

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, AL
CITY COUNCIL BUSINESS MEETING AGENDA
March 4, 2019
6:30 P.M.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
INVOCATION: Pastor Bryant Evans, Eastern Shore Church of Christ
PLEDGE OF ALLEGIANCE
- 3. APPROVE MINUTES:** Council Meeting – February 18, 2019
- 4. REPORTS OF STANDING COMMITTEES**
 - A. FINANCE COMMITTEE – Conaway**
Review minutes from the February 18, 2019 meeting.
 - a. Lodging Tax –** December 2018 - \$72,158.01
 - b. Sales Tax –** December 2018 - \$1,566,587.58
 - c. Unassigned Cash Balance –** January 2018 - \$15,246,729
Total Cash Balance - \$28,899,259
 - B. BUILDINGS & PROPERTY COMMITTEE – Goodlin**
 - C. PUBLIC SAFETY COMMITTEE – Scott**
 - D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Phillips**
 - E. PUBLIC WORKS COMMITTEE – Coleman**
- 5. REPORTS OF SPECIAL BOARDS & COMMISSIONS**
 - A. BOARD OF ZONING ADJUSTMENTS – Adrienne Jones**
 - B. DOWNTOWN REDEVELOPMENT AUTHORITY – Conaway**
 - C. INDUSTRIAL DEVELOPMENT BOARD - Rudicell**
 - D. LIBRARY BOARD –Phillips**
 - E. PLANNING COMMISSION – Scott**
 - F. RECREATION BOARD – LeJeune**
 - G. UTILITY BOARD – LeJeune**
Review the minutes from the January Meeting.
- 6. MAYOR’S REPORT**
- 7. CITY ATTORNEY REPORT**
- 8. DEPARTMENT HEAD REPORTS**

9. CITY CLERK’S REPORT

MOTION to approve the band permit for a private party at the residence of 1501 Captain O’Neal Drive on March 16, 2019.

10. PUBLIC PARTICIPATION

11. RESOLUTIONS & ORDINANCES

A. RESOLUTIONS:

2019-13 – Bid: Pine Straw

2019-14 – Debt Service Transfer Funds to new Depository Account

2019-15 – Appointment of Terry Reeves as Director of Special Care Facilities Financing Authority

B. 2ND READ ORDINANCES:

2019-08 – Right of Way

2019-09 – City for Daphne Utilities Property Sale 2019

2019-10 – Flood Damage Prevention

2019-11 – Re-Zone Property Located Southwest of Whispering Pines Rd and Pollard Rd – Cynthia Pierce

2019-12 – Re-Zone Property Located Southeast of Whispering Pines Rd and Caroline Ave – T H Tanglewood 2018, LLC

C. 1ST READ ORDINANCES:

2019-13 – Additional Appropriation: Dispatch Recording System Upgrade - \$15,033

2019-14 - Amend the Job Classifications for Building Inspector, Building Maintenance and IT Director Positions

2019-15 – Amend the Job Classification Schedule Director of Events and Marketing

12. COUNCIL COMMENTS

13. ADJOURN

**February 18, 2019
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER:

There being a quorum present Council President Rudicell called the meeting to order at 6:32 p.m.

2. ROLL CALL:

COUNCIL MEMBERS PRESENT: Pat Rudicell, Joel Coleman, Doug Goodlin, Ron Scott, Robin LeJeune, Tommie Conaway and Angie Phillips

Also Present: Jay Ross, City Attorney; Patrick Dungan, City Attorney; Mayor Haygood; Candace Antinarella, City Clerk; Kelli Kichler Reid, Finance Director/Treasurer; Betsy Schneider, Operations Director; Margaret Thigpen, Civic Center Director; Troy Strunk, Executive Director of Community Development; James White, Fire Chief; David Carpenter, Police Chief, Jeremy Sasser, Public Works Director; Tonja Young, Library Director; and Jessica Linne, Assistant City Clerk

INVOCATION/PLEDGE OF ALLEGIANCE:

Invocation was given by Councilman Ron Scott.

PUBLIC HEARING:

Public Hearing on T H Tanglewood 2018 L.L.C., Zoning Amendment located Southeast of Whispering Pines Road and Caroline Avenue.

Presenter, Casey Helm, represented Dewberry Engineering located at 2353 Friendship Road. The property is currently zoned at R1. They are requesting it be changed to R2. She said the client wants to create three lots. Ms. Helm said that it was currently two lots. Councilman Coleman asked how wide the adjacent lots were. Ms. Helm could not recall. Councilman Scott said that this received a unanimous recommendation at Planning Commission.

Public hearing opened at 6:35pm. No one spoke. Public hearing closed at 6:36pm.

PUBLIC HEARING:

Public Hearing on Cynthia Pierce Zoning located Southwest of Whispering Pines Road and Pollard Road.

Presenter, Cynthia Pierce, located at 2375 Pollard Rd said she is asking the property be rezoned from a R1 zoning to an R6G zoning. She said they are hoping to put garden homes on the property similar to that on Randall. Councilman LeJeune asked how many homes would be on these lots. Ms. Pierce said at least three homes. She said there is already one there that will be remodeled. Councilman Scott said this also had a favorable recommendation from the Planning Commission.

Public hearing opened at 6:38pm. No one spoke. Public hearing closed at 6:38pm.

3. APPROVE MINUTES:

The minutes of the February 4, 2019 regular meeting were approved.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE

Councilwoman Conaway said Finance Committee met that afternoon and the report will be at the next Council meeting.

**February 18, 2019
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

B. BUILDINGS & PROPERTY COMMITTEE

Councilman Goodlin said January 2019 New Building Construction Reports are in the packet. The next meeting is Monday, March 11 at 5:15pm.

**MOTION by Councilman Goodlin to approve the last day of business at Bayfront Park Pavilion as February 29, 2020. Seconded by Councilman Coleman. Councilman Goodlin said this is to help with the planning and construction that will begin at Bayfront Park. Mayor Haygood shared some specifics that will be added to the park. Mayor Haygood said that they will be losing the Civic Center Director, Margaret Thigpen.
MOTION CARRIED UNANIMOUSLY.**

C. PUBLIC SAFETY COMMITTEE

Councilman Scott said the committee meets Monday, March 11th at 4:30pm.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE

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

E. PUBLIC WORKS COMMITTEE

Councilman Coleman said the next Public Works meeting is March 4th at 5:30 p.m.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments

Mrs. Jones said the next meeting is March 7, 2019. She said there is one application to be discussed and there is also one alternate position the Council should be made aware.

B. Downtown Redevelopment Authority

Councilwoman Conaway said the next meeting is Tuesday, February 26th at 5:30pm.

C. Industrial Development Board

Councilman Rudicell said the next meeting is Wednesday, February 19th at 4:30pm in the conference room.

D. Library Board

Councilwoman Phillips said the next meeting is Thursday, March 14th at 4:00pm at the Library. She said Ms. Young continues to stay busy with over 30,000 articles circulated in the month of January, over 12,000 patrons, 848 room uses, over 2,600 e-books checked out and 998 computer users.

E. Planning Commission

Councilman Scott said there is no meeting in February. He mentioned that there is an opening on the Planning Commission. The next meeting will be March 28th at 5:00pm.

F. Recreation Board

Councilman LeJeune said the next meeting will be March 13th at 6:30pm. Councilman LeJeune gave the floor to Ruth Sewell. Ruth Sewell, with the Daphne Strike Soccer Club, gave an update on Village Park. She presented about upcoming events at the park. She said there have been seven signed college scholarships from the soccer club. Councilman LeJeune said that Billy Brown won the Coach of the Year.

G. Utility Board

Councilman LeJeune said the November Utility Board minutes are in the packet. He said the water monitoring that was mentioned in previous meetings is now up on the Daphne website. The next meeting is February 27th at 5:00pm.

**February 18, 2019
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

6. MAYOR'S REPORT:

Mayor Haygood said the 2019 Alabama Legislative session will begin in March. He said Senate Bill 23 was introduced. Mayor Haygood updated everyone on the various park construction and upgrades. He read a letter sharing about the good work Daphne Animal Shelter is doing.

Mayor Haygood said that they received information about the recycling processor in Pensacola. They are now charging more per ton and he hopes to discuss this at the next Public Works meeting.

Mayor Haygood mentioned two ordinances that were not discussed in Finance Committee meeting, but that he wanted to bring to the attention of the Council. He asked the Council if they would be willing to suspend the rules to allow these ordinances to be considered as "first read" for that evening's meeting.

7. CITY ATTORNEY REPORT: No report.

8. DEPARTMENT HEAD COMMENTS:

David McKelroy shared about the softball tournament coming up the following weekend.

Jeremy Sasser stated that starting Monday, February 25th, portions of Maxwell Avenue will be blocked off in order to install speed calming devices. Councilman Rudicell asked if individuals will need to go around and Mr. Sasser said yes. Mr. Sasser also reminded everyone that the SEEDS 5k run is March 2nd as well as the Shadow Barons parade that evening.

9. CITY CLERK'S REPORT:

**MOTION by Councilman LeJeune to approve the issuance of the 140 – Special Events Retail license for Mancini's Antique LLC located at 1715 Main Street, Daphne, Alabama. Seconded by Councilman Scott.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman LeJeune to approve the Mancini's Antique Club St. Patrick's Block Party on March 16 & 17, 2019 at specified times. Seconded by Councilman Goodlin. Councilman LeJeune said that he believed this event came out of neighbors/citizens in Daphne wanting to have something for St. Patrick's.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilwoman Conaway to approve the publication and set a public hearing on April 1, 2019 for the Revision of the Official City of Daphne Zoning Map. Seconded by Councilwoman Phillips.
MOTION CARRIED UNANIMOUSLY.**

10. PUBLIC PARTICIPATION:

Public Participation opened at 7:10pm.

Don Oulette, 7720 Elizabeth Drive, shared that he is concerned about the animals being driven out into open fields due to all the recent construction in Daphne.

Public Participation closed at 7:11pm.

**POINT OF ORDER
MOTION by Councilman Scott to suspend the rules and add the two ordinances presented by the Mayor to the Council Agenda to be "first reads" at the meeting.
Seconded by Councilman Goodlin.**

**February 18, 2019
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
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City Clerk called roll.

Councilwoman Conaway	Aye
Councilman Coleman	Aye
Councilman Goodlin	Aye
Councilman Scott	Aye
Councilman LeJeune	Nay
Councilwoman Phillips	Aye
Council President Rudicell	Nay

MOTION FAILED.

Councilman Rudicell asked that the ordinances be put on the Council Agenda as first reads at the March 4, 2019 meeting.

11. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

2019-10 – Revision to the Official City of Daphne Street Map

2019-11 – Bayside Academy Educational Building Authority

2019-12 – Resolution in Support of Protecting Local Control over Public Streets and Public Assets and a Call on Congress to Reaffirm Such Local Control

MOTION by Councilman Scott to waive the reading of Resolution 2019-10, Resolution 2019-11 and Resolution 2019-12. Seconded by Councilwoman Conaway.

MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Scott to adopt Resolution 2019-10. Seconded by Councilwoman Conaway.
MOTION CARRIED UNANIMOUSLY.

MOTION by Councilwoman Conaway to adopt Resolution 2019-11. Seconded by Councilman LeJeune.
MOTION CARRIED UNANIMOUSLY.

MOTION by Councilman Scott to adopt Resolution 2019-12. Seconded by Councilwoman Phillips.
MOTION CARRIED UNANIMOUSLY.

ORDINANCES:

2nd READ:

2019-04 – Additional Appropriation: Corte/Austin Road Improvements Ph 1 –Redesign of the Bellaton Entrance - \$35,522

2019-05 - Appropriation: Nicholson Center Additional Improvements - \$50,000

2019-06 - Appropriation: Bayfront Streetscape and Parking Underground Utilities - \$181,503

2019-07 - Appropriation: Purchase Two Used Bucket Trucks - \$30,000

**February 18, 2019
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

**MOTION by Councilman Scott to waive the reading of Ordinance 2019-04, 2019-05, 2019-06 and 2019-07. Seconded by Councilwoman Phillips.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Ordinance 2019-04. Seconded by Councilman Goodlin.
Councilman Scott said that this will give residents of Bellaton a safe entrance onto Corte Road.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilwoman Conaway to adopt Ordinance 2019-05. Seconded by Councilman Coleman.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Coleman to adopt Ordinance 2019-06. Seconded by Councilman Goodlin.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Ordinance 2019-07. Seconded by Councilwoman Phillips.
Councilwoman Phillips said the bucket trucks from Baldwin EMC are in great condition.
MOTION CARRIED UNANIMOUSLY.**

1st READ:

2019-08 – Right of Way

2019-09 – City for Daphne Utilities Property Sale 2019

2019-10 – Flood Damage Prevention

2019-11 – Re-Zone Property Located Southwest of Whispering Pines Rd and Pollard Rd – Cynthia Pierce

2019-12 – Re-Zone Property Located Southeast of Whispering Pines Rd and Caroline Ave – T H Tanglewood 2018, LLC

12. COUNCIL COMMENTS:

Councilwoman Phillips thanked Mrs. Thigpen for the great job she's done while at the Civic Center.

Councilman LeJeune agreed with Councilwoman Phillips. He reminded everyone that it is Mardi Gras season and encouraged everyone to come out to the upcoming parades.

Councilman Scott said that the Council has been invited to an awards ceremony at Daphne High School. He said he looked forward to attending.

Councilman Coleman wished Mrs. Thigpen well.

Councilwoman Conaway wished Mrs. Thigpen well and thanked her for her service.

Mayor Haygood followed up with what Councilman LeJeune said about the water testing. He encouraged everyone to go to the City's website to see the results. Mayor Haygood said even though the two new ordinances couldn't be added to the Council Agenda for that evening, he wanted the Council to know he did submit a request on Friday.

**February 18, 2019
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

Councilman Rudicell asked if Architects Southwest would be at the Council Work Session in March. Mayor Haygood said that was the plan, but that it conflicts with Congressional League of Cities. He said they have decided to push it back one week to the second Council Meeting. Mayor Haygood said they are waiting on a confirmation from Architects Southwest.

Councilman Scott asked if it had been decided to change the March 4th Council Meeting. Councilman LeJeune said he had spoken to the City Clerk and said historically it has not been changed for Mardi Gras.

13. ADJOURN:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:27 P.M.

Respectfully submitted by,

Certification of Presiding Officer

Candace G. Antinarella, City Clerk

Pat Rudicell, Council President

CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
FEBRUARY 18, 2019
4:30 P.M.

I. CALL TO ORDER/ROLL CALL

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

Present were:

Chairman Mr. Pat Rudicell

Councilwoman Mrs. Tommie Conaway

Councilman Mr. Joel Coleman

Councilman Mr. Doug Goodlin

Councilman Mr. Ron Scott

Councilman Mr. Robin LeJeune

Councilman Mrs. Angie Phillips

Also Present: Mayor Dane Haygood, Finance Director Mrs. Kelli Reid, Senior Accountant Mrs. Suzanne Henson, Public Works Director Mr. Jeremy Sasser, Operations Manager Mrs. Betsy Schneider, City Clerk Mrs. Candace Antinarella, Executive Director of City Development Troy Strunk, Library Director Ms. Tonja Young, Daphne Convention & Visitors Bureau & Civic Center Director Margaret Thigpen, Building Inspector Mr. Richard Merchant, City Attorney Mr. Patrick Dungan, City Attorney Mr. Jay Ross, arrived at 5:30p.m..

II. PUBLIC PARTICIPATION

A. 2012 Warrant – Bond Refunding, Mr. Walter Lewis, Piper Jaffray & Co.

Mrs. Reid introduced Mr. Walter Lewis with Piper Jaffray & Company. Mr. Lewis reviewed his handout showing the City's Debt overview. Mr. Lewis reviewed advance refunding options and call dates. Mr. Lewis stated the current interest rate on the 2012 Warrant that is eligible for refinancing is 3.385%. Mr. Lewis reviewed the bank qualified rate and non-bank qualified rate. Mrs. Reid stated that this proposal is similar to the 2016 bond issue. Mrs. Reid explained the City would need to obtain a current bond rating. Discussion continued on the option of private placement and Mr. Walters bringing back a recommendation. Mr. Walters wrapped up with an overview of the Piper Jaffray Company.

III. APPROVE MINUTES FOR THE PREVIOUS MEETING

The previous minutes were approved.

IV. HUMAN RESOURCES BUSINESS

A. Update on Human Resources Department Activity

Mrs. Vickie Hinman reviewed the Human Resource Report:

- Posted positions – 4
- Reviewing/Testing/Interviewing/Background check - 4
- Promotion/Internal Transfer - 0
- New Hires – 2
- Open positions - 0

Mrs. Hinman reviewed the monthly Safety Committee meeting topics discussed and other Human Resource projects and events. Mrs. Hinman reviewed an accident that occurred at the City's C&D Landfill. Discussion continued on the need for a proper gate to restrict non-approved access and issues with contractors that are working on City projects dumping debris that is too large. Discussion continued on the landfill.

B. Overtime Report

Mrs. Reid reviewed the overtime report and Special Events Overtime report. Mrs. Reid reviewed the overtime on the Run for Shep 5k and noted that run events require a lot of City overtime. Discussion continued on the number of personnel required to work for run events.

V. BUSINESS LICENSE REPORT

A. Report: New Business Licenses – January, 2019

Mrs. Coleman reviewed the following reports and information:

- Code enforcement issued 2 warnings resulting in businesses becoming compliant and \$210 in revenue.

- New Businesses with a physical location in Daphne - 15
- Simplified Sellers Use Tax collections - \$25,269.10 and YTD collections - \$68,504.63

BUSINESS LICENSE COUNT through 01/31/2019	
NEW Licenses	43
RENEWAL Licenses (2019)	2229
PRIOR YEAR Licenses (2018 and Prior)	5
Total Issued THIS MONTH	2277
Total Issued THIS MONTH - PREVIOUS YEAR	2062
Net Gain/-Loss Current VS Previous Yr MONTH	+ 215
Total Issued YTD 2019	2,277
Total Issued YTD - PREVIOUS YEAR	2,062
Net Gain/-Loss Current VS Previous Yr YTD	+ 215

Business License Fee Historical Comparison 2018 / 2019				
	FY 18	FY 19	+/- Previous Year	Budget 2018 * \$2,215,000
October	\$5,258.84	\$7,486.91	\$2,228.07	(\$2,207,513.09)
November	\$8,566.59	\$3,983.03	(\$4,583.56)	(\$2,203,530.06)
December	\$41,564.84	\$2,614.81	(\$38,950.03)	(\$2,200,915.25)
January	\$1,420,279.64	\$1,409,468.98	(\$10,810.66)	(\$791,446.27)
Year to Date	\$1,475,669.91	\$1,423,553.73	(\$52,116.18)	(\$726,446.27)
* Amounts include penalty and interest.				

VI. SALES & LODGING TAX REPORT

A. Sales and Use Taxes: December, 2018

Mrs. Henson reviewed the Sales & Use Tax Reports and Graphs: \$1,566,587.58 was collected for December, 2018 which was down (\$87,374.29) from December 2017's collections :

- YTD Variance over Budget – (\$52,020.01)

Discussion was made on businesses that had closed like Winn Dixie and when the new grocery store would open at that location. Discussion continued on quarterly payments also vary.

B. Lodging Tax Collections, December, 2018

Mrs. Henson reviewed the Lodging Tax Collections Report and noted the collections for December, 2018 were \$72,158 which is up \$8,288.82 from December 2017's collections .

- YTD Variance over Budget: \$8,288.82

C. Lodging Tax Fund : Statement of Rev over Exp, January, 2019

Mrs. Henson reviewed the Lodging Tax Statement of Revenues over Expenditure report for **January, 2019**.

- Unreserved balance for Bayfront related purchases - \$1,456,451.26
- Recreation related purchases - \$844,913.41

Mrs. Henson noted that recent expenditures for Bayfront Park Building improvements, Village Point Boardwalk, and Trione Park Fencing project *are* reflected in the report.

VII. FINANCIAL SCHEDULES & REPORTS

A. Financial Reports

1. Treasurer's Report: January, 2019

Mrs. Reid reviewed the Treasurer's Report:

TREASURER'S REPORT					
As of January 31, 2019					
Account Type/Title	1/31/2019	12/31/2018	Increase (Decrease) from last Month	1/31/2018	Increase (Decrease) from Last Year
GENERAL FUND & ENTERPRISE FUNDS	\$ 9,310,451	\$ 6,621,245	\$ 2,689,205	\$ 11,658,688	\$ (2,348,237)
CERTIFICATE OF DEPOSIT	506,407	506,407	-	-	506,407
INVESTMENT FUND	5,420,549	5,347,490	73,059	5,353,687	66,862
CREDIT CARD ACCOUNT	9,322	9,566	(244)	8,397	925
Total Unrestricted Cash Balance	15,246,729	12,484,708	2,762,021	17,020,772	(1,774,043)
SPECIAL REVENUE FUNDS					
AGENCY FUNDS	3,605,417	3,734,105	(128,688)	3,423,138	182,278
CAPITAL PROJECT FUNDS	7,706,784	9,027,486	(1,320,701)	12,497,141	(4,790,357)
DEBT SERVICE	2,340,329	2,864,363	(524,034)	2,319,134	21,195
Total Restricted Cash Balance	13,652,530	15,625,954	(1,973,424)	18,239,413	(4,586,883)
Total City Cash Balance	\$ 28,899,259	\$ 28,110,662	\$ 788,597	\$ 35,260,185	\$ (6,360,926)
Encumbrance Total as of			1/31/2019	\$ 770,299.10	

Mrs. Reid noted the 2016 Capital Improvement monies have been spent and that account would be closed.

The Treasurer's Report as of JANUARY, 2019 Total Unrestricted Cash Balance - \$15,246,729 and Total City Cash Balance - \$28,899,259 was presented to be filed for audit.

2. Encumbrance Report

- Encumbrance balance is - \$770,299.10 as of January, 2019.

Mrs. Reid reviewed the Encumbrance Report and noted some of the largest expenditures have been for the design fee for Fire Station #5, sidewalks, entrance signs, Police vest/SRO. Discussion continued that the Public Works Safe Room project estimate is over budget.

3. Outstanding Appropriations

Mrs. Reid reviewed the outstanding appropriations report and that the Capital Reserve balance was \$4,614,022.

4. Financial Overview: Debt Summaries & Monthly Financial Statements, December, 2018

Mrs. Reid reviewed the following Financial Statements:

- Debt Summary Schedules (General & Enterprise Funds), January, 2019
 - Jubilee Square: Debt payments are currently fully paid through November 2017 thus 14 months in arrears. Arrearage includes \$951,473 in principal and \$183,981 in interest

Monthly Financial Statements – December 2018 YTD Financial Highlights

General Fund:

- | | <u>FY 2019</u> | <u>FY 2018</u> | <u>Change</u> |
|---|----------------|----------------|----------------|
| YTD Budgetary Net Income: | \$(142,176) | \$ 1,210,801 | \$ (1,352,977) |
| Total sales, use, and luxury tax collected for the year is approximately \$76,000 over prior year but \$52,000 UNDER budgeted income | | | |
| Ad Valorem Tax collections are approximately \$1,100,000 over YTD collections in prior year. This is due to a large payment not being received until January in FY 2018 | | | |
| Unassigned Fund Balance: | \$13,064,729 | | |
| Outstanding Encumbrances: | \$801,306 | | |

Debt Service Fund/Outstanding Debt:

- Outstanding Warrant Balance as of December 31, 2018: \$38,717,529
- Outstanding Note Payable Balance as of December 31, 2018: \$779,102
- Outstanding Capital Lease Balance as of December 31, 2018:
 - General Fund: \$1,139,697
 - Enterprise Funds: \$459,729

Capital Project Funds (Capital Reserve, 2016 Construction, and 2017 Construction):

- YTD Park Improvements Expenditures: \$3,447,593
- YTD Corte Road Paving Expenditures: \$33,283

Special Revenue Funds (11 separate funds):

- Lodging Tax Fund –
 - Bayfront Unreserved Fund Balance: \$1,470,989.94
 - Recreation Unreserved Fund Balance: \$899,035.18
 - Total lodging tax collected was \$30,000 over budgeted income and prior year to date income.

