in the site preview meeting you asked about access to the adjacent property, Lot 3, and the plat shows a recorded easement with access to that property.

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

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Mr. Danny Lyndall, General Manager of the Utilities Board of the City of Daphne, thanked Mr. Bobe for his cooperation and stated I believe the omission of a certification for the Utilities Board of the City of Daphne was an oversight. The Utilities Board has owned the Malbis Water System since 1997 and has the capability to provide potable water, sanitary sewer, and natural gas, and the connection would reimburse the city for some of the investment into utilities on U.S. Highway 90.

Mr. Kevin Spriggs, Spriggs Enterprises, 29640 State Highway 181, spoke in favor of the proposed subdivision, and commented that he researched the name of the subdivision, and it is Turkish not Greek.

Mr. George Kalasountas, 9563 Malbis Lane, spoke in favor of the proposed subdivision, but stated he would like to preserve the recorded easement which he owns near U.S. Highway 90 located southwest of the lake and extends one hundred and sixty-eight feet west of Alabama Highway 181. Mr. Davis stated Mr. Kalasountas rights will not be affected by this subdivision.

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

A Motion was made by Mr. Scott and **Seconded** by Mr. Fenderson **to grant approval of the preliminary/final plat for Ionian Place Subdivision, with the understanding that the utilities will be provided by the Utilities Board of the City of Daphne. There was no discussion on the motion. The Motion carried. Mr. Scully abstained.**

The next order of business is preliminary/final plat review for Daphne Commons Subdivision.

An introductory presentation was given by Mr. Andy Bobe and Jared Landry, representatives of Preble-Rish, requesting preliminary/final plat review of a three-lot subdivision consisting of approximately four point four acres located northwest of the intersection of U.S. Highway 90 and Bayview Drive.

Chairman asked for Commission questions or comments and commented on the discussion at the site preview meeting regarding the setbacks. The plat has been revised to comply with the setbacks, pending review of an application for a variance by the Board of Zoning Adjustment.

Mr. Johnson stated the setback in this district is based on the Highway Construction Act, so the setback is measured from the centerline of the right-of-way and not the property line. This was simply a schriever error; therefore, most of the structures in this district would not be in compliance.

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Ms. Jones stated it was not a schriever error, but rather that the Commission focused on the creation of regulations for a pylon sign and did not pay attention to this section. Mr. Boucher stated the only one that can say it is a schriever error, is the entity that passed the ordinance.

Mr. Scott asked did the City Council have the authority to impose a more stringent setback line than the highway setback legislation required. Ms. Jones confirmed and stated that is all the more reason to move forward with the proposed amendment.

Mr. Fenderson asked is this based on the revised drawing with a one hundred foot setback. Ms. Jones stated this document meets the ordinance. The original configuration was based on a fifty-foot setback of a B-2 zone, not the overlay district.

Chairman stated the plat presented is in compliance, pending variance application before the Board of Zoning, and a proposal for the City Council to revise the wording.

Ms. Jones stated to follow up with Ms. Bergin's comments regarding easements for Ionian Place ingress/egress/parking easements exists to all of the land in this subdivision.

Mr. Scott commented that the variance does not constitute a hardship and asked if the Commission moves forward with the modification, when would an ordinance be presented to City Council. Ms. Jones stated on March 2nd. Mr. Scott stated approximately forty-five days.

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

Mr. Kevin Spriggs, Jubilee Shell, 6851 U.S. Highway 90, spoke in favor of the proposed subdivision, and commented that he is opposed to the recommendation by ALDOT to close the east access to the property. Chairman stated this comment should be discussed during the presentation of the site plan. Mr. Spriggs stated public participation is not required. Chairman stated public participation will be permitted.

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

A Motion was made by Mr. Fenderson and Seconded by Mr. Smith to grant approval of the preliminary/final plat for Daphne Commons Subdivision. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is site plan review for Daphne Commons.

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An introductory presentation was given by Mr. Andy Bobe and Mr. Jared Landry, representatives of Preble-Rish, requesting site plan review of a multi-tenant retail strip center combined with food service, retail and medical uses and an area for future expansion with associated access, parking, and landscaping located northwest of the intersection of U.S. Highway 90 and Bayview Drive.

Chairman asked for Commission questions or comments.

Mr. Bobe stated the ALDOT controls access to a state highway and proposes to close one of the two accesses associated with this site at the time of permitting. Historically, storm water directed from Interstate 10 onto this site has caused flooding in this area due an error during the installation of a drainage pipe by ALDOT during the construction of U.S. Highway 90. A drainage system has been designed to accommodate the storm water on this site and alleviate flooding on U.S. Highway 90.

Chairman asked for Commission questions or comments.

Mr. Johnson stated this is site redevelopment, and there is less storm water post development or at the redevelopment of the property and recommended waiving the sidewalk requirement because the design as presented exceeds the linear footage requirement for sidewalks. Mr. Bobe stated that the request to waive the installation of sidewalks is mainly due to the location of drainage ditches along U.S. Highway 90.

Mr. Fenderson asked if the impervious area was included in the calculations. Mr. Bobe confirmed.

Mr. Scully commented on the variance request and the request to waive the installation of sidewalks.

Mr. Landry presented the proposed revision to the monument signage and stated the proposal is in compliance with the ordinance.

Ms. Jones asked the developer's intention for site plan review of the future development and if it in compliance with the parking provisions. Mr. Bobe confirmed.

