

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, AL
CITY COUNCIL BUSINESS MEETING AGENDA
July 6, 2020
6:30 P.M.

1. **CALL TO ORDER**
2. **ROLL CALL**
INVOCATION
PLEDGE OF ALLEGIANCE
3. **APPROVE MINUTES:** Council Meeting –June 15, 2020

4. **REPORTS OF STANDING COMMITTEES**

- A. **FINANCE COMMITTEE** – Conaway
Review the minutes from the June 22, 2020 meeting.
Treasurer Report –
- Unrestricted Fund Balance - \$18,932,296
 - Total Cash Balance - \$28,191,058
- Sales Tax for 2020 - \$1,600,842.20
Lodging Tax for 2020 - \$33,214.23

MOTION to move forward with the rebidding of the Pollard Road Sidewalk- TAPAA-TA17 (933) project with base bid from CR64 to Whispering Pines and an Add Alt from Whispering Pines to American Way and an additional Add Alt from American Way to Eagle’s Landing.

- 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
Review minutes of the May 28, 2020 meeting and report from the June 25, 2020 meeting.
- F. **RECREATION BOARD** – Coleman
- G. **UTILITY BOARD** – LeJeune
Review May 27, 2020 Daphne Utility Board minutes

6. **MAYOR’S REPORT**

City Council Agenda – July 6, 2020

- 7. CITY ATTORNEY REPORT**
- 8. DEPARTMENT HEAD REPORTS**
- 9. CITY CLERK’S REPORT**

MOTION to approve the publication and set a public hearing on August 17, 2020 for the Jubilee Farms Planned Unit Development General Plan Modification.

MOTION to approve the publication and set a public hearing on August 17, 2020 for the Forester “USA” Real Estate Group, Inc. Zoning Amendment.

MOTION to require nonemployees/general public to wear a mask or face covering over the nose and mouth and adhere to social distancing guidelines while in Daphne City Hall effective immediately until further notice.

- 10. PUBLIC PARTICIPATION**
- 11. RESOLUTIONS & ORDINANCES**

A. RESOLUTIONS:

2020-34 – Declare Certain Property Surplus and Authorize Mayor to Dispose of Such Property – Outdoor Christmas Tree

2020-35 – Accept the Streets and Rights of Way – Diamante Subdivision Phase 2

B. 2nd READ ORDINANCES:

2020-19 – Additional Appropriation: Construction of Bayfront Street Scape and Parking Improvements Project - \$1,757,918

C. 1ST READ ORDINANCES:

2020-20 – Appropriate funds in the amount of \$9,800 from the General Fund for the City Hall Parking Lot and Drainage Improvements

2020-21 – An Ordinance Addressing Solid Waste Enterprise Fund Losses

2020-22 –The Right of Way Ordinance

- 12. COUNCIL COMMENTS**
- 13. ADJOURN**

**June 15, 2020
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 Robin LeJeune called the meeting to order at 6:30pm.

2. ROLL CALL:

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

COUNCIL MEMBERS ABSENT: Doug Goodlin

Also Present: Candace Antinarella, City Clerk; Jay Ross, City Attorney; Mayor Dane Haygood; Kelli Reid, Finance Director; Jeremy Sasser, Public Works Director; Kenny Hanak, Fire Department; Ange Baggett, Marketing and Recreation Director; Tonja Young, Library; Eric Butler, Building Department; Hannah Noonan, Human Resources; Chief Carpenter, Police Department; Adrienne Jones, Planning Director; Betsy Schneider, Director of Operations; Troy Strunk, Director of City Development and Jessica Linne, Assistant City Clerk.

INVOCATION/PLEDGE OF ALLEGIANCE:

Invocation was given by Pastor Rife Stewart, Destiny Church.

3. APPROVE MINUTES:

The minutes of the June 1, 2020 regular meeting and the June 8, 2020 Special Called Council Meeting were approved.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE

Councilwoman Conaway said the next meeting is June 22, 2020 at 4:30pm.

B. BUILDINGS & PROPERTY COMMITTEE

Councilman Goodlin was absent. Councilman LeJeune said the May 2020 Building Report was in the packet. He said the Committee met earlier that afternoon.

C. PUBLIC SAFETY COMMITTEE

Councilman Scott said the Committee met that afternoon. He said the next meeting is July 13, 2020 at 4:30pm.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE

Councilwoman Phillips said the next meeting is July 6th at 4:30pm.

E. PUBLIC WORKS COMMITTEE

Councilman Coleman said the next meeting is July 6, 2020 at 5:30pm.

**MOTION by Councilman Coleman to reject the current 2020-L-Concrete Materials bid and rebid with clarifications made in the bid specifications for budget purposes. Seconded by Councilwoman Phillips.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Coleman to reject the 2020-I-Pollard Road Sidewalk Project TAPAA-TA17 (933) and rebid with the project as two sections with labor to be contracted out and include the option to award either section or both according to available funding. Seconded by Councilman Scott.
MOTION CARRIED UNANIMOUSLY.**

**June 15, 2020
CITY COUNCIL MEETING
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5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments

Mrs. Jones said the next meeting is Thursday, June 4th.

B. Downtown Redevelopment Authority

Councilwoman Conaway said the Downtown Redevelopment Authority will meet on Thursday, June 18th at 5:30pm.

C. Industrial Development Board

Councilman Rudicell said there is a vacancy on the Board. Any interested applicants can send their resume to the City Clerk.

**MOTION by Councilman Rudicell to appoint Laura Coker to the Industrial Development Board.
Seconded by Councilwoman Phillips.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Rudicell to appoint Niki Coker to the Industrial Development Board.
Seconded by Councilwoman Conaway.
MOTION CARRIED UNANIMOUSLY.**

D. Library Board

Councilwoman Phillips said the next meeting is July 9th at 4:30pm.

E. Planning Commission

Councilman Scott said the minutes from the March 26, 2020 meeting and the report from the May 28, 2020 meeting are in the packet. He said the next meeting is June 25, 2020 at 5:00pm.

F. Recreation Board

Councilman Coleman said Board met the past Wednesday. He said they discussed a long term vision for the Board. He mentioned there are two open positions on the Board.

G. Utility Board

Councilman LeJeune said the minutes from the February 2020 meeting are in the packet. He said there is a Resolution from the Board on the agenda. He said the next meeting is June 24, 2020.

6. MAYOR'S REPORT:

Mayor Haygood said the City of Daphne was awarded the Risk Management Award for 2019 from AMIC. He commended Human Resources as well as the Safety Committee. He presented the plaque to Hannah Noonan.

He spoke about the diverging diamond at Exit 38 in Malbis.

7. CITY ATTORNEY REPORT:

City Attorney asked the Council to enter into Executive Session at the end of the meeting for two matters. He said there was a brief matter of pending litigation. He said the other was concerning the good name and character of a person. He said it should not take more than 15 minutes.

8. DEPARTMENT HEAD COMMENTS:

No report from the Fire Department or Police Department.

**June 15, 2020
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Jeremy Sasser, Public Works, shared that the road resurfacing bid is out. He mentioned the Whispering Pines sidewalk construction has started. He also gave an update on the overall sidewalk construction.

9. CITY CLERK'S REPORT:

City Clerk said that the City is in full election season. She reminded everyone Election Day is August 25, 2020. She shared that information is on the website and that the Notice of Election has been drafted.

10. PUBLIC PARTICIPATION:

Public Participation opened at 6:47pm.

Steve Carey, Chairman of the Industrial Development Board, thanked the Council for their approval of the two new IDB members. He gave an update on the DISC project and the ongoings of IDB.

Councilman LeJeune asked Mr. Carey what type of marketing IDB had done. Mr. Carey said that the IDB has a website as well as a Google number.

Public Participation closed at 6:51pm.

11. RESOLUTIONS & ORDINANCES:

A. RESOLUTIONS:

2020-32 – 2020-J-Bayfront Street Scape and Parking Improvements

2020-33 – Authorize the Acceptance and Execution of an Agreement with the Utilities Board of the City of Daphne Relating to Capacity Fees at Daphne Sports Complex in the amount of \$78,400

**MOTION by Councilman Coleman to waive the reading of Resolutions 2020-32 and 2020-33. Seconded by Councilwoman Conaway.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Coleman to adopt Resolution 2020-32. Seconded by Councilwoman Conaway.
MOTION CARRIED UNANIMOUSLY.**

**MOTION by Councilman Scott to adopt Resolution 2020-33. Seconded by Councilwoman Phillips.
Councilman LeJeune explained the Resolution further.
MOTION CARRIED UNANIMOUSLY.**

ORDINANCES:

B. 2nd READ ORDINANCES:

C. 1ST READ ORDINANCES:

2020-19 – Additional Appropriation: Construction of Bayfront Street Scape and Parking Improvements Project - \$1,757,918

**June 15, 2020
CITY COUNCIL MEETING
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12. COUNCIL COMMENTS:

Councilwoman Conaway said the Education Advisory Committee will meet June 22, 2020 at 11:00am.

Councilman Rudicell said he likes having the sub meetings in Chambers allowing for more room.

Councilman Scott said he was excited to share that Daphne’s new Fire Chief is Mr. Melvin Brown. He also mentioned that he is happy to see they are moving forward on Bayfront with the recent passing of Resolution 2020-32. He thanked Councilman Coleman for all his hard work on Bayfront.

Councilman Coleman thanked Councilman Scott for his kind comments. He said there was good discussion at the Public Safety meeting.

Councilwoman Phillips said it was good to see Mr. Drummond. She appreciated hearing about the Police Department and says she supports all training for officer.

Councilman LeJeune thanked everyone for coming out and reminded everyone to stay safe.

City Attorney certified that the Council should enter into an Executive Session to discuss pending litigation and the good name and character of a person. He certified that the reason to go into Executive Session is in accordance with the Alabama Open Meetings Act. He said it should take 10-15 minutes. He said there should be no reason the Council should have to come out of Executive Session to vote and recommended they adjourn the meeting to enter into Executive Session.

**MOTION by Councilwoman Phillips to enter into Executive Session. Seconded by Councilman Scott.
City Clerk called a roll call vote.**

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

MOTION CARRIED UNANIMOUSLY.

13. ADJOURN:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, COUNCIL ADJOURNED INTO EXECUTIVE SESSION AT 7:01PM.

Respectfully submitted by,

Certification of Presiding Officer,

Candace G. Antinarella, CMC, City Clerk

Robin LeJeune, Council President

CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
JUNE 22, 2020
4:30 P.M.

I. CALL TO ORDER/ROLL CALL

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

Present were:

Chairperson Mrs. Tommie Conaway
Councilman Mr. Pat Rudicell
Councilman Mr. Doug Goodlin

Councilman Mr. Ron Scott
Councilman Mr. Robin LeJeune
Councilwoman Mrs. Angie Phillips

Also Present: Mayor Dane Haygood, Finance Director Mrs. Kelli Reid, Senior Accountant Mrs. Suzâne Henson, Human Resource Director Vickie Hinman, Revenue Officer Courtney Coleman, Public Works Director Mr. Jeremy Sasser, Operations Director Mrs. Betsy Schneider, City Clerk Mrs. Candace Antinarella, Director of Events and Marketing Ange Baggett, Engineer Mrs. Amanda Thompson-GMC, and City Attorney Mr. Patrick Dungan.

II. PUBLIC PARTICIPATION

There was no public participation.

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 - 10
- Promotion/Internal Transfer - 0
- New Hires – 1
- Open positions - 1

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

- Dispatchers Oral Board: 06/24/2020
- HR staff training/research: Families First Coronavirus Response Act (FFCRA)
- Updating Employee Self-Service Portal with 2020 W-4 Federal Withholdings fields
- Designing Benefits Open Enrollment for use in Employee Self-Service Portal
- New Employee Orientation: 07/09/2020
- Department training for Payroll/Benefits Coordinator retirement
- Temporary relocation to Jubilee Conference room

Mrs. Hinman stated that the new Fire Chief will start work on July 16, 2020 and most of his paperwork has been completed. Mrs. Hinman noted that refreshments will be served on June 29, 2020 in honor of Mrs. Sherree Hilburn, Benefits Coordinator's retirement and invited Council to stop by. Mrs. Hinman stated that Mrs. Hilburn had enrolled 1,200-1,400 new employees in her 23+ years of service.

B. Overtime Report and Special Events Overtime Recap Report

The overtime report was included in the packet for review.