Enterprise Funds (Solid Waste, Civic Center, and Bayfront):

- Year to date transfers for each of the enterprise funds were as follows:

	<u>FY 2019</u>	<u>FY 2018</u>	<u>Change</u>
Solid Waste Fund	\$ -0-	\$2,816	\$ (2,816)
Civic Center Fund	\$ -0-	\$48,112	\$ (48,112)
Bayfront Park Fund	\$ 19,677	\$30,066	\$ (10,389)

Mrs. Reid noted that the Sewer Assessments should be paid at the end of FY2019, approximately \$650,000. Mrs. Reid discussed the cost of retirees insurance cost. Mr. Scott asked about the setting up an Agency trust fund with the final Sewer Assessment payment monies to help fund retirees insurance cost.

5. Unfunded Future Projects Expenditure Summary

Mrs. Reid reviewed the Unfunded Future Projects Expenditure Summary and noted there was not really any change from last month's report. Mr. Rudicell discussed evaluating extending the Mayday pier while the Bayfront pier was being evaluated.

8. Summary of Budgetary Amendments

Mrs. Reid reviewed the General Fund budgetary amendments made to the FY2018 Budget.

- Total Appropriations Year to Date – (\$2,693,953)
- Adjusted Expenses over Revenue – (\$2,632,556)

B. Bills Paid Reports – January, 2019

The Bills Paid Report was presented in the packet.

VIII. BIDS (Resolution)

A. 2019-D-Pine Straw

Mrs. Henson stated that only one bid was received from Siteone Landscape Supply. Mrs. Henson noted that the bid minutes were included in the packet showing that the cost was up \$1.50/bale over the previous bid contract cost from three years ago. Mrs. Henson noted that the City generally purchases the roll which is a better value than the bale. The department recommendation was to award to Siteone Landscape Supply.

MOTION BY Mr. Scott to recommend to Council to award the 2019-D-Pine Straw bid to Site One Landscape Supply for unit cost as bid:

Bale (14" x 14" x 26") - \$5.75/delivered

Roll (18" x 24") - \$12.00/delivered - \$11.00/picked up

Seconded by Mrs. Phillips.

MOTION CARRIED UNANIMOUSLY

IX. APPROPRIATION REQUESTS: (Ordinance)

A. Dispatch Recording System Upgrade – Additional Appropriation-\$15,033

Mrs. Reid stated that the City is in the process of converting phones to VoIP and that the Police Department's recorder is not compatible with the City's new VoIP phone system and an update is needed. Mrs. Reid noted that current quotes have been obtained and an additional \$15,033 will be required to upgrade the Police Dispatch recording system. Mayor Haygood reviewed the project and noted Mrs. Betsy Schneider had spearheaded and managed the project.

MOTION BY Mr. Scott to recommend to Council to adopt the Ordinance amending the budget to appropriate an additional \$15,033 to upgrade the Police Dispatch recording system. Seconded by Mrs. Phillips.
MOTION CARRIED UNANIMOUSLY

X. NEW BUSINESS

A. Set up a new depository account and transfer of funds for the Debt Service bank account from Wells Fargo Bank to Regions Bank

Mrs. Reid discussed that the 2017 Construction would be spent and closing soon and Regions reached out to see if what accounts could be transferred. Mrs. Reid discussed transferring the Debt Service account monies to Regions Bank for administrative purposes and a better interest rate.

MOTION BY Mr. Goodlin to recommend to Council to adopt an resolution authorizing the Mayor and the Finance Director to set up a new depository account and transfer of funds for the Debt Service bank account from Wells Fargo Bank to Regions Bank. Seconded by Mr. Scott.
MOTION CARRIED UNANIMOUSLY

XI. OLD BUSINESS

A. Daphne Art Center: Utilities – Gas - \$950

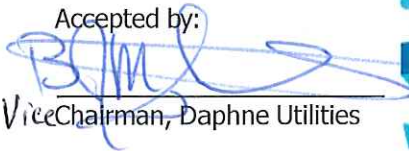
Mrs. Reid stated that the City could start paying the gas cost to heat the Daphne Art Center since the City pays the remainder of the utilities. Mrs. Reid stated that monies were available and an appropriation was not needed.

B. Daphne Sports Complex Update

Mr. LeJeune provided a handout updating the list of improvement options for the new Daphne Sports Complex. Discussion was made on which items were needed the most and what funding would be required. Discussion continued that some monies were available for the items most needed like backstop padding, sod at the front entry, storm water repairs...etc. Mr. Sasser stated he would obtain a quote for the backstop padding at the Public Works Committee meeting. Mrs. Reid discussed other current projects and funding for these projects.

XII. ADJOURN

The meeting adjourned at 6:26p.m.

Accepted by:

Vice Chairman, Daphne Utilities



APPROVED MINUTES

Utilities Board Meeting

Council Chambers, Daphne City Hall ♦ January 30, 2019 ♦ 5:00 p.m.

I. Call to Order

The regular January 2019 Board meeting for the Utilities Board of the City of Daphne was held on January 30, 2019 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
Robin LeJeune, Board Member
Selena Vaughn, Secretary/Treasurer
Mayor Dane Haygood, Board Member

Members Absent: Billy Mayhand, Vice Chairman

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

Others Absent: Jerry Speegle – Board Attorney

III. Pledge of Allegiance

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

IV. Approval of Minutes

A. Utilities Board Meeting Minutes November 28, 2018

The Chairman requested any additions, corrections, or deletions for the submitted Minutes from the November 28, 2018 Utilities Board Meeting.

There was no December 2018 meeting held.

With no additions deletions or corrections, the Chairman declared that the submitted Minutes would stand approved.

V. OLD BUSINESS – None

The Chairman announced a change to the agenda to next discuss Item G Update: Water Quality Monitoring Website.

VI. NEW BUSINESS –

A. UPDATE: Water Quality Monitoring Website

Ms. Ashley Campbell, Environmental Programs Manager, updated the Board on the website progress of this continuing joint project of monthly water sample testing in various locations throughout the Daphne Utilities' service area following ADEM's protocol. She discussed several features of the website including the sampling sites and status and understanding the issues. A conversation took place to express several points of view on the website and offer suggestions.

MOTION by Mayor Dane Haygood to approve [the Water Quality Monitoring Website page] to go live no later than March 1, 2019, or sooner if [Daphne Utilities'] GM finds satisfactory to appear on the City of Daphne website; Seconded by Robin LeJeune.

AYE: Fry, Haygood, LeJeune, Vaughn

NAY:

ABSENT: Mayhand

ABSTAIN:

MOTION CARRIED

Before proceeding, Danny Lyndall displayed information for the Board regarding Mobile Bay watershed and the impact statewide SSO's affect our Delta. Board member Robin LeJeune recommended this information should be shared on the new Water Quality Monitoring website page.

B. Volkert – Proposed Amendments to Daphne Utilities Standard Construction Specifications (Board Action: MOTION)

Danny Lyndall reminded the Board that these particular specifications updates relate to bypass pumping following a contractor mishap, had been previously distributed for review and presented on the Daphne Utilities' website for 30 days to solicit comments. Volkert's Melinda Immel noted Goeff Wilkins' input was instrumental and the Amendments call for more documentation of bypass plans for review as well as reiterating new materials to be used and clarifying procedures.

MOTION by Robin LeJeune to move forward with these new specifications (as submitted); Seconded by Selena Vaughn.

AYE: Fry, Haygood, LeJeune, Vaughn

NAY:

ABSENT: Mayhand

ABSTAIN:

MOTION CARRIED

C. Requisition for Lake Forest Aeration Upgrades (Board Action: MOTION)

Danny Lyndall explained that Board approval for a requisition is not typical but necessary in this case due to the amount of the project; he stated that bids were not solicited because it is a sole source project. He explained the work to be completed and answered questions from the Board.

MOTION by Robin LeJeune [to approve Requisition No. R-40-012319A for Lake Forest Aeration Upgrades]; Seconded by Selena Vaughn.

AYE: Fry, Haygood, LeJeune, Vaughn

NAY:

ABSENT: Mayhand

ABSTAIN:

MOTION CARRIED

D. Authorization for Sale of Trucks and Equipment (Board Action: MOTION)

Danny Lyndall directed the Board's attention to the list of surplus and salvaged items that is generally collected once per year and offered for sale on GovDeals.com. He noted that Daphne Utilities Board's approval is required first before submitting for approval from Daphne City Council.

MOTION by Robin LeJeune [to approve the authorization of the list of trucks and equipment for the sale as submitted]; Seconded by Mayor Dane Haygood.

AYE: Fry, Haygood, LeJeune, Vaughn

NAY:

ABSENT: Mayhand

ABSTAIN:

MOTION CARRIED

E. Asarisi - Recommendation for Bid Award for: Pump Station Replacement #49 - Gordon Circle (Board Action: MOTION)

Joe Asarisi explained that a new lift station will be constructed in the right-of-way outside the roadway for better safety. Danny Lyndall added that this particular project was included in the budget and advised that this lift station was installed in the 1980's and had undergone improvements throughout the years.

MOTION by Robin LeJeune [to approve the recommended bid for the project: Pump Station Replacement #49 – Gordon Circle, Contract No. AL18035 to the low bidder Ballcon, Inc. in the amount of \$118,645.00]; Seconded by Selena Vaughn.

AYE: Fry, Haygood, LeJeune, Vaughn

NAY:

ABSENT: Mayhand

ABSTAIN:

MOTION CARRIED

F. Asarisi - Recommendation for Bid Award for: Pump Station Replacement #50 - Nicole Place (Board Action: MOTION)

Danny Lyndall notified the Board that this project is similar to the Gordon Circle project.

MOTION by Mayor Dane Haygood to award Pump Station Replacement #50 – Nicole Place, Contract No. AL18036, to the low bidder Ballcon, Inc. in the amount of \$98,498.00]; Seconded by Robin LeJeune.

AYE: Fry, Haygood, LeJeune, Vaughn

NAY:

ABSENT: Mayhand

ABSTAIN:

MOTION CARRIED

G. Volkert - Recommendation for Bid Award for: Water Storage Improvements – Brentwood/Meadow Circle Tank (Board Action: MOTION)

Danny Lyndall displayed photos of the tanks and Volkert's Melinda Immel gave project details of the tanks and answered questions from the Board.

MOTION by Mayor Dane Haygood to award the bid for the Water Storage Improvements at Meadow Circle Tank and Trojan Gound Storage Tank in the amount of \$338,738.92 to American Suncraft Construction; Seconded by Robin LeJeune.

AYE: Fry, Haygood, LeJeune, Vaughn

NAY:

ABSENT: Mayhand

ABSTAIN:

MOTION CARRIED

VII. BOARD ATTORNEY'S REPORT

Mr. Hoffman had nothing to add to the submitted report.

VIII. FINANCIAL REPORT

Teresa Logiotatos noted the financials for November and December included in the board book. She highlighted the graphs and the changes between the two months, noting the gas revenue. She also advised that expenses for projects will be reflected in the upcoming financials. She noted that auditors will be preparing to present to the Board in the coming months.

IX. GENERAL MANAGER'S REPORT

A. GM Report

Danny Lyndall spoke about the wastewater outfall line and the condition the divers discovered, noting a crack 14 feet from the end of the pipe. He explained the work the contractor will perform to repair the line.

B. Operations Report

Bobby Purvis noted several projects in progress, pointing out the asset management system and invited the Board members to visit to see the growth in operations taking place as a result of implementing the GIS analytics. He applauded Alex Godfrey for spearheading this task.

Samantha Coppels spoke about the recent tour of students from Remington College's Process Technology Department and noted that two eager former-students have been hired.

C. Engineering & Consulting Reports

Melinda Immel with Volkert had nothing further to add to her report.

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

Joe Asarisi with Asarisi & Associates had nothing further to add to his report.

Melinda Immel answered questions from the Board regarding the wastewater outfall line project's impact with the Bayway/Mobile River Bridge Project, to which Danny Lyndall gave further detail.

X. BOARD ACTION – Previously addressed under New Business

XI. PUBLIC PARTICIPATION – the Chairman opened Public Participation at 6:06 pm. With no participation, Public Participation was closed.

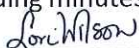
XII. BOARD COMMENTS – Mr. LeJeune expressed his satisfaction with the website and commended those involved; Mrs. Vaughn complimented everyone on a great job; Mayor Haygood wished all a happy 2019 new year for the Utilities, community and Board members; Chairman Fry appreciated all the good information as well as the good job everyone was doing, including our engineering partners.

XIII. ADJOURNMENT

With no further business, Chairman Fry declared the meeting adjourned.

The meeting adjourned at 6:07pm.

Preceding minutes submitted to the Daphne Utilities Board by:


Lori Wilson, Executive Assistant, Daphne Utilities



City of Daphne

Event Permit Application

Date of Application: 02/25/2019 Permit Requested: ☐ Event/Fundraiser ☐ Parade/Run ☒ Band

Contact Information

Organization Name: _____

Contact Name: Aurelia C Bryars E-mail Address: aurelia@alabamalandtitle.com

Address: 1501 Captain O'Neal Drive Daphne, AL 36526

Primary Phone Number: 2519758119 Secondary: 2516262518

Event Information

Event Name: Personal Birthday Party Event Date: 03/16/2018

Event Location: 1501 Captain O'Neal Drive # Participants/Vehicles: 100

Start Time: 6:00 Stop Time: 11:30 Assembly Time: _____
Parades/Runs Only

Special Requests: _____
Road Closures Requested: ☐ Yes ☒ No

Special Instructions

Approval: Internal Use Only

Date Routed: 2/28/19

Fire Dept: _____

Police Dept: _____

Public Works: approved via email
Camelia Antonianu

☐ Use of Alcohol

Parks & Recreation: _____

Only required if event interrupts traffic near Daphne parks

For Special Event/Band Permits:

City Clerk: _____
Signature

For Parade/Run Permits & Use of City Grounds:

City Council: _____
Date of Approval

Parade/Run Permits ONLY

☐ Fee Paid: \$ _____ ☐ N/A ☐ Waived

☐ Insurance Filed ☐ N/A

Route Selection: ☐ 1 ☐ 2 ☐ 3 ☐ 4

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2019 - 13**

2019-D-PINE STRAW

WHEREAS, The City of Daphne is required under section 41-16-20 of the Code of Alabama to secure competitive bids for items in excess of \$15,000; and

WHEREAS, The City of Daphne acknowledges that the cost for the PINE STRAW will exceed this amount; and

WHEREAS, Staff has reviewed the bid for the PINE STRAW and determined that the bid as presented is reasonable; and

WHEREAS, Staff recommends the bid for the PINE STRAW be awarded to SiteOne Landscape Supply.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, hereby accept the bid of SiteOne Landscape Supply for unit cost as follows:

- | | |
|--|---------------------|
| 1. Long Leaf Pine Straw 18" x 24" Roll – | Delivered - \$12.00 |
| <i>Picked up by City (only if business is located in the City of Daphne)</i> | - \$11.00 |
| 2. Bale – Size 14' x14" x 26" - | Delivered - \$ 5.75 |
| <i>Picked up by City (only if business is located in the City of Daphne)</i> | - No Bid |

as specified in BID SPECIFICATION NO. 2019-D-PINE STRAW.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2019 - 14**

**SETUP NEW DEPOSITORY ACCOUNT AND TRANSFER OF FUNDS FOR:
DEBT SERVICE FUND ACCOUNT**

WHEREAS, it is necessary to retain certain banking services for the administration and disbursement of such Debt Service Fund Account; and

WHEREAS, funds are requested to be transferred to a new account in order to be more consistent with the administration and services other City's accounts currently have; and

WHEREAS, the rates and services of several financial institutions were evaluated; and

WHEREAS, staff has made recommendations for the award of such banking services.

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

1. Designate Regions Bank as the depository for the Debt Service Fund Account; and
2. The Mayor and Finance Director are hereby authorized to take all the steps necessary to complete the transfer of the Debt Service Fund Account from Wells Fargo Bank to Regions Bank.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE
RESOLUTION 2019- 15**

**A RESOLUTION TO THE CITY COUNCIL OF THE CITY OF DAPHNE APPOINTING
TERRY REEVES TO THE BOARD OF DIRECTORS OF THE SPECIAL CARE
FACILITIES FINANCING AUTHORITY OF THE CITY OF DAPHNE**

WHEREAS, the City Council (the “Council”) of the City of Daphne, Alabama (the “City”), previously has approved the formation of The Special Care Facilities Financing Authority of the City of Daphne (the “Authority”) in accordance with Chapter 62 of Title 11 of the Code of Alabama (1975), as amended (the “Act”); and

WHEREAS, the City desires to appoint Terry Reeves, who is a qualified elector of and the owner of real property in the City and is not an officer of the State of Alabama or of any county or municipality in the State of Alabama.

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

1. That Terry Reeves is appointed by the City Council as director to the Board of Directors of the Authority to fill the position vacated by Lee Yokel.
2. The term of Terry Reeves shall begin immediately and end at noon on November 13, 2023.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____DAY OF _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2019-08**

**Repealing and Replacing Ordinance 2017-22
The Right of Way Ordinance**

WHEREAS, the City Council of the City of Daphne, Alabama desires to protect, preserve, and promote the health, welfare, and safety of the citizens of Daphne by ensuring the structural integrity of public streets; and

WHEREAS, the City Council of the City of Daphne, Alabama desires to ensure that city rights-of-way are maintained in a state of good repair free from unnecessary encumbrances; and,

WHEREAS, the City Council of the City of Daphne, Alabama, possessing authority to manage and control the use of public rights-of way within its jurisdiction, desires to amend its Right-of-Way Ordinance, as codified at Section 18, Article II, to provide procedures to issue permits for wireless facilities and support structures in the rights-of-way and to regulate the placement of above grade utility markers in the rights-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA THAT ORDINANCE 2017-22 IS HEREBY REPEALED AND REPLACED WITH THE FOLLOWING:

SECTION I. – DEFINITIONS.

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, the words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely derivative.

AASHTO. American Association of State Highway and Transportation Officials.

Applicant. Any person or entity who submits an Application under this Ordinance.

Application. A written request, on a form provided by the City, for a Permit.

Block. That part of the public right-of-way that includes the area from the property line to the parallel property line in width and extending from the centerline of an intersecting street to the centerline of the next intersecting street in length or five hundred (500) feet, whichever is less.

City. The City of Daphne, Alabama.

City cost. The direct and indirect costs borne by the City for the administration of this Ordinance.

Code enforcement officer. Any person authorized by the City to enforce the codes of the City and issue municipal offense tickets for violations thereof.

Collocate. To install or mount a Wireless Facility in the public right-of-way on an existing Support Structure, an existing Tower, or on an existing Pole to which a Wireless Facility is attached at the time of the Application. “*Collocation*” has a corresponding meaning.

Commercial Mobile Radio Service Providers. Entities authorized by the FCC to provide Commercial Mobile Radio Services in the City of Daphne.

Construct. To excavate, repair, rehabilitate, maintain, and install sanitary sewers, water mains, fire hydrants, valves, meters, manholes, service lines and connections, gas mains, telephone and electrical conduit and their miscellaneous service lines and connections, telecommunications facilities, cables, wires, lines, wave guides, antennas, and other equipment or facilities, pedestals, and service cabinets, poles, guy wires, storm drains, manholes, inlets, catch basins, irrigation systems, driveways, sidewalks, pavement extensions, curbs, walks, steps, building canopies, balconies, overhead walkways, and temporary detour pedestrian walkways on, above, or under any part of the rights-of-way provided however, that “construct” shall not mean installation, repair, rehabilitation, or maintenance of facilities that do not involve excavation of any portion of the rights-of-way.

Construction bond. A bond posted to ensure proper and complete construction and/or repair of a permitted site pursuant to a permit issued by the City.

Construction standards for miscellaneous construction, utility excavation, and right-of-way and pavement restoration (Construction Standards). The compilation of provisions and requirements that provide the technical specifications and details for the construction of facilities in the right-of-way, as published and amended from time-to-time by the Department (see Appendix B to this Ordinance for Construction Standards in effect on the effective date of this Ordinance).

Department. The department designated by the City to be responsible for Right of Way management and overseeing compliance with this Ordinance. Unless otherwise designated by the City, the Department shall be presumed to be the Public Works Department.

Emergency. A condition that poses a clear and immediate danger to life or health, or of a significant loss of property or utility service. “Emergency” also includes requests for service which the applicant deems urgent and can be classified as small project types A and B.

Excavation. Any work on the surface or subsurface of the public right-of-way including but not limited to opening the right-of-way, installing, servicing, repairing, or repairing/modifying any facilities/sites in or under the surface or subsurface, and restoring the surface and subsurface of the public right-of-way.

FCC. Federal Communications Commission.

Facilities. Any tangible thing located in any right-of-way; but shall not include boulevard plantings or gardens planted and maintained in the right-of-way between a person’s property and the street edge of pavement.

Geotechnical engineer. A professional engineer experienced in soils engineering and materials testing.

Geotechnical company. A professional engineering company that provides soils engineering and testing services, laboratory and field testing services, construction material testing, and possesses a certificate of authorization from the state board of registration for professional engineers and land surveyors.

In. When used in conjunction with “right-of-way,” means over, above, in, within, on, or under a right-of-way.

Inspector. Any person designated/authorized by the City to carry out inspections related to the provisions of this Ordinance.

Landscape or landscaping. Trees, shrubs and other plantings of materials that are or may grow to a height of eighteen (18) inches or more, and irrigation systems (in unpaved areas), in the right-of-way.

Major project. Construction of water, sewer, gas, telephone, fiber optic, electrical power conduit, cable and duct, TV cable, jacking, boring, pushing and tunneling, retrofitting existing facilities/sites, storm drain and any other miscellaneous major facility construction projects that involve more than one continuous block or five hundred (500) linear feet of right-of-way.

Mayor. The Mayor of the City of Daphne, Alabama

Minor project. Construction of miscellaneous utility service lines, manhole installation not associated with major project construction, main line point repairs and installation, miscellaneous utility service line repair, storm drain and inlet repairs, vaults, irrigation systems and other miscellaneous construction and repair projects that involve less than one (1) block or five hundred (500) linear feet of right-of-way.

Municipal court. Means the part of the City of Daphne Municipal Court System designed to enforce local laws and ordinances relating to the physical appearance of the City, and the health and safety of the public.

Municipal offense ticket (M.O.T.). A citation issued for a violation of this Ordinance. An M.O.T. may require payment of a fine as defined by the municipal offense ticket system fine schedule, as may be amended from time to time, appearance in municipal court and if determined by the judge of said court, jail or community service.

MUTCD. Manual on Uniform Traffic Control Devices, for Streets and Highways, as published by the US Department of Transportation Federal Highway Administration.

Notice of violation. A written warning issued by the department, or the City of Daphne Code Enforcement Officer, for a violation or possible violation of this Ordinance.

Obstruct. To place anyone or any tangible object in a right-of-way so as to hinder free and open passage over, under, or through that or any part of the right-of-way.

Permit fee. Money charged by the City to cover the costs as provided in Appendix A (Schedule of fees) of this Ordinance.

Permittee. Any person or company to whom a permit has been granted by the City under this Ordinance.

Person. Any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have facilities/sites located in any right-of-way.

Restoration. The process by which a constructed or obstructed right-of-way is restored as specified in the constructed standards.

Right-of-way. The surface and space above and below any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest including easements, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, river, tunnel, viaduct, detention pond, retention pond, culvert, ditch, storm water management facility, bridge, park, or any other place, area, or real property owned by or under the control of the City.

Right of Way Manager (“ROW Manager”). The individual or position in the City designated to oversee compliance with this Ordinance. Unless otherwise designated by City Administration, the ROW Manager shall be the City of Daphne Public Works Director.