Mr. Sandefur asked Mr. Bobe to discuss the ALDOT proposal for this site. Mr. Bobe stated they are requiring the installation of a right turn lane and requiring closing of one of entrances to this site.

Mr. Johnson stated the access meets the minimum requirement.

Mr. Scott stated the owner would not be able to get a building permit until the variance is approved. Ms. Jones stated a site disturbance permit would not be issued until the setback issue is resolved.

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

Mr. Kevin Spriggs, Jubilee Shell, 6851 U.S. Highway 90, spoke in favor of the proposed subdivision, and commented that he is opposed to the recommendation to close the east access to the property, and asked that consideration of an administrative review if ALDOT allows the access to remain.

Mr. John Lake, 110 Paige Circle, requested the Commissioners to not waive the sidewalk requirement due to the pedestrian and bicycle traffic of Lake Forest Subdivision.

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

A Motion was made by Mr. Scott and Seconded by Mr. Sandefur to grant approval of the site plan for Daphne Commons; waived the sidewalk requirement.

The Commissioners discussed the enactment of the overlay district and connectivity of sidewalks on U.S. Highway 90.

Mr. Scott stated the installation of sidewalks on U.S. Highway 90 would be of no benefit because there is not pedestrian traffic from Lake Forest Subdivision to the restaurants or grocery store at this intersection.

Commissioners discussed amending the motion to include that no permits will be issued pending a resolution to the setback issue. Mr. Scott accepted the amendment to the main motion.

The Motion was amended by Mr. Scott and Seconded by Mr. Sandefur to grant approval of the site plan for Daphne Commons, contingent that no permits are issued until the setbacks comply with the Ordinance; waived the sidewalk requirement. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is a zoning amendment for Christ the King Catholic Church.

An introductory presentation was given by Mr. Gary Cowles, representative of Cowles, Murphy and Glover, requesting re-zoning of a zero point five one acre parcel located northwest of Main Street and Dryer Avenue from R-2, Medium Density Single Family Residential to B-1, Local Business.

Chairman asked for Commission questions or comments and a recommendation of approval.

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A **Motion** was made by Mr. Scott and **Seconded** by Mr. Scully of a **unanimous affirmative recommendation by the Planning Commission to the City Council of Daphne of re-zoning of a zero point five one acre parcel located northwest of Main Street and Dryer Avenue from R-2, Medium Density Single Family Residential, to B-1, Local Business. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is a request for pre-zoning for Bills' No. 2, L.L.C.

An introductory presentation was given by Mr. Doug Bailey, representative of the Industrial Development Board, of a request to pre-zone seventy-six acres located at the southwest corner of Champions Way and Alabama Highway 181 for the purpose of the annexation and development of thirty acres.

Chairman asked for Commission questions or comments and stated that the petition for annexation has been withdrawn. Mr. Boucher stated that the petition for annexation is valid for one hundred and eighty days.

Chairman stated legislation requires pre-zoning and annexation. The owners are requesting annexation of thirty acres as B-3, Professional Business, and remaining property to remain in the county as residential.

Mr. Scott commented on thirty-foot setback on Champions Way and the creation of an overlay district.

Chairman closed public participation and asked for Commission questions or comments and a recommendation of approval.

A **Motion** was made by Ms. Bergin and **Seconded** by Mr. Fenderson of an **affirmative recommendation by the Planning Commission to the City Council of a request to pre-zone seventy-six acres located at the southwest corner of Champions Way and Alabama Highway 181 from a RSF-1, Single Family Residential, in Baldwin County District 15, to a B-3, Professional Business, for the Bills' No. 2, L.L.C. Road. There was no discussion on the motion. 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. Boucher stated no report.

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The next order of business is planning commission discussion.

Ms. Jones referenced a proposed amendment to the Land Use and Development Ordinance for Article 39, Jubilee Retail Overlay District, Section 39-2(b), District Requirements, regarding setbacks, previously provided to Commissioners. The purpose of the amendment is to clarify the point at which a front yard setback is measured. Annotations have been added to the minimum zoning district setback requirements table referencing the U.S., State or County Road front yard setback requirement and the applicable notes, d & e as follows: (d) the front setback for property that does not front U.S. Highway 90 shall be a minimum of fifty (50) feet as measured from the front property line; and, (e) where abutting U.S. Highway 90, the front setback shall be measured from the centerline of the U.S. Highway 90 right-of-way.

Chairman asked for Commission questions or comments and a recommendation of approval.

A Motion was made by Mr. Scott and Seconded by Mr. Smith of an affirmative recommendation by the Planning Commission to the City Council of a proposed amendment to Ordinance 2011-54, the Land Use and Development Ordinance, to Article 39, Jubilee Retail Overlay District, Section 39-2(b), District Requirements, Setbacks, for the addition of annotations and applicable notes as follows: (d) The front setback for property that does not front U.S. Highway 90 shall be a minimum of fifty (50) feet as measured from the front property line; and, (e) Where property abuts U.S. Highway 90, the front setback shall be measured from the centerline of the U.S. Highway 90 right-of-way. There was no discussion on the motion. The Motion carried unanimously.

Chairman requested to delay discussion of a food truck and temporary modular structures used for operation of a permanent business to the meeting of February 25, 2016.

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 presented that the upcoming meeting dates are site preview, February 17, and regular meeting, February 25, 2016.

There being no further business, the meeting was adjourned at 6:53 p.m.

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Respectfully submitted by:



Jan Vallecillo, Planning Coordinator

Approved: February 25, 2016



Larry Chason, Chairman