V. BUSINESS LICENSE REPORT

A. Report: New Business Licenses – May, 2020

Mrs. Coleman reviewed the following reports and information:

- Code enforcement issued 3 warnings resulting in businesses becoming compliant and \$1,771.41 in revenue.
- New Businesses with a physical location in Daphne - 6
- Simplified Sellers Use Tax collections - \$64,770.83 and YTD collections - \$290,971.94

BUSINESS LICENSE COUNT through 05/30/2020	
NEW Licenses	26
RENEWAL Licenses (2020)	50
Total Issued THIS MONTH	76
Total Issued THIS MONTH - PREVIOUS YEAR	156
Net Gain/-Loss Current VS Previous Yr MONTH	-80
Total Issued YTD 2020	3,570
Total Issued YTD - PREVIOUS YEAR	4,367
Net Gain/-Loss Current VS Previous Yr YTD	-797

Business License Fee Historical Comparison 2019 / 2020				
	FY 19	FY 20	+/- Previous Year	Budget 2020 \$2,335,000
October	\$7,486.91	\$15,924.77	\$8,437.86	(\$2,319,075.23)
November	\$3,983.03	\$3,754.50	(\$228.53)	(\$2,315,320.73)
December	\$2,614.81	\$80,771.34	\$78,156.53	(\$2,234,549.39)
January	\$1,409,468.98	\$1,641,711.72	\$232,242.74	(\$592,837.67)
February	\$698,411.44	\$210,511.03	(\$487,900.41)	(\$382,326.64)
March	\$169,548.90	\$226,661.69	\$57,112.79	(\$155,664.95)
April	\$48,761.33	\$120,558.73	\$71,797.40	(\$35,106.22)
May	\$28,001.93	\$34,866.11	\$6,864.18	(\$240.11)
Year to Date	\$2,368,277.33	\$2,334,759.89	(\$33,517.44)	(\$240.11)
All amounts include penalty and interest.				

Discussion was made that February's numbers were down due to the timing changes for Business License renewals processing due to new software being installed and licenses being able to be issued earlier.

VI. SALES & LODGING TAX REPORT

A. Sales and Use Taxes: April, 2020

Mrs. Henson reviewed the Sales & Use Tax Reports: \$1,600,842.20 was collected for April, 2020 which was up \$114,011.94 from April 2019's collections: :

- YTD Variance over Budget - \$583,170.16

B. Lodging Tax Collections, April, 2020

Mrs. Henson reviewed the Lodging Tax Collections Report and noted the collections for April, 2020 were \$33,214.23 which is down (\$71,650.45) from April 2019's collections .

- YTD Variance over Budget: (\$71,650.45)

Discussion was made that March and April numbers were down for lodging tax collections due to COVID-19.

C. Lodging Tax Fund : Statement of Rev over Exp, May, 2020

Mrs. Henson reviewed the Lodging Tax Statement of Revenues over Expenditure report for May, 2020.

- Unreserved balance for Bayfront related purchases - \$1,635,267.91
- Recreation for related purchases - \$634,161.84

VII. FINANCIAL SCHEDULES & REPORTS

A. Financial Reports

1. Treasurer's Report: May, 2020

Mrs. Reid reviewed the Treasurer's Report:

TREASURER'S REPORT					
As of May 31, 2020					
Account Type/Title	5/31/2020	4/30/2020	Increase (Decrease) from last Month	5/31/2019	Increase (Decrease) from Last Year
GENERAL FUND & ENTERPRISE FUNDS	\$ 12,970,437	\$ 12,163,709	\$ 806,728	\$ 7,607,138	\$ 5,363,299
CERTIFICATE OF DEPOSIT	-	505,908	(505,908)	500,000	\$ (500,000)
INVESTMENT FUND	5,891,729	5,868,888	22,842	5,574,858	\$ 316,871
CREDIT CARD ACCOUNT	70,129	71,651	(1,522)	22,538	\$ 47,591
Total Unrestricted Cash Balance	18,932,296	18,610,157	322,139	13,704,534	5,227,762
SPECIAL REVENUE FUNDS					
4 CENT GAS TAX	168,823	164,376	4,447	168,876	(53)
7 CENT GAS TAX	151,688	146,046	5,642	276,736	(125,048)
10 CENT GAS TAX	67,065	56,991	10,074	-	67,065
TREE & FLOWER	23,926	23,926	-	23,926	(0)
FEDERAL DRUG FORFEITURES	264,521	264,521	-	271,272	(6,751)
LOCAL DRUG FORFEITURES	55,618	55,618	-	46,534	9,084
LIBRARY	46,465	47,936	(1,471)	19,033	27,432
COURT TRAINING & EQUIPMENT	38,793	38,647	146	35,272	3,521
COURT JUDICIAL ADMINISTRATIVE	-	-	-	130,664	(130,664)
COURT CORRECTION	397,649	393,099	4,550	268,915	128,734
LODGING TAX	2,197,655	2,273,389	(75,734)	2,018,959	178,696
AGENCY FUNDS					
MUNICIPAL COURT	1,573	1,263	310	4,718	(3,145)
SELF INSURANCE	201,518	194,004	7,514	171,048	30,470
FLEX SPENDING	539	(6,264)	6,803	(15,712)	16,251
OPEB TRUST INVESTMENT FUND	498,835	485,825	13,010	-	498,835
	4,114,668	4,139,378	(24,710)	3,420,241	694,427
CAPITAL PROJECT FUNDS					
CAPITAL RESERVE	3,721,420	2,912,586	808,833	4,177,303	(455,883)
2019 CAPITAL IMPROVEMENTS	334,923	540,008	(205,086)	914,542	(579,619)
	4,056,342	3,452,595	603,747	5,091,845	(1,035,503)
DEBT SERVICE FUNDS					
DEBT SERVICE	1,087,753	1,195,101	(107,349)	1,052,141	35,612
Total Restricted Cash Balance	9,258,763	8,787,073	471,689	9,564,227	(305,464)
Total City Cash Balance	\$ 28,191,058	\$ 27,397,230	\$ 793,828	\$ 23,268,761	\$ 4,922,297
	Encumbrance Total as of		5/31/2020	\$ 505,511.39	

Mrs. Reid noted that the CD (investment) had matured and the monies are now in the MMA account. Mrs. Reid stated that CD rates were historically low and a new CD would not be opened until rates improve.

The Treasurer's Report as of MAY, 2020 Total Unrestricted Cash Balance - \$18,932,296 and Total City Cash Balance - \$28,191,058 was presented to be filed for audit.

2. Encumbrance Report

- Encumbrance balance is - \$505,511.39 as of May 31, 2020.

Mrs. Reid reviewed the Encumbrance Report and stated she had removed the Jubilee Breeze monies off the report. Mrs. Reid noted that the SAFE Room project would soon be complete and discussed other projects that would soon clear off the encumbrance list.

3. Outstanding Appropriations

Mrs. Reid reviewed several outstanding projects and noted that the Bayfront Street Scape project has been awarded and the second read for the appropriation ordinance will be at the July 6, 2020 Council meeting and the FY2020 Road Resurfacing bid will open next week. Discussion continued on the Jubilee Square debt payoff. Mrs. Reid noted that once that debt was paid off the sales tax collections would go into the General Fund like other sales tax collections.

4. Financial Overview: Debt Summaries & Monthly Financial Statements, April, 2020

Mrs. Reid reviewed the following Financial Statements:

- Debt Summary Schedules (General & Enterprise Funds), May, 2020
 - o Jubilee Square: Debt payments are currently fully paid through November thus 6 months in arrears. Arrearage includes \$546,391 in principal and \$34,198 in interest

Monthly Financial Statements – April 2020 Financial Highlights

General Fund:

	<u>FY 2020</u>	<u>FY 2019</u>	<u>Change</u>
• YTD Budgetary Net Income:	\$4,573,582	\$1,458,723	\$3,114,859
• Total sales tax collected year to date is approximately \$583,000 over budgeted income and \$835,000 over prior year to date income			
• Due to the COVID-19 pandemic, several businesses, including restaurants and retail establishments, were closed for most of April			
• Licenses and permits were approximately \$520,000 over prior year to date			
• Transfers are approximately \$2.8 million less than prior year to date. Transfers were made to the Capital Reserve Fund in the amount of \$2,135,404 for Lott Park and Corte Road in FY 2019			
• Unassigned Fund Balance: \$19,340,342			
• Outstanding Encumbrances: \$567,249			

Debt Service Fund/Outstanding Debt:

- Outstanding Warrant Balance as of April 30, 2020: \$33,813,055
- Outstanding Note Payable Balance as of April 30, 2020: \$595,495
- Outstanding Capital Lease Balance as of April 30, 2020:
 - o General Fund: \$1,299,966
 - o Enterprise Fund: \$1,150,829

Capital Project Funds (Capital Reserve, 2019 Construction):

- Approximately \$382,000 was expended out of the 2019 Construction Fund for the construction of Fire Station #5

Special Revenue Funds (12 separate funds):

- Lodging Tax Fund –
 - o Bayfront Unreserved Fund Balance: \$1,640,158
 - o Recreation Unreserved Fund Balance: \$689,756
 - o Total lodging tax collected was approximately \$97,000 under 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 2020</u>	<u>FY 2019</u>	<u>Change</u>
Solid Waste Fund	\$ 131,096	\$ 163,104	\$ (32,008)
Civic Center Fund	\$ 173,432	\$ 17,895	\$ 155,537
Bayfront Park Fund	\$ 71,256	\$ 80,902	\$ (9,646)

Mrs. Reid stated that the questions had been asked on what is the fixed cost for Civic Center operations and could any of the current rental loses be reimbursed by the CARES Act. Mrs. Reid answered the fixed cost is \$44,000/month and the revenue loss for rentals was not covered under the CARES Act.

Mrs. Reid noted that 31% of Capital budget had been expended.

5. Unfunded Future Projects Expenditure Summary

Mrs. Reid reviewed the Unfunded Future Projects Expenditure Summary. Mrs. Reid noted that the Bayfront Street Scape project had been removed from the report. Discussion continued on budget for sidewalks.

6. Summary of Budgetary Amendments

The Summary of Budgetary Amendments made to the FY2020 Budget was included in the packet for review.

- Total Appropriations Year to Date – \$1,567,854
- Adjusted Expenses over Revenue – (\$1,514,891)

B. Bills Paid Reports – May, 2020

The Bills Paid Report were previously presented electronically.

VIII. BIDS (Resolution)

A. 2020-K-Daphne Tennis Center and Restroom Facilities at Lott Park

The Mayor reviewed the award options for the Daphne Tennis Center and Restroom Facilities project noting the complete project could be awarded with a construction cost of \$483,140, base bid with add alt deduct #1 - \$478,440, base bid with add alt deduct #2 - \$467,240 or base bid with add alt deduct #1 & 2 - \$462,167. Deduct #1 included removal of the stair and under stair storage and rooftop baluster. Deduct #2 included the removal of all showers (7) and plumbing fixtures. Mr. LeJeune asked if the number of restrooms adequate for that facility. Discussion continued on the restroom requirements. The Mayor discussed an additional option of the building being constructed with in-house labor. Discussion continued on the project and monies that would need to be appropriated according to what option was selected. No further action was taken.

IX. APPROPRIATION REQUESTS: (Ordinance)

A. City Hall Parking Lot Design Fees- \$9,800

Mrs. Reid noted this project was discussed at the previous Public Works Committee meeting and the appropriation needed for the project is \$9,800.

MOTION BY Mr. Goodlin to recommend to Council to adopt the Ordinance amending the budget to appropriate \$9,800. Seconded by Mr. LeJeune .

MOTION CARRIED UNANIMOUSLY

X. NEW BUSINESS

A. SEEDS – Community Grant for the new Belforest Elementary School - \$42,000

Mrs. Reid reviewed the community grant request for the new Belforest Elementary School and the current ordinance for community grants that specifies the monies are for schools located in the Daphne City limits. Mrs. Reid noted that the ordinance could easily be updated to include all Daphne schools. Discussion continued on the ordinance being placed on the next Ordinance Committee agenda to discuss updating that verbiage. Discussion was also made on the City funding the School Resource Officer for the Belforest Elementary and the Virtual School. Mr. Scott discussed seeing if there was a desire for that area the new school is located in being annexed into the Daphne City limits. Mrs. Conaway will discuss the city limits issue at the next Education Advisory committee meeting.

XI. OLD BUSINESS

A. Solid Waste Enterprise Fund Losses

Mrs. Reid stated that she and the City attorney, Patrick Dungan, had worked on combining the two draft ordinances for Solid Waste enterprise fund losses into one. Mr. Rudicell discussed Council being required to vote (in the affirmative) to increase rates when an increase was needed. Mr. Rudicell said the requirement for Council to vote on the increase would be for transparency purposes and also so that citizens would be aware when the increase would occur. Discussion continued on the timeframe needed for notification of increases for citizens and pickup schedules. Mrs. Reid noted it would probably be 2 – 2 ½ years before an increase would potentially be made because you would need one full year to establish a base year. Discussion continued on requiring an affirmative vote from Council for an increase and the City attorney said he would make the changes to the ordinance for Council’s review.