Right-of-way Permit. The permit which must be obtained before a person may construct in, or obstruct in a right-of-way as required by Section III (Right-of-way permits) of this Ordinance.

Service or utility service. Services provided by utilities or by Commercial Mobile Radio Service Providers.

Sidewalk. The paved pedestrian walkway between the edge of the road and the street right-of-way line.

Small Cell Infrastructure Guidelines. Requirements and conditions regarding small cell infrastructure within the City’s rights-of-way as published and amended from time-to-time by the Department.

Small project (type A). The installation of equipment cabinets, junction boxes, terminal boxes, splice boxes, regulator stations, meters and valves in paved areas, utility poles, guy poles, and appurtenances not associated with a major or minor project.

Small project (type B). The installation, repair, and routine maintenance of miscellaneous utility drop lines, overhead wires and cables, traffic signal poles, light poles, traffic signs, meters, valves, and other miscellaneous construction, repair, routine maintenance, and inspection that requires minimal right-of-way disruption or less than sixteen (16) square feet of excavation and involves less than one hundred (100) linear feet of right-of-way.

Supplementary application. An application made to construct or obstruct more of the right-of-way than allowed in, or to extend, a permit that has already been issued.

Transmission Equipment. Equipment that facilitates transmission of any FCC-licensed or authorized Wireless Communications Services. Transmission Equipment includes an antenna or small cell facility and its associated equipment, which includes any and all on-site equipment, such as back-up generators and power supply units, cabinets, coaxial and fiber optic cables, connections, shelters, radio transceivers, regular power supply units, and wiring, to which a wireless antenna or small cell facility is attached in order to facilitate mobile broadband service and personal wireless service delivered on mobile broadband devices. Transmission Equipment does not include wireless communications equipment (such as wireless meter reading and other utility wireless communications) that is (1) owned and operated by a public utility subject to regulation by the Alabama Public Service Commission or the Federal Energy Regulatory Commission, including its parents, affiliates, or subsidiaries, (2) used solely for internal utility purposes.

Trenchless technology. The use of directional boring, horizontal drilling, and micro-tunneling and other techniques in the construction of underground portions of facilities which result in the least amount of disruption and damage to right-of-way as possible.

Underground facilities. All lines, cables, conduits, posts, tanks, and any other facilities owned or operated by persons other than the City which are located wholly or partially underneath right-of-way.

Utilities. Any water, sewer, gas, drainage, irrigation, or culvert pipe and any electric power, telecommunication, signal, communications, or cable television conduit, fiber / fiber optic, wire, cable, or operator thereof. For purposes of this Ordinance, “utilities” includes Commercial Mobile Radio Services and Wireless Communications Services.

Utility Markers. Above grade marker, pillar, post, sign, or similar facility placed to provide visual reference of, or otherwise mark the location of, underground facilities which do not provide structural support to any underground or overhead facility.

Utility Provider. Any person who provides utilities services in the City.

Wireless Communications Services. Without limitation, commercial mobile radio services, personal wireless services, all FCC-licensed or authorized back-haul and other fixed wireless services, broadcast, private, and public safety communication services, and unlicensed wireless services.

Wireless Facilities. Transmission Equipment used to provide Wireless Communications Services.

SECTION II. – RIGHT-OF-WAY ADMINISTRATION.

(a) *Administration.* The ROW Manager shall be the principal City official responsible for the administration of the right-of-way, right-of-way permits, and the ordinances related thereto. The City shall adopt and may amend from time to time Construction Standards and other rules reasonably required to carry out the purposes of this Ordinance. Any requirement not specifically covered by this Ordinance or the Construction Standards shall be determined by City Administration.

(b) *Appeal of Decision.*

(1) *Cause for Appeal.* The City may grant a special exception to the requirements of this Ordinance if an applicant/permittee demonstrates with written evidence that:

- a. The exception will not create any threat to public health, safety, or welfare;
- b. The applicant/permittee demonstrates that the increased economic burden and the potential adverse impact on the applicant's/permittee's construction schedule resulting from the strict enforcement of this Ordinance actually, or effectively, prohibits the ability of the applicant/permittee to provide utility services in the City; and
- c. The applicant/permittee demonstrates that the requirement unreasonably discriminates against the applicant/permittee in favor of another person.

(2) *Appeal Procedure.*

- a. *Department Appeal.* Should an applicant/permittee be aggrieved by the decision of the ROW Manager, such applicant/permittee may request reconsideration by the ROW Manager. Such request for reconsideration shall be submitted in writing along with justification to the Department within fifteen (15) days from the date of such original decision. ROW Manager and Department shall review such request and may alter the original decision if deemed appropriate. Such decision shall be issued to the applicant/permittee in writing by either the ROW Manager or Department head.
- b. *Administration Appeal.* In the event a dispute is not satisfactorily resolved by the Department Appeal, within fifteen (15) days of the issuance of the Department Appeal decision, the applicant/permittee may

appeal to City Administration. Such appeal shall be submitted in writing along with justification to the Office of the Mayor within fifteen (15) days from the date of issuance of the Department Appeal decision. City Administration shall review and may alter the original decision or the Department Appeal decision if deemed appropriate. Such decision shall be issued to the applicant/permittee in writing by an authorized member of City Administration.

- c. *Final Appeal.* In the event the dispute is not satisfactorily resolved by the Administration Appeal, within fifteen (15) days of the issuance of the Administration Appeal decision, the applicant/permittee may submit a final appeal to the City Council. Such appeal shall be submitted in writing along with justification and all relevant documentation to the Office of the City Clerk within fifteen (15) days from the date of issuance of the Administration Appeal decision. The City Clerk shall cause the matter to be considered as soon as reasonably possible by the City Council at a public hearing.

SECTION III. – RIGHT-OF-WAY PERMITS.

(a) Permit requirements.

(1) Except as otherwise provided in this Ordinance, no person may construct, obstruct, or otherwise encumber any right-of-way without first having obtained one (1) of the following right-of-way permits from the Department:

- a. Major project;
- b. Minor project;
- c. Small projects;
 - 1. Type A;
 - 2. Type B;
- d. Landscape; or
- e. Wireless facilities project.

(2) *Right-of-way permit.* A right-of-way permit is a permit which allows the holder to construct, obstruct, or landscape in that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein. A permit is valid only for the date(s) and the area(s) of right-of-way specified in the permit. No person may construct in or obstruct the right-of-way beyond the date or dates specified in the permit unless such person:

- a. Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and
- b. A new permit or permit extension is granted.

However, if no work is initiated within four (4) months or if the project lies dormant for a period of thirty (30) calendar days after being started, the permit shall be invalid.

(3) *Emergencies.* When the work must commence immediately because of an emergency, the permittee shall comply with the provisions in Section VI *Enforcement of permit obligation*, subsection (b)(1).

(4) *Exemptions.* No permits shall be required for the following activities:

- a. Installation and repair of facilities by, or for, City of Daphne Departments; and
- b. Installation of landscaping materials which are, or may grow, to a height of not more than eighteen (18) inches.

(5) *Permit authorizing routine work.* Applicants may be allowed, if determined by the Department, to obtain in advance, an annual, quarterly or semi-annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation. Permit fees shall be calculated based upon the actual work completed during the term and due for payment at the end of the term. Bi-weekly summary submittals will be required of blanket permit applicants covering the type and extents of work, locations, durations, etc. These summary submittals will be used to verify fees based on the actual work completed under that blanket permit. A twenty-five dollar (\$25.00) administrative fee plus all fees will be charged at the end of the term.

(b) *Permit applications.* Application for a permit is made to the ROW Manager.

(1) All permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the Construction Standards, as appropriate.

(2) All permit applications submitted by a person who will perform the proposed work in the City's rights-of-way for or on behalf of another person shall identify the name of the other person for whom the work will be performed.

(3) Tree and landscaping requirements of this Ordinance shall be administered and enforced by the appropriate City departments.

(c) *Issuance of permit; conditions.*

(1) If the ROW Manager determines that the applicant has satisfied the requirements of this Ordinance, he may issue a permit or issue notification and reason for denial of same.

(2) The ROW Manager may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder in order to protect the public health, safety and welfare, to insure the structural integrity of the right-of-way, to protect the property of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public, including notification to property owners.

(d) *Permit fees.*

(1) Permit fees shall be established by the City Council upon recommendation by City Administration. Said fees shall be in an amount sufficient to recover the following costs:

- a. The City costs, including administration, inspection, and enforcement;
- b. The cost for obstructing the right-of-way, including costs associated with traffic management that results from street obstruction, lost tax revenues resulting from streets blocked and as an encouragement to minimize costs and to encourage timely, efficient use of the right-of-way; and
- c. For wireless facilities projects, the reasonable approximation of the costs of processing applications and for managing deployments of wireless facility sites in the right-of-way.
- d. The current schedule of permit fees is set forth in Appendix A to this Ordinance.

(2) *Payment of permit fees.* No permit shall be issued without payment of such fees unless the ROW Manager authorizes payment to be made thirty (30) days following billing. All changes in fees shall be approved by the City Council.

(3) *Nonrefundable fees.* All permit fees are nonrefundable.

(4) *Joint applications.* Applicants are encouraged to make joint applications for permits to construct or obstruct the right-of-way at the same place and time.

(e) *Wireless facilities and support structures.*

(1) The installation of wireless facilities and support structures in City rights-of-way shall require a wireless facilities project permit under this Ordinance. An applicant for such a permit shall submit the following information pertaining to particular sites or a proposed deployment:

- a. A technical description of the proposed facilities, along with detailed diagrams and photo-simulations accurately depicting all proposed facilities and support structures;
- b. A detailed deployment plan describing construction planned for the 12-month period following the issuance of the permit, and a description of the completed deployment;
- c. An engineering certification from an engineer licensed in Alabama for the proposed construction;
- d. A statement relating to collocation;
- e. A statement demonstrating the applicant's duty to comply with applicable safety standards for the proposed activities;
- f. In the case of a proposed attachment to a City-owned facility located in the City rights-of-way, an executed attachment agreement with the City, which such agreement shall contain a provision requiring that the applicant consent to relocating its facilities attached to any poles to be

removed for purposes of transferring aboveground utilities to underground;

- g. In the case of a proposed attachment to an existing utility pole in the City rights-of-way, an executed attachment agreement with the utility pole owner or proof thereof, which such agreement shall contain a provision requiring that the applicant consent to relocating its facilities attached to any poles to be removed for purposes of transferring aboveground utilities to underground; and
- h. Such other information as the City may require.
- i. If the applicant alleges that failure to approve the application will result in unreasonable discrimination among providers of functionally equivalent services pursuant to 47 U.S.C. § 332(c)(7)(B)(i)(I) and/or that failure to approve the application will prohibit or have the effect of prohibiting personal wireless services pursuant to 47 U.S.C. § 332(c)(7)(B)(i)(II), the applicant must so state on the application and provide documentation in support of this claim.

SECTION IV. – GENERAL COMPLIANCE REQUIREMENTS.

- (a) *Compliance with Construction Standards.* All construction or maintenance of facilities shall be in accordance with this Ordinance, the Construction Standards, and such other conditions imposed on the permit by the ROW Manager under Section III(c).
- (b) *Location of facilities.* The ROW Manager shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests or permittees to occupy and use the right-of-way. In making such decisions, the ROW Manager shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of public interest, the public's need for the particular utility service, the condition of the right-of-way, the protection of existing facilities/sites in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.
- (c) *Least disruptive technology.* Applicants are encouraged to perform construction and maintenance of facilities in a manner resulting in the least amount of damage and disruption of the right-of-way. Applicants will be required to use trenchless technology for major and minor construction projects, within roadway limits, in arterial and other high volume streets constructed or resurfaced within the last five (5) years, unless otherwise approved by the City and such approval shall not be unreasonably withheld. The City may require trenchless technology in other locations, where extreme circumstances prevent or make open cut methods impractical. Applicants may use the open cut method or trenchless technology for major and minor projects outside roadway limits.
- (d) *Right-of-way restoration.*
 - (1) The work to be done under the permit, and the restoration of the right-of-way as required herein, must be completed within the dates specified in the permit. In addition to its own work, the permittee must restore the general area of the work,

including all disturbed landscaping materials and the permitted areas, including the paving and its foundations, per the City of Daphne Construction Standards.

(2) The permittee shall perform the work according to the standards and with the materials specified by the City, including but not limited to the Construction Standards.

(3) *Guarantee of work outside roadway limits.* The permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in compliance with this Ordinance and the City's Construction Standards, and warrants and guarantees all work done for a period of twenty-four (24) months following its completion. During this twenty-four (24) month period, the permittee shall, upon notification from the City, correct all restoration work to the extent necessary using the method required by the City. Said work shall be completed within the time frame specified by the City. In addition to other enforcement and penalty provisions of this Ordinance, the failure to complete said work within the time frame specified by the City may result in the City's refusal to issue any new permits to the permittee and to the person for whom or on whose behalf the permittee is performing the work.

(4) *Guarantee of work within roadway limits.* The permittee, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in compliance with this Ordinance and the City's Construction Standards, and warrants and guarantees all work done from date of completion until the date that the City resurfaces the roadway. During this period of time, the permittee shall, upon notification from the City, make all necessary repairs and correct all restoration work to the extent necessary using the method required by the City. Said work shall be completed within the time specified by the City. In addition to other enforcement and penalty provisions of this Ordinance, the failure to complete said work within the time frame specified by the City may result in the City's refusal to issue any new permits to the permittee and to the person for whom or on whose behalf the permittee is performing the work.

(5) *Construction bond.* For construction bond requirements under this section, see the Construction Standards, as published and amended from time-to-time by the Department. (See Appendix B, Section II, *Bond Requirements*, for construction bond requirements in effect on the effective date of this Ordinance).

(e) *Installation requirements.* The excavating, backfilling, restoration, and all other work performed in the right-of-way shall be done in conformance with specifications set forth in the Construction Standards.

(f) *Inspection.* Except for routine work, when the work under any permit for major and minor projects hereunder is completed, the permittee shall notify the ROW Manager.

(1) Permittee shall make the work site available to the ROW Manager or his authorized representative and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the work.

(2) At the time of the inspection, the ROW Manager or his authorized representative may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(3) The ROW Manager or his authorized representative may issue a notice of violation to the permittee for any work which does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the

violation will be cause for issuance of a municipal offense ticket (M.O.T.) and/or a stop work order. Within the time frame indicated on the notice after issuance of the order, the applicant shall present proof to the ROW Manager that the violation has been corrected. If such proof has not been presented within the required time, the ROW Manager may issue a stop work order and/or have a municipal offense ticket (M.O.T.) issued.

(g) *Other obligations.* Obtaining a right-of-way permit does not relieve the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City, county, state, or federal rules, laws or regulations.

(1) A permittee shall comply with all requirements of local, state and federal laws, including a franchise duly adopted by the City Council. Contact shall be made to the one (1) call excavation notice system, Alabama Statutes @ 1-800-292-8525, or such other number which may be applicable.

(2) A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who performs the work.

(3) Except in the case of an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work.

(4) A permittee shall not so obstruct a right-of-way that the natural and free passage of water through the gutters or other waterways shall be interfered with.

(5) Private vehicles not owned by or under contract to permittee may not be parked within or adjacent to a permit area.

(6) Each above grade structure placed in a right-of-way, including but not limited to towers, poles, and utility markers, shall display the identification of the utility provider that has caused the structure to be placed and a unique serial number specific to each structure. Said display must be permanently affixed or applied to each structure and must remain clearly legible at all times. Serial numbers need not be strictly numerical; they may contain letters and other typographical symbols, or may consist entirely of a character string. All identification labels shall conform to the shape of the structure and not otherwise extend or protrude off the structure.

(7) Each person owning above grade structures in the City's rights-of-way must keep and maintain a record of the specific latitude/longitude coordinates of all such structures as well as maps indicating the location of all such structures belonging to the utility provider. Each person owning above grade structures in the City's rights-of-way shall from time-to-time or on an interim basis if requested by the City, but in no event less frequently than every six (6) months, provide the City with (i) a list in electronic format of all such structures identifying the type and specific latitude/longitude coordinates of each structure and (ii) maps of all such structures in electronic format, including but not limited to GIS data, if available.

(8) Any above grade structure installed in the City's rights-of-way prior to the effective date of this section must be brought into compliance with the provisions of this section within six (6) months of the effective date thereof. After six (6) months from the effective date of this section, in addition to other remedies available to the City, the City shall not process or issue any right-of-way permits

to a utility provider or its designees until such time as the utility provider is fully compliant with the requirements set forth herein regarding above grade structures in the City's rights-of-way.

(9) A permittee that replaces an existing utility pole with a new utility pole shall have ninety (90) days from the date the new pole is installed to completely remove the older pole.

(h) All persons owning and operating any underground utilities, pipes, conduits, or underground mains and services within the City, shall adjust all manhole castings so that they are level to the finished surface of paving, and shall keep and maintain all manhole castings level to the finished surface of paving at all times. Notwithstanding the foregoing, any person or entity responsible for resurfacing or repaving projects shall adjust said manhole castings so that they are level to the finished surface of paving, but the persons owning and operating the underground utilities, pipes, conduits, or underground mains and services shall thereafter remain responsible for keeping and maintaining said castings level to the finished surface of paving at all times.

(i) *Utility Markers.* All utility markers installed within the City's rights-of-way shall comply with the following requirements at all times:

(1) Utility markers shall not exceed 24 inches in height above grade except as required by federal or state law. Utility markers shall be placed no more frequently than every 300 feet or line of sight, whichever is less frequent, and shall be located at the right-of-way line if that location will provide adequate warning. The telephone number for one-call notification services to request marking the line location prior to excavation and for emergency response shall appear on each utility marker. Any above grade facility markers installed prior to the effective date of this Ordinance must be brought into compliance with the provisions of this Ordinance within six (6) months of the effective date thereof.

(2) In addition to all other identification label requirements of this Ordinance, all utility marker identification labels shall also contain legible contact information for the person owning the utility marker, including a valid telephone number with area code to which calls can be placed to report issues or concerns related to utility markers located in the right-of-way.

(3) All persons owning any utility markers within the City's rights-of-way shall ensure that grass and weeds surrounding the base of each utility marker are controlled either by weekly trimming or the targeted application of EPA-approved herbicides. If, at any time, the City discovers a utility marker that is not being maintained as prescribed herein, or as otherwise demonstrated by grass or weeds surrounding its base in excess of three (3) inches in height above grade, the City shall photograph the utility marker and its unique identifier and cause the offending grass or weeds to be cut, and the person owning such utility marker shall be charged a fee of twenty dollars (\$20.00) for each utility marker found to be in violation of this section per occurrence. A landscaping permit shall not be required for work performed to control grass and weeds surrounding the base of utility markers.

SECTION V. – WIRELESS FACILITIES FINDINGS AND REQUIREMENTS.

(a) Wireless facilities and support structures proposed to be located on City streets, sidewalks, or other rights-of-way shall be permitted as a wireless facilities project and meet the following requirements:

(1) Wireless facilities may be installed on new utility poles or light poles only if the applicant demonstrates that neither collocation on an existing utility or light pole in the right of way nor installation on nearby private property provides a feasible alternative for the provision of wireless service in the area. Only entities granted a certificate of convenience and necessity by the Alabama Public Service Commission pursuant to Alabama code 37-4-28 or licensed by the FCC may erect new poles in the City's right-of-way.

(2) Any new pole installed in City rights-of-way to support wireless facilities shall:

- a. Comply with all structural and safety standards adopted by the City, including, but not limited to: AASHTO, MUTCD, International Building Code and International Electrical Code, as adopted by the City, and the City's Storm Water Management Ordinance;
- b. Not obstruct pedestrian or vehicular traffic flow or sight lines;
- c. Not exceed 35 feet in height in any residentially zoned area with underground utilities, 40 feet in height in any residentially zoned area with above ground utilities and 55 feet in height in any non-residentially zoned area;
- d. Shall be designed to accommodate the collocation of multiple wireless providers' antennas and related equipment to the maximum extent feasible;
- e. Be treated or painted with non-reflective paint, and in a way to conform to or blend with the surroundings; and
- f. Comply with such other requirements and conditions as the City may conclude are appropriate to impose, including but not limited to those provided in the City's Small Cell Infrastructure Guidelines.

(b) Any wireless facilities installed on a new or existing pole or any other structure in the rights-of-way shall:

- (1) Have equipment box or boxes no greater in collective size than 17 cubic feet in volume with no one side/dimension exceeding 4.25 feet;
- (2) Have panel antennas no greater than 2 feet in height, and omni/dome antennas no more than 4 feet in height, and no wider than the diameter of the Pole;
- (3) Have no more than 3 panel antennas per pole, and no more than one omni/dome antenna per pole;
- (4) Have microwave dishes no greater than 2 feet in diameter, with no more than 3 microwave dishes per pole;
- (5) Be treated or painted with non-reflective paint in a way to conform to the pole with no discernable difference in color, and be continuously maintained going forward to ensure no discernable difference in color; and

- (6) Comply with such other requirements and conditions as the City may conclude are appropriate to impose, including but not limited to those provided in the City's Small Cell Infrastructure Guidelines.
- (c) Wireless facilities and support structures proposed to be located on City streets, sidewalks, or other rights-of-way may be permitted upon a finding by the City that:
 - (1) The application complies with all standards set forth in Article XXXII of the Daphne Land Use and Development Ordinance, including camouflage, at Section 32-3(f);
 - (2) The location selected in the application is not in an area where there is an overconcentration of poles or other facilities in, on, or over the streets, sidewalks, or other rights-of-way;
 - (3) Wireless facilities and support structures in the Olde Towne Daphne District will be consistent with the design standards for said district, see Daphne Land Use and Development Ordinance, Article XIV; and
 - (4) The application complies with all standards set forth in the City's Small Cell Infrastructure Guidelines.

SECTION VI. – ENFORCEMENT OF PERMIT OBLIGATION.

- (a) *Denial of permit.*
 - (1) *Mandatory denial.* Except in the case of emergency, no right-of-way permit will be granted:
 - a. To any person who has failed to comply with the requirements of this Ordinance;
 - b. To any person who is delinquent in paying a debt owed to the City;
 - c. If, in the discretion of the ROW Manager, the issuance of a permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The ROW Manager, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the right-of-way, and by considerations relating to the public health, safety and welfare.
 - (2) *Permissive denial.* The ROW Manager may deny a permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the rights-of-way and its users. The ROW Manager may consider one (1) or more of the following factors:
 - a. The extent to which the right-of-way space where the permit is sought is available;
 - b. The competing demands for the particular space in the right-of-way;
 - c. The availability of other locations in the right-of-way or in other right-of-way for the facilities of the particular company;

d. The applicability of other ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;

e. The degree of compliance of the applicant with the terms and conditions of its franchise, this Ordinance, and other applicable ordinances and regulations; the degree of disruption to surrounding neighborhoods and businesses that will result from the use of that part of the right-of-way; and

f. The condition and age of the right-of-way, and whether and when it is scheduled for total or partial construction; and the balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the expansion into additional parts of the right-of-way.

g. The public policy of allowing an obstruction of similar character in other right of ways in the City.

(b) *Work done without a permit.*

(1) *Emergency situations.* Each permittee shall notify the ROW Manager (by telephone or in person) of any event regarding its facilities which it considers to be an emergency immediately upon its discovery of same. The applicant may proceed to take whatever actions are necessary in order to respond to the emergency. Within three (3) business days after the occurrence of the emergency, the applicant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this Ordinance for the actions it took in response to the emergency.

(2) In the event that the ROW Manager becomes aware of an emergency regarding a permittees' facilities/site, the Department shall attempt to contact the local representative of each permittee affected, if known, or potentially affected, by the emergency, who must comply with subsection (b)(1) of this section. In any event, the Department may take whatever action deemed necessary in order to respond to the emergency.

(3) *Non-emergency situations.* Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by City Codes, is subject to the issuance of a notice of violation and/or a Municipal Offense Ticket (M.O.T.), deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all requirements of this Ordinance.

(c) *Enforcement.*

(1) Permittees hold permits issued pursuant to this Ordinance as a privilege and not as a right.

(2) If the ROW Manager determines that the applicant has violated a material term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the ROW Manager shall issue a notice of

violation to the applicant to remedy such violation. The demand shall state that continued violations may cause for the issuance of a stop work order and issuance of a Municipal Offense Ticket (M.O.T.). Further, a substantial breach, as stated above, will allow the ROW Manager, at his or her discretion, to place additional or revised conditions on the permit.

- (3) A material violation by applicant shall include, but shall not be limited to, the following:
 - a. The violation of any material provision of the permit;
 - b. An evasion or attempt to evade obtaining a permit or any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
 - c. Any material misrepresentation of fact in the application for a permit;
 - d. The failure to maintain the required bonds and/or insurance;
 - e. The failure to complete the work within a timely manner; or
 - f. The failure to correct a condition indicated on an order issued pursuant to Section IV(f).
- (5) Within forty-eight (48) hours of receiving a notice of violation, permittee shall contact the ROW Manager with a plan, acceptable to the ROW Manager, for its correction. Applicant's failure to so contact the ROW Manager, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan shall be cause for immediate issuance of a stop work order and issuance of a Municipal Offense Ticket (M.O.T.).
- (6) From time to time, the ROW Manager may establish a list of conditions of the permit that will automatically warrant the issuance of a Municipal Offense Ticket (M.O.T.) to the permittee.

SECTION VII. – INDEMNIFICATION AND LIABILITY.

(a) *The City does not accept liability.* By reason of the grant of a right-of-way permit, the City does not assume any liability:

- (1) For injuries to persons, damage to property, or loss of service claims by parties other than the applicant or the City; or
- (2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of facilities by permittees or activities of permittees.

(b) *Applicant or permittee indemnifies the City.* By accepting a permit, a permittee is required to, indemnify and hold the City whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its facilities/site, or out of any activity undertaken in or near a right-of-way, whether any act or omission complained of is authorized, allowed, or prohibited by a right-of-way. It further agrees that it will not bring,

nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the City for any claim nor for any award arising out of the presence, installation, maintenance or operation of its facilities/site, or any activity undertaken in or near a right-of-way, whether the act or omission complained of is authorized, allowed or prohibited by a permit. The foregoing does not indemnify the City for its own negligence. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the applicant or to the City; and the applicant, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf.

(c) *Exceptions.* The provisions of subsection (b) of this section shall not apply to a permittee that has, as effective date of this Ordinance, a valid franchise duly granted by the City, and said franchise requires the permittee to hold harmless the City for damages occasioned by the presence, operations or maintenance of the permittee's facilities/site. This exemption shall not apply where said franchise does not afford the City at least the level of protection stated in section (b) of this section, unless the permittee agrees to provide the same or greater level of protection to the City.

SECTION VIII. – PENALTY.

(a) Any person found guilty of violating any provision of this Ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for a period not exceeding six (6) months, or both, in the discretion of the Municipal Judge.

(b) This Ordinance shall also be subject to enforcement by the issuance of a summons and complaint pursuant to the provisions of Ordinance No. 1993-02, as the same may be from time to time amended.

SECTION IX. – NONEXCLUSIVITY.

The remedies provided in this Ordinance are not exclusive or in lieu of other rights and remedies that the City may have at law or in equity. The City is hereby authorized to seek legal and equitable relief for actual or threatened injury to the public right-of-way, including damages to the right-of-way, whether caused by a violation of any of the provisions of this chapter or other provisions of this Ordinance.

SECTION X. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

SECTION XI. REPEALER

Sections I through and including IV of Ordinance 2017-22 are hereby repealed and replaced by this Ordinance. Any other Ordinance of parts of Ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION XII. EFFECTIVE DATE

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE,
ALABAMA, ON THE _____ DAY OF _____, 2019.**

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

APPENDIX

A

SCHEDULE OF RIGHT-OF-WAY PERMIT FEES

Description	Permit Fee
Administration Fee	\$25.00 (all permits)
Aerial utility construction	\$0.50 per L.F.
Utility poles including guy and anchor	\$2.00 per pole
Longitudinal and transverse excavation for all new projects (paved areas)	\$3.00 per L.F. (minimum fee \$100.00)
Longitudinal and transverse excavation for all new projects (unpaved areas)	\$0.75 per L.F.
Longitudinal and transverse excavation for point repairs, service lines, storm drains, manholes, etc. (paved areas)	\$20.00 per square yard
Longitudinal and transverse excavation for point repairs, service lines, storm drains, manholes, etc. (unpaved areas)	\$6.00 per square yard
Excavation for utility construction, point repairs (unpaved areas)	
Directional boring and jacking operations, tunneling, retrofit or repair of existing utilities by bore, stitch boring, plowing, irrigation systems, etc.	\$0.40 per L.F. (minimum fee \$25.00)
Communication towers (new installation)	\$50.00 per tower
Terminal boxes, junction boxes, equipment cabinets, splice boxes, regulator stations, meters & valves in paved areas, vaults, utility pedestals	\$5.00 each
Sidewalk, driveway, curb, gutter, mitered-end sections (new construction, replacement, or repair):	(See below)
- 0 sq. yds. to 2 sq. yds.	\$10.00
- 2 sq. yds. to 25 sq. yds.	\$30.00
- 25 sq. yds. to 100 sq. yds.	\$50.00
- 100 sq. yds. to 200 sq. yds.	\$100.00
- 200 sq. yards. or greater	\$0.50 per SY
Steps, ramps (ADA compliant), etc.	\$50.00 per location
Monitoring wells	\$50.00 each
Temporary pedestrian walkway	\$50.00 per location
Balconies, canopies	\$10.00 per location
Utility markers with uncontrolled grass or weeds surrounding base	\$20.00 each per occurrence
Wireless Facility (Non-refundable application fee for up to 5 wireless facilities)	\$500.00
Non-refundable, additional application fee per each wireless facility over the 5 wireless facilities contained in the Wireless Facilities application	\$100.00 each
Annual recurring fee assessed to each Wireless Facility permittee	\$270.00 per year
Review fees associated with independent review of minor or major wireless and support structures permit applications by professional engineer.	Direct cost of the independent review will be passed along to the applicant.

Note: Applicants may be allowed, if determined by the department to obtain, in advance, an annual, quarterly, or semi-annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation as defined by the ROW Manager. Permit fees shall be calculated based upon the actual work completed during the term and due for payment at the end of the term. Bi-weekly summary submittals will be required of blanket permit applicants covering the type and extents of work, locations, durations, etc. These summary submittals will be used to verify fees based on the actual work completed under that blanket permit. A twenty-five dollar (\$25.00) application fee plus all fees will be charged at the end of the permit term.

**** *Please note:* all fees are non-refundable****

OBSTRUCTION FEES.

The following conditions shall apply in determining obstruction fees:

- (1) The obstruction of commercial pedestrian walkways will be charged at the rate of five dollars (\$5.00) per calendar day for each twenty (20) linear feet of length.
- (2) The planned obstruction of any portion of a roadway for any reason will be charged at the rate of ten dollars (\$10.00) per calendar day for each twenty (20) linear feet of length.
- (3) Fees will not be charged for obstruction of less than eight (8) hours.

APPENDIX B

CONSTRUCTION STANDARDS FOR MISCELLANEOUS CONSTRUCTION, UTILITY EXCAVATION, AND RIGHT-OF-WAY AND PAVEMENT RESTORATION

The provisions contained herein are those which were in effect on the effective date of the City's ROW Ordinance, as amended. This document may be amended from time-to-time by the Department. For the current version of this document, please visit the Department's website at <http://www.daphneal.com/190/Public-Works> or call the City Clerk's Office at (251) 620-1000.

SECTION I. CONSTRUCTION PLAN SUBMITTAL REQUIREMENTS WITHIN PUBLIC RIGHT-OF WAYS AND EASEMENTS

A. *Major and Minor Projects.* Applicants for right-of-way permits shall submit the following for review and approval for major or minor project, as applicable:

1. Three (3) sets of construction plans and specifications, including the location of all topographic features within the right-of-way that will be affected or impacted by the proposed project;
2. Complete plan & profile sheets using GIS mapping technology indicating the horizontal and vertical location of all components of the proposed project and other related information including, but not limited to, pipe and manhole flow line elevations, type and size of pipe, the number and location of all utility markers other related structures left above grade, profile and other elevations necessary for roadway and right-of-way restoration, and the design details of the proposed construction and pavement and right-of-way restoration that will be required for gravity flow systems including sanitary sewer, storm drain, and related projects;
3. A plat prepared at a scale acceptable to the ROW Manager to indicate the plan view of the proposed project; location of the proposed project with respect to centerline, edge of roadway, and right-of-way; tie-in to nearest street subdivision lot corner or street intersection; components and type of material used for the project; and dimensions and depth of the proposed installation or excavation that will be required for non-gravity flow systems including water distribution systems, gas systems, communication, cable TV and electric power distribution systems, unless otherwise authorized by the ROW Manager;
4. An erosion control plan and best management practices (BMPs) complying with provisions of the City Storm Water Management Ordinance;
5. A safety plan to include methods to be used to protect the general public from injury, and including the proposed use of barricades, signs, lights, fencing and other barriers;
6. A traffic control plan complying with all of the provisions of the Federal Manual on Uniform Traffic Control Devices, current edition, if any impact on traffic movement is involved;
7. A landscape plan complying with the tree landscaping and protection ordinance; and
8. Complete as-built construction plans of the construction project shall be submitted to the ROW Manager after final inspection of the project. The as-built plans shall be submitted in hard copy medium as well as CAD files in DWG and/or DXF Format.

B. *Small projects.* The applicant will not be required to submit a construction plan or plat for small projects. However, a location sketch will be required for the approval of small projects (Type A). Any pavement or area in the right-of-way that is disturbed shall be restored in conformance with Section 18-24 of the City Code.

SECTION II. BOND REQUIREMENTS

A. *Construction bond.* The applicant shall be required to provide an irrevocable, unconditional letter of credit or bond to guarantee the proper construction and completion of right-of-

way restoration. The amount of the bond shall be based on the estimated cost of the right-of-way restoration provided by the permittee and approved by the ROW Manager. A construction bond will not be required for small projects if no paved area or right-of-way is disturbed by the project. The ROW Manager may waive the requirement for the construction bond for permittees who evidence financial ability to pay the cost of the repairs to City rights-of-way resulting from their permittee activity.

B. City Departments performing installation of facilities/sites, routine maintenance and repair, and other agencies working in the right-of-way that are not involved in the installation, repair and maintenance of utilities, are exempt from the requirements of section 2.

SECTION III. NOTIFICATION PROCEDURES FOR MAJOR AND MINOR PROJECTS

A. Except for emergencies, the following notification procedures will be followed for major & minor projects, prior to the commencement of any construction activities:

1. The one call line location center will be notified forty-eight (48) hours prior to any excavation. The location of all utilities shall be verified before commencing construction.
2. The ROW Manager shall be notified twenty-four (24) hours prior to commencing any construction activity involving major and minor projects within roadway limits.
3. The ROW Manager will be notified seventy-two (72) hours prior to the closure of any roadway or interruption in traffic flow.
4. A written notice will be distributed to each occupant of premises adjacent to the project site five (5) days prior to commencing construction activity relating to major projects.

SECTION IV. INSPECTION

A. City engineering personnel will conduct periodic inspections of utility construction, right-of-way and pavement restoration. The contractor will schedule a final inspection for major & minor projects when construction is complete.

SECTION V. TRENCH EXCAVATION AND GENERAL UNDERGROUND CONSTRUCTION REQUIREMENTS FOR MAJOR AND MINOR PROJECTS

A. *Excavation.*

1. Trench excavating methods (trench box, shoring, etc.) shall be used to keep the width of the trench to a minimum. Extra wide excavation to accommodate equipment will not be permitted. Sheeting, bracing, shoring, pre-fabricated steel trench boxes and other trench restraint system will be used to keep trench width to a minimum and to comply with OSHA regulations.
2. Hazardous materials. The applicant will comply with all federal, state and local laws, regarding hazardous material. For purposes of this section, hazardous material shall mean any material, substance or waste which, because of its quantity, concentration, or physical or chemical characteristics, is deemed to pose a present or potential hazard to human health, safety or to the environment.
3. Utility construction. The construction of utilities will be in conformance with the plans which constitute a part of the permit approval process.
4. Depth requirements for underground installation:
 - a) Within roadway limits. The minimum clear depth for open cut installation, and jacking, boring,, and pushing operations shall be thirty-six (36) inches, unless otherwise authorized or directed by the ROW Manager.
 - b) Outside roadway limits and driveways. The minimum clear depth for open cut installation and jacking, boring, and pushing operations shall be thirty (30) inches, unless otherwise authorized or directed by the ROW Manager.

5. Housekeeping and excavated material. The permittee shall keep the area surrounding the excavation clean (including trash, loose materials or other debris).
- B. *Backfill material.*
1. Backfill material for major projects will be select granular soil material approved by the geotechnical engineering company or the ROW Manager. Excavated material from the trench will not be used unless approved. Material excavated from utility poles, guy wire installation, replacing existing poles and routine pole inspections may be used for backfill.
 2. Backfill material for minor projects within the roadway shall be comprised of crushed stone material up to subgrade elevation, unless otherwise approved by the ROW Manager. Backfill material for other areas will be select granular soil material approved by a geotechnical engineering company or the ROW Manager.
 3. Installation of backfill material:
 - a) Backfilling of the excavated area shall follow closely behind the installation project.
 - b) The backfill material shall be compacted at near optimum moisture content, in layers not exceeding six (6) inches compacted thickness, to a density of not less than ninety-five (95) percent, unless otherwise approved by the geotechnical company. Mechanical tampers shall be used unless another method of compaction is approved. Jetting will not be permitted. The backfill material shall be installed uniformly and brought up evenly in layers for the full length of the trench.
 4. Geotechnical testing and compaction for major & minor projects.
 - a) Major projects. A geotechnical engineering company will perform compaction tests at intervals of no more than 200 feet along the main trench line. Tests will be conducted at the installation of service lines within these limits where directed by the ROW Manager. The geotechnical engineering company will perform tests at as many levels of backfill installation, and at lateral locations to certify that compaction requirements have been achieved. Documented test reports will be prepared and submitted to the ROW Manager before any right-of-way restoration proceeds.
 - b) Minor projects. Compaction tests may be requested for minor projects at specific locations.
 5. General public safety: Every effort will be taken by the contractor to protect the safety and welfare of the general public, and to insure compliance with the safety and traffic plans submitted with the permit application.
 6. Steel plates may be required by the ROW Manager, in congested or heavily traveled areas, to cover open trenches. Temporary patching will be required for any trench excavation in the roadway prior to opening the area to traffic. The ROW Manager may also require the temporary covering of any excavated area that will be left open overnight, if he so deems that not covering the excavated area will present a threat to public safety or health.
 7. For major projects a construction sign will be placed adjacent to the utility construction area where traffic flow is to be obstructed. The signs will be placed seventy-two (72) hours prior to construction, at least every five hundred (500) feet along the project. The name of the utility/company involved and phone numbers that may be contacted on a twenty-four hour basis to be shown on the sign(s).

SECTION VI. RIGHT-OF WAY RESTORATION WITHIN ROADWAYS

- A. All construction procedures and materials utilized will be in compliance with Alabama Department of Transportation Standard Specifications for Highway Construction, current edition. A

geotechnical engineering company will be retained by the utility/company or permittee, to conduct field testing to document and certify that all materials and compaction efforts are in compliance with Alabama Department of Transportation Standard Specifications for Highway Construction, latest edition and procedures specified in the City engineering department's design details for right-of-way restoration.

B. *Major projects.*

1. Asphalt road surface.

a) Base construction.

- 1) Granular soil, sandy clay base. The base course of the affected lanes shall be reconstructed full width.
- 2) Bituminous base, stone base. The base course of the affected lanes shall be patched with equivalent base material if the structural integrity of the roadway has not been affected by the project, as determined by the geotechnical engineering company. Otherwise, the affected lanes shall be reconstructed full width.

b) Wearing surface. The full width of the roadway surface shall be resurfaced within the limits of the project. Existing traffic striping and markings will be replaced.

2. Asphalt roadway surface overlay on existing concrete pavement.

a) Base construction. The existing concrete street may be patched with concrete, if the structural integrity of the roadway has not been affected by the project, as determined by the geotechnical engineering company. Otherwise, the affected panels of the existing concrete street shall be reconstructed.

b) Wearing surface. The full width of the roadway surface shall be resurfaced within the limits of the project. Existing traffic striping and markings will be replaced.

3. Concrete roadway surface.

a) Base construction. The base course of the affected lanes shall be reconstructed full width as determined by the geotechnical engineering company.

b) Concrete pavement. The entire roadway panel sections of the affected lanes shall be reconstructed. If the structural integrity of the roadway has been significantly affected by the project, the ROW Manager may require the entire concrete surface, within the project limits, be reconstructed full width. Existing traffic striping and markings will be replaced.

4. Unpaved roadway surface. The entire roadway shall be surfaced with six (6) inches of stone within project limits.

C. *Minor projects.*

1. Asphalt roadway surface sixteen (16 square) feet or greater. For transverse service lines and miscellaneous installation and repair projects within excavated areas sixteen (16) square feet or greater, the entire width of the lane disturbed will be resurfaced from a point measured ten (10) feet from the edge of the excavation each way longitudinally along the centerline of the roadway. If more than one (1) lane is disturbed, the entire width of the disturbed lanes will be resurfaced. If the replacement pavement is more than seventy (70) feet long or more than ten (10) percent of the roadway area within a block is affected, the entire roadway will be resurfaced within the block. Existing traffic striping and markings will be replaced (See Fig. B-1).

2. Asphalt roadway surface less than sixteen (16) square feet. For miscellaneous construction involving excavated areas less than sixteen (16) square feet, the area from the edge of the excavation extending one (1) foot outside the perimeter of the cut area will be resurfaced. If more than one (1) lane is disturbed, the entire width of the

disturbed lanes will be resurfaced. If the replacement pavement is more than seventy (70) feet long or more than ten (10) percent of the roadway area within a block is affected, the entire roadway will be resurfaced within the block. Existing traffic striping and markings will be replaced.

3. Concrete roadway surface. The entire affected roadway panel sections, including base course, will be reconstructed joint to joint. Existing traffic striping and markings will be replaced.
4. Unpaved roadway surface. The entire roadway width will be resurfaced with six (6) inches of stone from a point ten (10) feet measured longitudinally along the roadway from the center of the excavation each way.

D. *Jacking, boring, pushing, tunneling, retrofitting, and pipe lining projects*. Any pavement damage caused by these types of projects will be restored in conformance with provisions of this ordinance. Any existing pavement damage relating to the replacement, retrofitting, or lining of damaged utilities will be restored in conformance with this ordinance.

SECTION VII. RIGHT-OF-WAY AND EASEMENT RESTORATION OUTSIDE ROADWAY LIMITS

A. *Driveways*. Asphalt driveways affected by the construction project shall be replaced from the right-of-way line to the curb or edge of road. Concrete driveways affected by the construction project shall be replaced to the nearest control joint. Construction of asphalt and concrete driveways will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, sections 410 and 618, respectively.

B. *Concrete sidewalks*. Concrete sidewalks affected by the construction project shall be replaced to the nearest control joint in the affected construction area. Joints will be sawed unless at an expansion joint. Construction of sidewalks will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 618.

C. *Curb and gutter*. Concrete curb and gutter, affected by the construction project, will be replaced from joint to joint in the affected area. Concrete curb and gutter construction will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 623.

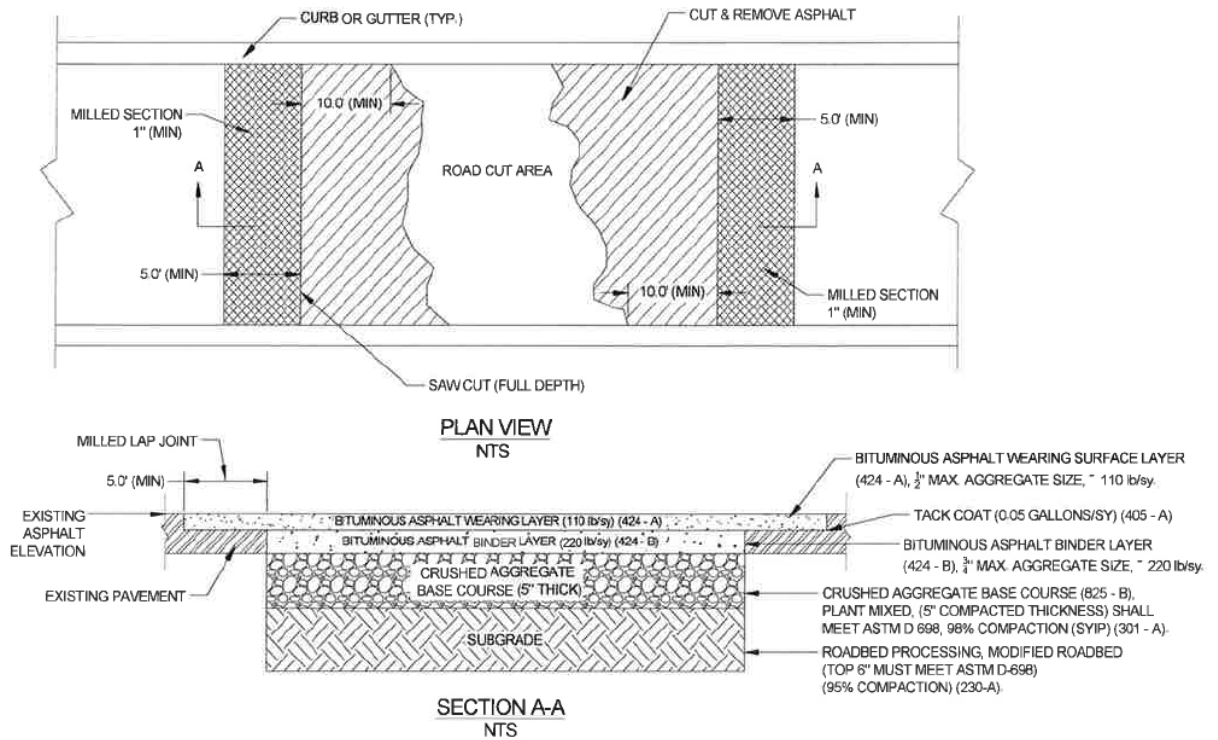
D. *Miscellaneous structures*. All walls, steps, and other miscellaneous structures, affected by the construction, will be replaced as required by the ROW Manager.

E. *Drainage systems and structures*. All disturbed drainage channels, structures, and pipe systems affected by the construction will be replaced as required by the ROW Manager.

F. *Unpaved areas*. All established lawn areas affected by the construction project will be replaced with similar landscaping materials which were existing prior to the project construction beginning, or upgraded at the discretion of the ROW Manager. Other areas will be restored with approved topsoil replacement, and or sodding or seeding.