B. Estimates for Phasing for Pollard Road Sidewalk- TAPAA-TA17 (933)

Mr. Sasser reviewed the grant project and noted the project options selected needs to be at least a \$100,000 City match to fully use the federal grant funding available. Mr. Goodlin noted that at least two sections needed to be selected to fully exhaust federal monies available. Discussion continued that grant monies available through the 2017 Transportation Alternative Program (TAP) Grant are \$399,885. Discussion continued on the different sidewalk section options and the areas that would include.

MOTION BY Mr. Scott to move forward with the rebidding of the Pollard Road Sidewalk- TAPAA-TA17 (933) with base bid from CR64 to Whispering Pines and an Add Alt from Whispering Pines to American Way and an additional Add Alt from American Way to Eagle's Landing. Seconded by Mr. LeJeune.
MOTION CARRIED UNANIMOUSLY

XII. ADJOURN

The meeting adjourned at 5:55p.m.

To: Office of the City Clerk
From: Adrienne D. Jones, 
Community Development Director
Subject: Planning Commission Minutes and Report
Date: June 29, 2020

MEMORANDUM

Attached please find a copy of the approved minutes for the City of Daphne Planning Commission regular meeting of May 28, 2020 and the report of the regular meeting of June 25, 2020 for placement on the July 6, 2020 City Council agenda for review.

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

ADJ/jv

From the Office of

Adrienne D. Jones,
Community Development Director
P. O. Box 400
Daphne, Alabama 36526
251-620-1700 ph



Call to Order:

Chairman called the regular meeting of the City of Daphne Planning Commission to order at 5:08 p.m. The number of members present constitutes a quorum.

Call of Roll:

Members Present:

William "BJ" Eringman, Deputy Public Works Director
Marybeth Bergin, Chairman
Ron Scott
Hudson Sandefur
Andrew Prescott, Vice Chairman

Staff Present:

Adrienne Jones, Director of Community Development
Jan Vallecillo, Planning Coordinator
Patrick Dungan, Attorney
Troy Strunk, Executive Director, City Development
Jeremy Sasser, Public Works Director
Ashley Campbell, Environmental Programs Manager

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

Chairman asked for questions, comments or corrections to the minutes *of the regular meeting of March 26, 2020. There being none, minutes are approved as submitted.*

The next order of business is site plan review for River Bank & Trust.

An introductory presentation was given by Tim Lawley, representative of Goodwyn, Mills & Cawood, requesting site plan review of a bank with associated parking, drainage, and landscaping located southwest of U.S. Highway 98 and Van Avenue.

Chairman asked for Commission questions or comments and about staff deficiencies.

Mr. Lawley stated that plan revisions presented address public works concerns and comments from the site preview meeting. He advised that he withdrew the sidewalk exemption request and provided correspondence to outline reasons why the requirement of a performance bond for storm water drainage is not warranted. Additionally, Mr. Sasser recommended that he provide a drainage report to support his position with regard to off-site impacts, as well as, a letter to the adjacent property owner notifying him of existing drainage conditions, but he determined that he and his client did not feel comfortable with providing such a letter.

Public Works Director said he was ok, that the drainage calculations checked out, and that the issue was raised and a response was provided by the engineer for the record. He indicated that the burden is on the engineer.

Environmental Programs Manager advised that staff deficiencies has been addressed.

Mr. Sasser asked the status of the ALDOT permit. Mr. Lawley responded it is currently under review.

With regard to a future access to the adjacent property to the north, Mr. Lawley stated his client reserves the right to make an agreement in the future. There is a possibility of providing access to Van Avenue. He advised that the owner is not opposed to the connection; however, it depends on the proposed use of the property and potential traffic impact to this development.

Chairman asked if the access to the south is in ALDOT's right-of-way. Mr. Lawley confirmed.

Chairman asked for Commission questions or comments and a motion.

A Motion was made by Mr. Prescott and **Seconded** by Mr. Sandefur **to approve River Bank & Trust site plan. There was no discussion on the motion. The Motion carried unanimously.**

Chairman stated the next order of business is a request for Planning Commission approval; master plan and site plan review for Down by the Bay, L.L.C. Boat & RV Storage. She explained that the Commission will hold a public hearing because a storage facility is not allowed by right in a B-2 zone.

An introductory presentation was given by Chris Lieb, representative of Lieb Engineering, requesting consideration of a proposed commercial use in a B-2 zone; master plan and site plan review of a multi-phased development of an office and self-storage, boat and RV storage located northeast of County Road 64 and County Road 13, southeast of Rand Avenue and County and 13 with associated drainage, parking and landscaping.

Chairman asked for Commission questions or comments and about staff deficiencies.

Mr. Sasser expressed his concern about the proposed location of access and striping and alignment with the turn lane installed with the construction of Belforest Villas on County Road 13. Mr. Lieb responded that access has been relocated south to align with the radius; also, the sidewalk width was revised to seven feet.

Ms. Campbell stated that this site is located in the Tiawasee Creek Watershed. Mr. Eringman advised the storm water follows the east side of the sidewalk, through a ditch on County Road 13 and directed into an on-site detention pond.

Chairman opened the floor to public participation.

Joyce Lundy, representative of Pine Grove CME Methodist Church, 26154 County Road 13, advised that the church was not opposed to the development, but expressed concerns about potential adverse effects of drainage, parking, or with access to the church.

Mr. Scott commended Ms. Lundy's efforts to protect the church and advised that her concerns will be taken into consideration.

Chairman closed public participation.

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

A Motion was made by Mr. Prescott and **Seconded** by Mr. Sandefur **to grant planning approval for a storage facility as requested.**

During discussion, Mr. Scott commented about the various locations of storage facilities recently approved for construction in the city. Chairman commented on the variations between the types of those facilities.

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

Chairman asked for Commission questions or comments and a motion for master plan review.

A Motion was made by Mr. Sandefur and **Seconded** by Mr. Prescott **to approve the master plan for Down by the Bay, L.L.C. Boat & RV Storage.**

During discussion, Mr. Prescott asked about amending the motion to request review of a revised master plan. Mrs. Jones responded that minor modifications may be approved by staff, if necessary or brought back to the Planning Commission for major modifications.

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

Chairman asked for Commission questions or comments for a motion for site plan review.

A Motion was made by Mr. Sandefur and **Seconded** by Mr. Prescott **to approve the site plan for Down by the Bay, L.L.C. Boat & RV Storage, with the following conditions: the final design for the turn lane, entrance and drainage shall be coordinated with city staff. There was no further discussion on the motion. The Motion carried unanimously.**

The next order of business is final plat review and street acceptance for Diamante Subdivision, Phase Two.

An introductory presentation was given by Casey Hill, representative of Dewberry, requesting final plat review and street acceptance for Diamante Subdivision, Phase Two located on the east side of County Road 13, northeast of the intersection of Amethyst Drive and Red Eagle Drive.

Chairman asked for Commission questions or comments and about staff deficiencies.

Public Works Director and Environmental Programs Manager advised that staff deficiencies have been addressed.

Ms. Campbell advised that the developer has agreed to provide a performance bond for the stabilization of the detention pond and common areas and will be applying a native seed mixture to wetland areas.

Chairman asked for Commission questions or comments and referenced correspondence from an adjacent property owner in Sehoj Subdivision expressing to express concern about potential impacts from lots 124 and 125, storm water drainage, and preservation of trees & vegetation.

Mr. Scott asked about consideration of tabling the application until the next meeting.

Ms. Campbell responded that the engineer was aware of the effect of storm water drainage to the lake and common area nine. She stated that the issue could be resolved by installing a swale between the lots to change the lot levels.

Mr. Dungan stated that should not affect approval of the final plat. Ms. Jones responded that the developer could amend the infrastructure section of the restrictive covenants with regard to lots 122, 123, 124 and 125.

The Commissioners and staff discussed potential options.

Ms. Hill, after consulting with her client, requested to table the application to the next meeting.

Chairman asked for Commission questions or comments and for a motion to table the associated applications.

A Motion was made by Mr. Scott and **Seconded** by Mr. Sandefur to table **final plat review and street acceptance for Diamante Subdivision; Phase Two until the June 25, 2020 regular Planning Commission meeting. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is site plan review for Eastern Shore Toyota Employee Parking Lot Expansion.

An introductory presentation was given by Doug Bailey, representative of Goodwyn, Mills & Cawood, requesting site plan review of a parking lot expansion for a luxury cars and the site to the west located southeast of the intersection of Frederick Boulevard and Renaissance Boulevard. He advised that plan revisions address public works and environmental concerns and comments made at site preview. He noted that temporary erosion control measures have been installed until such time an ADEM permit is issued and construction begins.

Chairman asked for Commission questions or comments and a motion.

A Motion was made by Mr. Scott and **Seconded** by Mr. Eringman **to approve Eastern Shore Toyota Employee Parking Lot Expansion site plan.**

During discussion, Mr. Scott asked should the motion include a sidewalk. Ms. Jones responded that the parking lot addition is not located on the right-of-way.

A **Motion** was made by Mr. Scott and **Seconded** by Mr. Eringman *to approve Eastern Shore Toyota Employee Parking Lot Expansion site plan. There was no further discussion on the motion. The Motion carried unanimously.*

The next order of business is public participation.

Chairman asked for public participation.

None presented.

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

Mr. Dungan stated no report.

The next order of business is commissioner's comments.

Mr. Scott commented regarding consideration of the inclusion of speed calming devices in the Land Use Ordinance as a part of the development process for subdivisions.

Mrs. Jones explained that staff has been aware and willing since Jubilee Farms Subdivision was annexed in 2017. There is a consultant working with the Council on the subject.

The next order of business is director's comments.

Director presented the upcoming meeting dates. Site Preview is June 17, and the Regular Meeting is June 25, 2020. She advised that there are seven applications submitted for next month. Stay well and be safe.

There being no further business, the meeting was adjourned at 5:53 p.m.

Respectfully submitted by:


Jan Vallecillo, Planning Coordinator

Approved: June 25, 2020


Marybeth Bergin, Chairman

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JUNE 25, 2020
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**


REPORT

1. **CALL TO ORDER:** 5:03 p.m.
2. **CALL OF ROLL:** Marybeth Bergin, James “Bo” White, Andrew Prescott, Ed Kirby, Ron Scott and BJ Eringman
3. **APPROVAL OF MINUTES:** Review of minutes of the regular meeting of May 28, 2020. **(Approved)**
4. **OLD BUSINESS:**

A. **DIAMANTE SUBDIVISION, PHASE TWO:**

1. **FINAL PLAT REVIEW:**

File SDF20-02: **(Approved)**

Subdivision: **Diamante, Phase Two, a Resubdivision of Lot 1, Malbis-CR 13**

Zoning(s): ***R-3, High Density Single Family***

Location: **East side of County Road 13, northeast of the intersection of Amethyst Drive and Red Eagle Drive**

Area: **23.33 ± Acres, (39) lots**

Developer: **68V Diamante 2017, L.L.C. - Nathan Cox**

Agent: **Dewberry - Al Finley**

Engineer: **Dewberry - Jason Estes**

2. **STREET ACCEPTANCE PETITION:**

File AP20-10: (Set forth a favorable recommendation to City Council, contingent upon submitting Diamante, Phase 2 recorded subdivision plat to Community Development)

Presentation to be given by Al Finley, representative of Dewberry, recommending acceptance of all right-of-ways contained within Diamante Subdivision, Phase Two. Said right-of-ways being Amethyst Drive (1,820 linear feet) and Vargas Court (510 linear feet).

5. **NEW BUSINESS:**

A. **JUBILEE FARMS PLANNED UNIT DEVELOPMENT:**

1. **GENERAL PLAN MODIFICATION: (Set forth a favorable recommendation to City Council to amend the Jubilee Farms PUD General Plan)**

Presentation to be given by Al Finley, representative of Dewberry, requesting a modification to the Jubilee Farms PUD General Plan/Boundary associated with Ordinance 2017-39, to separate a 13.6 acre tract from the PUD boundary and standards.

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JUNE 25, 2020
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

REPORT

2. ZONING AMENDMENT:

(Set forth a favorable recommendation to City Council to rezone the subject property from PUD to R-1)

File Z20-02: Forestar “USA” Real Estate Group, Inc.