Figure B-1

TYPICAL ASPHALT ROADWAY REPAIR



**CITY OF DAPHNE
ORDINANCE 2019-09**

**Ordinance Consenting to the Sale by the Utilities Board of the City of Daphne of Certain
Surplus Personal Property**

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

WHEREAS, the management of Daphne Utilities has determined that it is in the best interest of Daphne Utilities to sell the personal property described in Exhibit “2019-A”; and

WHEREAS, the Board of Directors of Daphne Utilities has approved the sale of the personal property described in Exhibit “2019-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 “2019-A”.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA on this _____ day of _____, 2019.**

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

Description	Make / MFG	Model	Serial No. / Vin No.	License No.	Year Acquired / Age	Equip. I. D. No.	Dept.	Dept. No.	Employee Requesting Disposal	Comments
Computer/CPU (Qty 13)	Dell	Various					Admin	10	Drew Klumpp	Hard drive has been removed
Computer/CPU (Qty 2)	HP	Various					Admin	10	Drew Klumpp	Hard drive has been removed
Laptop (Qty 2)	Dell	Vostro	35765551153				Admin	10	Drew Klumpp	Hard drive has been removed
Laptop	HP	Pavilion	2CE8201ZZ0				Admin	10	Drew Klumpp	Hard drive has been removed
Laptop	Gateway	NV52	LXWC30200591B0C722200				Admin	10	Drew Klumpp	Hard drive has been removed
Keyboards (Quantity:19)	Various						Admin	10	Drew Klumpp	Box of mixed keyboards
Mouse (Quantity 12)	Various						Admin	10	Drew Klumpp	Box of mixed mice
Network Switch	Netgear		2F43215M001E1				Admin	10	Drew Klumpp	48 Port Switch
Network Switch	3Com		3CR1765291				Admin	10	Drew Klumpp	50 Port Switch
Network Switch	Trendnet		C216431600699				Admin	10	Drew Klumpp	16 Port Switch
Battery Backup (Qty 2)	APC	BE850G	4B0947P17185				Admin	10	Drew Klumpp	Battery has been removed
Battery Backup	Cyber Power	625VA	DACGU2001471				Admin	10	Drew Klumpp	
Scanner	Dymo	Cardscan 800c	10121500184				Admin	10	Drew Klumpp	
Scanner	Epson	DS-30	Q5EZ817126				Admin	10	Drew Klumpp	
Scanner	Fujitsu	SnapScan S1500	342533				Admin	10	Drew Klumpp	
Modem	US Robotics		4MBEX35F0703				Admin	10	Drew Klumpp	
Tablet	HP	Slate	Unknown				Admin	10	Drew Klumpp	Wont power up to get SN
Server/CPU	Dell	Power Edge T-410	29308926709				Admin	10	Drew Klumpp	Hard drive has been removed
Printer/MFP	HP	Photosmart 5510	CN190505FB4				Admin	10	Drew Klumpp	
Printer/MFP	HP	OfficeJet 6500	7.89355E+11				Admin	10	Drew Klumpp	
Adtran	TotalAccess	908E	4243908F5				Admin	10	Drew Klumpp	
Server/CPU	Dell	T-710	26724971197				Admin	10	Drew Klumpp	Hard drive has been removed
DVR	Honeywell						Admin	10	Drew Klumpp	
Monitor (Qty 6)	Dell		35290072514				Admin	10	Drew Klumpp	
Monitor (Qty 2)	HP		CNC437NVH5				Admin	10	Drew Klumpp	
Monitor	View Sonic		SF6114220069				Admin	10	Drew Klumpp	
Monitor	Samsung		04MHCLG400670E				Admin	10	Drew Klumpp	
Mic Cords and Cables							Admin	10	Drew Klumpp	1 box assorted cables
UHF Transmitter	Audiotechnica	ATW-T701					Admin	10	Drew Klumpp	
UHF Receiver	Audiotechnica	ATW-R700					Admin	10	Drew Klumpp	
Phone	Cysco Systems	7936 Conf Phone	0004F2E0ECF2 001D7E0B74F4, 0012177AEDEFC, MUJ00JA15837				Admin	10	Drew Klumpp	
Wireless Access Point (Qty 3)	Linksys						Admin	10	Drew Klumpp	

Description	Make / MFG	Model	Serial No. / Vin No.	License No.	Year Acquired / Age	Equip. I. D. No.	Dept.	Dept. No.	Employee Requesting Disposal	Comments
Phone	Zultys	2X2					Admin	10	Drew Klumpp	
Firewall Appliance	SonicWall	APL22-06F	00175B87C48				Admin	10	Drew Klumpp	
Battery Backup	TripLite	SM5199	19900129				Admin	10	Drew Klumpp	
Round Conference Table							Admin	10	Drew Klumpp	Brown Wooden Table
Desk w/ Side Return							Admin	10	Drew Klumpp	Brown Wooden Desk
Two Drawer File Cabinet							Admin	10	Drew Klumpp	Small Black Cabinet
Printer Stand- Two Level							Admin	10	Drew Klumpp	White Printer Stand
Framed Wall Art (Qty:4)							Admin	10	Drew Klumpp	Gold framed wall art
Wooden Chest							Admin	10	Drew Klumpp	Brown hinged chest
Artificial Tree							Admin	10	Drew Klumpp	5" Tree
Round Plate w/ Stand							Admin	10	Drew Klumpp	Office Deco.
Conference Chairs (Qty:4)							Admin	10	Drew Klumpp	Red chairs on casters
Executive Desk Chairs (Qty:3)							Admin	10	Drew Klumpp	
File Cabinet-Lateral-5 Drawer-Color: Putty							Admin	10	Teresa Logiotatos	
Cell Phones (Qty 30)							Admin	10	Earl Bolden	Out Dated
Backhoe	Caterpillar	436B	6MJ00259	N/A	1993	0-1033	Water Dist.	20	Martin Dale	
Ground Pounder Tamper	M-B-W	AR56/57	5700051	N/A	Unknown		Water Dist.	20	Martin Dale	Safety Issue
Water Pump	Unknown	3.5	Brigg and Stratton	N/A	Unknown	0-1040	Water Dist.	20	Martin Dale	
Printer/MFP	Ricoh	LD225	65200907				Water Qty	21	Larry English	At Trojan Plant
Mower-Zero Turn	Ferris	1000Z				0-1264	Water Quality	21	Larry English	
Motor-Electrical-High Thrust							Water Quality	21	Larry English	
Truck-Extended Cab	Ford	F150	1FTRX17W3YNC23148	8411	2000	0-1113	Gas	30	Willie Autry	Truck #1
Truck-CNG	Ford	F350	1FDKF37H8LNA53035	8639	1990	0-1115	Gas	30	Willie Autry	Truck #26 (67,387 Miles)
	New									
Backhoe	Holand	555E	31021063			0-1108	Gas	30	Willie Autry	
Lab-Line incubator			SN #1200-02			0-1152	WRF	40	Sharon Surra	
Refrigerated composite samplers	ISCO	3170					WRF	40	Sharon Surra	
Water Purifier	Barnstead	Infinity				0-1157	WRF	40	Sharon Surra	
Dissolved Oxygen Meter	YSI	58					WRF	40	Sharon Surra	
Low Temperature Incubator	Fisher						WRF	40	Sharon Surra	
Miscellaneous Lab Equipment							WRF	40	Sharon Surra	
Thermo Electron Corp Advanced ISE/pH/mV/ORP meters	920A+						WRF	40	Sharon Surra	
Pelouze Scale		Model Y5					WRF	40	Sharon Surra	
VueMix Lab Mixer	Fisher	VueMix				0-1154	WRF	40	Sharon Surra	
Thermo Electron Corp Ammonia Probe		9512					WRF	40	Sharon Surra	
Gra Lab Timer							WRF	40	Sharon Surra	
Scalar USB Microscope M2							WRF	40	Sharon Surra	

Description	Make / MFG	Model	Serial No. / Vin No.	License No.	Year Acquired / Age	Equip. I. D. No.	Dept.	Dept. No.	Employee Requesting Disposal	Comments
HACH DR 2000 Spectrophotometers with O/M Manual							WRF	40	Sharon Surra	
Millipore Corp Incubator	Millipore					0-1155	WRF	40	Sharon Surra	
HACH 2100N Turbidimeter With Manual, Standards and Sample Cells	HACH	2100N					WRF	40	Sharon Surra	
Scale	Sartorius	A200S				0-1165	WRF	40	Sharon Surra	
VAC Truck	GMC	VACTOR C6500		8653	2001	0-1201	Waste Water Collections	41	James McPherson	Truck #14
Truck-Pickup	Ford	F150	1FTRF12W34NC59393	A220	2004	0-1246	Meter	50	Percy Gulley	Truck #10-51
Truck-Pickup	Ford	F150	1FTRX12W27NA22105	B057	2007	0-1247	Meter	50	Percy Gulley	Truck #11-84
Tractor-35 Hp-With front end loader and rear attachment capabilities	New Holland	2120			1997	0-1261	Maint.	60	Antonio L. Winston Sr.	Tractor will start but will not move
Edger-Curved Shaft	Stihl	N/A			N/A		Maint.	60	Antonio L. Winston Sr.	Older model edger
Lights-High Bay High Pressure Sodium (14 EA)							Maint.	60	Antonio L. Winston Sr.	14 lights from previous Warehouse being stored in current Warehouse
Chairs-Conference Room Chairs (12 EA)	Norstar	N/A			2012		Maint.	60	Antonio L. Winston Sr.	Advocado Green
Chairs-Office-Chairs(Various Brands)(3 chairs)	N/A	N/A			2012		Maint.	60	Antonio L. Winston Sr.	2 Black, 1 Brown(Has damage;see picture)

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2019-10**

Repealing and Replacing Ordinance 2009-01 Flood Damage Prevention Ordinance

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THAT ORDINANCE 2009-01 IS HEREBY REPEALED AND REPLACED AS FOLLOWS:

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section A. Statutory Authorization. The legislature of the State of Alabama has in Title 11, Chapter 19, Sections 1-24, Chapter 52, Sections 1-84, and Title 41, Chapter 9, Section 166 of the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Counsel of Daphne, Alabama, does ordain as follows:

Section B. Findings of Fact. The flood hazard areas of Daphne, Alabama are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

Section C. Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood condition in specific areas by provisions designed to:

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

Section D. Objectives. The objectives of this ordinance are:

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

ARTICLE 2. GENERAL PROVISIONS

Section A. Lands to which this Ordinance Applies. This ordinance shall apply to all Areas of Special Flood hazard within the jurisdiction of Daphne, Alabama.

Section B. Basis for Area of Special Flood Hazard. The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its DFIRM and Flood Insurance Study (FIS), dated April 19, 2019, with accompanying maps and other supporting data and revision thereto, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Baldwin County are hereby adopted by reference. Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

Upon the issuance of a Letter of Final Determination (LFD) by FEMA, the revised flood hazard data shall be used and replace all previously effective flood hazard data provided by FEMA for the purposes of administering these regulations. Where adopted regulatory standards conflict, the more stringent base flood elevation shall prevail. Preliminary FIS data may be subject to change by a valid appeal.

Section C. Establishment of Development Permit. A development permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any development activities in identified areas of special flood hazard and community flood hazard areas within the community.

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

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

Section F. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section G. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Daphne or by any officer or employee thereof for any flood damage that result from reliance on this ordinance or any administrative decision lawfully made there under.

Section H. Penalties for violation.

- (1) Notice of Violation. If the community determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
 - (a) The name and address of the owner or the applicant or the responsible person;
 - (b) The address or other description of the site upon which the violation is occurring;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;

- (f) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within thirty days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).
- (2) Additional Enforcement Actions. If the remedial measures described in the Notice of Violation have not been completed by the date set forth for such completion in the Notice of Violation, any one or more of the following enforcement actions may be enacted against the person to whom the Notice of Violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Daphne shall first notify the applicant or other responsible person in writing of its intended action. The City of Daphne shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Daphne may take or impose any one or more of the following enforcement actions or penalties:
 - (a) Stop Work Order: The community may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect -until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
 - (b) Termination of water service and/or withhold or revoke Certificate of Occupancy: The community may terminate utilities and/or refuse to issue and/or revoke a certificate of occupancy for the building or other improvements and/or repairs conducted or being conducted on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein.
 - (c) Suspension, revocation, or modifications of permit: The community may suspend, revoke, or modify the permit authorizing the development project. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit

may be reinstated (upon such conditions as the community may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

- (d) Civil penalties: Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case: Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Daphne from taking such other lawful actions as is necessary to prevent or remedy any violation.
- (e) Section 1316 Declaration: Section 1316 of the National Flood Insurance Act authorizes FEMA to deny flood insurance to a property declared by the State, County, or Municipal government to be in violation of the local floodplain management ordinance. A Section 1316 declaration shall be used when all other legal means to remedy a violation have been exhausted and the structure is noncompliant. Once invoked, the property's flood insurance coverage will be terminated and no new or renewal policy can be issued; no flood insurance claim can be paid on any policy on the property, and disaster assistance will be denied.

The declaration must be in writing (letter or citation), from the community to the property owner and the applicable FEMA Regional Office, and must contain the following items:

- i. The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;
- ii. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;
- iii. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- iv. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

- v. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

If a structure that has received a Section 1316 declaration is made compliant with the community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance eligibility restored.

- (3) Administrative appeal; judicial review. Any person receiving a Notice of Violation may appeal the determination of the community, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the community's rules and regulations, or the issuance of a notice of bond forfeiture. The Notice of Appeal must be in writing and must be received within ten days from the date of the Notice of Violation. A hearing on the appeal shall take place within thirty days from the date of receipt of the Notice of Appeal by the Floodplain Administrator.
- (4) All appeals shall be heard and decided by the community's designated Appeal Board, which shall be the Board of Zoning Adjustments, or their designees. The Appeal Board shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the community's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. The decision of the Appeal Board shall be final.
- (5) A judicial review can be requested by any person aggrieved by a decision or order of the community, after exhausting his/her administrative remedies. They shall have the right to appeal de novo to the Baldwin County Circuit Court.

Section I. Savings Clause. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, such decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE 3. ADMINISTRATION

Section A. Designation of Floodplain administrator. The Mayor of the City of Daphne shall designate and appoint a Floodplain Administrator to administer and implement the provisions of this ordinance.

Section B. Permit Procedures. Applications for a Development Permit shall be made to the Floodplain Administrator on forms furnished by the community PRIOR to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions of existing or proposed structures, fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following procedures and information are required for all projects in the Special Flood Hazard Areas within the jurisdiction of the City of Daphne:

- (1) Application Stage. Plot plans shall include:
 - (a) The Base Flood Elevation (BFE) where provided as set forth in Article 2, Section B; Article 4, Section C; or Article 5, Section D;
 - (b) Boundary of the Special Flood Hazard Area and floodway(s) as delineated on the FIRM or other flood map as determined in Article 2, Section B;
 - (c) Flood zone designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 2, Section B;
 - (d) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
 - (e) Elevation in relation to mean sea level to which any non-residential structure will be flood proofed;
 - (f) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections B(2) and E(2);
 - (g) A Foundation Plan, drawn to scale, that shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include, but are not limited to, the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls) and description of any flood openings required in accordance with Article 4, Sections B(1), B(3), D(7), and E(1) when solid foundation perimeter walls are used.
 - (h) Usage details of any enclosed areas below the lowest floor shall be described.
 - (i) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

- (j) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development including current and proposed locations of the watercourse. An engineering report shall be provided on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream. The affected properties shall be depicted on a map or on the plot plan.
 - (k) Certification of the plot plan by a licensed professional engineer or surveyor in the State of Alabama is required.
- (2) Construction Stage. For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood proofing level using appropriate FEMA elevation or flood proofing certificate immediately after the lowest floor or flood-proofing is completed.
- (a) When flood-proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
 - (b) Any work undertake prior to submission of these certifications shall be at the permit holder's risk.
 - (c) The Floodplain Administrator shall review the above referenced certification data submitted. Deficiencies detected by such a review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.
 - (d) The Floodplain Administrator shall make periodic inspections of projects during construction throughout the Special Flood Hazard Areas within the jurisdiction of the community to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. Members of his or her inspections/engineering department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
 - (e) The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and

specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

- (f) In any lot or lots/areas that will be or have been removed from the special flood hazard area utilizing a Letter of Map Revision Based on Fill (LOMR-F), the top of fill level must meet the community's freeboard elevation at that location. If the top of fill level is below the freeboard elevation, all new structures, additions to existing buildings or substantial improvement must meet the required community freeboard elevation.
- (3) Finished Construction. Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31), which depicts all finished construction elevations, is required to be submitted to the Floodplain Administrator prior to issuance of a Certificate of Occupancy.
- (a) If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the permit holder to the Floodplain Administrator.
 - (b) The Floodplain Administrator shall review the certificate(s) data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance.
 - (c) In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
 - (d) Documentation regarding completion and compliance with the requirements stated in the permit application and with Article 3, Section B(1) of this ordinance shall be provided to the local Floodplain Administrator at the completion of construction or records shall be maintained throughout the Construction Stage by inspectors for the Floodplain Administrator. Failure to provide the required documentation shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
 - (e) All records that pertain to the administration of this ordinance shall be maintained and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

Section C. Duties and responsibilities of the administrator. Duties of the Floodplain Administrator shall include, but shall not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied and that the site is reasonable safe from flooding.
- (2) Review copies of all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334. Maintain such permits permanently with floodplain development permit file.
- (3) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2, Section B, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from the federal, state or other sources in order to administer the provisions of Article 4.
- (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with Article 3, Section B (2).
- (5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 4, Sections B (2) and D (2).
- (6) When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3, Section B (1) (c) and Article 4, Section B (2) or D (2).
- (7) Notify adjacent communities and The Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Department of Economic and Community of Affairs (ADECA) and the Office of Water Resources (OWR).
- (8) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA and ADECA/OWR to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (9) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain

Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(10) All records pertaining to the provision of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

(11) In addition, the Floodplain Administrator and his or her designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

(12) Right of Entry

(a) Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Administrator has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the Administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Administrator by this ordinance.

(b) If such building or premises are occupied, the Administrator shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such building or premises.

(c) If entry is refused, the Administrator shall have recourse to every remedy provided by law to secure entry.

(d) When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this ordinance.

(13) Stop Work Orders

(a) Upon notice from the Administrator, work on any building, structure or premises that is being performed contrary to the provisions of this ordinance shall immediately cease.

- (b) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(14) Revocation of Permits

- (a) The Administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- (b) The Administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General Standards. In all areas of special flood hazard the following provisions are required:

- (1) Require copies of all necessary permits from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits be on file.
- (2) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse and lateral movement of the structure;
- (3) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction and substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
 - (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- (6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system;
- (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood water into the systems and discharges from the systems into flood water;
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
- (10) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non-conformity is not furthered, extended or replaced.
- (11) Proposed new construction and substantial improvements that are partially located in an area of special flood hazard shall have the entire structure meet the standards for new construction.
- (12) Proposed new construction and substantial improvements that are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations shall have the entire structure meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

Section B. Specific Standards. In ALL Areas of Special Flood Hazard designated as A1-30, AE, AH, A (with estimated BFE), the following provisions are required;

- (1) Residential and Non-residential Structures. Where base flood elevation data are available, new construction or substantial improvement of any structure or manufactured home shall have the lowest floor, including the basement, elevated not lower than one foot above the base flood elevation. Should the solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section A (4), “elevated Building”.
- (2) Non-Residential Structures. New construction or the substantial improvement of any non-residential structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional

engineer or architect shall certify that the design and methods of construction are in accordance with accepted standard of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C (6).

Dry floodproofing is allowed only where flood velocities are less than or equal to five feet per second. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A Flood Emergency Operation Plan and an Inspection and Maintenance Plan must be provided by the design professional for the building. Such certification shall be provided to the Floodplain Administrator.

- (3) Enclosures for Elevated Buildings. All new construction and substantial improvements of existing structures that include ANY fully enclosed area below the base flood elevation, located below the lowest floor formed by the foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters.
- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding (if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls);
 - ii. The bottom of all openings shall be no higher than one foot above grade; and
 - iii. Openings may be equipped with screens, louvers, valves and other coverings and devices provided they permit the automatic flow of floodwater in both directions.
 - (b) So as not to violate the “Lowest Floor” criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
 - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. All interior walls, ceilings and floors below the base flood elevation shall be unfinished and/or constructed of flood resistant materials.

- (d) Mechanical, electrical or plumbing devices shall not be installed below the Base Flood Elevation. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power as required.
- (4) Standards for manufactured homes and recreational vehicles. Where base flood elevation data are available:
- (a) All manufactured homes placed or substantially improved on:
 - i. Individual lots or parcels
 - ii. In new or substantially improved manufactured home parks or subdivisions
 - iii. In expansions to existing manufactured home parks or subdivisions,
 - iv. On a site in an existing manufactured home park or subdivision where a manufactured home has incurred substantial damages as the result of a flood, must have the lowest floor including basement elevated no lower than one foot above the base flood elevation.
 - (b) Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - i. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or
 - ii. The manufactured home chassis is elevated and supported by reinforced piers or other foundation elements of at least an equivalent strength of no less than 36 inches in height above grade.
 - iii. Where no Base Flood Elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength and is elevated to a maximum of 60 inches (five feet) above grade.
 - (c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (refer to Article 4, Section A, above)
 - (d) All recreational vehicles placed on sites must either:
 - i. Be on the site for fewer than 180 consecutive days, fully licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; or

- ii. The recreational vehicle must meet all the requirements for “New Construction”, including the anchoring and elevation requirements of Article 4 , Section B (3) (a) (c).
- (5) Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City of Daphne FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (6) Accessory Structures (also referred to as appurtenant structures) – This provision generally applies to new and substantially improved accessory structures. When an accessory structure complies with all other provisions of this ordinance (including floodway encroachment), represents a minimal investment (less than \$1,000), and meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated or dry floodproofed.

Accessory structures include, but are not limited to, residential structures such as detached garages, storage sheds for garden tools or woodworking, gazebos, picnic pavilions, boathouses, small pole barns, and similar buildings. The following provisions apply to accessory structures built below the base flood elevation:
 - (a) A permit shall be required prior to construction or installation.
 - (b) Must be low value (less than \$1,000) and not be used for human habitation.
 - (c) Use must be restricted to parking of personal vehicles or limited storage (low-cost items that cannot be conveniently stored in the principal structure).
 - (d) Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the BFE.
 - (e) Must be adequately anchored to prevent flotation, collapse, or lateral movement.
 - (f) Must have adequate flood openings as described in Article 4, Section A (5) and be designed to otherwise have low flood damage potential.
 - (g) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
 - (h) Any mechanical and other utility equipment in the structure must be elevated to or above the BFE or must be floodproofed.

- (i) Under limited circumstances communities may issue variances to permit construction of wet-floodproofed accessory structures. Communities should not grant variances to entire subdivisions for accessory structures, especially detached garages. Variances should only be reviewed and issued on an individual or case-by-case basis and be based on the unique characteristics of the site.

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

- (1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;
- (2) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
- (3) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA;
- (4) 44 CFR 60.3: “Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than on foot at any point within the City.”
- (5) ONLY if Article 4, Section C, provisions (1) through (3) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

Section D. Building standard for streams without established base flood elevation and/or floodway (a-zones). Located within the Areas of Special Flood Hazard

established in Article 2, Section B, where streams exist but no base flood data have been provided (a-zones), the following provisions apply:

- (1) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser.
- (2) All development in Zone A must meet the requirements of Article 4, Section A and Section B(1) through B(4).
- (3) When base flood elevation data or floodway data have not been provided in accordance with Article 2, Section B, then the Floodplain Administrator shall obtain, review and reasonably utilize any scientific or historic Base Flood Elevation and floodway data available from a Federal, State, or other source, in order to administer the provision of Article 4. ONLY if data are not available from these sources, then the following provisions shall apply:
 - a. No encroachments, including structures or fill material shall be located within an area equal to the width of the stream or twenty-five (25) feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b. In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed areas (including basement) elevated no less than three (3) feet above the highest adjacent grade.
 - c. In the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Article 4, Section B(4)(b)(ii) in that the structure must be elevated to a maximum of 60 inches (5 feet).
 - d. Openings sufficient to facilitate automatic equalization of flood water hydrostatic forces on exterior walls shall be provided in accordance with standards of Article 4, Section B(3)(a). The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
 - e. Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site. Any excavation or other measures taken for compensatory storage shall be properly designed to

provide protection against erosion or overgrowth of vegetation in order to preserve the storage volume. Proper maintenance measures shall also be undertaken to ensure the intended storage volume remains in perpetuity.

Section E. Standards for areas of shallow flooding (A-O Zones). Areas of Special Flood Hazard established in Article 2, Section B, may include designated “AO” shallow flooding areas. These areas have base flood depths of one to three feet (1’ to 3’) above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM) plus one foot of freeboard. If no flood depth number is specified, the lowest floor, including the basement, shall be elevated at least three feet (3) above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B(3), “Elevated Buildings.” The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (2) New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus two (2) feet, above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Article 3 (B), 1 (C) and 3 (B) (2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

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

- (1) All new construction and substantial improvements of existing structures shall be located landward of the reach of the mean high tide;

- (2) All new construction and substantial improvements of existing structures shall be elevated on piles, columns, or shear walls parallel to the flow of water so that:
 - (a) The bottom of the lowest supporting horizontal structural member (excluding pilings or columns) is located no lower than one foot above the base flood elevation level. All space below the lowest supporting member shall remain free of obstruction.
 - (b) Open lattice work, break away walls, or decorative screening may be permitted for aesthetic purposes only and built in accordance with Article 4, Section H (5) below.
 - (c) All pile and column foundations and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the combined effects of wind and water loads acting simultaneously on ALL building components, both (non-structural and structural). Water loading values shall equal or exceed those of the base flood. Wind loading values shall be in accordance with the most current edition of the INTERNATIONAL BUILDING CODES.
- (3) All new construction and substantial improvements of existing structures shall be securely anchored on pilings, columns, or shear walls.
- (4) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in full compliance with the provisions contained in Article 4 Sections H (2), (3), and (4) herein.
- (5) All space below the lowest horizontal supporting member must remain free of obstruction. Open lattice work or decorative screening may be permitted for aesthetic purposes. For all new construction and substantial improvements in VE Zones and Coastal AE Zones, the space below the lowest horizontal-supporting member must remain free of obstruction. As an alternative, the space may be constructed with non-supporting breakaway walls, open wood or vinyl latticework, or insect screening which must be designed to break away or collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The following design specifications are required:
 - (a) No solid walls shall be allowed, and;
 - (b) Material shall consist of lattice or mesh screening only.
 - (c) If aesthetic lattice work or screening is utilized, any enclosed space shall not be used for human habitation, but shall be designed to be used only for

parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

- (d) For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Breakaway wall enclosures shall not exceed 299 square feet. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - i. Breakaway wall collapse shall result from water load less than that which would occur during the base flood, and;
 - ii. The effects of wind and water loads acting simultaneously on all building components (structural and nonstructural) must be taken into account. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those requirements by state or local building codes.
 - iii. The lowest horizontal structural member should be oriented perpendicular to the expected wave crest.
- (6) Enclosures below elevated buildings shall be useable solely for storage, parking of vehicles, or building access. Such space will not be used for human habitation and not finished or partitioned into separate rooms.
- (7) Prior to construction, plans for any structure using lattice, breakaway walls, or Decorative screening must be submitted to the Floodplain Administrator for approval;
- (8) Any alteration, repair, reconstruction or improvement to any structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided in this Section.
- (9) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in VE Zones and Coastal AE Zones. The Floodplain Administrator shall maintain a record of all such information.
- (10) There shall be no fill material used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, (thereby rendering the building free of obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The Floodplain Administrator shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an

engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:

- (a) Particle composition of fill material does not have a tendency for excessive natural compaction;
 - (b) Volume and distribution of fill will not cause wave deflection to adjacent properties; and
 - (c) Slope of fill will not cause wave run-up or ramping.
- (11) Under the buildings or structures, no fill may be used except for minor site grading for drainage purposes. Nonstructural fill may be used on coastal building sites for minor landscaping and site grading for drainage purposes to the extent that the fill does not interfere with the free passage of floodwaters and debris underneath the building or cause changes in flow direction during coastal storms. Changes to site grades, other than those prescribed, must be avoided as they can cause additional damage to buildings on the site or to adjacent buildings.
- Fill placed in coastal zones should be similar (compatible) to the natural soils in the area and not contain large rocks or debris, organic materials, or clay. Minor site grading is to be limited to the addition of one to two feet of coastal zone compatible soils. If additional fill (greater than two feet) or non-compatible soils are to be added to the site, certification by a professional engineer or architect shall be submitted along with design calculations demonstrating that no adverse impacts will result to the building. (For guidance, see FEMA Technical Bulletin #5 “Free of Obstruction Requirements”).
- (12) Prohibit man-made alteration of sand dunes or mangrove stands which would increase which would increase potential flood damage.
- (13) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of Article 4, Section B (4) are met.
- (14) Permit recreational vehicles in VE Zones and Coastal AE Zones if they meet all of the requirements of Article 4, Section B (4) (d).

Section G. Standards for Subdivisions.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivisions proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is less.
- (5) All preliminary plans for platted subdivisions shall identify the flood hazard area and the elevation of the base flood.
- (6) All final subdivision plats will provide the boundary of the special flood hazard area, the floodway boundary, and the base flood elevations.
- (7) In platted subdivisions, all proposed lots or parcels that will be future building sites shall have a minimum buildable area outside the natural (non-filled) 1% chance annual floodplain. The buildable area shall be, at a minimum, large enough to accommodate any primary structure and associated structures such as sheds, barns, swimming pools, detached garages, on-site sewage disposal systems, and water supply wells, where applicable.

Section H. Critical Facilities. Construction of new and substantially improved critical facilities shall be located outside the limits of the special flood hazard area (one percent annual chance floodplain). Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available and access to the facilities remains available during a 0.2 percent chance flood.

- (1) Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above the base flood elevation at the site (or to the 0.2 percent chance flood elevation whichever is greater).
- (2) Floodproofing and sealing measures must be implemented to ensure that any and all on-site toxic substances will not be displaced by or released into floodwaters.
- (3) Multiple access routes, elevated to or above the 0.2 percent flood elevation, shall be provided to all critical facilities to the maximum extent possible.
- (4) Critical facilities must be protected to or above the 0.2 percent chance flood and must remain operable during such an event.
 - a. The community's flood response plan must list facilities considered critical in a flood.
 - b. Other facilities in low risk flood zones that may also be needed to support flood response efforts must be included on the critical facility list.

- (5) The use of any structure shall not be changed to a critical facility, where such a change in use will render the new critical facility out of conformance with this section.

ARTICLE 5. VARIANCE PROCEDURES

Section A. Designation of Variance and Appeals Board. The Board of Zoning Adjustments as established by the City Council shall hear and decide requests for appeals or variance from the requirements of this ordinance.

Section B. Duties of Board. The Board of Zoning Adjustments shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Board of Zoning Adjustments may appeal such decision to the Baldwin County Circuit Court, as provided in Code of Alabama 1975.

Section C. Variance Procedures. In reviewing requests for variance, the Board of Zoning Adjustments shall consider all technical evaluations, relevant factors, and standards specified in other sections of this ordinance, and:

- (1) Variance may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of the Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (2) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
- (3) In reviewing such request, the Board of Zoning Adjustments shall consider all technical evaluation, relevant factors, and all standards specified in this and other sections of this ordinance.
- (4) The evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners.
- (5) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.
- (6) The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others.
- (7) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the community.
- (8) The safety of access to the property during flood conditions for daily traffic and emergency vehicles.

- (9) The importance of the services provided by the proposed facility to the community.
- (10) The necessity of the facility to be at a waterfront location, where applicable.
- (11) The compatibility of the proposed use with existing and anticipated development based on the community's comprehensive plan for that area.
- (12) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (13) The costs associated with providing governmental services to the development during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and community infrastructure such as streets, bridges, and culverts.

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

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

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

- (1) A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of Sections E(3), E(4), F(1) and F(2) of this Article.
- (2) In the instance of a Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (3) A Variance shall be issued ONLY when there is:
 - a. A finding of good and sufficient cause,
 - b. A determination that failure to grant the variance would result in exceptional hardship, and;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisance cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (4) A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall not be issued “after the fact.”

Section F. Variance Notification AND Records.

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

ARTICLE 6 DEFINITIONS

For the purpose of this ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, the words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely derivative.

A Zone means the Area of Special Flood Hazard without base flood elevations determined.

Accessory Structure means a structure which is located on the same parcel of property as a principal structure to be insured and the use of which is incidental to the use of the principal structure. They should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. These structures are used solely for parking (two-car detached garages or smaller) or limited storage (small, low cost storage sheds). They are included under the general definition of structure and are consequently

subject to all floodplain management regulations pertaining to structures. “*Appurtenant structure*” shall have the same meaning as accessory structure.

Addition (to an existing building) means any improvement that increases the square footage of a structure. These include lateral additions added to the front, side, or rear of a structure, vertical additions added on top of a structure, and enclosures added underneath a structure. NFIP regulations for new construction apply to any addition that is considered a perimeter expansion or enclosure beneath a structure. If it is considered to be a substantial improvement (more than 50% of market value) to a structure, the existing structure will also need to be treated as new construction. Depending on the flood zone and details of the project, the existing building may not have to be elevated. The determining factors are the common wall and what improvements are made to the existing structure. If the common wall is demolished as part of the project, then the entire structure must be elevated. If only a doorway is knocked through it and only minimal finishing is done, then only the addition has to be elevated.

AE Zone means the Area of Special Flood Hazard with base flood elevations determined.

AH Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually shallow ponding), with base flood elevations shown.

AO Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually sheet flow on sloping terrain), with depth numbers shown.

Appeal means a request for a review of the Building Official’s interpretation of any provision of this ordinance

AR/AE, AR/AH, AR/AO, and AR/A Zones means a flood zone that results from the decertification of a previously accredited flood protection system or levee that is in the process of being restored to provide a one percent chance or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources.

A99 Zone means that part of the special flood hazard area inundated by the one percent annual chance flood to be protected from the one percent chance flood by a Federal flood protection system or levee under construction, no base flood elevations are determined.

Area of shallow flooding means a designated AO or AH Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard is the land the floodplain within a community subject to one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

Base flood means the flood having one (1) percent chance of being equaled or exceeded in any given year.

Base flood elevation means the computed elevation to which floodwater is anticipated to rise during the base flood. It is also the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. Base Flood Elevations are shown in the FIS and on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO, V1–V30 and VE.

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

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

Building means any structure built for support, shelter or enclosure for any occupancy or storage. (See *Structure*)

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

Coastal High Hazard Area means the area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE or V.

Community means a political entity and/or its authorized agents or representatives that have the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

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

Critical facility (aka, *critical action*) means facilities for which the effects of even a slight chance of flooding would be too great. The minimum floodplain of concern for critical facilities is the 0.2 percent chance flood level. Critical facilities include, but are not limited to facilities critical to the health and safety of the public such as: emergency operations centers, designated public shelters, schools, nursing homes, hospitals, police, fire and emergency response installations, vital data storage centers, power generation and water and other utilities (including related infrastructure such as principal points of utility systems) and installations

which produce, use or store hazardous materials or hazardous waste (as defined under the Clean Water Act and other Federal statutes and regulations).

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

Dam means any artificial barrier, including appurtenant works, constructed to impound or divert water, waste water, liquid borne materials, or solids that may flow if saturated. All structures necessary to maintain the water level in an impoundment or to divert a stream from its course will be considered a dam.

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

Dry Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damages to real estate or improved real estate property, water, and sanitary facilities, structures, and their contents. Structures shall be floodproofed with a minimum of 12 inches above the base flood elevation (more is recommended). Dry floodproofing of a pre-FIRM residential structure that has not been substantially damaged or improved is allowed. Dry floodproofing of a post-FIRM residential building is not allowed. Non-residential structures may be dry floodproofed in all flood zones with the exception of the Coastal High Hazard Area or the Coastal AE Zone.

Elevated Building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground by means of solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Elevation Certificate means a FEMA form used as a certified statement that verifies a building's elevation information.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction – Any structure for which the start of construction commenced before February 21, 1975 (i.e., the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)).

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before February 21, 1975 (i.e., the effective date of the FIRST floodplain management regulations adopted by a community).

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

Flood or *Flooding* means a general and temporary condition partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (c) Mudslides which are proximately caused by flooding as described in part “b.” of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (d) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually highwater level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in part “a.” of this definition.

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

Flood Insurance Rate Map (FIRM) means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain means any land area susceptible to flooding.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term

describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

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

Floodway fringe means that area of the special flood hazard area on either side of the regulatory floodway.

Flood Protection Elevation means the base flood elevation plus the community freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations or base flood elevations determined and/or approved by the floodplain administrator plus freeboard.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship (as related to variances of this ordinance) means the exceptional difficulty that would result from a failure to grant the requested variance. The Board of Zoning Adjustments requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

Historic Structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance for a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - (i) By an approved state program as determined by the Secretary of the Interior, or
 - (ii) Directly by the Secretary of the Interior in states without approved programs.

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

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

Lowest adjacent grade means the point of the ground level immediately next to a building. This may be the sidewalk, patio, deck support, or basement entryway immediately next to the structure after the completion of construction. It does not include earth that is placed for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

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

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

Lowest Floor means the lowest floor of the lowest enclosed area (including Basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in areas other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provision of this code.

Manufactured Home means a building, transportable in one or more sections built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes park trailer, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Market value means the property value (as agreed between a willing buyer and seller), excluding the value of land as established by what the local real estate market will bear. Market value can be established by independent certified appraisal; replacement cost depreciated by age of building (Actual Cash Value); or adjusted assessed values.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for the base flood elevations shown on a community's Flood Insurance Rate Map (FIRM). For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum.

National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction means ANY structure (see definition) for which the "start of construction" commenced after February 21, 1975 and includes any subsequent improvements to the structure.(i.e., the effective date of the FIRST floodplain management ordinance adopted by the community as a basis for community participation in the (NFIP)) and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is

completed on or after February 21, 1975 (i.e., the effective date of the first floodplain management regulations adopted by a community).

Non-Residential means, but is not limited to; small business concerns, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels and motels with normal room rentals for less than 6 months duration.

North American Vertical Datum (NAVD) of 1988 means a vertical control, corrected in 1988, used as a reference for establishing varying elevations within the floodplain.

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

One Percent Flood (aka *100-Year Flood*) is the flood that has a one percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to inundation by the one percent chance flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood within the SFHA.

Participating Community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Post-FIRM Construction means new construction and substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

Pre-FIRM Construction means new construction and substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Probation means an action taken by FEMA to formally notify participating communities of the first of the two NFIP sanctions due to their failure to correct violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is:

- (a) Licensed and titled as a recreational vehicle or park model;

- (b) Built on a single chassis;
- (c) 400 square feet or less when measured at the largest horizontal projection;
- (d) Has no attached deck, porch, or shed;
- (e) Has quick-disconnect sewage, water, and electrical connectors;
- (f) Designed to be self-propelled or permanently towable by a light duty truck; and
- (g) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program means the second phase of the community's participation in the NFIP in which second layer coverage is available based upon risk premium rates only after FEMA has completed a flood risk study for the community.

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

Repetitive Loss means flood related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Repetitive Loss Property means any insurable structure for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A repetitive loss property may or may not be currently insured by the NFIP.

Section 1316 means no new flood insurance policy or federal disaster assistance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. If the structure is made compliant with the applicable community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance and disaster assistance eligibility restored.

Severe Repetitive Loss Structure means any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

- (a) Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or
- (b) Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

Special flood hazard area (SFHA) means that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zones A, AE, AH, AO, AR, AR/AE, AR/AO, AR/AH, AR/A, A99, or VE.

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

Start of construction means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers or foundation or the erection of temporary forms; note does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are NOT exempt from any ordinance requirements) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value

of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “repetitive Loss” or “substantial damage”, regardless of the actual repair work performed. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage”, regardless of the actual amount of repair work performed.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or; (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulation. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in the Code of Federal Regulations (CFR, 44, Sec 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4), or (e)(5) and corresponding parts of this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means any flowing body of water including a river, creek, stream, or a branch.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wet floodproofing means a method of construction which allows water to enter a structure in such a way that will minimize damage to the structure and its contents. Wet floodproofing is appropriate for functionally dependent use and uses that facilitate open space use by variance only, structures utilized for parking or limited storage, or when all other techniques are not technically feasible. Wet floodproofing shall not be utilized as a method to

satisfy the requirements of this ordinance for bringing substantially damaged or improved structures into compliance. Wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings.

X Zones (shaded) are areas of 0.2 percent chance flood that are outside of the SFHA subject to the one percent chance flood with average depths of less than one foot, or with contributing drainage area less than one square mile, and areas protected by certified levees from the base flood.

X Zones (unshaded) are areas determined to be outside the 0.2 percent chance floodplain.

Zone means a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

ARTICLE 7. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

ARTICLE 8. REPEALER

Ordinance 2009-01 is hereby repealed and replaced by this Ordinance. Any other Ordinance of parts of Ordinances conflicting with the provisions of this Ordinance is hereby repealed insofar as they conflict. This Repealer shall not, however, effect, terminate, or preclude any rights, duties, requirements or terms which arose or existed while said Ordinance was in effect, all of which are specifically preserved.

ARTICLE 9. EFFECTIVE DATE

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE,
ALABAMA, ON THE _____ DAY OF _____, 2019.**

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2019-11**

**Ordinance to Re-Zone Property Located
Southwest of Whispering Pines Road and Pollard Road
Cynthia Pierce**

WHEREAS, Cynthia Pierce, as the owner of certain real property located within the City of Daphne, has requested that said property that is currently zoned as R-1, Low Density Single-Family Residential District, be re-zoned as R-6(G), Garden or Patio Home District; and

WHEREAS, said real property is located at the Southwest of Whispering Pines Road and Pollard Road, and more particularly described as follows:

Legal Description of Property to be Re-Zoned to R-6(G), Garden or Patio Home District:

A PORTION OF LOT 8, THE ESTATE OF LOUIS H. HOULSEN AS RECORDED IN MISCELLANEOUS BOOK 41 PAGE 212 IN THE OFFICE OF THE JUDGE OF PROBATE BALDWIN COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LYING IN SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA: BEGINNING AT THE SOUTHEAST CORNER OF LOT 8, THE ESTATE OF LOUIS H. HOULSEN AS RECORDED IN MISCELLANEOUS BOOK 41 PAGE 212 IN THE OFFICE OF THE JUDGE OF PROBATE BALDWIN COUNTY, ALABAMA, BEING A CAPPED REBAR IRON FOUND; THENCE RUN N89°41'27"W, 299.93 FEET TO A RAILROAD SPIKE FOUND; THENCE RUN N0°02'52"W, 129.69 FEET TO A CAPPED REBAR IRON SET; THENCE RUN S89°41'27"E, 300.00 FEET TO A CRIMPED TOP PIPE FOUND ON THE WEST LINE OF POLLARD ROAD (80' RIGHT-OF-WAY), THENCE RUN S0°00'55"E ALONG SAID LINE, 129.92 THE THE POINT OF BEGINNING. CONTAINING 0.89 ACRES ±.

WHEREAS, at the regular Planning Commission meeting on December 20, 2018, the Commission considered said request and set forth a favorable 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, and a public hearing was held before the City Council on February 18, 2019; and,

WHEREAS, the City Council of the City of Daphne, after due consideration and upon consideration of the recommendation and 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

The above described real property is hereby re-zoned from R-1, Low Density Single-Family Residential District, be re-zoned as R-6(G), Garden or Patio Home District, and the zoning ordinance and zoning map shall 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 DATE AND REVERSION.

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. This zoning classification is subject to a two (2) year reversionary clause. Two years from the date this Ordinance is enacted, if the site development has not started for the purpose listed herein, the zoning shall be null and void and the property shall revert to the prior zoning district. Refer to Section 22-2, Reversionary Clause, of the Daphne Land Use and Development Ordinance.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

To: Office of the City Clerk

MEMORANDUM

From: Adrienne D. Jones, ⁰ ~~Director of Community Development~~

Subject: Cynthia Pierce Zoning Amendment

Date: December 21, 2018

PRESENT ZONING: R-1, Low Density Single Family Residential

PROPOSED REZONING: R-6(G), Garden or Patio Home District

LOCATION: Southwest of Whispering Pines Road and Pollard Road

RECOMMENDATION: At the Thursday, December 20, 2018, regular meeting of the Daphne Planning Commission, six members were present, and the motion carried for a favorable 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 to set a public hearing.

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

FILE
12/21/18
4:00 PM 91



APPLICATION FOR REZONING OR PRE-ZONING

Office use only: Rev. 072816

Date Submitted *Nov. 9, 2018*

Application Number:

Planning Commission Public

ZA- *18-09* or PZA-

Hearing Date: *Dec. 20, 2018*

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):

2403 Pollard Road, Daphne, AL 36526

228758

Gross Site Area (acreage):

130' x 300' / 1.895 acre / 39,000 sqft

Requested Zoning or Pre-Zoning:

R6-C

Current Zoning Designation(s):

R1

Amended Request:

Initials:

Date:

Current Land Use:

Residence (Single Family)

Anticipated Land Use:

Development Garden Homes

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

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.*

cell #: *(251) 421-1128*

mpierce@rams.net.com
Michael Pierce

Name of Current Owner:

Cynthia C. Pierce

Phone no. (251) 421-4551

Mailing Address:

2375 Pollard Road, Daphne, AL 36526

Phone/Fax:

E-mail: *cynthiapierce0313@gmail.com*

Name of Authorized Agent:

Mailing Address:

Phone/Fax:

E-mail:

Name of Developer*:

Phone/Fax:

E-mail:

Other:

Phone/Fax:

E-mail:

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

Applicant's Signature:

Cynthia C. Pierce

Date *11-6-2018*

Agent's Signature:

Date

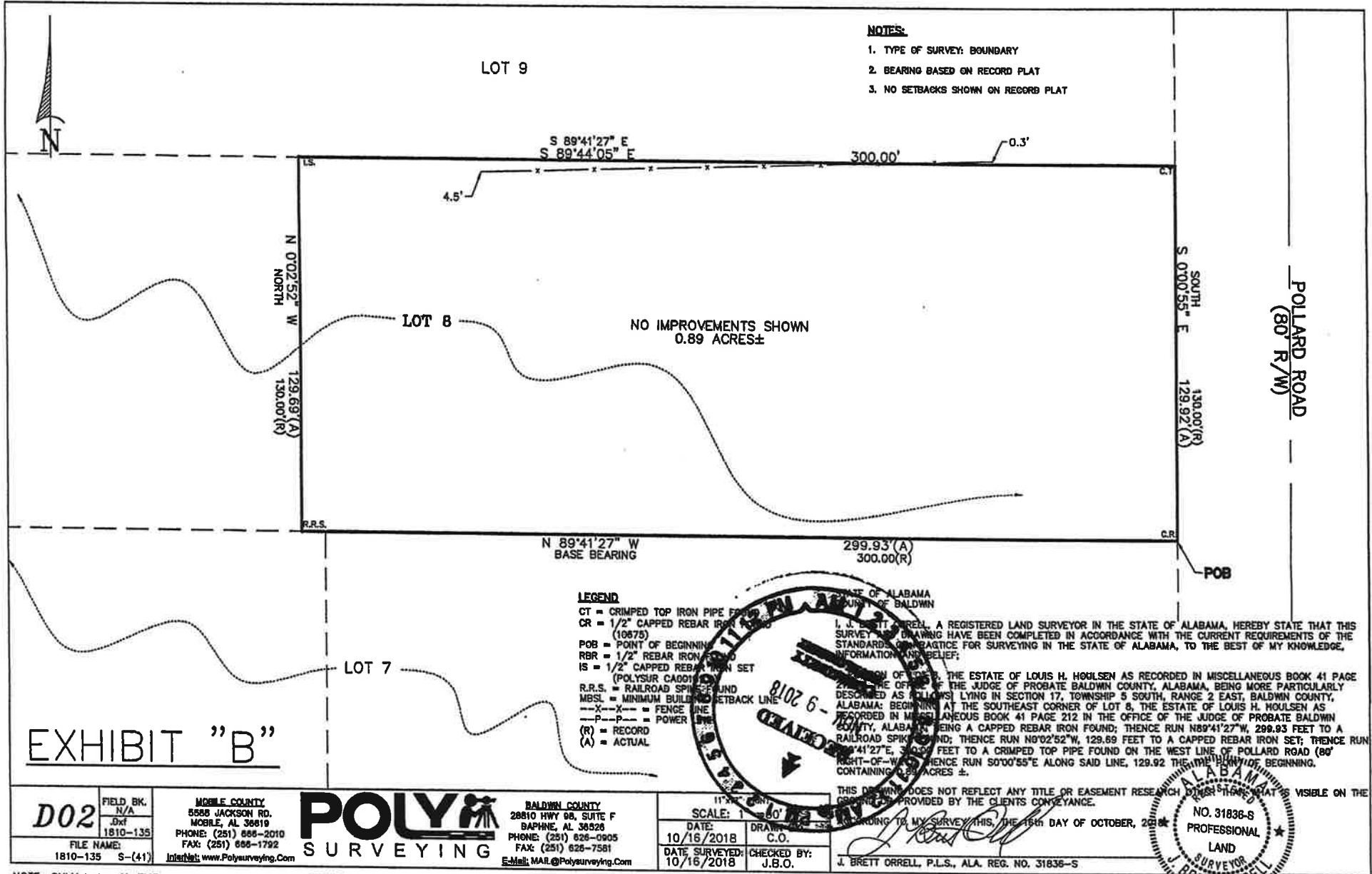
CYNTHIA PIERCE
2403 POLLARD ROAD
DAPHNE, AL 36526

EXHIBIT "A"

LEGAL DESCRIPTION:

A PORTION OF LOT 8, THE ESTATE OF LOUIS H. HOULSEN AS RECORDED IN MISCELLANEOUS BOOK 41 PAGE 212 IN THE OFFICE OF THE JUDGE OF PROBATE BALDWIN COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LYING IN SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA: BEGINNING AT THE SOUTHEAST CORNER OF LOT 8, THE ESTATE OF LOUIS H. HOULSEN AS RECORDED IN MISCELLANEOUS BOOK 41 PAGE 212 IN THE OFFICE OF THE JUDGE OF PROBATE BALDWIN COUNTY, ALABAMA, BEING A CAPPED REBAR IRON FOUND; THENCE RUN N89°41'27"W, 299.93 FEET TO A RAILROAD SPIKE FOUND; THENCE RUN N0°02'52"W, 129.69 FEET TO A CAPPED REBAR IRON SET; THENCE RUN S89°41'27"E, 300.00 FEET TO A CRIMPED TOP PIPE FOUND ON THE WEST LINE OF POLLARD ROAD (80' RIGHT-OF-WAY), THENCE RUN S0°00'55"E ALONG SAID LINE, 129.92 THE THE POINT OF BEGINNING. CONTAINING 0.89 ACRES ±.