Present Zoning: PUD, Planned Unit Development

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

**Location: South of County Road 54 and west of Avalon Subdivision,
Phase 3**

Area: 13.6 Acres ±

Owner: Forestar “USA” Real Estate Group, Inc. - Tucker Dorsey

Agent: Dewberry - Al Finley

3. MASTER PLAN AMENDMENT:

File MPA20-01: (Approved, contingent upon City Council modifying the Jubilee Farms PUD General Plan)

Presentation to be given by Al Finley, representative of Dewberry, requesting a master plan revision of Jubilee Farms Subdivision.

B. PRELIMINARY/FINAL PLAT REVIEW:

1. File SDPF20-03: (Approved)

Subdivision: Belforest K-6 Water Well

Zoning: RSF-E, Residential Single Family Estate District, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne, pending rezoning of Lot 2 to RSF-4, Single Family District

Location: Southwest corner of County Road 64 and County Road 54 East

Area: 18.32 Acres ±, (2) lots

Owner: Baldwin County Board of Education - Tom Waters

Surveyor: Goodwyn, Mills & Cawood - Stuart Smith

C. SEAGRASS VILLAGE:

1. MASTER PLAN REVIEW:

File MPR20-01: (Approved)

Presentation to be given by Larry Smith, representative of S.E. Civil, requesting a master plan review of Seagrass Village.

**CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JUNE 25, 2020
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

REPORT

2. PRELIMINARY/FINAL PLAT REVIEW:

File SDPF20-04: (Approved)

Subdivision: Seagrass Village

Zoning: *PUD, Planned Unit Development*

Location: Northeast corner of U.S. Highway 98 and Dale Road

Area: 20.72 Acres \pm , (2) lots

Owner: Zeolia Dale c/o Velma Jackson

Developer: Sage DevCo. L.L.C. - Robert White, V.P.

Agent: S.E. Civil - Larry Smith

3. SITE PLAN REVIEW:

File SP20-06: (Approved to allow the outfall within 25' of the right-of-way)

Site: Seagrass Village

Zoning: *PUD, Planned Unit Development*

Location: Northeast corner of U.S. Highway 98 and Dale Road

Area: 20.72 Acres \pm , (2) lots

Owner: Zeolia Dale c/o Velma Jackson

Developer: Sage DevCo. L.L.C. - Robert White, V.P.

Agent: S.E. Civil - Larry Smith

ADMINISTRATIVE PRESENTATIONS - AGENDA ITEMS OF JULY 23, 2020 MEETING:

D. OFFICIAL ZONING AND STREET MAP UPDATE:

File AP20-11: (Set forth a favorable recommendation to City Council)

Presentation to be given by Adrienne Jones, Director of Community Development, of a proposed amendment to the Official Zoning Map and the Official Street Map.

E. SAINT AUGUSTINE SUBDIVISION, PHASE FOUR SECOND EXTENSION

REQUEST:

File AP20-12: (Approved a one-year extension set to expire August 23, 2021)

Presentation to be given by Al Finley, representative of Dewberry, requesting the second extension of time for preliminary subdivision plat approval for Saint Augustine Subdivision, Phase Four; subdivision was approved by the Planning Commission on August 23, 2018; one-year extension was granted on August 21, 2019.

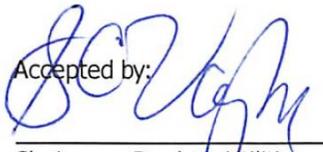
F. PETITIONS:

CORTE ROAD AND A PORTION OF AUSTIN ROAD ANNEXATION:

File ANX20-01: (Set forth a favorable recommendation to City Council to annex and to accept for maintenance of the Corte Road and a portion of Austin Road and the right-of-way alignment)

Presentation to be given by Adrienne Jones, Director of Community Development, requesting annexation of the right-of-ways of Corte Road and a portion of Austin Road and the right-of-way alignment into the corporate limits of the City of Daphne and acceptance for maintenance.

6. **PUBLIC PARTICIPATION:** None presented
7. **ATTORNEY'S REPORT:** No report
8. **COMMISSIONER'S COMMENTS:** Mr. Eringman commented about proposed amendments to the Land Use Ordinance to regulate street lighting in subdivisions (see minutes for details).
9. **DIRECTOR'S COMMENTS:** Director advised that there are no July meetings; she presented upcoming meeting dates. Site Preview is August 19 and the Regular Meeting is August 27, 2020.
10. **ADJOURNMENT:** 5:32 p.m.

Accepted by:

Chairman, Daphne Utilities



APPROVED MINUTES

Utilities Board Meeting

Council Chambers, Daphne City Hall ♦ May 27, 2020 ♦ 5:00 p.m.

I. Call to Order

The regular May 2020 Board meeting for the Utilities Board of the City of Daphne was held on May 27, 2020, in the Council Chambers at Daphne City Hall and called to order at 5:01 p.m. by Chairman Selena Vaughn, followed by the Roll Call:

II. Roll Call

Members Present: Selena Vaughn, Chairman
Billy Mayhand, Vice Chairman
Tim Patton, Secretary/Treasurer
Robin LeJeune, Board Member

Members Absent: Mayor Dane Haygood, Board Member

Others Present: Jerry Speegle – Board Attorney
Scott Polk – General Manager
Bobby Purvis – Operations Manager
Samantha Coppels – Communications Manager
Drew Klumpp – Administrative Services Manager
Teresa Logiotatos – Finance Manager
Lori May-Wilson – Executive Assistant
Melinda Immel – Volkert & Associates
Ray Moore – GMC

Others Absent: Joe Asarisi – Asarisi & Associates

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 February 29, 2020

The Chairman requested any additions, corrections, or deletions for the submitted minutes for the January 29, 2020 Utilities Board meeting.

With no additions, deletions, or corrections, the Chairman declared that the submitted February 29th minutes would stand approved.

Chairman Vaughn then readjusted the order of the Agenda and addressed issues under New Business.

V. NEW BUSINESS –

A. Presentation of 2018/2019 Audit by Mike Andreoli of Robertson, Andreoli & Covington, PC
Mr. Mike Andreoli of Robertson, Andreoli & Covington presented the 2018/2019 audit to the board members. He emphasized: the Independent Auditor's Report, the Management's Discussion and Analysis, the Basic Financial Statements which includes the Statements of Net Position or balance sheet, Notes to Financial Statements, and Supplementary Information. Chairman Selena thanked Mr. Andreoli for his good report.

B. Discussion of Emergency Water Conservation Plan

Mr. Scott Polk advised the Board that this plan had been developed in October 2019 and is presented to the Board for review and discussion. At Chairman Vaughn's questions, a discussion of distribution and formulation followed. Mr. Purvis pointed out that Danny Lyndall and Melinda Immel prepared this data-driven plan as a result of water shortage in 2006 and considers it to be in the range of most conservation plans.

C. RESOLUTION 2020-02 – Resolution to Adopt and Approve the MWPP (Municipal Water Pollution Prevention) Program (Board Action: RESOLUTION 2020-02)

Mr. Scott Polk answered questions regarding this routine annual report and required resolution for ADEM.

A MOTION by Robin LeJeune was made to adopt Resolution 2020-02 – Adopt and Approve the MWPP (Municipal Water Pollution Prevention) Program; the Motion was Seconded by Tim Patton.

AYE: LeJeune, Mayhand, Patton, Vaughn NAY: ABSENT: Haygood ABSTAIN: **MOTION CARRIED**

D. RESOLUTION 2020-03 - Resolution Designating Official Representation for CWSRF (Board Action: RESOLUTION 2020-03)

Mr. Scott Polk and Mrs. Melinda Immel briefed the Board on details for the Clean Water State Revolving Fund loan, explaining the presented Resolution was to designate Mr. Polk to be the official representative to file on behalf of the Utilities for the loan.

A MOTION by Robin LeJeune was made to adopt Resolution 2020-03 – Designating Official Representative (for the CWSRF loan); the Motion was Seconded by Tim Patton.

AYE: LeJeune, Mayhand, Patton, Vaughn NAY: ABSENT: Haygood ABSTAIN: **MOTION CARRIED**

E. RESOLUTION 2020-04 - Resolution Designating Official Representation for DWSRF (Board Action: RESOLUTION 2020-04)

Mrs. Melinda Immel explained to the Board that the previous resolution for the state revolving fund loan was for clean water/wastewater and this is part 2 for drinking water.

A MOTION by Robin LeJeune was made to adopt Resolution 2020-04 – Designating Official Representative (for the DWSRF loan); the Motion was Seconded by Billy Mayhand.

AYE: LeJeune, Mayhand, Patton, Vaughn NAY: ABSENT: Haygood ABSTAIN: **MOTION CARRIED**

Chairman Vaughn then returned to the Capacity Fees for Daphne Sports Complex under Old Business.

VI. OLD BUSINESS –

A. Capacity Fees for Daphne Sports Complex

Chairman Vaughn announced that Mayor Haygood informed her that he would not be in attendance at tonight’s meeting and advised her that he might have some wording changes once the Utility Board settles on the agreement but that he could submit those changes when presented and discussed at the City Council meeting. Mr. Scott Polk clarified that a resolution was created in preparation for discussion. Councilman LeJeune lead a discussion regarding the presented agreement that Mr. Speegle researched and prepared. He confirmed the Daphne City Council’s cooperation of the agreement in exchange for the City’s right-of-way fees as credit toward the amount of capacity fees as a way to conclude this issue. Board Secretary/Treasurer Tim Patton and Vice Chairman Billy Mayhand stated they both reviewed the agreement and neither had any disagreements.

A MOTION by Tim Patton was made to approve Resolution 2020-05 – To Execute an Agreement between the Utilities Board of the City of Daphne and The City of Daphne for Payment of Capacity Fees for the Park Drive Municipal Sports Complex; the Motion was Seconded by Billy Mayhand.

AYE: LeJeune, Mayhand, Patton, Vaughn NAY: ABSENT: Haygood ABSTAIN: MOTION CARRIED

Mr. Speegle noted that changes may be presented to the Board after the Daphne City Council’s review. Councilman LeJeune stated that the Agreement looks straightforward and appreciated everyone’s patience and cooperation.

VII. BOARD ATTORNEY’S REPORT

Mr. Speegle had nothing additional to include in his report but advised he had been in contact with ADEM regarding the consent decree concluding that although they appear fine with our final reports, they may not have the staff to finalize. He noted that Board members may receive calls, as he had, from other water treatment facilities around the area about our case and invited the Board members to refer those call to him and refrain from discussing Daphne Utilities’ legal issues with others.

VIII. FINANCIAL REPORT

Teresa Logiotatos reminded the Board members of previous mid-year financial presentation around June of each year and advised that it could be presented next month if the Board members prefer. She mentioned that after reviewing and comparing past years of accounts receivable, she has noticed no issues with utility bill payment failures. She advised there were 3 months of financials included in the board book and intended to only highlight a few items. She then emphasized: April’s financial summary sheet noting the revenue, expenses, total net income, budgeted year end income, net increase (decrease) in cash listed on the cash flow report, and the check history report.

IX. GENERAL MANAGER’S REPORT

A. GM Report

General Manager Scott Polk addressed the Board with a projects update. He spoke about

the status of the Everbridge Alert System and Mr. Bobby Purvis talked about the natural gas work and issues taking place at Jubilee Farms subdivision.

Mr. Polk advised the Board that Daphne Utilities will no longer be utilizing public relations services from Strategy Inc. He stated that we have been in consultations with Raftelis, which is a utility-based public relations firm.

Mr. Polk also pointed out to the Board that the previous two progress reports submitted to ADEM relative to the consent decree indicated that we had nothing new to report.

He then expressed to the Board the adjustments employees made to address the threat of the COVID-19 virus and the return to more normal hours. He acknowledged Bobby Purvis' operational contingency planning he started in early March and Drew Klumpp's help in setting up those who worked remotely. He expressed gratitude to DBC Delivers "Daily Bread" and Judy Swan who delivered numerous meals to first responders.

B. Operations Report

Mr. Bobby Purvis had nothing further to add to his report but clarified an equipment purchase and the working-hour modifications Daphne Utilities employees worked to minimize virus exposures.

Samantha Coppels gave additional comments on her report regarding a Raftelis customer survey to be distributed in the coming weeks with results presented thereafter. She emphasized the annual CCR report that was mailed, noted the mandated gas survey for pipeline safety was finalized, and advised of the distribution of the 2nd quarter newsletter. She informed the Board of her participation in a Raftelis webinar relating to utilities dealing with COVID-19 and communications and outreach.

C. Engineering & Consulting Reports

Mrs. Melinda Immel from Volkert added comments about the sewer work taking place in Lake Forest; Mr. Ray Moore from GMC had nothing additional for their reports.