EAST SIDE PROPERTY OWNER

05-43-05-16-0-000-003.000
OCP WHISPERING PINES PHASE II LLC
2964 PEACHTREE RT STE 360
ATLANTA, GA 30309

PROPERTY OWNER

05-43-04-17-1-000-025.016
PIERCE, CYNTHIA C
2375 POLLARD RD
DAPHNE, AL 36526

SOUTH SIDE PROPERTY OWNER

05-43-04-17-1-000-025.011
LEWIS, SHARON
P.O. BOX 1453
DAPHNE, AL 36526

DEVELOPER/AGENT

POLYSURVEYING AND ENGINEERING
BRETT ORRELL
5588 JACKSON RD
MOBILE, AL 36619

NORTH SIDE PROPERTY OWNER

05-43-04-17-1-000-025.008
LEWIS, INEZ H
P.O. BOX 1453
DAPHNE, AL 36526

WEST SIDE PROPERTY OWNERS

05-43-04-17-1-000-025.007
JONES, RAYMOND ETAL JONES, NICOLE
211 PAGE AVE
MOBILE, AL 36607

SOUTHWEST SIDE PROPERTY OWNER

05-43-04-17-1-000-025.006
LEWIS CARLOS R
2401 POLLARD RD
DAPHNE, AL 36526

DANE HAYGOOD
MAYOR

ADRIENNE D. JONES
COMMUNITY DEVELOPMENT
DIRECTOR/ZONING ADMINISTRATOR



CITY COUNCIL
TOMMIE CONAWAY
DISTRICT 1
PAT RUDICELL
DISTRICT 2
JOEL COLEMAN
DISTRICT 3
DOUG GOODLIN
DISTRICT 4
RON SCOTT
DISTRICT 5
ROBIN LEJEUNE
DISTRICT 6
JOE DAVIS, III
DISTRICT 7

December 7, 2018

NOTICE OF PUBLIC HEARING

A petition for REZONING will be considered by the Daphne Planning Commission for Cynthia Pierce containing 0.89 acres +/- located southwest of Whispering Pines Road and Pollard Road zoned R-1, Low Density Single Family Residential, to be rezoned R-6(G), Garden/Patio Home.

Said petition will also be considered by the Daphne City Council pursuant to Alabama Code 11-52-85. The application is available for review at City Hall in the Department of Community Development, 1705 Main Street, during regular business hours. An informal site preview meeting will be held on Wednesday, December 12, 2018 at 8:30 a.m. in the Council Chambers of City Hall. The public is invited to attend: limited participation may be allowed by the chairman.

The public hearing will be held by the Daphne Planning Commission on Thursday, December 20, 2018 at 5:00 p.m. in the Council Chambers of City Hall. You may submit your views in writing, in person, or by representation.

Sincerely,
Adrienne D. Jones
Director of Community Development

Cynthia Pierce Zoning Amendment

P. O. Box 400 - Daphne, Alabama 36526
Phone: 251.620.1700

APPLICATION:
S.W. of the intersection
of Pollard Road &
Whispering Pines Road

APPLICANT:
Cynthia Pierce

AREA:
0.89 ac

LOTS:
1

PPIN:
228758

ZONING:
R-1, Low Density Single
Family Residential

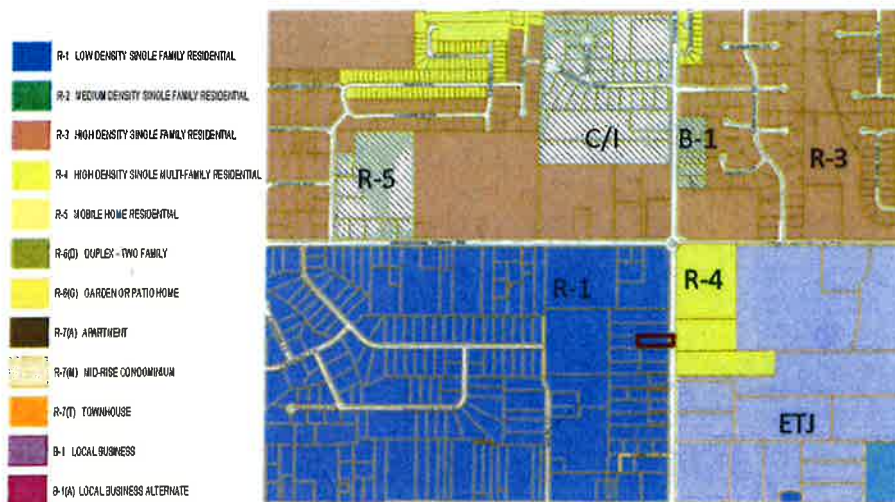
PROPOSED ZONING:
R-6(G), Garden/Patio
Home District

**EXISTING PRECEDENT
FOR PROPOSED ZONING:**
No

COMPREHENSIVE PLAN:
Consistent, Compatible

RECOMMENDATION:
Approval

REZONING REQUEST By CYNTHIA PIERCE



Existing Conditions

The applicant proposes to rezone the subject property from R-1 to R-6(G). The contiguous properties to the north, west and south are zoned R-1. The land to the east across Pollard Road is zoned R-4, High Density Multi-family Residential.

One may venture to say that a request for Garden Home development is spot zoning; however, that is not the case. Usually, spot zoning would introduce a new district and land use that would be considered incompatible, inharmonious and out of context with the existing vicinity. The rezoning and development of the apartment complex, rezoned R-4 in/around 2007, introduced a new land use that was at the time out of context with the area; however, the apartment complex's proximity to the YMCA (or The Y), across Pollard Road and the other business uses that abut The Y made the apartment zoning more of a transition than an inharmonious land use.

The subject property is southwest of the Parks at Whispering Pines apartment complex and immediately across from two other undeveloped properties zoned for apartment dwellings (permissible density is 10 units per acre). The site's proximity to the aforementioned uses qualifies garden homes as reasonable and acceptable land use. Additional, the City of Daphne and Daphne Utilities have installed sanitary sewer in the area, making it more likely that similar rezoning requests will be presented in the future.

SETBACKS

Zoning District	Front Yard				Rear Yard	Side Yard	Corner Lot Side Yard	
	Arterial & Collector Streets	Local Streets & Service Roads	U.S. Highway 98	U.S. State or County Roads			Arterial & Collector Streets	Local Streets & Service Roads
R-1	40	40	50	e	40	15	40	25
R-2	35	35	50	e	35	10	35	20
R-3	30	30	50	e	30	10	30	20
R-4SF&R-6(G)	25	25	50	e	25	6	30	20

MINIMUM LOT REQUIREMENTS

	Minimum Lot Area Square feet (see 16)	Minimum Lot Width at Setback Line ft	Maximum Lot Coverage Percent (%)^a	Maximum Density ^b (units/acre)	Maximum Height ^c (stories) (ft)
R-1, Low Density Single Family	20,000	100	25	2.0	2.5 stories 35 ft
R-2, Medium Density Residential	15,000	90	25	2.5	2.5 stories 35 ft
R-3, High Density Single Family	12,000	80	30	3.5	2.5 stories 35 ft
R-4, High Density Single Family--Multi-Family--	5,000	50	38	8.0	3 stories
	7,500 ^c	85	35	14.0	50 ft
R-5, Mobile Homes	See	Articles	25 & 26	for	Details
R-6(G) Garden/Patio Homes	5,000	50	38	8	2.5 stories 35 ft

Staff Recommendation

Staff recommends approval

Existing Conditions: 0.89 acre+/- Single Family residence
Existing Zoning: R-1, Low Density Single Family Residential
Proposed Zoning: R-6(G), Garden/Patio Home District

Surrounding Zonings/Uses:

North – R-1, Low Density Single Family Residential/ Residence

South – R-1, Low Density Single Family Residential/ Residence

West – R-1, Low Density Single Family Residential/ Residence

East – R-4, High Density Multi-family Apartments/The Parks at Whispering Pines Apartment Complex

Existing Utility Service Providers:

Water – Daphne Utilities

Sewer – Daphne Utilities

Gas – Daphne Utilities

Electric – Riviera Utilities

Affected City Service Providers:

Fire Protection-Station 2 or 3

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 that are applicable to this application.

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.

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2019-12**

**Ordinance to Re-Zone Property Located
Southeast of Whispering Pines Road and Caroline Avenue
T H Tanglewood 2018, LLC**

WHEREAS, T H Tanglewood 2018, LLC, as the owner of certain real property located within the City of Daphne, has requested that said property that is currently zoned as R-1, Low Density Single-Family Residential District, be re-zoned as R-2, Medium Density Single Family Residential District; and

WHEREAS, said real property is located at the Southeast of Whispering Pines Road and Caroline Avenue, and more particularly described as follows:

Legal Description of Property to be Re-Zoned to R-2, Medium Density Single Family Residential District:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST AND RUN THENCE NORTH 89°45'30" WEST, ALONG THE NORTH LINE OF SAID SECTION 17, A DISTANCE OF 1966.64 FEET; THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) ON THE SOUTH RIGHT-OF-WAY OF WHISPERING PINES ROAD; CONTINUE THENCE SOUTH 00°30'28" WEST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 695.22 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 89°56'46" WEST, A DISTANCE OF 295.00 FEET TO A 1/2" CAPPED REBAR (POLYSURVEYING); THENCE RUN NORTH 00°30'27" EAST, A DISTANCE OF 696.19 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) ON THE SOUTH RIGHT-OF-WAY OF SAID WHISPERING PINES ROAD; THENCE RUN SOUTH 89°45'30" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 295.00 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 4.71 ACRES, MORE OR LESS, AND LIES IN THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

WHEREAS, at the regular Planning Commission meeting on December 20, 2018, the Commission considered said request and set forth a favorable 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, and a public hearing was held before the City Council on February 18, 2019; and,

WHEREAS, the City Council of the City of Daphne, after due consideration and upon consideration of the recommendation and 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

The above described real property is hereby re-zoned from R-1, Low Density Single-Family Residential District, be re-zoned as R-2, Medium Density Single Family Residential District, and the zoning ordinance and zoning map shall 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 DATE AND REVERSION.

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. This zoning classification is subject to a two (2) year reversionary clause. Two years from the date this Ordinance is enacted, if the site development has not started for the purpose listed herein, the zoning shall be null and void and the property shall revert to the prior zoning district. Refer to Section 22-2, Reversionary Clause, of the Daphne Land Use and Development Ordinance.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

To: Office of the City Clerk

MEMORANDUM

From: Adrienne D. Jones, *AD*
Director of Community Development

Subject: T H Tanglewood 2018 L.L.C.,
Zoning Amendment

Date: December 21, 2018

PRESENT ZONING: R-1, Low Density Single Family
Residential

PROPOSED REZONING: R-2, Medium Density Single Family
Residential

LOCATION: Southeast of Whispering Pines Road
and Caroline Avenue

RECOMMENDATION: At the Thursday, December 20, 2018,
regular meeting of the Daphne
Planning Commission, six members were
present, and the motion carried for a
favorable 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 to set
a public hearing.

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

FILE
12/21/18
4:00 PM
103

APPLICATION FOR REZONING OR PRE-ZONING

Office use only: Rev. 072816

Date Submitted Nov. 20, 2018

Application Number:

Planning Commission Public

ZA- 18-10 or PZA-

Hearing Date: Dec. 20, 2018

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): south of Whispering Pines Rd, midway between Caroline Ave and Pollard Rd		PPIN#(s): 000096
Gross Site Area (acreage): 4.74 AC	Requested Zoning or Pre-Zoning: R-2	
Current Zoning Designation(s): R-1	Amended Request:	
	Initials:	Date:
Current Land Use: UNDEVELOPED	Anticipated Land Use: SINGLE-FAMILY DEVELOPMENT	

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

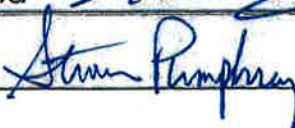
Specify other recently approved or pending requests related to the subject property. Circle the answer(s).

Annexation Subdivision Site Plan Special Exception Variance Specify Other

APPLICANT & AGENT INFORMATION

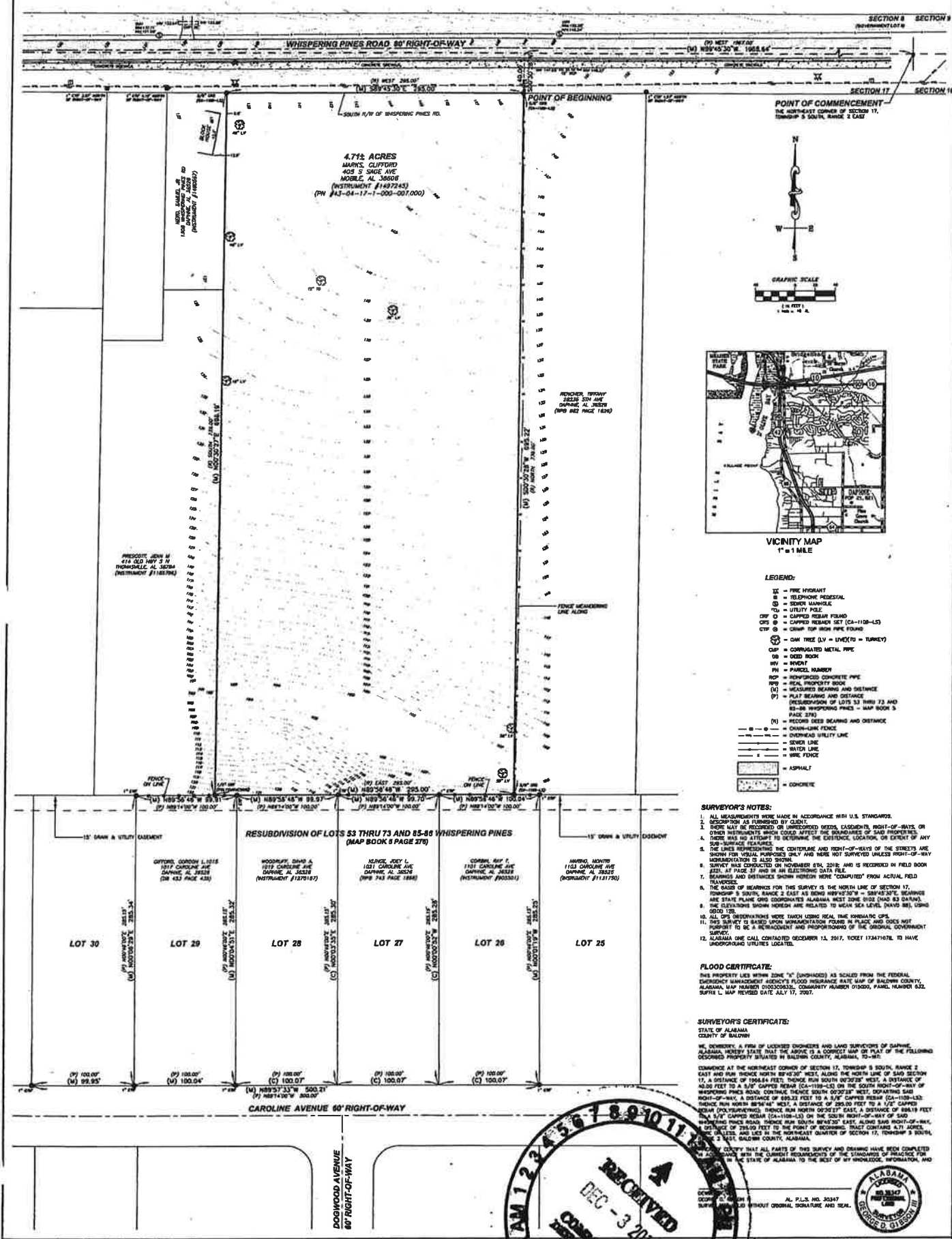
<i>*If an LLC or LLP or Corporation, provide name and signature of Registered Member or Agent and provide a copy of Articles of Incorporation.</i>		
Name of Current Owner: TH TANGLEWOOD 2018 LLC		
Mailing Address: 29891 WOODROW LN STE 300 SPANISH FORT, AL 36527		Phone/Fax: E-mail:
Name of Authorized Agent: DEWBERRY - STEVE PUMPHREY		
Mailing Address: 25353 FRIENDSHIP RD DAPHNE, AL 36526		Phone/Fax: 251 929 9797 E-mail:
Name of Developer*: 68V PAY DIRT LLC		Phone/Fax: E-mail:
Other:		Phone/Fax: E-mail:

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

Applicant's Signature: 	Date <u>11-15-18</u>
Agent's Signature: 	Date <u>11-19-18</u>

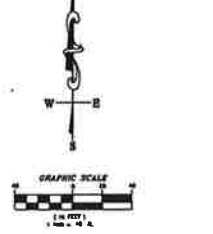
TANGLEWOOD REZONING
EXHIBIT A: LEGAL DESCRIPTION

COMMENCE AT THE NORTHEAST CORNER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST AND RUN THENCE NORTH 89°45'30" WEST, ALONG THE NORTH LINE OF SAID SECTION 17, A DISTANCE OF 1966.64 FEET; THENCE RUN SOUTH 00°30'28" WEST, A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) ON THE SOUTH RIGHT-OF-WAY OF WHISPERING PINES ROAD; CONTINUE THENCE SOUTH 00°30'28" WEST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 695.22 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS); THENCE RUN NORTH 89°56'46" WEST, A DISTANCE OF 295.00 FEET TO A 1/2" CAPPED REBAR (POLYSURVEYING); THENCE RUN NORTH 00°30'27" EAST, A DISTANCE OF 696.19 FEET TO A 5/8" CAPPED REBAR (CA-1109-LS) ON THE SOUTH RIGHT-OF-WAY OF SAID WHISPERING PINES ROAD; THENCE RUN SOUTH 89°45'30" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 295.00 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 4.71 ACRES, MORE OR LESS, AND LIES IN THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



SECTION 17 SECTION 18
TOWNSHIP 5 SOUTH RANGE 2 EAST

POINT OF BEGINNING
POINT OF COMMENCEMENT
THE NORTHEAST CORNER OF SECTION 17,
TOWNSHIP 5 SOUTH, RANGE 2 EAST



VICINITY MAP
1" = 1 MILE

- LEGEND:**
- XX = FIRE HYDRANT
 - = TELEPHONE PEDestal
 - = SEWER MANHOLE
 - = UTILITY POLE
 - = CAPPED REBAR FOUND
 - = CONCRETE TOP WITH REBAR FOUND
 - = OAK TREE (LV = LIVE/DO = DEAD)
 - = CORRUGATED METAL PIPE
 - = DEER BOON
 - = HWOAT
 - = PARCEL NUMBER
 - = REINFORCED CONCRETE PIPE
 - = REAL PROPERTY BOOK
 - = MEASURED BEARING AND DISTANCE
 - = PLAT BEARING AND DISTANCE
 - = RESUBDIVISION OF LOTS 53 THRU 73 AND 85-86 WHISPERING PINES - MAP BOOK 5, PAGE 276
 - = RECORD DEER BEARING AND DISTANCE
 - = CHAIN-LINE FENCE
 - = OVERHEAD UTILITY LINE
 - = SEWER LINE
 - = RAIL LINE
 - = WIRE FENCE
 - = ASPHALT
 - = CONCRETE

SURVEYOR'S NOTES:

- ALL MEASUREMENTS WERE MADE IN ACCORDANCE WITH U.S. STANDARDS.
- DESCRIPTION AS FURNISHED BY CLIENT.
- DO NOT BE REQUIRED OR UNRECORDED NEEDS, EASEMENTS, RIGHT-OF-WAYS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OF SAID PROPERTIES.
- THERE WAS NO ATTEMPT TO DETERMINE THE EXISTENCE, LOCATION, OR EXTENT OF ANY SUB-SURFACE FEATURES.
- THE LINES REPRESENTING THE CENTERLINE AND RIGHT-OF-WAYS OF THE STREETS ARE SHOWN FOR VISUAL PURPOSES ONLY AND WERE NOT SURVEYED UNLESS RIGHT-OF-WAY INFORMATION IS ALSO SHOWN.
- SURVEY WAS CONDUCTED ON NOVEMBER 15, 2017, AND IS RECORDED IN FIELD BOOK 2017, PAGE 17 AND IN AN ELECTRONIC DATA FILE.
- BEARINGS AND DISTANCES SHOWN HEREIN WERE "COMPUTED" FROM ACTUAL FIELD MEASUREMENTS.
- THE BASIS OF BEARINGS FOR THIS SURVEY IS THE NORTH LINE OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST AS BEING HERETOFORE - SURVEYED. BEARINGS ARE STATE PLANE GRID COORDINATES ALABAMA WEST ZONE 18N (NAD 83 DATUM), USGS 18N.
- THE ELEVATIONS SHOWN HEREIN WERE "COMPUTED" FROM ACTUAL FIELD MEASUREMENTS.
- ALL GPS OBSERVATIONS WERE TAKEN USING REAL TIME KINEMATIC GPS.
- THIS SURVEY IS BASED UPON INFORMATION PROVIDED IN PLATS AND DOES NOT PURPORT TO BE A REINSTATEMENT AND REPRESENTATIONS OF THE ORIGINAL GOVERNMENT SURVEY.
- ALABAMA STATE CALL CONTRACTED DECEMBER 13, 2017, TO HAVE UNDERGROUND UTILITIES LOCATED.