X. BOARD ACTION – Previously addressed.

XI. PUBLIC PARTICIPATION – the Chairman invited participants to address the Board at 6:16 pm; with no additional comments, the Chairman closed Public Participation at 6:16pm.

XII. BOARD COMMENTS – No comment from Billy Mayhand; Robin LeJeune expressed his appreciation for all the hard work everyone had done during the recent stressful times; Tim Patton noted the encouragement having the lawsuit finalized, having good water supply, having a great MWPP reports and completing the resolutions for the SRF loans and noted the many positive issues taking place. He commended the staff for all the work being performed. Chairman Vaughn complimented the staff's quick response and adaptation to the continuing changes.

XIII. ADJOURNMENT

The Chairman called for adjournment at 6:18 pm.

A MOTION by Robin LeJeune to adjourn the meeting; Seconded by Tim Patton.

The meeting adjourned at 6:18 pm.

Preceding minutes submitted to the Daphne Utilities Board by:



Lori Wilson, Executive Assistant, Daphne Utilities

To: Office of the City Clerk
From: Adrienne D. Jones, 
Director of Community Development
Subject: Jubilee Farms Planned Unit Development
General Plan Modification
Date: June 29, 2020

MEMORANDUM

PRESENT ZONING: PUD, Planned Unit Development
LOCATION: Southeast of Austin Road and Alabama Highway 181
RECOMMENDATION: At the Thursday, June 25, 2020, regular meeting of the Daphne Planning Commission, six members were present, and the motion carried for a favorable recommendation for the above-mentioned modification of the Jubilee Farms PUD General Plan.

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. Jubilee Farms PUD General Plan Modification
2. Community Development Report

Precedes Rezoning



May 26, 2020

Mrs. Adrienne Jones
Planning Director, City of Daphne
P.O. Box 400
Daphne, Alabama 36526

**RE: Jubilee Farms PUD
PUD Revision**

Dear Mrs. Jones:

On behalf of the developer, Forestar (USA) Real Estate Group, Inc., we are requesting a revision to the Jubilee Farms PUD as previously approved by the City. The revision consist of the removal of what was designated as Phase 16 on the Master Plan. Phase 16 was a 13.6 acre parcel with plans for 2 estate lots. The attached Master Plan has been revised to remove Phase 16 from the PUD reducing the overall acreage and reducing the overall total number of lots from 909 to 907. The \$50.00 fee for the revision of the Master Plan is being paid with this request.

With this submittal we request to be placed on the agenda for the next regularly scheduled Planning Commission Meeting to discuss this request. We look forward to meeting with you prior to that meeting date to discuss any comments the City may have.

Sincerely,

Dewberry

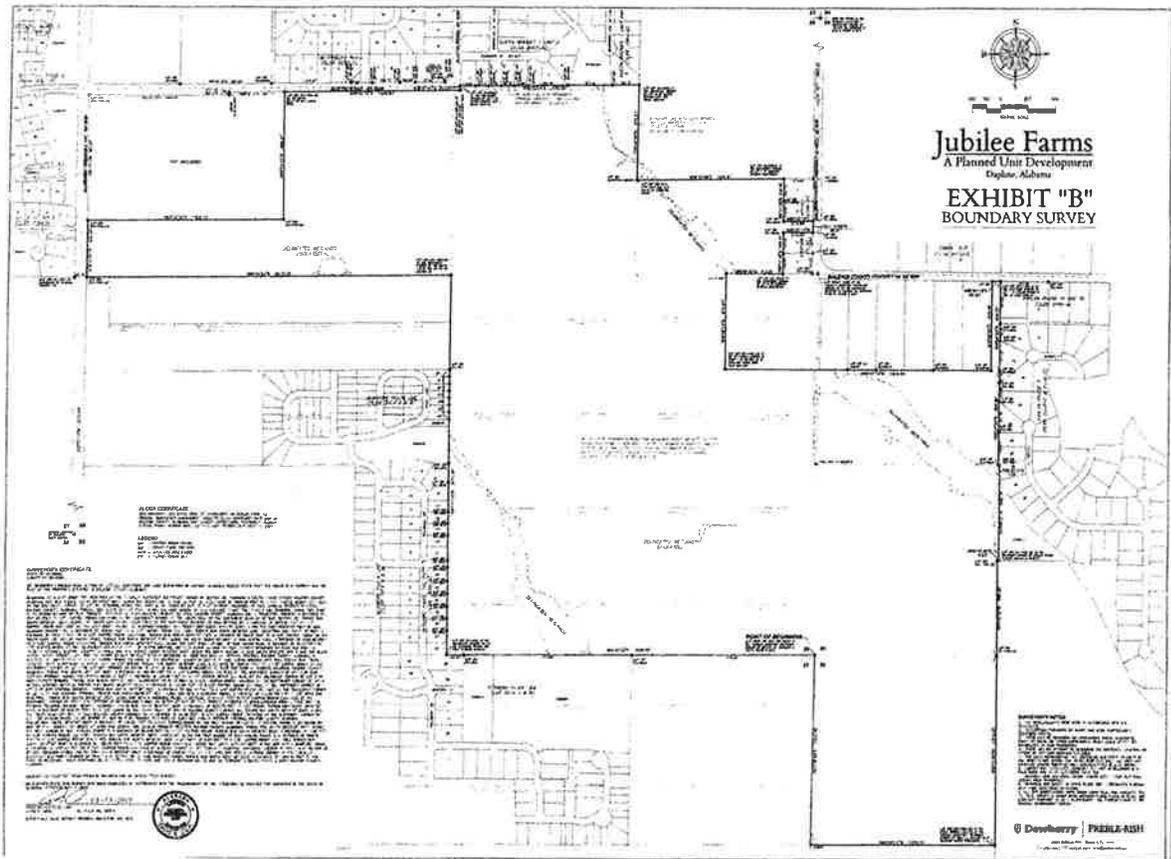
Al Finley, Sr.
Designer II

Cc: File (50128944)

JUBILEE FARMS

GENERAL PLAN MODIFICATION

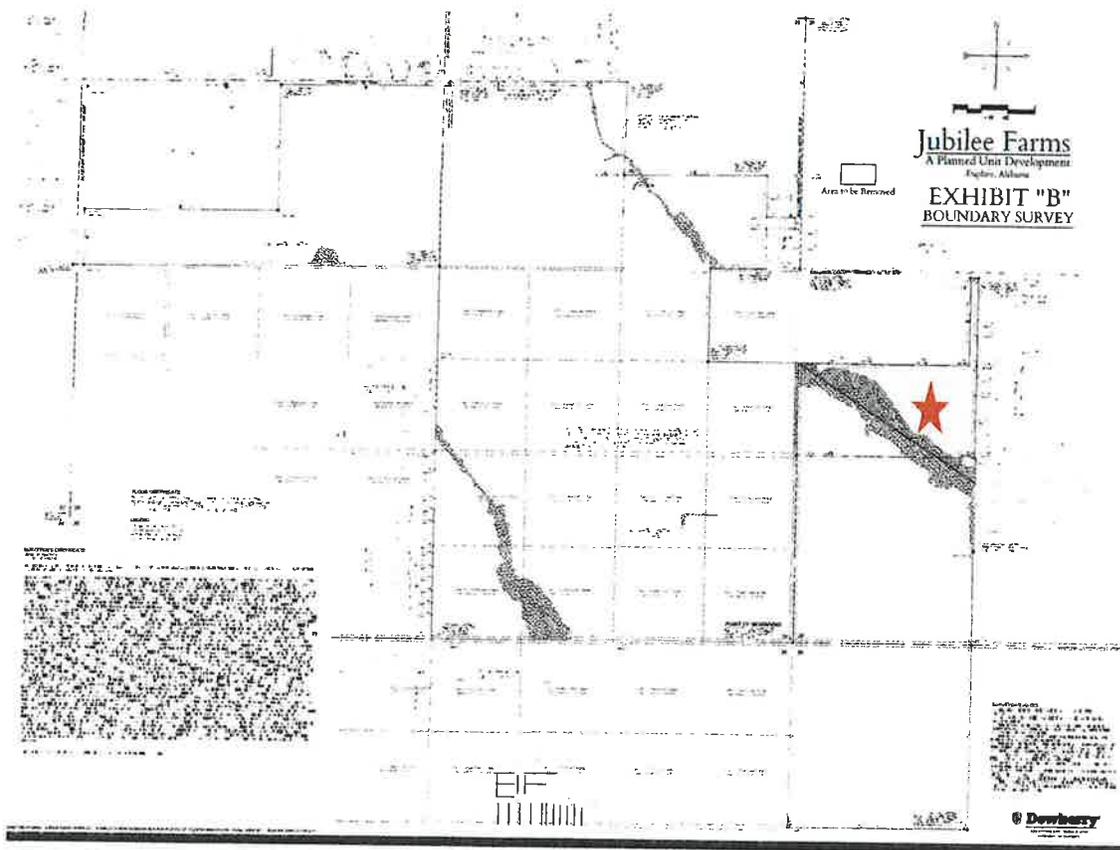
This proposal is an amendment to the General Plan of Ordinance 2017-39. The intent of the General Plan Modification is to sever all ties between Jubilee Farms and a 13.6 acre plot which fronts County Road 54. The land was initially envisioned to be developed into small residential lots. The master plan has been revised and shifted those lots into other areas of the PUD, leaving the subject property as envisioned with two lots. If the severance is approved, the intent is for the 13.6 acre parcel to be divided from the parent parcel and sold as a stand-alone lot for a single residence. An application to rezone the 13.6 acre plot from PUD to R-1, Single Family Residential, has been submitted.



Ordinance 2017-39 PUD Boundary

JUBILEE FARMS

Staff recommends approval of the General Plan modification and an amendment to the overall Jubilee Farms Master plan, contingent upon the favorable outcome of the General Plan modification.



Proposed PUD Boundary Modification to separate this site as a stand-alone plot

To: Office of the City Clerk
From: Adrienne D. Jones, *AS*
Director of Community Development
Subject: Forestar "USA" Real Estate Group, Inc.
Zoning Amendment
Date: June 29, 2020

MEMORANDUM

PRESENT ZONING: PUD, Planned Unit Development
PROPOSED REZONING: R-1, Low Density Single Family Residential
LOCATION: South of County Road 54 and west of Avalon Subdivision, Phase 3
RECOMMENDATION: At the Thursday, June 25, 2020, 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

Follows General PUD modification.



APPLICATION FOR REZONING OR PRE-ZONING

Office use only: Rev. 072816	Date Submitted: May 26, 2020
Application Number: ZA- 20-02 or PZA-	Planning Commission Public Hearing Date: June 25, 2020

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 County Rd 54 & west of Avalon Phase 3 Subd.	PPIN#(s): 111159, and portions of 103572 & 2970
Gross Site Area (acreage): 13.60 acres	Requested Zoning or Pre-Zoning: R-1
Current Zoning Designation(s): PUD	Amended Request: Initials: _____ Date: _____
Current Land Use: Undeveloped	Anticipated Land Use: Residential
Provide Legal Description (if necessary attach separate page entitled "Legal Description for [Name of Applicant]": 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 PUD Modification

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>	
Tucker Dorsey	
Name of Current Owner: Forestar (USA) Real Estate Group, Inc.	
Mailing Address: 25366 Profit Drive, Daphne, AL 36526	Phone/Fax: 251.316.5201 E-mail: tuckerdorsey@forestar.com
Name of Authorized Agent: Dewberry	
Mailing Address: 25353 Friendship Rd, Daphne, AL 36526	Phone/Fax: 251.929.9791 E-mail: afinley@dewberry.com
Name of Developer*: Forestar (USA) Real Estate Group, Inc.	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: 5/21/2020
Agent's Signature: (Agent)	Date: 5/26/2020



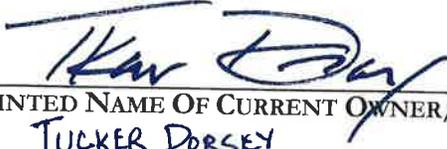
REVERSIONARY CLAUSE ACKNOWLEDGEMENT

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

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

CURRENT OWNER'S ACKNOWLEDGEMENT

I, Forestar (USA) Real Estate Group, Inc., acknowledge that I am aware that this rezoning request is subject to a reversionary clause as noted in Article 22-2 of the Land Use & Development Ordinance. Date: 19 MAY, 2020



PRINTED NAME OF CURRENT OWNER/PETITIONER

TUCKER DORSEY

DEVELOPER'S ACKNOWLEDGEMENT

I, TUCKER DORSEY, acknowledge that I am aware that this rezoning request is subject to a reversionary clause as noted in Article 22-2 of the Land Use & Development Ordinance. Date: 19 MAY, 2020



PRINTED NAME OF DEVELOPER

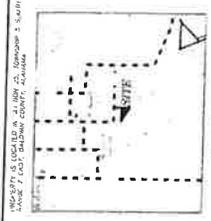
TUCKER DORSEY

PROPERTY ADDRESS OR PPIN#(s): 111159, and portions of 103572 & 2970

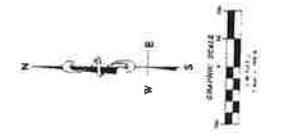
EXHIBIT A

PROPERTY BOUNDARY SURVEY FOR FORESTAR

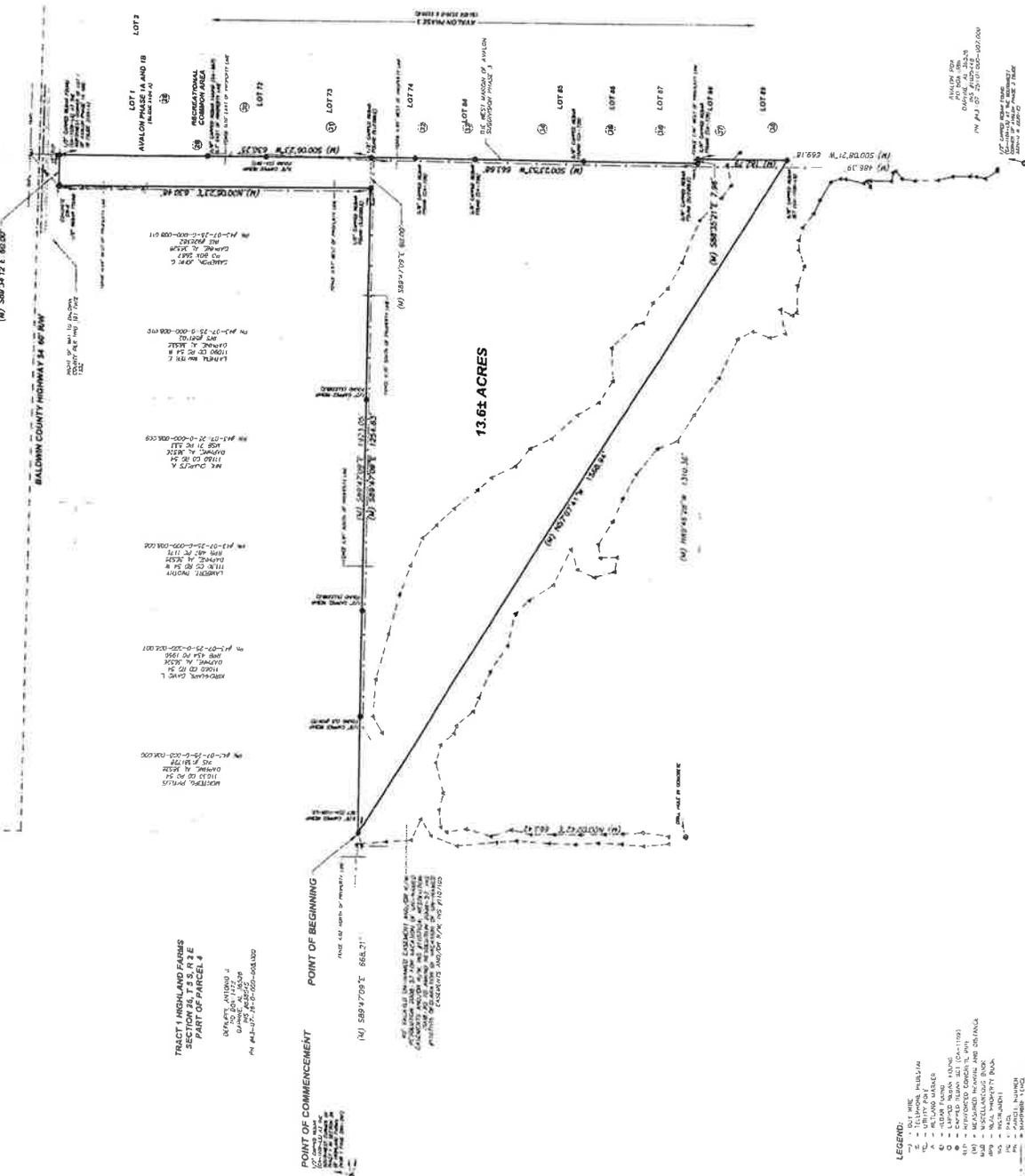
COMMENCE AT A 1/2" CAPPED REBAR (CA-1109) AT THE SOUTHWEST CORNER OF TRACT 1 IN SECTION 26 OF HIGHLAND FARMS, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT MISCELLANEOUS BOOK 1, PAGE 290-291, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 89°47'09" EAST, A DISTANCE OF 668.21 FEET TO A 5/8" CAPPED REBAR (CA-1109) FOR THE POINT OF BEGINNING: THENCE CONTINUE SOUTH 89°47'09" EAST, A DISTANCE OF 1254.83 FEET TO A 1/2" CAPPED REBAR; THENCE RUN NORTH 00°06'23" EAST, A DISTANCE OF 630.48 FEET TO A 1/2" REBAR ON THE SOUTH RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 54; THENCE RUN SOUTH 89°34'12" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 54, A DISTANCE OF 60.00 FEET TO A 1/2" CAPPED REBAR (CA-1109) AT THE NORTHWEST CORNER OF LOT 1 OF AVALON PHASE 1A, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2104-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°06'23" WEST, A DISTANCE OF 630.25 FEET TO A 1/2" CAPPED REBAR ON THE WEST MARGIN OF LOT 73 OF AVALON, PHASE 3, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2220-D AND 2220-E, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°23'53" WEST, ALONG THE WEST MARGIN OF SAID AVALON, PHASE 3, A DISTANCE OF 663.68 FEET TO A 5/8" CAPPED REBAR; THENCE RUN SOUTH 88°35'21" EAST, A DISTANCE OF 7.96 FEET TO A 5/8" CAPPED REBAR (CA-728); THENCE RUN SOUTH 00°08'21" WEST, CONTINUING ALONG THE WEST MARGIN OF SAID AVALON, PHASE 3, A DISTANCE OF 182.79 FEET TO A 5/8" CAPPED REBAR (CA-1109); THENCE RUN NORTH 57°07'41" WEST, A DISTANCE OF 1568.94 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 13.60 ACRES, MORE OR LESS, AND LIES IN SECTION 25, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



VICINITY MAP
SCALE: 1" = 1/4 MILE



- 1. 152500 000 00
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13.61 ACRES

FLOOD CERTIFICATE

THE PROPERTY IS LOCATED IN BALDWIN COUNTY, GEORGIA. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987.

SURVEYOR'S NOTES:

1. THE PROPERTY IS LOCATED IN BALDWIN COUNTY, GEORGIA.
2. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987.
3. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987.
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7. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987.
8. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987.
9. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987.
10. THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF BALDWIN COUNTY, GEORGIA, DATED 1987.

SURVEYOR'S CERTIFICATE:

I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original survey plat as shown to me by the client, and that the same is a true and correct copy of the original survey plat as shown to me by the client.



ADJACENT PROPERTY OWNERS

Parcel Number	Owner Name	Address	City	St	Zip
05-43-07-25-0-000-008.010	LATHAM, WALTER E ETAL LATHAM, ROSE M	11190 CO RD 54 WEST	DAPHNE	AL	36526
05-43-07-25-0-000-007.015	AVALON HOMEOWNERS ASSOCIATION INC	P O BOX 386	DAPHNE	AL	36526
05-43-07-25-0-000-007.088	WALLACE, ALAN W	24453 SAXSON CT	DAPHNE	AL	36526
05-43-07-25-0-000-008.000	MONTEIRO, PHYLLIS G	11030 CO RD 54	DAPHNE	AL	36526
05-43-07-26-0-000-008.000	DEFILIPPI, DEREK ANTONIO (50% INT) ETAL	P O BOX 1472	DAPHNE	AL	36526
05-43-07-25-0-000-007.002	FINLEY, DOLORES A	8304 MERNIMACK CT	CHARLOTTE	NC	28210
05-43-07-25-0-000-007.000	AVALON HOMEOWNERS ASSOCIATION INC	P O BOX 386	DAPHNE	AL	36526
05-43-07-25-0-000-007.087	DAVIDSON, KELLIE GALLOWAY	24457 SAXSON CT	DAPHNE	AL	36526
05-43-07-25-0-000-005.002	MERRITT, GREGORY B ETUX PATSY M	11259 CO RD 54	DAPHNE	AL	36526
05-43-07-25-0-000-005.120	LAZZARI, JULIA D ETAL BARFIELD, KATRINA	24758 CO RD 54 W	DAPHNE	AL	36526
05-43-07-25-0-000-008.007	KIRCHHARR, DAVID L ETUX ELIZABETH R	11060 CO RD 54	DAPHNE	AL	36526
05-43-07-25-0-000-008.008	LAMBERT, TIMOTHY G ETAL LAMBERT, LAURA A	11130 CO RD 54 W	DAPHNE	AL	36526
05-43-07-25-0-000-008.009	NIX, CHARLES A ETUX JO ANN M	11180 COUNTY ROAD 54	DAPHNE	AL	36526
05-43-07-25-0-000-007.096	SHIPMAN, JOHN JASON ETAL SHIPMAN, MARY N	11272 ST IVES CT	DAPHNE	AL	36526
05-43-07-25-0-000-007.086	RADER, MICHAEL E JR ETAL RADER, RHONDA M	24454 SAXSON CT	DAPHNE	AL	36526
05-43-07-25-0-000-007.092	LINCOLN, CLAYTON J ETAL LINCOLN, GAIL	11210 ST IVES CT	DAPHNE	AL	36526
05-43-07-25-0-000-007.093	SHOEMAKER, JEFFREY M ETAL SHOEMAKER, KAR	11232 SAINT IVES CT	DAPHNE	AL	36526
05-43-07-26-0-000-006.001	FORESTAR (USA) REAL ESTATE GROUP INC	3330 CUMBERLAND BLVD STE 275	ATLANTA	GA	30339
05-43-07-25-0-000-008.003	IKNER, NANCY L	11235 CO RD 54 W	DAPHNE	AL	36526
05-43-07-25-0-000-008.011	CAMERON, JOHN G ETAL CAMERON, JUDY T	11238 CO RD 54	DAPHNE	AL	36526
05-43-07-25-0-000-007.094	WILSON, MICHAEL J ETAL WILSON, BARBARA A	11244 ST IVES CT	DAPHNE	AL	36526
05-43-07-25-0-000-007.091	BUSH, MARK BRYAN	11209 ST IVES CT	DAPHNE	AL	36526
05-43-07-25-0-000-007.095	CASSIBRY, ROBERT N ETAL CASSIBRY, SUZANN	11260 ST IVES CT	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
ANGIE PHILLIPS
DISTRICT 7

June 12, 2020

NOTICE OF PUBLIC HEARING

A petition for REZONING will be considered by the Daphne Planning Commission for Forestar "USA" Real Estate Group, Inc. containing 13.6 acres +/- located south of County Road 54 and west of Avalon Subdivision, Phase 3, zoned PUD, Planned Unit Development.

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, June 17, 2020 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, June 25, 2020 at 5:00 p.m. in the Council Chambers of City Hall. You may submit your views in writing, in person, by email or by representation.

Adrienne D. Jones, Director

Forestar "USA" Real Estate Group, Inc.