FLOOD CERTIFICATE:

THIS PROPERTY LIES WITHIN ZONE "X" (UNSHADED) AS SCALED FROM THE FEDERAL ENGINEERING SURVEYOR'S FLOOD INSURANCE RATE MAP OF BALDWIN COUNTY, ALABAMA, MAP NUMBER 1702000000, COMMUNITY NUMBER 00000, PANEL NUMBER 632, SUPPLEMENT MAP REVISED DATE JULY 17, 2007.

SURVEYOR'S CERTIFICATE:

STATE OF ALABAMA
COUNTY OF BALDWIN

I, BLAIR SMITH, A PERSON OF LICENSED ENGINEER AND LAND SURVEYOR OF DAPHNE, ALABAMA, HEREBY STATE THAT THE ABOVE IS A CORRECT MAP OR PLAT OF THE FOLLOWING DESCRIBED PROPERTY SITUATED IN BALDWIN COUNTY, ALABAMA, TO-WIT:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST AND RUN THENCE NORTH 89°42'30" WEST, ALONG THE NORTH LINE OF SAID SECTION 17, A DISTANCE OF 1946.84 FEET; THENCE RUN SOUTH 0°00'00" WEST, A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (CA-1108-LS) ON THE SOUTH RIGHT-OF-WAY OF WHISPERING PINES ROAD; CONTINUE THENCE SOUTH 0°00'00" WEST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 590.25 FEET TO A 5/8" CAPPED REBAR (CA-1108-LS); THENCE RUN NORTH 89°44'44" WEST, A DISTANCE OF 285.00 FEET TO A 1/2" CAPPED REBAR (CA-1108-LS); THENCE RUN NORTH 0°00'00" EAST, A DISTANCE OF 584.19 FEET TO A 5/8" CAPPED REBAR (CA-1108-LS) ON THE SOUTH RIGHT-OF-WAY OF SAID ROAD; THENCE RUN SOUTH 89°42'30" WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 393.00 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 4.71 ACRES, MORE OR LESS, AND IS THE NEAREST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

I CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE SURVEYING OF MEASURED PLATS IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

DATE: 12/13/2017
BY: BLAIR SMITH
TITLE: SURVEYOR

AL. P.L.S. NO. 50397
BALDWIN COUNTY, ALABAMA
RECEIVED WITHOUT ORIGINAL SIGNATURE AND SEAL.

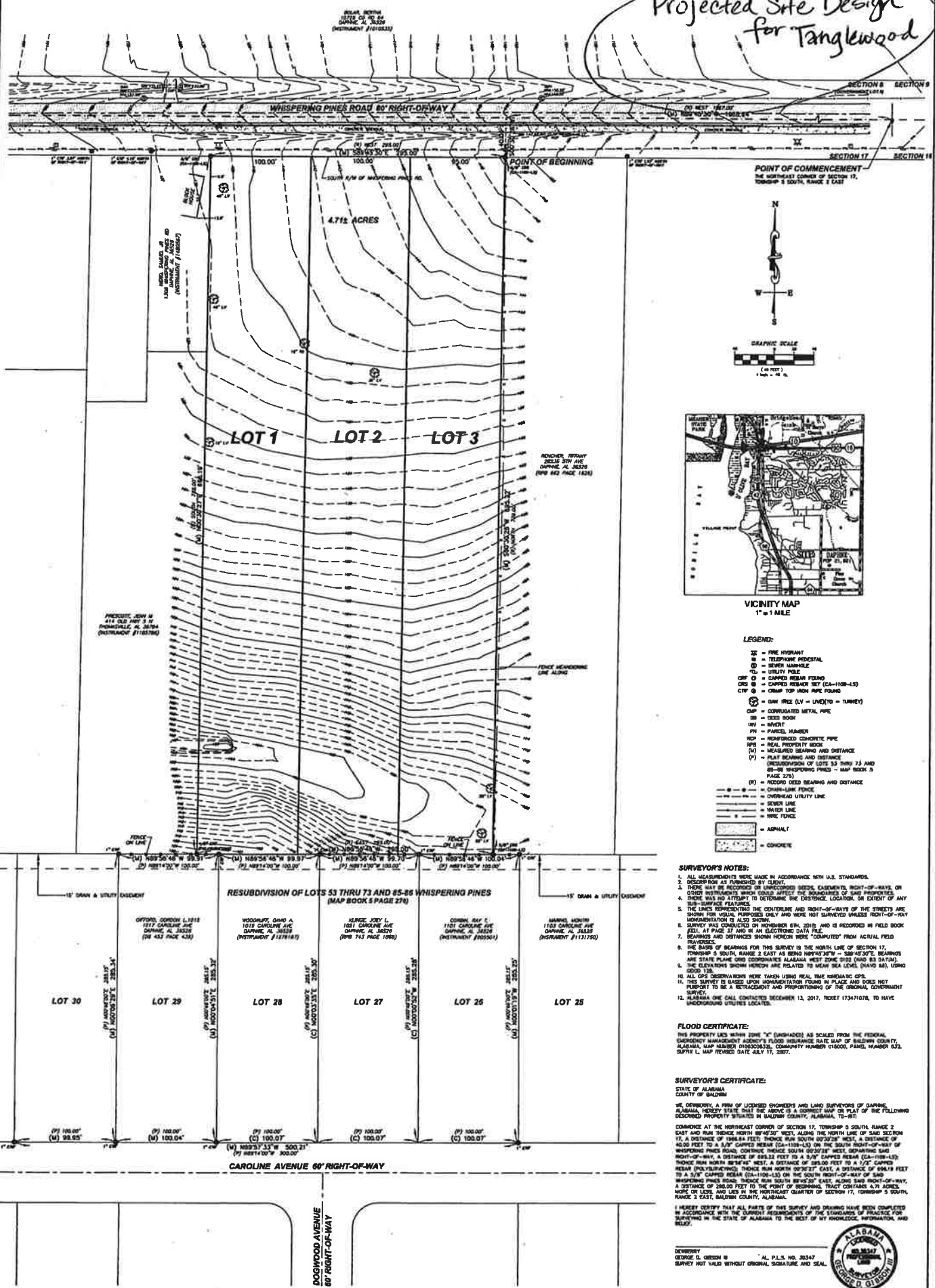


LOCATED IN SECTION 17,
TOWNSHIP 5 SOUTH,
RANGE 2 EAST
BALDWIN COUNTY, ALABAMA

TANGLEWOOD

NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

Projected Site Design for Tanglewood



VICINITY MAP
1" = 1 MILE

- LEGEND:**
- XX = FIRE HYDRANT
 - = TELEPHONE PEDestal
 - = SEWER MANHOLE
 - = UTILITY POLE
 - = CAPPED REAR FURNACE
 - = CAPPED REAR SET (CA-110B-LS)
 - = CAPPED TOP HIGH PIPE FOUND
 - = DAM PIPE (LV = UP/TO = TURKEY)
 - = CORRUGATED METAL PIPE
 - = DEED BOOK
 - = BOUNDARY
 - = PAVED HIGHWAY
 - = REINFORCED CONCRETE PIPE
 - = REAL PROPERTY BOUNDARY
 - = MEASURED BEARING AND DISTANCE
 - = PLAT BEARING AND DISTANCE
 - = DISCREPANCY OF LOTS 53 THRU 73 AND 85-86 WHISPERING PINES - MAP BOOK 5 PAGE 278
 - = RECORD DEED BEARING AND DISTANCE
 - = OVERHEAD UTILITY LINE
 - = SEWER LINE
 - = WATER LINE
 - = WIRE FENCE
 - = ASPHALT
 - = CONCRETE

SURVEYOR'S NOTES:

- ALL MEASUREMENTS WERE MADE IN ACCORDANCE WITH U.S. STANDARDS.
- RECORD FROM AS FURNISHED BY CLIENT.
- THESE MAY BE RECORDED ON UNRECORDED DEEDS, EASEMENTS, RIGHT-OF-WAY, OR OTHER INSTRUMENTS, WHICH COULD AFFECT THE BOUNDARIES OF LAND PROPERTIES.
- THESE WERE NOT ATTEMPTED TO DETERMINE THE DISTANCE, LOCATION, OR EXTENT OF ANY SUB-SURFACE FEATURES.
- THE LINES REPRESENTING THE CONTIGUOUS AND RIGHT-OF-WAY OF THE STREETS ARE SHOWN FOR VISUAL PURPOSES ONLY AND WERE NOT SURVEYED UNLESS RIGHT-OF-WAY ADJACENT TO THE PROPERTY IS ALSO SHOWN.
- SURVEY WAS CONDUCTED ON NOVEMBER 5TH, 2016, AND IS RECORDED IN FIELD BOOK 2016, AT PAGE 37 AND IN A.M. ELECTRONIC DATA FILE.
- BEARINGS AND DISTANCES SHOWN HEREON WERE "COMPUTED" FROM ACTUAL FIELD MEASUREMENTS.
- THE BASIS OF BEARINGS FOR THIS SURVEY IS THE NORTH LINE OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST AS BEING N89°42'37"W - S89°42'37"E BEARINGS ARE STATE PLANE COORDINATES ALABAMA WEST ZONE 16S (NAD 83 DATUM).
- THE ELEVATIONS SHOWN HEREON ARE RELATED TO MEAN SEA LEVEL (NAD 83), USING DEED 126.
- ALL GPS OBSERVATIONS WERE TAKEN USING REAL TIME KINEMATIC GPS.
- THIS SURVEY IS BASED UPON MONUMENTATION FOUND IN PLACE AND DOES NOT PURPORT TO BE A RETRACEDMENT AND PROPORTIONING OF THE ORIGINAL GOVERNMENT SURVEY.
- ALABAMA ONE CALL CONTRACTED DECEMBER 13, 2017, TICKET 17347076, TO HAVE UNDERGROUND UTILITIES LOCATED.

FLOOD CERTIFICATE:
THIS PROPERTY LIES WITHIN ZONE "X" (UNSHADED) AS SCALED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP OF BALDWIN COUNTY, ALABAMA, MAP NUMBER 17050C02, COMMUNITY NUMBER 170500, PANEL NUMBER 022, SUPPLY L, MAP REVISED DATE JULY 17, 2007.

SURVEYOR'S CERTIFICATE:
STATE OF ALABAMA
COUNTY OF BALDWIN
WE, DEWEBCRY, A FIRM OF LICENSED ENGINEERS AND LAND SURVEYORS OF BALDWIN COUNTY, ALABAMA, HEREBY CERTIFY THAT THE ABOVE IS A CORRECT MAP OF THE PLAT OF THE FOLLOWING DESCRIBED PROPERTY SITUATED IN BALDWIN COUNTY, ALABAMA, TO-WIT:
COMMENCE AT THE NORTHWEST CORNER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST AND RUN THENCE NORTH 89°42'37" WEST, ALONG THE NORTH LINE OF SAID SECTION 17, A DISTANCE OF 100.00 FEET; THENCE RUN SOUTH 0°22'27" WEST, A DISTANCE OF 100.00 FEET TO A 1/2" CAPPED REAR (CA-110B-LS) ON THE SOUTH RIGHT-OF-WAY OF WHISPERING PINES ROAD; CONTINUE THENCE SOUTH 0°22'27" WEST, SEPARATING SAID RIGHT-OF-WAY, A DISTANCE OF 382.00 FEET TO A 1/2" CAPPED REAR (CA-110B-LS); THENCE RUN NORTH 89°42'37" WEST, A DISTANCE OF 382.00 FEET TO A 1/2" CAPPED REAR (CA-110B-LS); THENCE RUN NORTH 0°22'27" EAST, A DISTANCE OF 100.00 FEET TO A 1/2" CAPPED REAR (CA-110B-LS); THENCE RUN SOUTH 0°22'27" WEST, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING. TOTAL CONTAINS 4.71 ACRES, MORE OR LESS, AND LIES IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

I HEREBY CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.



DEWEBCRY
GEORGE C. GIBSON JR.
SURVEY NOT VALID WITHOUT ORIGINAL SIGNATURE AND SEAL.

TANGLEWOOD

LOCATED IN SECTION 17,
TOWNSHIP 5 SOUTH,
RANGE 2 EAST
BALDWIN COUNTY, ALABAMA

Dewberry
BANK BUILDING AVENUE
DAPHNE, ALABAMA 36526
PHONE: 251.898.8888
WWW.DEWBERRY.COM

DATE	BY	REVISION	REASON	DATE

Adjacent Properties to Tanglewood

Parcel Number	Owner Name	Address	City	State	Zip
05-43-04-17-1-000-006.000	RENCER, TIFFANY ETAL IKNER, JESSE	28236 5TH AVE	DAPHNE	AL	36526
05-43-04-17-1-000-008.002	NERO, SAMUEL JR ETAL NERO, LORETTA D	1308 WHISPERING PINES ROAD	DAPHNE	AL	36526
05-43-04-17-1-000-008.000	PRESCOTT, JEAN MARC	414 OLD HWY 5 N	THOMASVILLE	AL	36784
05-43-04-17-1-000-015.000	KLINGE, JOEY LEE ETUX AIMEE L	1021 CAROLINE AVE	DAPHNE	AL	36526
05-43-04-17-1-000-013.000	GIFFORD, GORDON LLOYD	1017 CAROLINE AVE	DAPHNE	AL	36526
05-43-04-17-1-000-016.000	CORBIN, RAY T ETAL CORBIN, TRUDALE A	1101 CAROLINE AVE	DAPHNE	AL	36526
05-43-04-17-1-000-007.000	MARKS, CLIFFORD D	405 S SAGE AVE	MOBILE	AL	36606
05-43-03-08-0-000-044.000	BOLAR, BERTHA M	10726 CO RD 64	DAPHNE	AL	36526
05-43-04-17-1-000-014.000	WOODRUFF, DAVID A	1019 CAROLINE AVE	DAPHNE	AL	36526

DANE HAYGOOD
MAYOR

ADRIENNE D. JONES
COMMUNITY DEVELOPMENT
DIRECTOR/ZONING ADMINISTRATOR



CITY COUNCIL
TOMMIE CONAWAY
DISTRICT 1
PAT RUDICELL
DISTRICT 2
JOEL COLEMAN
DISTRICT 3
DOUG GOODLIN
DISTRICT 4
RON SCOTT
DISTRICT 5
ROBIN LEJEUNE
DISTRICT 6
JOE DAVIS, III
DISTRICT 7

December 7, 2018

NOTICE OF PUBLIC HEARING

A petition for REZONING will be considered by the Daphne Planning Commission for TH Tanglewood 2018, L.L.C. containing 4.74 acres +/- located southeast of Caroline Avenue and and Whispering Pines Road zoned R-1, Low Density Single Family Residential, to be rezoned R-2, Medium Density Single Family Residential.

Said petition will also be considered by the Daphne City Council pursuant to Alabama Code 11-52-85. The application is available for review at City Hall in the Department of Community Development, 1705 Main Street, during regular business hours. An informal site preview meeting will be held on Wednesday, December 12, 2018 at 8:30 a.m. in the Council Chambers of City Hall. The public is invited to attend: limited participation may be allowed by the chairman.

The public hearing will be held by the Daphne Planning Commission on Thursday, December 20, 2018 at 5:00 p.m. in the Council Chambers of City Hall. You may submit your views in writing, in person, or by representation.

Sincerely,
Adrienne D. Jones
Director of Community Development

T H Tanglewood 2018, L.L.C. Zoning Amendment

P. O. Box 400 - Daphne, Alabama 36526
Phone: 251.620.1700

APPLICATION:
S.W. of the intersection
of Pollard Road &
Whispering Pines Road

APPLICANT:
TH Tanglewood, LLC

AREA:
4.74 ac

LOTS:
1

PPIN:
00096

ZONING:
R-1, Low Density Single
Family Residential

PROPOSED ZONING:
R-2, Medium Density
Single Family Residential

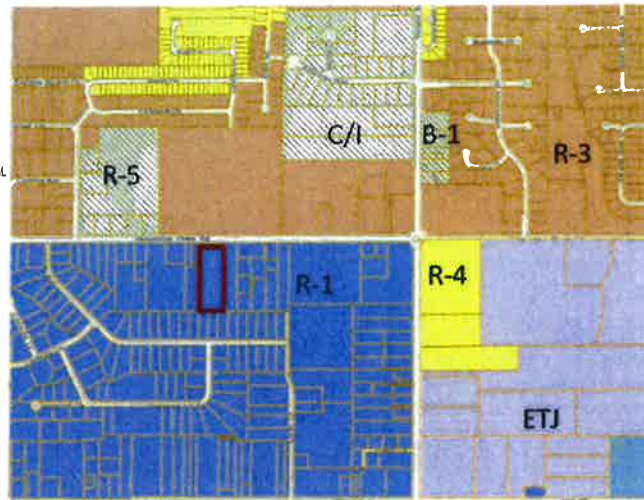
**EXISTING PRECEDENT
FOR PROPOSED ZONING:**
No

COMPREHENSIVE PLAN:
Consistent, Compatible

RECOMMENDATION:
Approval

REZONING REQUEST By T H TANGLEWOOD, LLC

- R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
- R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
- R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
- R-4 HIGH DENSITY SINGLE MULTI-FAMILY RESIDENTIAL
- R-5 MOBILE HOME RESIDENTIAL
- R-6(D) DUPLEX - TWO FAMILY
- R-8(G) GARDEN OR PATIO HOME
- R-7(A) APARTMENT
- R-7(M) MID-RISE CONDOMINIUM
- R-7(T) TOWNHOUSE
- B-1 LOCAL BUSINESS
- B-1(A) LOCAL BUSINESS ALTERNATE



**REZONING REQUEST
T H TANGLEWOOD, LLC**

Existing Conditions: 4.74 acre+/- Wooded, undeveloped parcel
Existing Zoning: R-1, Low Density Single Family Residential
Proposed Zoning: R-2, Medium Density Single Family Residential

Surrounding Zonings/Uses:

North – R-3, High Density Single Family Residential District/Agricultural field

South – R-1, Low Density Single Family Residential/ Residences

West – R-1, Low Density Single Family Residential/Residence

East – R-1, Low Density Single Family Residential/Residence

Existing Utility Service Providers:

Water – Daphne Utilities **Sewer** – Daphne Utilities

Gas – Daphne Utilities **Electric** – Riviera Utilities

Affected City Service Providers:

Fire Protection-Station 2 or 3

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 that are applicable to this application.

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.

Existing Conditions

The applicant proposes to rezone the subject property from R-1 to R-2. The contiguous properties to the east, west and south are zoned R-1. The land to the north across Whispering Pines Road is zoned R-3.

One may venture to say that this is spot zoning, however, that is not the case. Usually, spot zoning would introduce a new land use that could be considered incompatible, inharmonious and out of context with the existing vicinity. R-1, R-2, and R-3 zoning district standards are provided below for comparison.

MINIMUM LOT REQUIREMENTS

	Minimum Lot Area Square feet (sq ft)	Minimum Lot Width at Setback Line ft	Maximum Lot Coverage Percent (%) ^a	Maximum Density ^b (units/acre)	Maximum Height ^c (stories) (ft)
R-1, Low Density Single Family	20,000	100	25	2.0	2.5 stories 35 ft
R-2, Medium Density Residential	15,000	90	25	2.5	2.5 stories 35 ft
R-3, High Density Single Family	12,000	80	30	3.5	2.5 stories 35 ft
R-4, High Density Single Family-- Multi-Family--	5,000 7,500 ^c	50 85	38 35	8.0 14.0	3 stories 50 ft
R-5, Mobile Homes	See	Articles	28 & 28	for	Details
R-6(G) Garden/Patio Homes	5,000	50	38	8	2.5 stories 35 ft

SETBACKS

Zoning District	Front Yard				Rear Yard	Side Yard	Corner Lot Side Yard	
	Arterial & Collector Streets	Local Streets & Service Roads	U.S. Highway 98 ^a	U.S., State or County Roads			Arterial & Collector Streets	Local Streets & Service Roads
R-1	40	40	50	e	40	15	40	25
R-2	35	35	50	e	35	10	35	20
R-3	30	30	50	e	30	10	30	20
R-4SF& R6(G)	25	25	50	e	25	6	30	20

Staff Recommendation

Staff recommends approval

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2019 - 13**

ADDITIONAL APPROPRIATION: DISPATCH RECORDING SYSTEM UPGRADE

WHEREAS, Ordinance 2018-35 approved and adopted the Fiscal Year 2019 Budget on October 1, 2018; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2019 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2019 budget; and

WHEREAS, the Police Department is in need of upgrades to their current recording system used by the Dispatch department in order to be compatible with the new VOIP telephone system; and

WHEREAS, quotes have been received and an additional appropriation is needed to purchase the appropriate equipment and software licenses for the recording system upgrade.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that monies from the **General Fund** in the amount of **\$15,033** are hereby appropriated for the above-stated purpose and made a part of the Fiscal Year 2019 Budget.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE
ORDINANCE 2019-14**

**Amend Job Classification Schedule for Building Inspector and
Building Maintenance Positions and Information Technology Director**

WHEREAS, Ordinance 2004-52 as adopted January 3, 2005 established the City of Daphne Job Classification Schedule; and

WHEREAS, Ordinance 2018-35 approved and adopted the Fiscal Year 2019 Budget on October 1, 2018 which funded personnel positions; and

WHEREAS, the City of Daphne recognizes the difficulty in hiring and retaining employees at the current compensation for the Building Inspector and Building Maintenance positions; and

WHEREAS, after further review, the Mayor and City Council recognize to have experienced individuals in these positions, the importance in providing compensation that is consistent with similar positions comparable with similarly sized communities in the surrounding areas; and

WHEREAS, the position and job description for Information Technology Director recommended by The Archer Co. was previously discussed and agreed upon by the City Council but was never formally assigned; and

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the following positions shall be amended within the Job Classification schedule:

POSITION	GRADE
Building Inspector I	19
Building Inspector II	22
Building Maintenance Technician	13
Building Maintenance Supervisor	20
Information Technology Director	36

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this _____ day of _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace Antinarella, City Clerk

**CITY OF DAPHNE
ORDINANCE 2019-15**

Amending the Job Classification Schedule Director of Events & Marketing

WHEREAS, Ordinance 2004-52 as adopted January 3, 2005 established the City of Daphne Job Classification Schedule; and

WHEREAS, Ordinance 2018-35 approved and adopted the Fiscal Year 2019 Budget on October 1, 2018 which funded the position of the Civic Center/CVB Director, Grade 32 and Recreation Director, Grade 29; and

WHEREAS, the Civic Center/CVB Director is resigning effective March 6 and the Recreation Director is retiring effective May 8; and

WHEREAS, the Civic Center and Bayfront rental facilities for the City of Daphne which are overseen by the Civic Center/CVB Director operates at a significant operational loss for the City (FY18: \$497,385 loss, FY17: \$473,822 loss, FY16: \$476,455 loss); and

WHEREAS, Mayor Haygood has indicated it is a priority of his administration to reduce and eliminate the operational loss associated with the Civic Center/Bayfront rental facilities to achieve a revenue neutral or revenue positive environment; and

WHEREAS, significant progress has been made toward the goal of eliminating the above referenced operational loss by securing the tenancy of the Church of the Highlands; and

WHEREAS, the Mayor is requesting to combine the Civic Center/CVB Director and Recreation Director positions to (i) achieve significant operational efficiencies, (ii) create a more flexible organizational structure to address current resource needs in the City and (iii) in furtherance of achieving the goal of eliminating CC/Bayfront operational loss.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that:

- 1) A new position of Director of Events & Marketing is hereby adopted as a Grade 34 position and added to the existing Job Classification Schedule.
- 2) The existing Recreation Director and Civic Center/CVB Director positions will not be filled upon the forthcoming vacancies.
- 3) The City Council hereby authorizes the Mayor to fill the Community Events & Marketing position.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this ____ day of _____, 2019.

Dane Haygood, Mayor

ATTEST:

Candace Antinarella, City Clerk