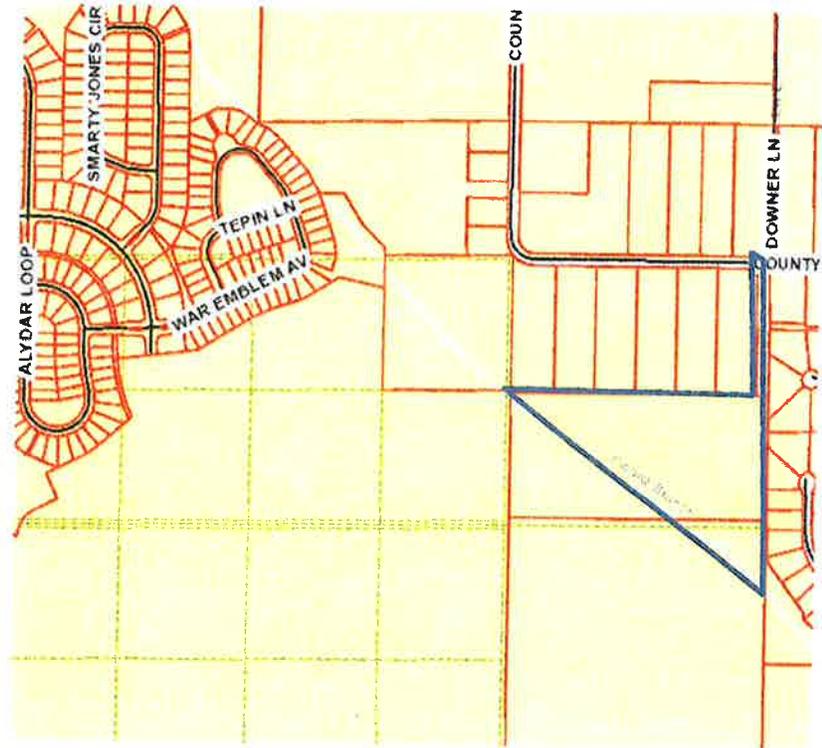
**REZONING REQUEST
FORESTAR "USA" REAL ESTATE GROUP, INC**

LOCATION:
*South of County Road 54
and west of Avalon
Subdivision (across from
Downer Lane)*

APPLICANT:
*Forestar "USA" Real
Estate Group, Inc.*

AREA:
13.6 ac

LOTS:
1



ZONING:
*PUD, Planned Unit
Development*

PROPOSED ZONING:
*R-1, Low Density Single
Family Residential*

COMPREHENSIVE PLAN:
Consistent

RECOMMENDATION:
Approval



REZONING REQUEST

Forestar "USA" Real Estate Group, Inc.

Existing Conditions: Undeveloped 13.6 acre parcel

Existing Zoning: PUD, Planned Unit Development (Ordinance 2017-39)

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

Surrounding Zonings/Uses:

North – R-A, Rural Agricultural (Baldwin County, District 15)

South – PUD, Planned Unit Development (Ordinance 2017-39)

West – PUD, Planned Unit Development (Ordinance 2017-39)

East – RSF-2, Residential Single Family District (Baldwin County, District 15)

Existing Utility Service Providers:

Water – Belforest Water Utilities **Sewer** – Baldwin County Sewer Services

Gas – Fairhope Gas **Electric** – Riviera Utilities

Affected City Service Providers:

Fire Protection-Station 1 or 3 until 5 is complete

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.

REZONING REQUEST

Forestar "USA" Real Estate Group, Inc.

Staff Recommendation

The applicant proposes to separate and disassociate from the Jubilee Farms Planned Unit Development. The separation will divest the parcel from any rights or responsibilities or association/affiliation with the Jubilee Farms development. The intention of the General Plan Modification is to cut any ties between this property and Jubilee Farms.

The applicant proposes to rezone the property for residential use. R-1 is the most restrictive residential district. The request would be compatible with the Jubilee Farms development, the Rural Agricultural district to the north and the slightly denser Residential Single Family district located to the east, in Avalon Subdivision. Thus, staff recommends approval.

MINIMUM LOT REQUIREMENTS

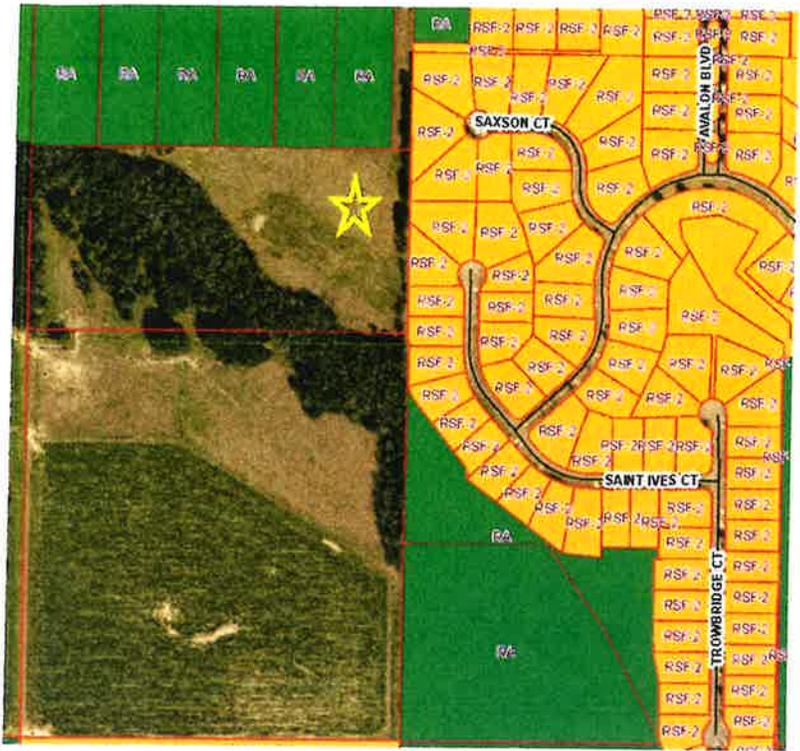
	Minimum Lot Area Square feet (sq ft)	Minimum Lot Width at Setback Line (ft)	Maximum Lot Coverage Percent (%) ^a	Maximum Density^b (units/acre)	Maximum Height^c (stories) (ft)
R-1, Low Density Single Family	20,000	100	25	2.0	2.5 stories 35 ft

SETBACKS

Zoning District	Front Yard				Rear Yard	Side Yard	Corner Lot Side Yard	
	Arterial & Collector Streets	Local Streets & Service Roads	U.S. Highway 99^e	U.S., State or County Roads			Arterial & Collector Streets	Local Streets & Service Roads
R-1	40	40	50	e	40	15	40	25

REZONING REQUEST

Forestar "USA" Real Estate Group, Inc.



- County Zoning
- Rural District (RR)
- Rural Agricultural District (RA)
- Conservation Resource District (CR)
- Residential Single Family Estate District (RSF-E)
- Residential Single Family District (RSF-1)
- Residential Single Family District (RSF-2)

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2020 - 34**

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

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

WHEREAS, the items listed below is recommended for disposal; and

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

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

DEPT	DESCRIPTION
Grounds	Christmas Tree - Outdoor -15' Metal Frame

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2020.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE
RESOLUTION 2020-35**

Acceptance of Streets and Rights-of-Way Diamante Subdivision, Phase 2

WHEREAS, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to Diamante, Phase Two on June 25, 2020, and the City of Daphne hereby recommends acceptance of said street(s) located in Diamante, Phase Two, and

WHEREAS, an inspection was made by the Director of Community Development, and all reports, as well as, all other related documents have been provided stating that said streets and storm water drainage have been installed in conformity with city standards; and,

WHEREAS, an inspection was made by the Director of the Division of Public Works, and said director has recommended acceptance said streets and storm water drainage of Diamante, Phase Two, and

WHEREAS, the developer has provided to the City a two-year maintenance bond in the amount of \$122,334.02 as required and now requests acceptance and dedication of the same for maintenance of said improvements as outlined in Article XVII, entitled the Procedures for Subdivision Review of the City of Daphne Land Use and Development Ordinance, and

WHEREAS, the developer has caused the plat to be recorded on slide 2730-C of the records in the Baldwin County Judge of Probate Office, and

WHEREAS, the City Council of the City of Daphne believes it is in the best interest of the citizens of the City for the City to accept said right-of-way.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that Diamante, Phase Two, a portion of Amethyst Drive. (1820.81 linear feet) a 50-ft right of way; a portion of Vargas Court (510.41 linear feet) and a 50-ft right of way; and right of way varies according to the plat presented by Dewberry as recorded in the Office of the Judge of Probate, Baldwin County, Alabama, are hereby accepted by the City of Daphne, Alabama as city streets for maintenance.

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE _____ DAY OF JULY, 2020.

DANE HAYGOOD, MAYOR

ATTEST:

CANDACE ANTINARELLA, CITY CLERK

To: Office of the City Clerk
From: Adrienne D. Jones, ^{AD}
Director of Community Development
Subject: Diamante Subdivision, Phase 2
Acceptance of Roads and Rights-of-Ways
Date: June 29, 2020

MEMORANDUM

LOCATION: East side of County Road 13, northeast of the intersection of Amethyst Drive and Red Eagle Drive

RECOMMENDATION: At the June 25, 2020 regular meeting of the City of Daphne Planning Commission, six members were present. The motion carried unanimously for a ***favorable recommendation*** for the acceptance of Amethyst Drive and Vargas Court.

Attached please find said documentation for placement on the Monday, July 6, 2020 City Council agenda.

Thank you,
ADJ/jv

cc: file
Jeremy Sasser, Public Works Director

attachment(s)

1. Correspondence from project engineer requesting acceptance
2. Record plat
3. Petition of Acceptance of Roads and Rights-of-Ways

April 22, 2020

Mrs. Adrienne Jones
Planning Director, City of Daphne
P.O. Box 400
Daphne, Alabama 36526

RE: DIAMANTE PHASE 2

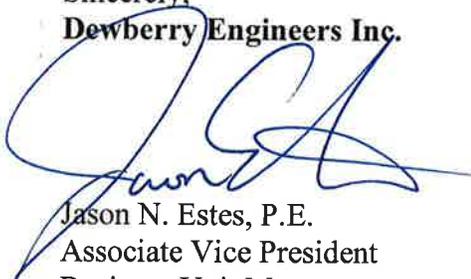
Dear Mrs. Jones:

I, Jason Estes, a professional engineer registered in the State of Alabama, Registration Number 22714, do hereby certify that the streets for DIAMANTE PHASE 2 have been constructed under my supervision in accordance with the approved construction plans.

I further certify I have checked all test reports and that all construction materials have been installed in accordance with the typical sections, profiles, and plan details and meet minimum requirements as set out in the State of Alabama Highway Department's Standard Specifications for Highway Construction, latest edition and current revisions.

Therefore, I hereby request that the City of Daphne accept the streets for DIAMANTE PHASE 2 subdivision.

Sincerely,
Dewberry Engineers Inc.



Jason N. Estes, P.E.
Associate Vice President
Business Unit Manager



**CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

SUBDIVISION NAME: DIAMANTE PHASE 2

THIS PETITION FOR ACCEPTANCE OF ROADS AND/OR RIGHTS-OF-WAY is made this 27th day of April, 2020 by 68V Diamante 2017, LLC, hereinafter called "the subdivider," owner of certain property located in the City of Daphne, Alabama known as **DIAMANTE PHASE 2** to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

WHEREAS, the subdivider has agreed to the dedication of the roads and rights-of-way located in said subdivision to the City of Daphne, and further warrants that said roads and rights-of-way are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled Procedures for Subdivision Review, and Article XI, Minimum Requirements and Required Improvements for Subdivisions and Commercial Site Developments. The subdivider further warrants that the same are free from defects from any cause and are free and clear of any liens and encumbrances; and,

WHEREAS, a bond is required by the City as a condition of the acceptance of any new roads or rights-of-way as outlined in Article XVII in an amount equal to twenty percent (20%) of all street and drainage improvements in the subdivision as a warranty for such improvements to last for a period of two (2) years after the date of dedication and upon acceptance by the City Council, the subdivider has provided a \$ 122,334.02 maintenance bond; and,

WHEREAS, the project engineer, Jason N. Estes (Dewberry), acting on behalf of the subdivider does hereby certify that all roads and rights-of-ways are complete and are in compliance with the minimum standards for construction as outlined in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled, Procedures for Subdivision Review, and Article XI, Minimum Requirements and Required Improvements for Subdivisions and Commercial Site Developments, and further warrants that the same are free from defects from any cause; and,

**CITY OF DAPHNE
 PETITION FOR ACCEPTANCE
 OF ROAD(S) AND/OR RIGHTS-OF-WAY**

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the favorable recommendation of the City of Daphne Planning Commission voted upon at its meeting held on May 28, 2020. Said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named as follows:

Name of Right of Way	Length (linear feet)	Width (feet)
AMETHYST DRIVE	1820.81'	50'
VARGAS COURT	510.41'	50'

Are each hereby dedicated to the City of Daphne, Alabama as a city street.

**CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

IN WITNESS WHEREOF, the subdivider has caused the execution of this dedication as of the date set forth above.

Respectfully submitted,

68V Diamante 2017, LLC
Name of Individual or Corporation (Printed)

By: Nathan L. Cox 
(Print Legibly and Sign)

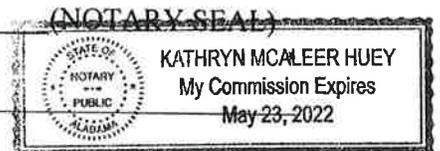
Its: Manager
(Print Legibly)

**STATE OF ALABAMA)
COUNTY OF BALDWIN)**

I, the undersigned Notary Public in and for said State and County, hereby certify that Nathan L. Cox whose name as Manager of 68V Diamante 2017, LLC an Alabama corporation or as owner of 68V Diamante 2017, LLC is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 29th day of April, 2020.

Kathryn McAleer Huey
NOTARY PUBLIC
My commission expires: 5/23/22



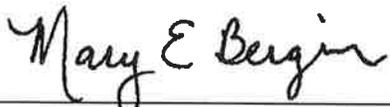
**CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

Favorable recommendation on behalf of Daphne Public Works:



Jeremy Sasser
Public Works Director
City of Daphne

Favorable recommendation on behalf of Daphne Planning Commission:



Marybeth Bergin
Planning Commission Chairman
City of Daphne

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2020-19**

**Additional Appropriation: Construction of Bayfront Street Scape and Parking
Improvements Project**

WHEREAS, Ordinance 2019-43 approved and adopted the Fiscal Year 2020 Budget on October 1, 2019; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2020 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2020 budget; and

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

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

WHEREAS, monies were previously appropriated in the amount of \$6,000 (Ord 2015-59) for initial Master planning, \$14,500 (Ord 2017-31) for wetland delineation and surveying, \$181,503 (Ord 2019-06) for installation of underground utilities, \$86,700 (Ord 2019-32) for engineering services/letting of the bid, and \$10,000 (Ord 2019-32) for design engineering; and

WHEREAS, an additional appropriation is needed in the amount of \$1,757,918 for Phase I and II including Options A, B, D, and E to complete the construction phase of the project.

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

1. Funds in the amount of **\$1,350,000** from the **Lodging Tax Fund** and **\$407,918** to be transferred **from the General Fund to Capital Reserve Fund** are appropriated and made a part of the Fiscal Year 2020 budget for the Bayfront Street Scape and Parking Improvement project.
2. The Mayor is hereby authorized to execute any and all documents required in order for the City of Daphne to participate in such project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE ALABAMA this ____ day of _____, 2020.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2020-20**

CITY HALL PARKING LOT AND DRAINAGE IMPROVEMENTS

WHEREAS, Ordinance 2019-43 approved and adopted the Fiscal Year 2020 Budget on October 1, 2019; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2020 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2020 budget; and

WHEREAS, parking lot and drainage improvements are needed at City Hall for safety and maintenance purposes; and

WHEREAS, an appropriation for design fees are needed for the initial stage of the project; and

WHEREAS, an additional appropriation of \$9,800 is need for design fees for the City Hall Parking Lot and Drainage Improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that funds in the amount of **\$9,800** from the **General Fund** are hereby appropriated and made a part of the Fiscal Year 2020 Budget for the City Hall Parking Lot and Drainage Improvements project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2020.

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

CITY OF DAPHNE, ALABAMA
ORDINANCE 2020-21

AN ORDINANCE ADDRESSING SOLID WASTE ENTERPRISE FUND LOSSES

WHEREAS, the City of Daphne, Alabama (the “City”) desires to provide curbside Garbage, Recycling, and Debris collection services for single family residences within the municipal limits (collectively, the “Solid Waste services”) as well as limited service offerings for multifamily and commercial properties within the City; and

WHEREAS, the City generates revenues and incurs expenses for providing Solid Waste services which are accounted for in a dedicated fund for accounting purposes known as the Solid Waste Enterprise Fund; and

WHEREAS, the Solid Waste Enterprise Fund has been experiencing significant losses stemming from expenses exceeding revenues, with an average loss of \$491,466 per year from Fiscal Years 2016-2018; and

WHEREAS, worldwide recycling market conditions have deteriorated over the last two years resulting in soaring costs for the City’s upstream processing of recyclable materials, the City’s limited access to recycling processors (including the closure of the City’s long standing processor in Loxley), significant added costs for the City for the transport of recycling materials to processors, and additional operational burden on the City for the extra handling the recycling material; and

WHEREAS, the City has explored outsourcing Solid Waste services to third party private sector providers and has determined that it is in the best interest of the City’s residents for the City to continue providing direct Solid Waste Services; and

WHEREAS, the City has created a sustainable plan for refreshing the vehicles and equipment necessary to continue providing quality Solid Waste Services to its citizens and the City has reviewed and desires to implement this capital improvement plan, the 2020 Solid Waste Capital Improvement Plan (“SW2020CIP”); and

WHEREAS, the City desires for the Solid Waste Enterprise Fund to operate revenue-neutral on an annualized basis; and

WHEREAS, the City’s Fiscal Year 2020 Budget includes an estimated loss of \$573,680 for the Solid Waste Enterprise Fund; and

WHEREAS, the implementation of the SW2020CIP will add another \$290,000 of expenses annually to the Solid Waste Enterprise Fund; and

WHEREAS, an estimated monthly rate increase of \$7.84 monthly has been calculated to be necessary to achieve a revenue neutral budget for the Solid Waste Enterprise Fund when factoring in the implementation of the SW2020CIP.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that the following measures be taken by the City:

1. Implement the SW2020CIP in order to upgrade recycling trucks to facilitate automated recycling curbside pickup.
2. Provide for at least ninety (90) days of public education on recycling changes prior to commencement of normal curbside recycling pickup.
3. Change the frequency of curbside recycling pickup from weekly to bi-weekly.
4. Modify the recycling program to limit the recyclable materials collected by the City in order to (i) ensure there is a marketplace for the recycling material collected by the City and (ii) provide flexibility to adapt to market conditions. It is the express intention of the City to continue to monitor market conditions of recyclable materials and expand the stream to include certain recyclable products when market conditions allow this to be done in a financially prudent manner.
5. Establish a defined annual subsidy in the amount of ten percent (10%) of Solid Waste Fund charges for services revenue from the General Fund to the Solid Waste Enterprise Fund to allow the City to continue providing affordable service and excellent value for its citizens.
6. Increase the monthly rates for all Solid Waste services by \$3.00 per month per customer. Said rate increase shall apply to all residential and commercial customers and shall go into effect beginning ninety (90) days following the commencement of normal recycling pickup.
7. Provide for sustainability of the Solid Waste Enterprise Fund by establishing a procedure to implement an increase of \$1.00 per month per customer when the annual transfer subsidy exceeds 15% of Solid Waste Fund charges for service revenue as reported by the annual audit. Any such increase shall go into effect the first day of April following the completion of the City's annual audit so long as a majority of the City Council votes to implement the increase. No such rate increase shall go into effect until after the City has compiled a full year of data tracking the effect of measures taken in Sections 1 through 5 of this Ordinance.

APPROVED AND ADOPTED by the **CITY COUNCIL** of the **CITY OF DAPHNE, ALABAMA** this ____ day of _____, 2020.

ATTEST:

Dane Haygood, Mayor

Candace Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2020-22**

**REPEALING AND REPLACING ORDINANCE 2019-08
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 revise and further clarify 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 2019-08 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 and/or the modification of such a structure for the purpose of such placement or installation. “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.

NJUNS. National Joint Use Notification System.

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. Permits shall be subject to the version of these Guidelines in effect on the date the permit application is received by the Department, notwithstanding any subsequent amendment(s) thereto.

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.

- c. The replacement, maintenance, and repair of utility markers, independent of any other activity for which a permit is required under Section III.

(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, applicable fees for both non-recurring and recurring costs associated with applications and access to the public rights-of-way and for attachment to government-owned facilities, as set forth in the City's Schedule of Right-of-Way Permit Fees.
- 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 regarding specific sites of potential collocation in the rights-of-way and whether such collocation is feasible or desirable in lieu of the installation of new support structures;
- e. 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 city-owned facility, subject to a period of reasonable notice and terms to be agreed upon by the City and the applicant in their attachment agreement;;

- f. In the case of a proposed attachment to an existing utility pole in the City rights-of-way, proof of an executed attachment agreement with the utility pole owner. Proof may be provided via submission of a letter from the owner of the support structure stating that it has an executed attachment agreement with the applicant and that the applicant has permission to use the support structure; and
 - g. Such other and reasonably necessary safety-related information as the City may request to further clarify information contained in the application.
 - h. 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.
- (2) An Application shall not be deemed complete until the Applicant has submitted all documents, information and forms specifically enumerated in this Ordinance that pertain to the location, construction, or configuration of the Facilities or support structures at the requested location(s). Within the lesser of (i) twenty (20) business days and (ii) any applicable timeframe imposed by FCC regulation or order (which is ten (10) calendar days as of the effective date of this ordinance) after an Application for permit is submitted, the City shall notify the Applicant in writing if any additional information is needed to complete that Application or supplemental information is required to process the request. Once the completed Application is submitted, the Director shall make the final decision to approve or deny a complete Application within sixty (60) days. Applications for a new support structure requiring a conditional use permit from the Director shall be approved or denied within ninety (90) days of the submission of the completed Application. The processing deadline may be tolled by agreement of the Applicant and the City.

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 do so and still maintain the safety and integrity of existing facilities.
- (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 lawful 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. Such utility provider shall maintain at the Public Works Office a registered phone number for addressing concerns about such above-grade structures.

(7) 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.

(8) All entities that have attachments to poles in the City of Daphne shall have and utilize the necessary electronic equipment and training required to utilize the NJUNS system and shall include the City of Daphne on a read-only basis. Once all facilities have been transferred off of a replaced pole, the pole owner or, in the case of any contractual arrangement among utility providers designating the provider responsible for removal of the old pole stub, the designated provider shall have one hundred and eighty (180) days to remove the old pole stub. Notwithstanding, a longer period shall be allowed for removal of the old pole stub if exigent circumstances exist that create good cause for a longer period.

(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) All utility markers located in the City's right-of-way shall legibly display the name of the utility provider owning the utility marker as well as a unique serial number for the marker. It is intended that the unique serial number be generated by and applied to the utility marker by the utility provider, who shall also maintain an inventory of the installed utility markers and their deployed location. Should a utility provider not have the capability of generating utility marker serial numbers, or the process of doing so be otherwise burdensome, the utility provider may request a City-generated serial number and decal containing the serial number

from the City, which the utility provider can affix to the utility marker prior to its installation.

(3) Notwithstanding the foregoing, the City may affix a sticker on each utility marker placed in the right-of-way to uniquely identify each utility marker for the City's own record-keeping purposes, provided that said stickers do not conceal any information or text on the utility marker or otherwise render the utility marker less conspicuous than it would be without the sticker.

(4) In the event a utility provider installs or replaces a utility marker independent of any permitted right-of-way construction project, the utility provider shall notify the City of same within a reasonable time after such installation or replacement.

(5) In addition to the other requirements of this Ordinance, the owner of utility markers installed within the City's rights-of-way must maintain an accurate phone number on record with the Public Works Department.

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 reasonably demonstrates that neither collocation on an existing utility or light pole in the right of way provides a feasible or practical 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 40 feet in height in any residentially zoned area and 50 feet in height in any non-residentially zoned area;
- d. Not be designed to prevent the collocation of other wireless providers' antennas and related equipment;
- 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 each no greater in size than 17 cubic feet in volume, exclusive of any antenna enclosure, with any collocated equipment boxes not exceeding 28 cubic feet in total collective volume on a single support structure;
 - (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 other published in advance, prospective 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) 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
 - (3) 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) For violations creating an "Emergency" as defined under Section I above, within forty-eight (48) hours of receiving a notice of an "Emergency"

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) For all other violations, within fifteen (15) business days of receiving a written notice of "Non-Emergency" violation, permittee shall contact the ROW Manager to discuss the components of an acceptable plan for correcting the violation and a timeframe for submitting the plan. Permittee's failure to (i) so contact the ROW Manager, (ii) submit a plan containing agreed-upon components in the agreed timeframe, or (iii) implement the approved plan within the agreed-upon timeframe, shall be cause for immediate issuance of a Municipal Offense Ticket (M.O.T.).
- (7) For permits not involving a utility regulated by the FCC, the ROW Manager may from time-to-time 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. A current list of any such conditions shall be made available for review on the City's website.

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.

Ordinance 2019-08 is 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 July, 2020.**

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

APPENDIX A
SCHEDULE OF RIGHT-OF-WAY PERMIT FEES

<u>Description</u>	<u>Permit Fee</u>
Administration Fee	\$25.00 (all non-wireless 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 square yard
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
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

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. Excluding wireless facilities, 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. Such bond or letter of credit may apply for a period of time, such as annually, and provide security for the completion of single or multiple construction or restoration projects during that period. 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. Any such Construction Bond or Letter of Credit terminates upon completion of the installation or repair or, in the case of an annual or multi-project guarantee, its application to any right-of-way construction or restoration activity terminates upon completion of the 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 this Section II.

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. Sheet piling, 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

